

A close-up, low-angle shot of a blue corrugated metal roof. The perspective is from below, looking up at the repeating ridges and valleys of the metal panels. The lighting is bright, creating strong highlights and shadows that emphasize the texture and geometric patterns of the roof. The overall color palette is a range of blues, from deep navy to bright sky blue.

PROXY VOTING BY ASSET MANAGERS: *CURRENT TRENDS AND ISSUES*

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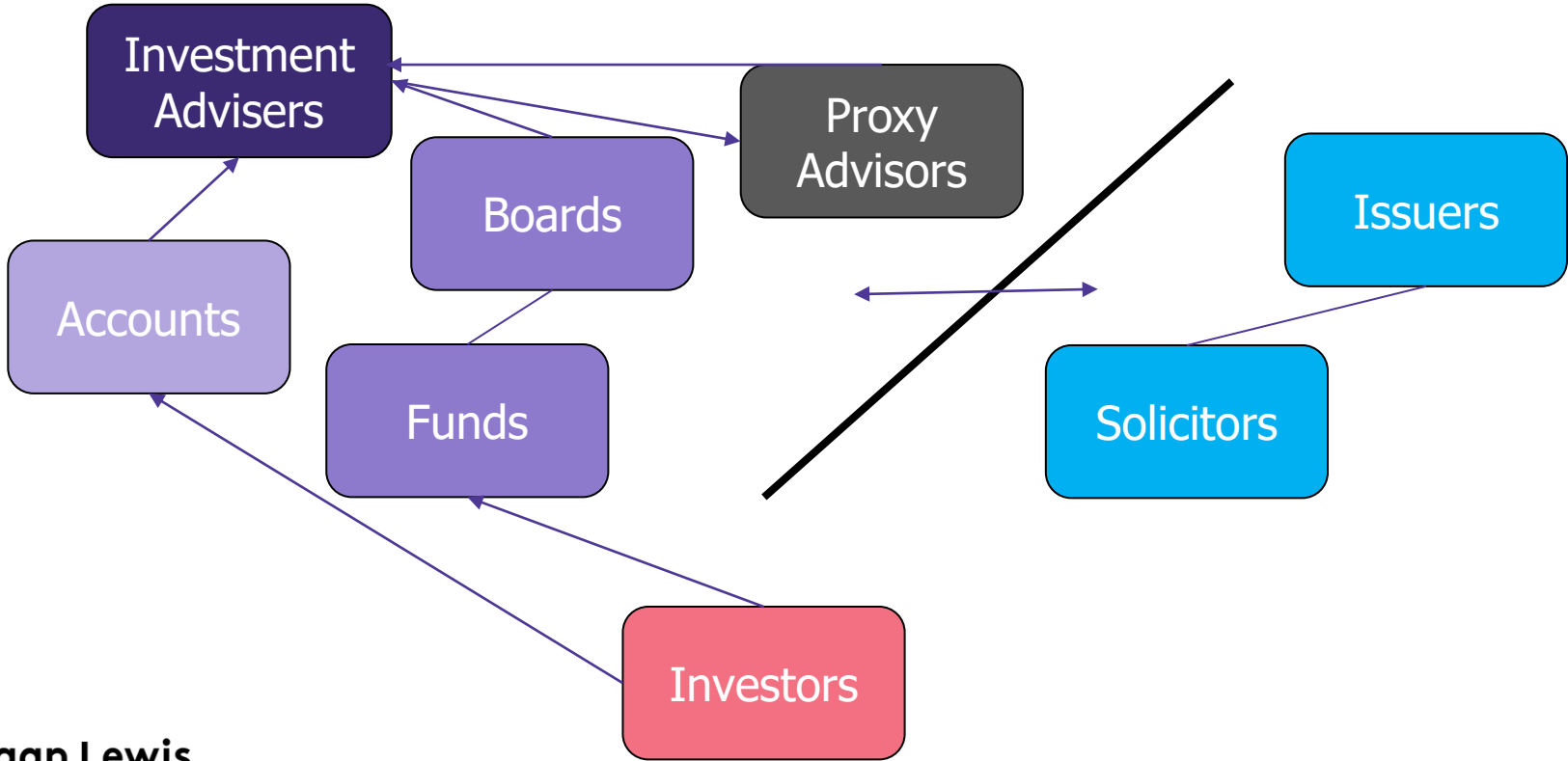
Agenda

- **Proxy Voting Trends and Issues**
 - Regulatory Background and Landscape
 - Proxy Voting and ESG
 - Pass-Through Voting
 - State & Federal Scrutiny
 - Fund Boards' Focus on Proxy Voting
 - Proxy Voting Compliance Considerations
 - Looking Ahead

Regulatory Background and Landscape

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A Large & Complicated Market



