

The Modernization of Proxy Voting

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Form N-PX: A Guide for Current and First Time Filers

On November 2, 2022, the U.S. Securities and Exchange Commission (the “SEC”) adopted amendments to Form N-PX filings to modernize reporting requirements and make proxy voting disclosures easier for investors to navigate and analyze. In addition to the implementation of categorized subject matters and other streamlined organizational elements, described below, the conversion of the report from HTML format to XML format allows for machine-readable data and the use of automation for processing such data.

Those Affected

The rule and form amendments will impact:

Current filers on Form N-PX:

- Registered investment companies, such as open-end funds, closed-end funds, and exchange-traded funds, to disclose additional details regarding their proxy voting records in a more structured format than what is currently mandated; and

New filers on Form N-PX:

- Institutional investment managers, who are required to file Section 13(f) securities information on Form 13F, to disclose their decisions on proxy voting for shareholder advisory votes on executive compensation, commonly referred to as “say-on-pay” votes, if they possess both the power to vote and exercise that power to influence a voting decision for the security. Voting records disclosed must also be presented in a structured format. This ruling is consistent with the mandate from Section 951 of the Dodd-Frank Act of 2010, which maintains that managers should report how say-on-pay matters were voted.

Compliance Dates

The effective date of the rule is Monday, July 1, 2024. Affected entities, including registered investment companies and institutional investment managers, will be required to submit their initial filings on the amended Form N-PX by August 31, 2024, for reports representing the period of July 1, 2023, to June 30, 2024. Confidential treatment requests may be submitted in lieu of or in addition to public submissions on the form, depending on the circumstances, but must be executed in conformity with Rule 24b-2 and Form 13F confidential treatment request requirements.

With respect to transition periods, institutional investment managers filing an initial Form 13F will be required to begin filing say-on-pay voting information on Form N-PX for the calendar year period, following the submission, ending June 30. Moreover, for institutional investment managers filing a final Form 13F, reports on Form N-PX will be required to be submitted for any shareholder vote for the period July 1 through September 30 of the calendar year for which the final Form 13F is expected, due no later than March 1 of the following year. Filings on Form N-PX will not be mandatory for proxy votes related to meetings occurring after September 30.

Special Considerations Regarding Structured Formatting

Taking into account the new and amended requirements, it is critical to understand how the composition of Form N-PX will be changing and where each of the necessary pieces of

information should be placed, so that any recordkeeping is sufficient for preparation of the filing. It is also important to understand technological specifications.

Presentation of Information

In conjunction with amendments calling for reporting by both registered investment companies and institutional investment managers, Form N-PX will include varying data based on the instructions and the type of filer identified. The cover and summary pages will differ considerably, as further described below. Please see the [attached template](#) for more details.

Cover Page:

The cover page should identify the type of reporting person and report being filed. Additional disclosures such as an LEI, SEC Investment Company Act or Form 13F File Number, and CRD Number should be included if available.

For institutional investment managers, the cover and summary pages will look largely comparable to how Form 13F is arranged.

Information to be disclosed:

- Whether the reporting person is a fund or a manager;
- Whether the filing is an initial or amended submission;
- The type of report being filed:
 - *Fund Voting Report*: When the fund holds one or more securities it is entitled to vote;
 - *Fund Notice Report*: When the fund does not hold any securities it is entitled to vote;
 - *Institutional Manager Voting Report*: When a manager is reporting all of its proxy votes that are required to be reported in a single report;
 - *Institutional Manager Notice Report*: When a manager reports that there were no say-on-pay votes during the period. Managers that have a policy of not voting proxies and did not vote during the period should indicate so in a notice report and, while still required to file the form annually, are not subject to producing any additional information for each individual voting matter. Only the cover page and signature must be filed; and
 - *Institutional Manager Combination Report*: When the report contains some say-on-pay votes of the manager, but additional votes are reported by other managers or funds under joint reporting provisions.
- The Legal Entity Identifier (“LEI”) (if available).
- For managers, the:
 - Name of the reporting person;
 - Address of its principal executive offices;
 - Name and address of the agent for service;
 - Telephone number of the reporting person;
 - Reporting period; and
 - Reporting person’s file number, Central Registration Depository (“CRD”) number and other SEC file number (if available).

Summary Page:

The summary page will be required for all non-notice reports, meaning for any “voting” and “combination” filings. For institutional investment managers, the names and total number of managers with votes included in the report should be listed, and for registered investment companies, the series names, identification numbers, and total number of series should be listed.

