

SEC Proposes to Amend Form N-PX

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On September 29, the Securities and Exchange Commission (SEC) proposed to amend Form N-PX under the Investment Company Act of 1940 (Investment Company Act) to enhance the information mutual funds, exchange-traded funds (ETFs), and certain other funds are required to report annually about their proxy votes, and to make that information easier to analyze.

The SEC also proposed a new rule (Rule 14Ad-1) and form amendments under the Securities Exchange Act of 1934 (Exchange Act) that would require an institutional investment manager subject to Section 13(f) of the Exchange Act to report annually on Form N-PX how it voted proxies relating to executive compensation matters (*i.e.*, “say-on-pay”), as required by Section 14A of the Exchange Act. The proposed reporting requirements for institutional investment managers, if adopted, would complete implementation of Section 951 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

Enhancement of Funds’ and ETFs’ Proxy Voting Disclosures

In 2003, the SEC adopted a final rule on proxy voting disclosures that requires mutual funds, ETFs, and other registered management investment companies to report on the proxy voting records of their portfolio companies no later than August 31 of each year using Form N-PX. The annual filing covers the period from July 1 to June 30.

Form N-PX was originally adopted under the Investment Company Act only. Thus, if adopted, the proposed amendments to Form N-PX will apply under both the Exchange Act and the Investment Company Act.

The SEC’s stated goals in proposing the amendments are to enhance proxy voting disclosures, while providing greater protection and transparency for investors. According to SEC Chair Gary Gensler, investors would be able to better understand, analyze, and track the information provided in the annual Form N-PX. Updated Form N-PX would impose the following:

- A requirement that funds and managers tie the description of each voting matter to the issuer’s form of proxy and categorize each matter by type to help investors identify votes of interest and compare voting records;
- Prescribe how funds and managers organize their reports and require them to use a structured data language to make the filings easier to analyze; and
- Require funds and managers to disclose how their securities lending activity impacted their voting.

Managers Reporting Obligation on “Say-On-Pay” Voting Matters

The proposal also would implement a statutorily mandated requirement under Section 14A of the Exchange Act by requiring managers subject to Section 13(f) of the Exchange Act to report annually how they voted their proxies on executive compensation matters.

Section 13(f) of the Exchange Act requires a manager to file a report with the SEC if it exercises investment discretion for accounts holding certain equity securities with an aggregate fair market value on the last trading day of any month of any calendar year of at least \$100 million. Under the proposal, such managers would provide information on executive compensation voting matters by filing Form N-PX with the SEC no later than each August 31. Similar to funds’ and ETFs’ current proxy voting disclosures under Form N-PX, the managers’ “say-on-pay” disclosures would cover a 12-month period from July 1 to June 30.

The proposal will be published in the *Federal Register*, and it will be subject to a public comment period of 60 days following its publication. A copy of the SEC’s proposed rule is available at <https://www.sec.gov/rules/proposed/2021/34-93169.pdf>.

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