Regulatory Background

- Investment Advisers
 - Rule 206(4)-6 (adopted 2003)
 - Policies & Procedures, Disclosure, Conflicts
 - July 2010 Concept Release, June 2014 SEC Staff Legal Bulletin No. 20
 - September 2018: IM Information Update and Rescission of No-Action Letters
 - August 2019 SEC Guidance; July 2020 Supplement to SEC Guidance
- Registered Investment Companies
 - Disclosure of Policies & Procedures
 - Disclosure of Actual Voting Practices: Rule 30b1-4 and Form N-PX
 - Board delegation to primary adviser, with duty of continuing oversight
 - Fiduciary Duty and State Law Requirements: Best Interests of Shareholders
- Department of Labor overlay: November 2022 Rule
- Proxy Advisory Firms: Role and Regulated Status

Proxy Proposals – Issuer Perspective

- **Historically:**

- Director Elections
- Auditor Selection
- SEC-Mandated Voting (e.g., say-on-pay)

- **Today:**

- More shareholder proposals
- More variety in proposal types (e.g., ESG-related proposals)

Shareholder Proposals: SEC Rule 14a-8

Enables shareholders of public companies to submit proposals to be included in the annual proxy statement and to be voted on at the annual meeting:

- Sliding-scale requirement of a minimum amount of ownership (\$2,000 to \$25,000) over a one-, two-, or three-year period of time

Company can seek to exclude a proposal on either procedural or substantive grounds as specified in Rule 14a-8

- SEC arbitrates with a no-action letter process

Proposals tend to fall into the following categories:

- Business practices
Rule 14a-8(i)(7)
- ESG
- Executive compensation

Shareholder Proposals – Recent Developments

Staff Legal Bulletin 14L (November 3, 2021)

- Rescinds staff legal bulletins 14I, 14J, 14K refocuses “ordinary business” exception for proposals raising significant social policy issues on the policy issue, rather than impact on the company
- Board analysis no longer expected; micromanagement exception curtailed
- Economic relevance exception inapplicable for proposals that raise issues of broad social or ethical concern related to the company’s business
- Effectively has made it more difficult to challenge proposals, particularly those related to ESG

SEC Rule Proposal – Amendments to Rule 14a-8 (July 13, 2022)

- Would make it more difficult to exclude certain kinds of proposals
- To revise three of the substantive bases for exclusion of shareholder proposals:
 - substantial implementation exclusion
 - duplication exclusion
 - resubmission exclusion

Recent SEC Rulemakings

- **Proxy Voting Advice (2020-2022)**

- Regulatory ping pong – addresses the role of proxy voting advisory businesses (PVABs)
- 2022 amendments rescinded 2020 rulemaking before it went into effect
- Removal of conditions to exemptions that PVABs rely on to avoid the proxy rules' information and filing requirements

- **ESG Disclosure Rule Proposal (May 2022)**

- The definition of an “ESG Focused” fund includes an engagement prong
- Proxy voting on ESG matters put on equal footing to investment practices
- Prospectus disclosure and annual report reporting requirements

Recent SEC Rulemakings (cont.)

- **Amendments to Form N-PX – Final Rule**

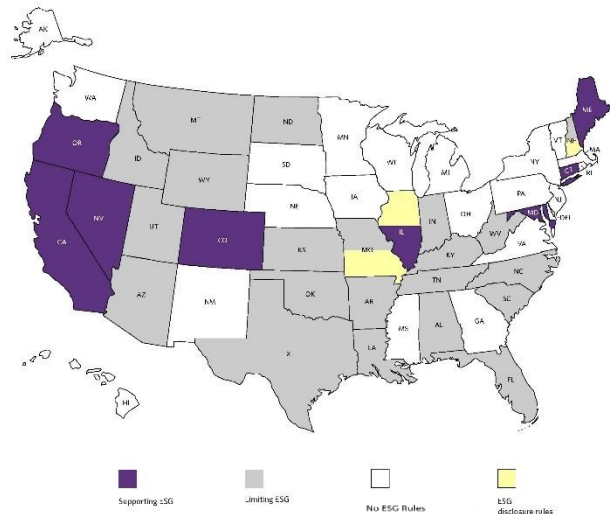
- Adopted in November 2022 – impacts 2024 N-PX filings
- Changes to format of proxy voting reporting (iXBRL)
- Establishes categories for all proxy votes:

Director elections	Compensation
Section 14A say-on-pay votes	Corporate governance
Audit-related	Environment or climate
Investment company matters	Human rights or human capital/workforce
Shareholder rights and defenses	Diversity, equity, and inclusion
Extraordinary transactions	Other social issues
Capital structure	Other (along with a brief description)

Proxy Voting and ESG

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State ESG Focus on Proxy Voting



ESG investing – political hot button issue

States regulating proxy voting two ways:

- Directly: legislation specifically regulating proxy voting (e.g., AR H.B. 1253)
- Indirectly: investigations requiring disclosure of proxy voting (e.g., Texas verification request sent 07/2023)

SEC Examinations – Proxy Voting and ESG

Recent SEC examinations have included questions related to proxy voting and ESG

ESG INDUSTRY STANDARDS

Provide written documentation of any consideration of ESG industry standard(s) (e.g., UN PRI) in its investment/manager selection, portfolio management processes and **proxy voting/issuer engagement** practices

ESG SERVICE PROVIDERS

Please provide any contracts or agreements with service providers that provided due diligence, screening information, or other services to Registrants in connection with the use of ESG criteria in the securities investment process, **including proxy voting**

USE OF THIRD PARTIES

Please inform the Staff if the Fund uses any third parties **for proxy services**. If so, please provide the name of the entities and describe the role the proxy agent has with respect to ESG-related shareholder proxy voting. In addition, please inform the Staff if Compliance checks such proxy votes and provide supporting documentation of this review

Pass-Through Voting

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Pass-Through Voting

- Conceptually, allows shareholders to participate in determining how the fund should vote proxies issued by portfolio companies
- Pass-through voting can be implemented using a number of different models, alone or in combination: direct control, proxy policy selection, ballot item polling, general proxy polling, hybrid approach
- Empowers shareholders while potentially mitigating conflicts of interest
- Potential for future legal or regulatory mandates (e.g., INDEX Act)
- ETFs are an easier vehicle for implementation than mutual funds
- Pivoting to a pass-through model would have disclosure and governance implications, likely would require changes to advisory agreement and would require Board consideration and approval

State & Federal Scrutiny

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State Scrutiny of Proxy Advisory Firms

- **Attorneys General letter to ISS & Glass Lewis (Jan. 2023)**
 - Alleging that the firms “have made several commitments that may interfere with your ability to honor your legal obligations”
 - Net-zero; boardroom diversity
 - Similar letters sent to asset management, insurance, and financial service provider industries alleging that net-zero and other ESG-related commitments may violate fiduciary duty and antitrust laws
- **State Treasurer letters to ISS & Glass Lewis (May and October 2023)**
 - Criticizing proxy advice regarding ESG matters as being “untethered to shareholder value”
 - Raising concerns with lack of disclosure of data on vote recommendations and alleged politicization of ESG-related voting recommendations

Federal Scrutiny of Proxy Advisory Firms

- **Proposed Legislation in Congress**

- HR 4767, the Protecting Americans' Retirement Savings from Politics Act
 - Raises resubmission thresholds for shareholder proposals; limits the SEC's ability to define a "major policy issue"; allows companies to exclude environmental, social, and political proposals; prohibits robovoting; requires proxy advisory firm clients to issue annual public reports on their proxy voting; requires large asset managers to conduct economic analysis when voting against board recommendations; requires investors to consent to the use of non-pecuniary factors in decision-making
- HR 5337, the Retirement Proxy Protection Act
 - Not all proxies must be voted (only those that promote financial interest/goals of the plan)
 - If delegating proxy voting to a third party, fiduciaries must retain records and prudently monitor proxy voting activities

Proxy Advisory Firms Respond to Pressure

- Revising the factors used to determine ESG-related ISS QualityScores
- ISS gives scores of 1-10 based on a wide set of factors
 - Updated Factors for Governance QualityScore announced 10/25/2023
 - New or expanded factors related to board structure, compensation, audit, risk oversight, and shareholder rights
 - Updated Environmental & Social Disclosure QualityScore expected soon
 - New or expanded factors expected to relate to workforce diversity and equality, gender pay gap factors, labor relations and occupational health disclosures, and carbon- and climate-related disclosures

Fund Boards' Focus on Proxy Voting

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Fund Boards' Focus on Proxy Voting

- Boards have ultimate authority over the proxy voting of funds
- This responsibility can be (and typically is) delegated to the Investment Adviser, sub-advisers, proxy advisory firms
- Board retains oversight responsibility
- Increasing focus from SEC (and other regulators) on proxy voting, coupled with increasing focus from shareholders (with more transparency and in response to changing investment motivations), has resulted in many Boards revisiting current procedures
 - Educational sessions from operations teams and counsel

Proxy Voting Compliance Considerations

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Compliance Considerations

- Proxy voting and engagement audit
- Policies and procedures
- SEC Rule implementation and considerations
- Recordkeeping
- Proxy oversight committee
- Vendor oversight
- Sub-adviser delegation/15(c) implications
- Disclosure – N-1A requirements

Looking Ahead

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On the Horizon

- **SEC Activities**
 - Rulemaking?
 - Implementation of N-PX reporting
- **State Regulators**
 - Increased focus? Inquiries?
- **Legislators**
 - Continued focus on proxy advisory firms
- **Predictions for Issuers**

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