June 29, 2021

Mr. Gary Gensler, Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Release No. 34-79164; File No. S7-24-16
Reopening of Comment Period for Universal Proxy

Dear Chairman Gensler:

The following comments are submitted by Saba Capital Management, L.P. ("Saba"), a New York-based investment management firm registered with the Securities and Exchange Commission (the "Commission") as an investment adviser under the Investment Advisers Act of 1940, as amended. Saba serves as the investment adviser to (i) private investment funds that are exempt from registration under the Investment Company Act pursuant to Section 3(c)(7) thereunder, (ii) investment companies registered under the Investment Company Act of 1940, as amended (the "1940 Act"), including a registered closed-end fund and an exchange traded fund for which it serves as a sub-adviser, and (iii) one or more separately managed accounts.

This letter responds to the Commission's request for comments on the renewed proposal to require the use of universal proxy cards in all nonexempt solicitations in connection with contested elections of directors ("Proposed Rules").

We recognize the time and effort invested by the Commission and the Staff of the Divisions of Corporate Finance and Investment Management (the "Staff"). We were pleased to see the developments in closed-end fund governance highlighted in the background statement of the Proposed Rules. The right to elect directors is foundational to the operation of regulated investment companies and while we support the inclusion of closed-end funds in the universal proxy requirement, the overarching process by which director elections are conducted for closed-end funds is in need of greater repair.

Over the last four years, the coordinated efforts of large asset managers and their lobbyists have in significant ways eradicated the voting rights of closed-end fund investors. In particular, closed-end fund advisors took the withdrawal of the Boulder No-Action letter in May

of 2020[1] as a signal that the SEC would no longer enforce the 1940 Act's requirement of equal treatment of all fund shareholders with respect to voting, and that a key element of the regulatory framework in place to protect shareholders from investment adviser overreach no longer applied. The requirement of equal treatment was a cornerstone principal of the 1940 Act, and one that the SEC protected for the benefit of shareholders for more than 80 years until it was abruptly overturned without even an attempt to provide legal reasoning. Such coordinated campaigns against closed-end funds have included the highly questionable use of by-law amendments to write out the right of shareholders to submit shareholder non-binding proposals (14a-8) or to vote their shares above specified thresholds (Section 18(i)). At the same time, the parties behind the campaigns purport to comply with the NYSE requirement to hold annual elections, while seeking to undermine the very purpose of those elections.

Majority of Shares Outstanding Standard

In 2009, when then Director of the Division of Investment Management, Andrew Donohue, spoke of his concerns regarding imposing a "majority of shares outstanding" vote requirement for replacing directors, he mentioned that such a requirement had been previously used only by a "few funds," with the vast majority favoring the plurality threshold typically used by operating companies. The use of the "majority of shares outstanding" threshold has since expanded to the point where it has become the preferred entrenchment mechanism deployed by closed-end fund trustees across all jurisdictions. Many boards have now amended their by-laws to require this voting standard – without any shareholder approval– knowing full well that neither shareholders nor management will achieve that threshold in a contested election, and therefore, that management's incumbent board will always hold-over in the resulting "failed election." This is not a difficult to achieve voting standard in the context of a contested election. Rather, this is an **impossible voting standard** that cannot be achieved in a contested election.

For example, in 2020, Saba Capital presented data on the historical rates of participation and voting in closed-end fund contested elections to the Arizona Commercial Court[2] (the "Voya Litigation"). The judge in the Voya Litigation found that satisfying a voting standard requiring *60%* of the shares outstanding to replace trustees was "legally impossible." The same data that Saba presented in that litigation demonstrates that a voting standard requiring *50*% of the shares outstanding is just as impossible to achieve. The figures in Exhibit 1 below reflect the "Max Shares Outstanding Won" in recent closed-end fund elections and demonstrate the impossibility of a "Majority of Shares Outstanding" requirement.