Following the summary page, the proxy voting information and signature sections will be set forth.

Information to be disclosed:

- For institutional investment managers:
 - The total number of included managers with say-on-pay votes (in list format);
 - The name of each included manager; and
 - LEI information (if available).

- For registered investment companies:
 - The total number of series of the reporting person included;
 - The name of each included series;
 - Each series identification number; and
 - LEI information (if available).

Technological Specifications:

While the content provided may change based on the type of filer identified, from a technology-related standpoint, all filers will be expected to comply with the same technology standards.

Form N-PX, which is currently assembled using HTML format, will change to a machine-readable, XML format. Filings on Form 13F, Form N-CEN, and Form N-PORT are a few examples of the way Form N-PX will be presented. This modified approach aims to significantly reduce the variability amongst the way in which information is displayed in what is presently an HTML format and offers further efficiency and reliability when reviewing the data provided.

In terms of constructing the XML format, because the arrangement of and material added in the data files will fluctuate based on where it is sourced from and the number of managers, series, and votes recorded, templates for importation and the use of automation will be key for conversion.

For registered investment companies, reporting will need to be disclosed separately by series, and for both registered investment companies and institutional investment managers in the information section:

- Each matter must be reported in the same order as presented on the issuer’s form of proxy, using the exact language from the form of proxy when possible.

- Subject matters for each item must be reported using SEC-standardized categories (for managers, this would be say-on-pay votes, consistent with the statutory mandate in Section 14A of the Exchange Act of 1934). The list of categories, with multiple selections possible based on applicability to each voting matter, is as follows:

1. Director Elections
 2. Section 14A
 3. Audit-Related
 4. Investment Company Matters
 5. Shareholder Rights and Defenses
 6. Extraordinary Transactions
 7. Capital Structure
 8. Compensation
 9. Corporate Governance
 10. Environment or Climate
 11. Human Rights or Human Capital/Workforce
 12. Diversity, Equity, and Inclusion
 13. Other Social
 14. Other
- The number of shares voted or instructed to be voted for, as well as loaned and not recalled must be disclosed.
 - Each vote should communicate whether it was proposed by the issuer or a security holder, and whether the result was “For” or “Against” management’s recommendation, “Withhold” or “Abstain”.
 - Reporting persons may choose to elect the inclusion of additional information regarding the filing on a per-vote basis based on the matter or how it voted, or on the cover page, if relevant to the report as a whole.

Other Considerations

While rule and form amendments focus primarily on proxy voting records filed on Form N-PX, other rule and form amendments are worth noting as well, such as for:

- Rule 24b-2;
- Form N-1A;
- Form N-2; and
- Form N-3.

For Forms N-1A, N-2, and N-3, a fund must disclose that its proxy voting record is publicly available on or through its website (if one exists) and also available upon request. Website availability of proxy voting records is necessary for registered investment companies only (institutional investment managers, who do not file on the forms, are exempt from website availability requirements). Additionally, the proxy voting record must be free of charge regardless of source.

For Forms N-1A and N-3, a fund must disclose any email address available that investors may utilize for requesting its proxy voting record directly.

Action Required

For new filers, the rule and form amendments will introduce significant changes to the recordkeeping and filing process of proxy voting records. For current filers, though certain procedures may already be in place, proper planning in advance of the deadline can help ensure compliance for changes that do need to be made.

While the first filing deadline will not occur until August 31, 2024, recordkeeping commenced on July 1, 2023. Those subject to the rule should be:

- Reviewing recordkeeping practices, as they relate to the information to be accounted for as well as the structure of such information;
- Confirming use of any third parties, such as proxy service providers or conversion and filing agents. If recordkeeping is extensive due to length or complexity, engaging with a vendor should be considered. Following the selection of a vendor, continuing the conversation as they are applying all updates to proxy voting documentation, conversion, and the filing thereof is essential. Also, verify that the vendor has the resources available and is prepared to see execute these changes;
- Reviewing existing disclosures (such as the voting authority designated on Form 13F and Form ADV 2A), and proxy policies for any reportable data (such as investment advisory agreements and compliance manuals). For new filers in particular, it may be useful to consult with a financial services firm to verify uniformity and compliance; and
- Factoring in the gross time and cost of the adaptation of the changes so that resources are allocated optimally.

For More Information

This is intended as a summary guide to users of the Form N-PX. For additional guidance regarding the implementation and adoption of the new and amended regulations, please review the SEC's final rule.¹ ■

1. Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers, 87 FR 78770 (December 22, 2022).