

CONSULTATION RESPONSE

ENHANCED REPORTING OF PROXY VOTES BY REGISTERED MANAGEMENT INVESTMENT COMPANIES; REPORTING OF EXECUTIVE COMPENSATION VOTES BY INSTITUTIONAL INVESTMENT MANAGERS; FILE NUMBER S7-11-21.¹

14 December 2021

¹ Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers, SEC, 86 Fed. Reg. 57478 (Oct. 15, 2021), available at: <https://www.govinfo.gov/content/pkg/FR-2021-10-15/pdf/2021-21549.pdf> ("Proposal").

THE PRINCIPLES FOR RESPONSIBLE INVESTMENT

The United Nations-supported Principles for Responsible Investment (PRI) is the world's leading initiative on responsible investment. The PRI has over 4,500 signatories (pension funds, insurers, investment managers and service providers) globally with approximately US \$121 trillion in assets under management.²

The PRI works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole. The six Principles for Responsible Investment are a voluntary and aspirational set of investment principles that offer a menu of possible actions for incorporating ESG issues into investment practice. The Principles were developed by investors, for investors. In implementing them, signatories contribute to developing a more sustainable global financial system.

ABOUT THIS CONSULTATION RESPONSE

The PRI writes in support of the proposed rule “Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers” (Proposed Rule) to enhance the availability and utility of information on proxy voting, including on executive compensation.

² See PRI signatories, available at: <https://www.unpri.org/signatories/signatory-resources/signatory-directory>.

KEY RECOMMENDATIONS

The Commission's proposed changes to Form N-PX, as well as proposed changes to universal proxy and proxy voting advice, would support shareholders in being better informed, support active ownership and improve the functionality of the proxy process. The proxy voting process is critical to the advancement of ESG integration in the US market and fulfilment of the second PRI principle – active ownership. The Proposed Rule allows investors to do just that: provides consistent and comparable data in a searchable, accessible, organized and efficient format; creates transparency in the proxy voting process; and enhances the functioning of capital markets.

Currently, reports on Form N-PX are not filed in a machine-readable or “structured” format. The Proposed Rule would require reporting of voting decisions on Form N-PX in a structured data language and would require funds to post proxy voting records on their website. The PRI supports this update to assist in the intake, analysis and availability of proxy voting data. Furthermore, the Proposed Rule would require filers to categorize different types of shareholder proposals based upon the specific substantive issues addressed. While creating a potential burden on filers to categorize votes, this burden should be outweighed by the significantly greater utility and analysis of the filings.

OVERVIEW OF THE PRI'S POSITION

Increasing the availability and accessibility of proxy voting data for investors in a consistent and comparable manner helps to protect investors and maintain fair, orderly and efficient markets. Increased transparency on how funds are voting on issues, particularly issues of human capital management, climate change and executive compensation, provides investors with the ability to gain insight into how funds are participating in the proxy voting process and adds to the mix of information investors use to make investment decisions.

Further, integrating ESG factors is a necessary part of the investment process, as it is critical for the promotion of long-term shareholder value.³ Principle 2 of PRI's Principles states signatories will seek to be “active owners” that “incorporate ESG issues into our ownership policies and practices.”⁴ Similarly, Principle 6 states that PRI signatories will “report on our activities and progress towards implementing the Principles”.

Informative, accessible and comparable proxy voting information can strengthen investor engagement on ESG issues. For example, it can help focus investor efforts on a single, concrete call to action and aggregate a wider set of shareholder views, ensuring transparency in investor expectations and allowing companies to use these expectations to determine the most appropriate response. Easily accessible and usable proxy voting information provides further clarity to mutual fund clients and beneficiaries. Further, it prevents companies from claiming to be unaware of investors' expectations and their subsequent inaction and provides investors with a more solid basis for any further action (including escalation) in cases where a company continues to be misaligned with investor expectations. Importantly, having transparency into proxy voting is also crucial for asset owners to be

³ Principles for Responsible Investment, *How ESG Engagement Creates Value for Investors and Companies* (2018), available at, <https://www.unpri.org/download?ac=4637>.

⁴ Principles for Responsible Investment, *What are the Principles for Responsible Investment?*, available at: <https://www.unpri.org/pri/what-are-the-principles-for-responsible-investment>.

able to hold their service providers accountable. Transparency and availability of proxy voting information are important tools for investment managers, asset owners and others who seek to engage in active ownership.⁵

THE PRI'S ANALYSIS ON FOUR KEY ELEMENTS OF THE PROPOSAL

The PRI welcomes the Commission's proposed changes to Form N-PX. Proxy voting information is already reported in Form N-PX, however, due to its length, inconsistent format and lack of searchability, it can be difficult for investors or third parties to use these disclosures in a consistent and comparable way. The Proposed Rule would address many of these challenges. Below, we address four: the proposed changes to (1) readability of the filings, (2) the availability of voting records, (3) the proposed categories and (4) disclosures about the shares voted and not.