[1] Control Share Acquisition Statutes, Staff Statement- Division of Investment Management (May 27, 2020), *available at* https://www.sec.gov/investment/control-share-acquisition-statutes.
[2] *Saba Capital CEF Opportunities 1 Ltd. v. Voya Prime Rate Trust*, 2020 WL 5087054 (Ariz. Super. Ct. June 26, 2020)

Exhibit 1

Recent Contested Closed-End Fund Elections

Source	Name of Fund	Date of Election	Shares Outstanding	Shares Voted	Percent Participation	Most Shares for Management	Most Shares for Opposition	Max Percent Unanimity	Max Shares Outstanding Won
PX2 (Grau Ex A)	Eaton Vance Floating Rate Income Plus Fund	4/16/2020	7,606,422	4,028,163	52.95%	672,257	3,023,090	75.04%	40.14%
PX3 (Grau Ex B)	Nuveen Ohio Quality Municipal Income Fund	12/5/2019	18,316,955	11,605,757	63.36%	7,741,942	3,477,289	66.71%	42.27%
PX4 (Grau Ex C)	Western Asset Global High Income Fund	10/25/2019	44,106,706	28,224,658	63.99%	15,551,998	11,577,221	55.10%	35.26%
PX5 (Grau Ex D)	Western Asset High Income Fund II	10/25/2019	85,156,215	46,929,334	55.11%	29,443,152	14,578,049	62.74%	34.58%
PX6 (Grau Ex E)	Blackrock Credit Allocation Income Trust	7/8/2019	103,865,554	62,485,291	60.16%	46,775,497	12,934,308	74.86%	45.03%
PX7 (Grau Ex F)	Blackrock New York Municipal Bond Trust	7/18/2019	2,800,326	1,440,613	51.44%	518,727	847,258	58.81%	30.26%
PX8 (Grau Ex G)	Blackrock Muni New York Intermediate Duration Fund	7/18/2019	4,210,140	2,543,970	60.42%	997,746	1,000,877	39.34%	23.77%
PX9 (Grau Ex H)	Neuberger Berman High Yield Strategies Fund	10/3/2019	19,540,585	11,440,956	58.55%	4,045,146	6,210,487	54.28%	31.78%
PX10 (Grau Ex I)	The Swiss Helvetia Fund	4/24/2018	25,313,872	18,276,890	72.20%	8,991,471	9,031,335	49.41%	35.68%
PX11 (Grau Ex J)	Delaware Enhanced Global Dividend and Income Fund	8/22/2018	15,829,048*	10,302,425	65.09%	5,640,180	4,662,244	54.75%	35.63%
PX12 (Grau Ex K)	Putnam High Income Securities Fund	4/27/2018	12,935,966	7,149,277	55.27%	3,232,267	3,698,991	51.74%	28.59%

* Source: https://www.sec.gov/Archives/edgar/data/1396167/000120677418001948/mimegdi3429601-def14a.htm

There have been numerous other contested closed-end fund elections since then, and the results are consistent: the election fails, and the incumbents hold over. The results of the annual meeting of the Eaton Vance Senior Income Trust, highlighted below in Exhibit 2, are emblematic of this problem. In the case of the recent annual meeting of Eaton Vance Senior Income Trust, the will of the shareholders was clear, and a quorum was present at the meeting. However, even though all of the management-sponsored trustees received less votes than the three dissent nominees (and in two of the three cases, less than *half* as many votes as the dissent nominees) the management–sponsored trustees still retained their seats because no trustee was able to satisfy the "Majority of Shares Outstanding" requirement.

