

voting records to their shareholders commented that although there are start-up costs for compliance systems, this cost decreases over time, and that the overall costs of the disclosure are minimal. We find these arguments made by funds that are providing this disclosure to be particularly persuasive and continue to believe that the costs of disclosure are reasonable. We also note that by requiring disclosure of the proxy voting record in filings with the Commission, with additional disclosure in the fund's SAI and annual and semi-annual reports to shareholders about how investors may obtain this voting record, we have tailored the disclosure requirement to allow those investors who are interested in this disclosure to access the information without imposing undue cost burdens. In addition, as discussed below, we have modified our proposals in order to further reduce the costs associated with this disclosure.³⁶

Disclosure of Complete Proxy Voting Record

The Commission is adopting new rule 30b1-4 under the Investment Company Act to require that a fund file its complete proxy voting record on an annual basis.³⁷ This rule will require a fund to file new Form N-PX, containing its complete proxy voting record for the twelve-month period ended June 30, by no later than August 31 of each year. Form N-PX will be a reporting form required under the Investment Company Act, and will be required to be signed by the fund, and on behalf of the fund by its principal executive officer or officers.³⁸

We had proposed to require a fund to file its complete proxy voting record as part of its semi-annual reports on Form N-CSR, which will be used by registered management investment companies to file certified shareholder reports with the Commission under the Sarbanes-Oxley Act of 2002.³⁹ One commenter argued that this means of disclosure would impose unnecessary costs and substantial administrative complexity.⁴⁰ The commenter noted

that, under our proposed rules, fund complexes that have funds with staggered fiscal year ends would be required to file reports on Form N-CSR containing their proxy voting records as many as twelve times per year. We are persuaded that annual disclosure of a fund's proxy voting record is sufficient and that the filing does not need to be based on a fund's fiscal year end. Therefore, to reduce the burden of proxy vote disclosure, we are modifying our proposal to require that all funds file their voting records annually not later than August 31, for the twelve-month period ended June 30. This approach will have the advantages of making each fund's proxy voting record available within a relatively short period of time after the proxy voting season,⁴¹ and of providing disclosure of all funds' proxy voting records over a uniform period of time.

Funds will be required to disclose the following information on Form N-PX for each matter relating to a portfolio security considered at any shareholder meeting held during the period covered by the report and with respect to which the fund was entitled to vote:

- The name of the issuer of the portfolio security;
- The exchange ticker symbol of the portfolio security;
- The Council on Uniform Securities Identification Procedures ("CUSIP") number for the portfolio security;
- The shareholder meeting date;
- A brief identification of the matter voted on;
- Whether the matter was proposed by the issuer or by a security holder;
- Whether the fund cast its vote on the matter;
- How the fund cast its vote (e.g., for or against proposal, or abstain; for or withhold regarding election of directors); and
- Whether the fund cast its vote for or against management.⁴²

In response to commenters who noted that the exchange ticker symbol and CUSIP number may be difficult to obtain for certain portfolio securities, particularly foreign securities, we have added an instruction permitting a fund to omit this information if it is not available through reasonably practicable means.⁴³

⁴¹ Based on information provided to the Commission staff by a third party that provides proxy voting services, the staff estimates that over 54% of shareholder meetings are held in the period from April through June of each year.

⁴² Item 1 of Form N-PX.

⁴³ Instruction 2 to Item 1 of Form N-PX. See ICI Memorandum, *supra* note ; Letter of Eric D. Roiter, Senior Vice President and General Counsel, Fidelity Management & Research Company (Dec. 6, 2002).

A fund also will be required to make its proxy voting record available to shareholders. However, we are modifying our proposal, in response to a comment, to allow a fund the flexibility to choose to make its proxy voting record available to shareholders either upon request or by making available an electronic version on or through the fund's Web site.⁴⁴ The proposed amendments would have required a fund to send the proxy voting record upon request.⁴⁵ This modification addresses concerns that the proposals would require funds with large numbers of holdings to produce lengthy proxy voting spreadsheets and to send them to investors who request them.⁴⁶

As adopted, our amendments will require a fund to include in its annual and semi-annual reports to shareholders as well as its SAI a statement that information regarding how the fund voted proxies relating to portfolio securities during the most recent twelve-month period ended June 30 is available (1) without charge, upon request, by calling a specified toll-free (or collect) telephone number; or on or through the fund's Web site at a specified Internet address; or both; and (2) on the Commission's Web site.⁴⁷ If a fund discloses that its proxy voting record is available by calling a toll-free (or collect) telephone number, it must send the information disclosed in the fund's most recently filed report on Form N-PX within three business days of receipt of a request for this information, by first-class mail or other

⁴⁴ In addition, the fund's proxy voting record will be publicly available on the EDGAR section of the Commission's Web site.

⁴⁵ Proposed Instructions to Items 13(f), 22(b)(7), and 22(c)(5) of Form N-1A; Proposed Instruction to Item 18.16 and proposed Instruction 6 to Item 23 of Form N-2; Proposed Instruction to Item 20(o) and proposed Instruction 6 to Item 27(a) of Form N-3.

⁴⁶ Letter of Matthew P. Fink, President, Investment Company Institute (Jan. 21, 2003).

⁴⁷ Items 13(f), 22(b)(8), and 22(c)(6) of Form N-1A; Item 18.16 and Instructions 4.h and 5.f to Item 23 of Form N-2; Item 20(o) and Instructions 4(viii) and 5(vi) to Item 27(a) of Form N-3.

If a fund is complying with this disclosure requirement, the inclusion of the fund's Web site address will not, by itself, include or incorporate by reference the information on the site into the fund's reports to shareholders or SAI, unless the fund otherwise acts to incorporate the information by reference. Cf. Securities Act Release No. 8128 (Sept. 5, 2002) [67 FR 58480, 58494 (Sept. 16, 2002)] (noting that if a company is complying with the requirement to disclose its Web site address in its annual report on Form 10-K, inclusion of its Web site address would not, by itself, include or incorporate by reference the information on the Web site into the filing).

³⁶ See discussion *infra*, "Disclosure of Complete Proxy Voting Record."

³⁷ 17 CFR 270.30b1-4; General Instruction A and Item 1 to Form N-PX [17 CFR 274.129].

³⁸ General Instruction F.2.(a) to Form N-PX.

³⁹ Investment Company Act Release No. 25914 (Jan. 27, 2003) (adopting Form N-CSR).

⁴⁰ Memorandum from Paul G. Cellupica, Assistant Director, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission re: Comments of Investment Company Institute (Jan. 15, 2003) ("ICI Memorandum") (available in the comment file for File Nos. S7-36-02 and S7-38-02 and on the Commission's Web site, www.sec.gov).