

information to investors, often on their Web sites, about the policies and procedures that they use to determine how to vote proxies and, in some cases, their actual proxy voting decisions.²³ The Internet provides a medium for these funds to make information about their proxy voting available to shareholders quickly and in a cost-effective manner. We applaud these voluntary efforts of mutual funds to disclose proxy voting information to shareholders.

We believe, however, that the time has now arrived for the Commission to require mutual funds to disclose their proxy voting policies and procedures, and their actual voting records. Investors in mutual funds have a fundamental right to know how the fund casts proxy votes on shareholders' behalf. Last September, we proposed amendments that would require mutual funds and other registered management investment companies to provide disclosure about how they vote proxies relating to portfolio securities that they hold ("Proposing Release").²⁴ Our proposals resulted in an extraordinary level of public interest and vigorous debate and over 8,000 comment letters.²⁵ Today we adopt these

proposals, with modifications to address commenters' concerns.

Proxy voting decisions by funds can play an important role in maximizing the value of the funds' investments, thereby having an enormous impact on the financial livelihood of millions of Americans. Further, shedding light on mutual fund proxy voting could illuminate potential conflicts of interest and discourage voting that is inconsistent with fund shareholders' best interests. Finally, requiring greater transparency of proxy voting by funds may encourage funds to become more engaged in corporate governance of issuers held in their portfolios, which may benefit all investors and not just fund shareholders.

II. Discussion

The Proposing Release generated significant comment and public interest. Of the approximately 8,000 comment letters, the overwhelming majority supported the proposals and urged us to adopt the proposed amendments. Many commenters, including individual investors, fund groups that currently provide proxy voting information to their shareholders, labor unions, and pension and retirement plan trustees, supported the proposals, and in some cases commented that the proposals did not go far enough in requiring funds to provide proxy voting disclosure. Many fund industry members supported the proposed amendments regarding the disclosure of policies and procedures. However, most fund industry members opposed the proposed amendments that would require disclosure of a fund's complete proxy voting record and disclosure of votes that are inconsistent with fund policies and procedures.

The Commission is adopting the proposed amendments with the modifications described below that

address some of the concerns expressed by commenters.

A. Disclosure of Policies and Procedures With Respect to Voting Proxies Relating to Portfolio Securities

The Commission is adopting, with one modification to address commenters' concerns, the requirement that mutual funds that invest in voting securities disclose in their statements of additional information ("SAIs") the policies and procedures that they use to determine how to vote proxies relating to securities held in their portfolios.²⁶ We are also adopting the requirement that closed-end funds disclose their proxy voting policies and procedures annually on Form N-CSR.²⁷ This disclosure would include the procedures that a fund uses when a vote presents a conflict between the interests of fund shareholders, on the one hand, and those of the fund's investment adviser, principal underwriter, or an affiliated person of the fund, its investment adviser, or principal underwriter, on the other.²⁸ It also includes any policies and procedures of a fund's investment adviser, or any other third party, that the fund uses, or that are used on the fund's behalf, to determine how to vote proxies relating to portfolio securities. For example, if a fund delegates proxy voting decisions to its investment adviser and the adviser uses its own policies and procedures to vote the fund's proxies, disclosure of the adviser's policies and procedures is required. Or a fund's board may wish to adopt its adviser's policies and procedures, rather than designing its own.

We also are adopting, as proposed, the requirement that a fund disclose in its shareholder reports that a description of the fund's proxy voting policies and procedures is available (i) without charge, upon request, by calling a specified toll-free (or collect) telephone number; (ii) on the fund's Web site, if applicable; and (iii) on the Commission's Web site at <http://>

²³ See Calvert Group, Ltd. <www.calvertgroup.com> (visited January 14, 2003) (proxy voting policies and votes cast); Domini Social Investments LLC <www.domini.com> (visited January 14, 2003) (proxy voting policies and votes cast); Fidelity Management & Research Company <www.fidelity.com> (visited January 14, 2003) (proxy voting policies); PAX World Management Corporation <www.paxfund.com> (visited January 14, 2003) (proxy voting policies and votes cast); Teachers Insurance and Annuity Association of America-College Retirement and Equities Fund <www.tiaa-cref.org> (visited January 14, 2003) (proxy voting policies); The Vanguard Group <www.vanguard.com> (visited January 14, 2003) (proxy voting policies).

²⁴ See Proposing Release, *supra* note 4. Prior to our rule proposal, we received three rulemaking petitions urging that we adopt rules requiring funds to disclose both the policies and guidelines followed by the funds in determining how to vote on proxy proposals and the record of actual proxy votes cast. See Rulemaking Petition by Domini Social Investments, LLC (Nov. 27, 2001); Rulemaking Petition by the International Brotherhood of Teamsters (Jan. 18, 2001); Rulemaking Petitions by the American Federation of Labor and Congress of Industrial Organizations (July 30, 2002 and Dec. 20, 2000). The rulemaking petitions are available for inspection and copying in File No. 4-439 in the Commission's Public Reference Room.

²⁵ See, e.g., John J. Brennan and Edward C. Johnson 3d, *No Disclosure: The Feeling is Mutual*, Wall Street Journal, Jan. 14, 2003, at A14 (arguing that proxy voting disclosure would harm shareholders); Aaron Lucchetti, *SEC Proposal on Proxy Votes Finds Supporters in the House*, Wall Street Journal, Dec. 17, 2002, at C14 (reporting that House Financial Services Committee Chairman Michael G. Oxley and Capital Markets Subcommittee Chairman Richard H. Baker support the proxy voting disclosure proposal); John C. Bogle, *Mutual Fund Secrecy*, New York Times, Dec.

14, 2002, at A35 (arguing that fund agents should disclose proxy voting information); Gretchen Morgenson, *Wider Support Is Sought For Disclosing Mutual Fund Votes*, New York Times, Oct. 23, 2002, at C11 (explaining joint efforts of Pax World Funds, AFL-CIO, and Fund Democracy to urge investors to support the proposal, and discussing comments by industry participants); Kathleen Day, *SEC Wants Funds To Disclose Votes*, Washington Post, Sept. 20, 2002, at E3 (reporting comments on the proposal by disclosure advocates and opponents).

The comment letters are available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549 (File No. S7-36-02). Public comments submitted by electronic mail are also available on our Web site, www.sec.gov. Many of the comment letters that the Commission received commented on both the Proposing Release and a companion release proposing a new rule and rule amendments under the Investment Advisers Act of 1940 that we are also adopting today. See Investment Advisers Act Release No. 2106, *supra* note 5.

²⁶ Item 13(f) of Form N-1A; Item 18.16 of Form N-2; Item 20(o) of Form N-3. The SAI is part of a fund's registration statement and contains information about a fund in addition to that contained in the prospectus. The SAI is required to be delivered to investors upon request and is available on the Commission's Electronic Data Gathering, Analysis, and Retrieval System ("EDGAR").

²⁷ Item 7 of Form N-CSR.

²⁸ See Investment Advisers Act Release No. 2106, *supra* note, at Section II.A.2.b. "Resolving Conflicts of Interest" (discussing need for investment adviser's policies and procedures to address how adviser resolves material conflicts of interest with its clients).