

**MEMO# 36003**

January 29, 2025

# **ICI Files Comment Letter Responding to Statements Filed by Professor Robert J. Jackson, Jr. and Saba Capital Management, L.P. Regarding the Annual Meeting Requirement for Closed-End Funds**

[36003]January 29, 2025TO:ICI Members

Closed-End Investment Company CommitteeSUBJECTS:Closed-End FundsRE:ICI Files  
Comment Letter Responding to Statements Filed by Professor Robert J. Jackson, Jr. and  
Saba Capital Management, L.P. Regarding the Annual Meeting Requirement for Closed-End  
Funds

On Friday, January 24, 2025, ICI filed a comment letter with the Securities and Exchange Commission (SEC) responding to and addressing certain statements in comment letters filed by Professor Robert J. Jackson, Jr. and Saba Capital Management, L.P. that ICI believes misrepresents ICI's research on closed-end fund (CEF) governance and the underlying facts.[\[1\]](#) While ICI has previously submitted two comment letters[\[2\]](#) to the SEC in support of the proposed rule amendments filed by the New York Stock Exchange ("NYSE") and the Cboe BZX Exchange, Inc. ("CBOE")[\[3\]](#) that would remove the annual meeting requirement for listed CEFs, ICI believed it was necessary to submit this third letter to address several of the misrepresentations, inaccuracies, and selective data points made in Jackson and Saba's letters.

In particular, ICI submitted the third letter to:

- Address the misrepresentations made by Jackson and Saba related to ICI's 2019 Proxy Survey;[\[4\]](#)
- Respond to the data used in Jackson's letter related to retail impact and engagement in the proxy voting process;
- Re-emphasize the parallel between Atlas Corporation and the acts of predatory activists today;
- Elaborate on and emphasize the role independent directors play under the Investment Company Act of 1940 (the "1940 Act") in overseeing management of CEFs; and
- Refute the criticism in Jackson's letter that ICI ignored 40 decades of academic

evidence on CEFs.

The full letter is available [here](#).

Kevin Ercoline  
Assistant General Counsel

#### Endnotes

[1] See Letter from Professor Robert J. Jackson, Jr. to Vanessa Countryman, Secretary, SEC (Nov. 14, 2024), *available at* [www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-540555-1547742.pdf](http://www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-540555-1547742.pdf); Letter from Saba Capital Management, L.P. to Vanessa Countryman, Secretary, SEC (Nov. 14, 2024), *available at* [www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-540455-1547642.pdf](http://www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-540455-1547642.pdf).

[2] Although ICI submitted separate comment letters to the NYSE and CBOE comment files, they present substantially the same facts and arguments. Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (July 30, 2024), *available at* [www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-502415-1467842.pdf](http://www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-502415-1467842.pdf); Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (Aug. 2, 2024), *available at* [www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-503595-1466622.pdf](http://www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-503595-1466622.pdf); Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (Oct. 31, 2024), *available at* [www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-536435-1537902.pdf](http://www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-536435-1537902.pdf); Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (Nov. 5, 2024), *available at* [www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-537995-1541842.pdf](http://www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-537995-1541842.pdf).

[3] Notice of Filing of Proposed Rule Change Amending Section 302.00 of the NYSE Listed Company Manual to Exempt Closed-End Funds Registered Under the Investment Company Act of 1940 From the Requirement to Hold Annual Shareholder Meetings, Exchange Act Release No. 100460, 89 Fed. Reg. 56447 (July 9, 2024), *available at* [www.govinfo.gov/content/pkg/FR-2024-07-09/pdf/2024-15037.pdf](http://www.govinfo.gov/content/pkg/FR-2024-07-09/pdf/2024-15037.pdf); Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Exempt Closed-End Management Investment Companies Registered Under the Investment Company Act of 1940 From the Annual Meeting of Shareholders Requirement Set Forth in Exchange Rule 14.10(f), Exchange Act Release No. 100473, 89 Fed. Reg. 57491 (July 15, 2024), *available at* [www.govinfo.gov/content/pkg/FR-2024-07-15/pdf/2024-15404.pdf](http://www.govinfo.gov/content/pkg/FR-2024-07-15/pdf/2024-15404.pdf).

[4] ICI, ANALYSIS OF FUND PROXY CAMPAIGNS: 2012-2019 (Dec. 2019), *available at* [www.ici.org/system/files/attachments/19\\_ltr\\_proxyanalysis.pdf](http://www.ici.org/system/files/attachments/19_ltr_proxyanalysis.pdf).

should not be considered a substitute for, legal advice.