

2024 Investment Adviser Compliance Conference

MARCH 6-8 / WASHINGTON, DC

EFFECTIVE STRATEGIES & BEST PRACTICES

IAA

Proxy Voting

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Agenda

- Survey of Legal and Regulatory Requirements
- Proxy Voting and the Compliance Program
- Use of Proxy Advisers
- Hot Topics
 - New N-PX Reporting Requirements
 - ESG Considerations
 - Pass-Thru Voting
 - Votes for Sale

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Legal and Regulatory Requirements

Investment Advisers Act of 1940

- Fiduciary Duty
 - Duty of Care
 - Duty of Loyalty
- Proxy Rule
 - Proxy Voting Policies and Procedures
 - Disclosure Requirements

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Legal and Regulatory Requirements

Investment Advisers Act of 1940

- Compliance Rule
 - Policies and Procedures
 - Annual Review
- Recordkeeping Rule

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Legal and Regulatory Requirements

Investment Company Act of 1940

- Policies and Procedures
- Registration Statement Disclosures
- Voting Record Disclosures

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Legal and Regulatory Requirements

ERISA

- Fiduciary Duty
 - Exclusive Purpose
 - Prudence
- Investment Duties Regulation

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Proxy Voting and the Compliance Program

Adopt and Implement Policies and Procedures

- Choose Voting Guidelines in Clients' Best Interest
 - Determining best interest
 - Benchmark, specialty or custom policies?
- Operational Procedures

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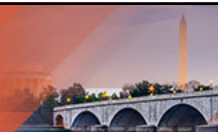
Proxy Voting and the Compliance Program

Annual Review

- Testing proper application of voting guidelines
- Confirming best interest
- Testing sufficiency and effectiveness of operational procedures
- Testing sufficiency of disclosures

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Use of Proxy Advisers

Initial Due Diligence

- Adequacy and quality of staffing
- Sources of information
- Transparency of methodology
- Conflict of interest procedures and disclosure
- Safeguarding confidential client information
- Cybersecurity

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Use of Proxy Advisers

Ongoing Monitoring

- Confirm adequacy of internal controls
- Confirm sufficiency and effectiveness of conflict- of- interest policies
- Confirm selection of voting guidelines
- Spot-test vote recommendations

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Use of Proxy Advisers

Other Considerations

- Use of standing voting instructions
- Overriding vote recommendations
- Changing votes already cast

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Hot Topics: Form N-PX

Reports by Registered Investment Companies

- Each matter relating to a portfolio security considered at any shareholder meeting held during the reporting period for which the fund was entitled to vote
- Substantially expanded scope of required information beginning with 2024 filing

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Hot Topics: Form N-PX

Reports by Institutional Investment Managers

Starting this year, 13F filers must report information about the following types of votes for each security as to which the manager exercised voting power:

- Compensation of named executive officers;
- Frequency of say-on-pay votes; and
- Executive compensation in extraordinary transactions (“golden parachutes”)

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Hot Topics: Form N-PX

Terminology

- *Voting power* means the ability to vote or direct voting, including deciding whether to vote and whether to recall loaned securities
- *Exercise voting power* means to use voting power to influence a voting decision with respect to a security

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Hot Topics: Form N-PX

Joint Reporting

- Fund reports for investment manager(s)
- Investment manager reports for other manager(s)
- Voting, Notice and Combination Reports

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Hot Topics: Form N-PX

Required Information

- The security and shareholder meeting
- The matter voted on (as found on the proxy card)
- Each ballot item's prescribed category
- Whether the issuer or a shareholder proposed the ballot issue (funds only)
- Number of shares voted
- Number of shares loaned and not recalled

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Hot Topics: Form N-PX

Required Information, Cont'd.

- How the shares were voted
- Whether the votes were for or against management
- (If applicable) identity of other institutional manager(s) on whose behalf the report is filed
- (If applicable) the fund series

Other information, if it does not interfere with required items

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Hot Topics: Form N-PX

Mechanics

- Filed through EDGAR by August 31, covering reporting period ended on June 30
- Initial 13F filer reporting due August 31, 2024, covering votes from July 1, 2023 – June 30, 2024
- Confidential Treatment Requests
- Transition Rules

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Hot Topics: ESG

Federal Regulatory Treatment

- SEC
- DOL

Red State / Blue State Initiatives

- Public Funds
- Other Investors

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Hot Topics: ESG

Congressional Initiatives

- Bills to amend Advisers Act and ERISA
- HFSC Republican ESG Working Group

Ex-US Approach

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Hot Topics: ESG

Practical Tips

- Disclosure
- Client selection/confirmation of voting guidelines
- Confirmation of state mandates/restrictions
- Testing
- Documentation

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Hot Topics: Pass-through Voting

Giving ultimate investors a say in proxy votes cast by collective investment vehicles

- Index funds v. actively managed funds
- Separately managed accounts
- Right to dictate votes on a pro-rata ownership basis
- Manager surveys investor preferences but makes ultimate voting decision

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Hot Topics: Pass-through Voting

Pros

- Democratizes proxy voting
- Reduces influence of large managers and proxy advisers
- Reduces influence of ESG
- Promotes ESG

Cons

- Operational burdens outweigh customer demand
- Increases influence of proxy advisers

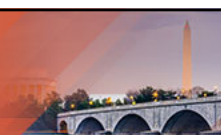
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Hot Topics: Votes for Sale!

Decoupling ownership and voting

- Selling one season's voting rights
- Allows investors to monetize votes they won't use
- Opportunity for abuse

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