IDC Independent Directors Council
Promoting Excellence in Fund Governance

# ICI Comments on NYSE Proposal Regarding Broker Voting on Elections of Directors

# ICI Comments on NYSE Proposal Regarding Broker Voting on Elections of Directors and Investment Advisory Contracts

**Washington, DC, April 1, 2009** - ICI expressed its support for a proposal, filed by the New York Stock Exchange (NYSE) with the U.S. Securities and Exchange Commission, to amend NYSE Rule 452. The proposal would eliminate discretionary broker voting for the election of directors for all issuers except registered investment companies. It would also codify, in Rule 452, NYSE interpretations related to broker voting on investment company advisory contracts.

## Background

The NYSE's reform efforts date back to 2005, when the exchange formed a Proxy Working Group to review its rules regulating proxy voting. The goal was to create a more effective and efficient voting system for investors.

In June 2006, the working group recommended that NYSE Rule 452 be amended to make the election of directors a "non-routine" matter. Accordingly, brokers would no longer be permitted to vote the shares of beneficial owners who do not give specific voting instructions with respect to any election of directors.

A December 2006 ICI research report found that ending discretionary broker voting for investment companies would force many investment companies to solicit shareholders repeatedly to achieve quorums, thus more than doubling typical proxy costs. In May 2007, the NYSE announced that it would amend its proposal to exempt registered investment companies from the rule.

## ICI Position

ICI's recent comment letter, citing the Institute's December 2006 research, commended the NYSE and the Proxy Working Group for preserving discretionary broker voting for investment companies.

The letter urged doing the same for business development companies regulated under the Investment Company Act, as they have many of the same characteristics as registered investment companies.

Finally, the letter supported codifying in Rule 452 certain NYSE interpretations regarding investment advisory contracts. ICI agreed that a material amendment to an investment company's investment advisory contract—as well as an investment company's investment advisory contract with a new investment adviser—are the types of non-routine matters on which investment company shareholders should be required to vote.

## Related Links

- Institute Reiterates Concerns on NYSE Proxy Voting Proposal, February 2007
- Costs of Eliminating Discretionary Broker Voting on Uncontested Elections of Investment Company Directors, December 2006
- ICI Comments on NYSE Proxy Working Group Report, July 2006

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