

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 249, 270, and 274

[Release Nos. 33-8188, 34-47304, IC-25922; File No. S7-36-02]

RIN 3235-A164

Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; request for comments on Paperwork Reduction Act burden estimate.

SUMMARY: The Securities and Exchange Commission is adopting rule and form amendments under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to require registered management investment companies to provide disclosure about how they vote proxies relating to portfolio securities they hold. These amendments require registered management investment companies to disclose the policies and procedures that they use to determine how to vote proxies relating to portfolio securities. The amendments also require registered management investment companies to file with the Commission and to make available to shareholders the specific proxy votes that they cast in shareholder meetings of issuers of portfolio securities.

DATES: *Effective Date:* April 14, 2003.

Compliance Dates: See Section III of this release for information on compliance dates.

Comment Date: Comments regarding the "collection of information" requirements, within the meaning of the Paperwork Reduction Act of 1995, of Form N-PX should be received by March 14, 2003.

ADDRESSES: To help us process and review your comments more efficiently, comments should be sent by hard copy or electronic mail, but not by both methods.

Comments sent by hard copy should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7-36-02; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and

copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549-0102.

Electronically submitted comment letters will also be posted on the Commission's Internet site (<http://www.sec.gov>).¹

FOR FURTHER INFORMATION CONTACT:

Christian L. Broadbent, Attorney, Christopher P. Kaiser, Senior Counsel, or Paul G. Cellupica, Assistant Director, Office of Disclosure Regulation, Division of Investment Management, (202) 942-0721, at the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is adopting new rule 30b1-4 [17 CFR 270.30b1-4] and new Form N-PX [17 CFR 274.130] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] ("Investment Company Act"); amendments to Forms N-1A [17 CFR 239.15A; 274.11A], N-2 [17 CFR 239.14; 274.11a-1], and N-3 [17 CFR 239.17a; 17 CFR 274.11b], the registration forms used by management investment companies to register under the Investment Company Act and to offer their securities under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] ("Securities Act"); and amendments to Form N-CSR [17 CFR 249.331; 17 CFR 274.128],² the form to be used by registered management investment companies to file certified shareholder reports with the Commission under the Sarbanes-Oxley Act of 2002.³

Executive Summary

We are adopting rule and form amendments that:

- Require a management investment company registered under the Investment Company Act of 1940 ("fund") to disclose in its registration statement (and, in the case of a closed-end fund, Form N-CSR) the policies and procedures that it uses to determine how to vote proxies relating to portfolio securities; and
- Require a fund to file with the Commission and to make available to its shareholders, either on its Web site or upon request, its record of how it voted proxies relating to portfolio securities. A fund will be required to disclose in its annual and semi-annual reports to shareholders and in its registration

statement the methods by which shareholders may obtain information about proxy voting.⁴

In a companion release, we are also adopting a new rule and rule amendments under the Investment Advisers Act of 1940 that will require a registered investment adviser that exercises voting authority over client proxies to adopt policies and procedures reasonably designed to ensure that the adviser votes proxies in the best interests of clients, to disclose to clients information about those policies and procedures, to disclose to clients how they may obtain information on how the adviser voted their proxies, and to maintain certain records relating to proxy voting.⁵

I. Introduction and Background

As of September 2002, mutual funds⁶ held \$2.0 trillion in publicly traded U.S. corporate equity, representing approximately 18% of all publicly traded U.S. corporate equity.⁷ This represents a dramatic increase from only 7.4% at the end of 1992.⁸ Millions of individual American investors, in turn, hold shares of equity mutual funds, relying on these funds—and the value of the corporate securities in which they invest—to fund their retirements, their childrens' educations, and their other basic financial needs.⁹ Yet, despite the enormous influence of mutual funds in the capital markets and their huge

⁴ See Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies, Investment Company Act Release No. 25739 (Sept. 20, 2002) [67 FR 60828 (Sept. 26, 2002)] ("Proposing Release").

⁵ See Investment Advisers Act Release No. 2106 (Jan. 31, 2003).

⁶ For simplicity, this release focuses on mutual funds (*i.e.*, open-end management investment companies). An open-end management investment company is an investment company, other than a unit investment trust or face-amount certificate company, that offers for sale or has outstanding any redeemable security of which it is the issuer. See Sections 4 and 5(a)(1) of the Investment Company Act [15 U.S.C. 80a-4 and 80a-5(a)(1)]. The amendments, however, would also apply to registered closed-end management investment companies and insurance company separate accounts organized as management investment companies that offer variable annuity contracts.

⁷ See Board of Governors of the Federal Reserve System, Flow of Funds Accounts of the United States: Flows and Outstandings, Third Quarter 2002, at 90 (2002) [hereinafter Flow of Funds Accounts] (estimating \$2.005 trillion market value of mutual fund corporate equity holdings and \$10.960 trillion market value of all corporate equity issues).

⁸ Securities Industry Association, Securities Industry Fact Book 71 (2002).

⁹ Investment Company Institute, Mutual Fund Fact Book 37 (42nd ed. 2002). Approximately 93 million individual investors hold shares of mutual funds. *Id.* Shares of equity mutual funds are held through 164.8 million shareholder accounts. *Id.* at 63. A single individual may hold mutual fund shares through multiple accounts.

¹ We do not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only information that you wish to make publicly available.

² See Investment Company Act Release No. 25914 (Jan. 27, 2003) (adopting Form N-CSR).

³ Pub. L. 107-204, § 302, 116 Stat. 745 (2002).