IMPROVING THE READABILITY OF FILINGS

Currently, the reports made on Form N-PX are not published in a "machine readable" or "structured" data format. The Proposed Rule would require "reporting of information on Form N-PX in a structured data language either via a Commission-supplied web-based form or as an Extensible Markup Language ("XML") file."⁶

Question 72 of the Proposed Rule asks whether the new requirement would yield "data that is more useful to investors, compared with not requiring Form N-PX to be filed in a custom XML language, or requiring Form N-PX to be filed in a structured data language other than a custom XML language?" The simple answer is yes.

The PRI supports the proposed requirement to report the information on Form N-PX using "a structured data language either via a Commission-supplied web-based form or as an Extensible Markup Language ("XML") file."⁷ Either method of reporting will lead to comparable data and increased user-friendliness for investors due to its searchability. If adopted, proxy voting information will be more accessible in an organized and searchable format, enabling PRI signatories and other market participants to better identify, compare and analyze funds' voting records on ESG and other issues of interest. Ultimately, this increased accessibility of voting information will better support active ownership and the exercising of shareholder rights such as voting and engagement.

MAKING VOTING RECORDS EASIER TO ACCESS

The PRI supports the proposed amendments to Forms N-1A, N-2, N-3, to require funds to post proxy voting records on their websites and make available to investors by request. Many investors and third parties often have difficulty locating and identifying funds' voting records. Requiring accessible public

⁵ More information about the PRI's view on stewardship, available at: <https://www.unpri.org/stewardship/making-voting-count-principle-based-voting-on-shareholder-resolutions/7311.article>.

⁶ Proposed Rule, at 57480.

⁷ Proposed Rule, at 57480.

disclosures on firms' websites could also aid investors seeking to match firms' marketing and other claims with their voting records. This would greatly aid investors and third parties, including rating services.

EASING IDENTIFICATION OF PROXY VOTING MATTERS AND PROXY VOTING CATEGORIES (QUESTIONS 20 & 23)

The PRI supports the proposed changes requiring funds and managers to use the same language as the issuer's form of proxy, and the requirement to have each voting matter reported in the same order as it is listed on the issuer's form of proxy. The required categorization of proxy votes is an important change that will increase the user-friendliness of Form N-PX. While creating a potential burden on filers to categorize votes, this burden should be outweighed by the significantly greater utility and analysis of the filings. The inclusion of a separate category for say-on-pay, and the new categories for environment and climate, human rights and human capital management, diversity, equity and inclusion (DE&I), political activities, corporate governance and financial voting matters provide a crucial signal to the market on the importance of these matters to investor interests and proxy voting priorities.

The PRI recommends the Commission adjust the proposed categories to provide further clarity. First, the PRI recommends adding "just transition" as a subcategory to "environment or climate". On "DE&I", the PRI recommends adding a subcategory to include "workforce diversity". On human rights or human capital management category, the PRI recommends the category be named "human rights *and* human capital management" with a subcategory for "indigenous rights". Finally, to support clear usage of the new categories, the PRI recommends the Commission clarify the differences between the "DE&I" and "human rights and human capital management" categories as these subcategories can overlap.

The new rule 14Ad-1 and amendments to Form N-PX require institutional investment managers to report annually on Form N-PX how they voted proxies relating to executive compensation matters ("say-on-pay" votes) as required by section 14A of the Exchange Act. The PRI agrees with the Chair's statement that the proposal "complete(s) the implementation of section 951 of the Dodd-Frank Act."⁸ Furthermore, these reporting requirements alongside the clarification of the term "voting power," create transparency for investors on executive compensation votes. The PRI supports the Commission's effort to standardize disclosure and fulfill the mandate of the Dodd-Frank Act, increasing accountability and facilitating collective action by investors, in line with the PRI's Principle 5. In addition, mandating disclosure and categorization of proxy votes by funds and managers will create transparency around proxy voting decisions and make it easier to understand the stewardship activities of investors, their outcomes and impact on ESG issues.

⁸ Gary Gensler, *Statement by Chair Gensler on Proposal to Enhance Reporting of Proxy and Executive Compensation Votes* (September 2021), available at <https://corpgov.law.harvard.edu/2021/09/30/statement-by-chair-gensler-on-proposal-to-enhance-reporting-of-proxy-and-executive-compensation-votes/>.

DISCLOSURE OF SHARES VOTED

The PRI broadly supports regulatory changes that empower asset owners in stewardship decision-making. The Proposed Rule would “require disclosure of the number of shares that were voted (or, if not known, the number of shares that were instructed to be cast) and the number of shares that were loaned and not recalled.”⁹ As proposed, this change could support greater engagement by asset owners in the proxy voting process and create stronger alignment of management voting practices with beneficiaries’ interests. However, it is paramount that moves to delegate greater authority to asset owners on voting decisions do not come at the expense of robust voting by managers to support shareholder proposals or to vote against directors at companies with misaligned ESG practices. Managers have greater resources, expertise and access to information, so the priority must remain ensuring that their voting approach adequately addresses ESG risks and impacts. Future rulemaking and guidance should weigh these considerations in creating a supportive regulatory environment for active ownership via the proxy voting process.

⁹ Proposed Rule, at 57480.