Exhibit 2

The following votes were cast by the Trust's common and APS shareholders, voting together as a single class:

	Number of Shares	
Nominees for Trustee	**For**	**Withheld**
Thomas E. Faust Jr.	11,597,278	358,191
Cynthia E. Frost	5,805,611	6,149,858
Susan J. Sutherland	5,799,694	6,155,776
Stephen G. Flanagan	12,539,415	309,300
Frederic Gabriel	12,541,920	306,795
Christopher A. Klepps	12,541,838	306,877

Pursuant to the Trust's Amended and Restated By-Laws, when the number of candidates exceeds the number of Trustees to be elected, a candidate must receive the affirmative vote of a majority of the Fund's shares outstanding and entitled to vote in order to be elected. If none of the candidates receives the requisite vote, the incumbent Trustees remain in office for a new three-year term. Because none of the candidates presented for election by the Trust's common and APS shareholders voting together as a single class received the requisite vote, incumbent Class I Trustees Thomas E. Faust Jr., Cynthia E. Frost and Susan J. Sutherland remain in office for a new three-year term as Class I Trustees.

The following votes were cast by the Trust's APS shareholders, voting separately as a single class:

Classified Boards

Virtually all closed-end fund boards are classified, and their directors often serve on 50 to 100 plus boards within the same advisor's complex. This structure has created an alignment of interests between advisor and board member, as opposed to board member and shareholder. This is a clear misalignment, and one that leads to virtually zero impactful oversight of funds by boards charged with just that role. Rather, it promotes boards doing the bare minimum required by law. This misalignment also makes it difficult for shareholders to vote by proxy in a manner that reflects how they would vote in person. In our opinion, the concerns over breaking up a unitary Board, while worth considering, should be second to allowing the shareholders of a fund to promote the nominees of their choosing.

We believe the shareholders' nominees, dissident's nominees, and registrant nominees should all be considered. Proxy access bylaw provisions are not sufficient, as proxy access nominees would already be included in a registrant's proxy materials. A universal proxy card stands to benefit more a dissident shareholder in a proxy contest situation.

The right of shareholders to elect directors is a central right of share ownership. Board seats, and often control of the board, are at stake in contested elections. The interests of dissident shareholders frequently advance strategic, operational or financial goals, making it critically important for shareholders to be able to fully participate, irrespective of how they cast their vote. The universal proxy benefits the retail investor and institutional investors' smaller holdings by enabling them to select from all possible board nominees despite not attending the shareholder meeting, which, for numerous reasons, may be difficult. The current system of offering stand-alone competing slates of director nominees is often confusing to retail investors, who are often given numerous differing proxy cards and may fail to realize that the only votes that are counted come from the most recently submitted proxy card.

For example, Saba was involved in a recent campaign to unseat a minority slate on a Franklin Templeton fund board. The Franklin Templeton fund board was in desperate need of change, with a certain incumbents on the board for almost thirty years. Institutional Shareholder Services addressed this exact question and noted that "[t]he structure of most CEF boards is designed to enable a single group of people to simultaneously oversee dozens of closed-end and open-end funds, and the introduction of dissidents on the board of one of those funds necessitates the fencing-off of the newly constituted board to perform the full range of its oversight functions over a single fund. Carving off a fund from the 'unitary board' could potentially sacrifice logistical efficiencies when it comes to certain administrative and compliance functions performed by the board. Nonetheless, maintaining the administrative efficiencies of the unitary board model should be seen as secondary to attaining the investment objectives of the fund, especially in light of relevant concerns regarding the fund's performance."

Conclusion

We are supportive of the inclusion of closed-end funds in the universal proxy rule. We believe it is an important step towards creating an even playing field for closed-end fund investors, and allowing them to have a meaningful say in the governance and management in the funds in which they are shareholders. As part of its consideration of the universal proxy rule, though, we also believe the Commission should strongly consider additional measures designed to curtail the abusive practices detailed above, which we believe unfairly hinder the ability of regulated fund shareholders to exercise their voting rights in the manner the 1940 Act intends.

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We would be pleased to respond to any inquiries you may have regarding the matters addressed in our letter. Please feel free to direct any inquiries to Michael D'Angelo at [redacted]

Very truly yours,

Michael D'Angelo

SABA CAPITAL MANAGEMENT, L.P.