

December 14, 2021

Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers (File No. S7-11-21)*

Dear Ms. Countryman:

Ultimus Fund Solutions (“Ultimus”) appreciates the opportunity to comment on the Securities and Exchange Commission’s (“SEC” or “Commission”) proposal to amend Form N-PX (“Proposal”).¹ We support the SEC’s goals to modernize Form N-PX and improve the presentation of proxy voting information. Nevertheless, we write to express our concern that certain features of the Proposal may impose operational challenges and expenses that markedly burden the smaller fund community without appreciable benefits to shareholders of such funds. Thus, we urge the Commission to consider (i) changes to the proposed reporting requirements (particularly the proxy categorization process) to minimize the burden placed on all funds and enhance the consistency and utility of information reported to shareholders, and (ii) a small funds exemption limiting application of certain reporting requirements. We also urge the SEC to provide a longer implementation period than proposed to allow sufficient time for funds to adjust their operations to satisfy any newly adopted requirements.

Statement of Interest

Ultimus is the largest independent (non-bank) administrator to registered funds in the United States, serving 85 registered management investment company trusts, comprising more than 600 funds (“client funds”) managed by more than 180 registered investment advisers. In addition to fund administration, Ultimus is a registered transfer agent, provides distribution services through two affiliated registered broker-dealers, and provides independent CCO services through a wholly-owned subsidiary to many of our client funds. Ultimus’ client funds represent approximately \$140 billion assets under management. Although some Ultimus-serviced funds

¹ See *Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers*, 86 Fed. Reg. 57478 (Oct. 15, 2021), available at <https://www.govinfo.gov/content/pkg/FR-2021-10-15/pdf/2021-21549.pdf> (“Proposing Release”).

have billions of dollars under management, across our client base funds average approximately \$229 million AUM, with more than 330 client funds with assets less than \$100 million. While Ultimus does not purport to represent the interests of any individual adviser or fund, we believe Ultimus is uniquely positioned to provide the Commission with insights into the acute challenges facing the broader smaller funds community.

Ultimus is a member of the Investment Company Institute (“ICI”). While joining in support of ICI’s comment letter in response to the Proposal, Ultimus writes separately to amplify certain issues described herein to address the unique perspective of the smaller funds community.

Discussion

Ultimus welcomes the Commission’s efforts to modernize Form N-PX. We urge the Commission, however, to reconsider certain aspects of the Proposal that we believe would impose needless burdens on smaller funds.

Small funds, particularly diversified funds with less than \$100 million in AUM, typically hold relatively small stakes in public issuers, and correspondingly command very little proxy voting power.² While Ultimus wholeheartedly believes in the importance of proxy voting and corporate governance more generally, empirically we have not observed the shareholder base in smaller funds to be engaged with proxy voting. Through our experience as a Transfer Agent, we have not observed retail shareholders expressing substantial interest in proxy votes. Nor have our adviser clients reported that shareholders have inquired about proxy votes or urged advisers to vote in any particular manner. (Of course, under current regulation, shareholders may compare fund voting records (available on Form N-PX) with proxy voting policies (described in the fund’s statement of additional information).)

Given this dynamic – low interest from shareholders coupled with very modest voting power – we believe the Commission should be mindful of the costs that would be imposed on funds (and indirectly borne by shareholders) having to satisfy new operational requirements. Foremost among our concerns is the proposed requirement that funds and managers filing Form N-PX categorize proxy voting matters into 17 prescribed categories (and subcategories).

² For example, a \$100 million equal-weighted S&P 500 fund (theoretically) holds 500 positions each valued at \$200,000. Such stakes range from approximately less than .00001% (1/100,000 of 1%) of the largest index constituent (greater than \$2 trillion market capitalization) to .0033% (33/10,000 of 1%) of the smallest (approximately \$6 billion market capitalization). Even if a fund’s positions were 100 times larger (either by having heavier asset concentrations in fewer companies or by investing in companies with smaller capitalizations), the fund’s corresponding voting power would remain diffuse and insubstantial.

We appreciate the Commission's goal to standardize subject-matter descriptions of voting items. We do not believe the Proposal's rubric, however, will accomplish that goal. As ICI has observed, reporting persons likely will assign different categories to some of the same proxy matters, which will lead to confusion and a lack of comparability. Furthermore, potential overlap and evolving sentiments on what issues are important to shareholders may lead to outdated classifications or subjective interpretations (or overreliance on the "other" category) that may undermine the categories' usefulness.

Several commenters have suggested two potential solutions: (1) fewer categories, and (2) inviting proxy advisory firms and other vendors to manage the categorization. The former may blunt some concerns, but the latter offers no respite to the smaller funds community. The reason is simple: Many small fund advisers do not use proxy service providers.

Most of our clients do not employ proxy service providers. This is a function of cost. Those advisers that use outside vendors to manage their proxy voting typically have substantial AUM for non-fund clients and thus can spread the costs across a larger client base. Smaller advisers must absorb fees that account for a proportionally larger share of management fees.

Although the pricing structure differs among services providers and varies according to the level of service (e.g., number of ballots, mirror voting, research services, reporting and analytics, etc.), we have found in an informal survey of clients that minimum charges are typically several thousand dollars per fund. This cost is not insubstantial for smaller advisers, who therefore often opt to manage their own proxy voting.

Ultimus therefore recommends two alternatives that would help small advisers without compromising the Commission's goals: (1) requiring issuers, rather than reporting persons, to categorize proxy matters, and (2) implementing a small funds exemption to limit those funds that would be required to implement certain enhancements like categorization.

1. Issuer Categorization

Ultimus concurs with ICI's view that the proposed requirement to categorize proxy matters into 17 prescribed categories will not accomplish its intended purpose. We also support ICI's recommendation to pare down the Proposal to approximately nine "evergreen" categories. We do not believe, however, that conscripting proxy advisors or other vendors to fulfill the categorization function addresses our concerns because many smaller funds do not use proxy service providers.

We believe it is more appropriate to require issuers to satisfy any categorization requirement. Issuers already are responsible for managing their own proxy campaigns and preparing proxy statements and ballots. It would impose only a minor additional burden to require those same issuers to designate the appropriate proxy category for each matter.

Requiring issuers to categorize the proxy votes will ensure consistency. All shareholders casting ballots will see the same proxy category from the same issuer. Rather than having potentially hundreds or thousands of advisers assigning potentially inconsistent categories, each issuer would have only one entity (itself) assigning the proper category to each proxy matter. Moreover, this would avoid foisting the substantial costs of having to categorize countless proxy matters upon reporting persons (either directly or by employing vendors).

2. Small Funds Exemption

As discussed above, smaller funds typically have very little voting power and, in our experience, proxy voting has not been a substantial factor animating shareholder interest in these funds. We have observed, however, that fund expenses – which are magnified in smaller funds with fewer assets – can inhibit shareholder commitment (which consequently can stifle fund growth and innovation). Thus, we believe it important to weigh the operational burdens and expenses against the relatively modest benefits accruing to shareholders, in short, to ensure shareholders get appreciable bang for their buck.

To that end, Ultimus suggests a two-tier system whereby all funds would be subject to certain requirements, but only larger funds would be required to fulfill more onerous reporting obligations. For example, we support universal adoption of innovations such as XML data tagging on Form N-PX and posting Form N-PX on fund websites. But categorization of proxy matters should be reserved for the reporting persons that have substantial voting power.

Ultimus recommends that the Commission consider including an objective, numerical threshold to distinguish smaller funds from their larger brethren. For example, the Commission could consider including a threshold based on assets under management, such as (a) a fund exceeds \$100 million AUM, or (b) the relevant adviser has RAUM exceeding \$1 billion. Or the Commission might consider requiring categorization of proxy matters for particular issuers only if the reporting person exercises in excess of certain voting power thresholds, such as voting greater than either (i) .1 percent (1/1,000) of eligible voting shares, or (ii) 100,000 shares of each issuer. We believe these or similar thresholds would ensure that most shareholders enjoy the benefit of the Proposal without imposing undue expense on most smaller funds and their shareholders for whom the cost-benefit analysis may not justify the extra burden. For those shareholders (or the SEC) that wish to evaluate a smaller fund's voting practices, they may

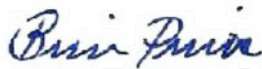
continue to review a fund's voting record reflected on the current Form N-PX in light of the funds' publicly-available proxy voting policies.

Finally, we also urge the SEC to provide a longer implementation period than proposed to allow sufficient time for all funds, but particularly smaller funds, to adjust their operations to satisfy any newly adopted requirements. If amendments prompt funds to seek new service providers or implement new technology solutions, they will need time to identify appropriate vendors, conduct due diligence, and implement new solutions. Accordingly, Ultimus urges the SEC to provide at least one year to implement proposed changes to Form N-PX.

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Ultimus appreciates the opportunity to provide comments on the Proposal. We would welcome further discussion on this important topic. Please direct any questions concerning this comment letter to me at [REDACTED] or [REDACTED].

Sincerely yours,



Brian Privor
Chief Regulatory Officer