

SEI Trust Company

Quarterly Update

June 30, 2023



LEGISLATIVE/REGULATORY/LLEGAL UPDATE

In an effort to keep you updated on changing regulations, requirements and litigation that may affect our industry, we are providing you with a summary of recent legislation, legal decisions and/or regulatory guidance that may impact collective investment trusts (“CITs”) and their service providers, such as banks and investment managers.

REGULATORY UPDATE

SEC Adopts a New Rule Requiring Form 13F Filers to Track and Report “Say-on-Pay” Proxy Votes

Under the new Rule 14Ad-1¹ under the Securities Exchange Act of 1934, institutional investment managers that file a Form 13F² will be required to make public filings on Form N-PX to report their “say-on-pay” proxy voting. This includes reportable matters such as Section 14A executive compensation, executive compensation vote frequency, and extraordinary transaction executive compensation.

The new Rule applies when institutional investment managers exercise their voting power either directly or indirectly. However, voting power is also considered to be exercised when an institutional investment manager makes the decision to abstain from voting. Managers that have not voted on any particular reportable matters are still required under Rule 14Ad-1 to file. Unlike managers who have chosen to vote, those who choose to abstain are only required to file a notice report indicating that no votes have been cast.

The report on proxy voting information will include a brief summary of each voting matter, information surrounding shares on loan, and the number of shares that were voted on or instructed to be voted on. The Form N-PX filing includes a cover page which will identify if the filer is a manager or fund, the report type that is being filed, a summary page which will include information on other institutional investment managers covered by the filing, and the voting information report.

In an effort to avoid duplicative filings, managers, affiliated managers, and funds are permitted to file jointly when:

- Single Manager: A single manager may report “say-on-pay” votes in cases where multiple managers exercise voting power.

¹ <https://www.sec.gov/rules/final/2022/33-11131.pdf>

² “Form 13F is the reporting form filed by institutional investment managers pursuant to Section 13(f) of the Securities Exchange Act of 1934. Congress passed Section 13(f) of the Securities Exchange Act in 1975 in order to increase the public availability of information regarding the securities holdings of institutional investors. See Section 13(f) of the Securities Exchange Act. Congress believed that this institutional disclosure program would increase investor confidence in the integrity of the United States securities markets. Institutional investment managers that use the United States mail (or other means or instrumentality of interstate commerce) in the course of their business and that exercise investment discretion over \$100 million or more in Section 13(f) securities must file Form 13F. See Section 13(f)(1) of the Securities Exchange Act.” See Frequently Asked Questions About Form 13F, SEC website, <https://www.sec.gov/divisions/investment/13faq>

- **Affiliated Managers:** Affiliated managers may file a single report on Form N-PX for all affiliated managers within the group, notwithstanding that they do not exercise voting power over the same securities.
- **Fund:** A fund may report a manager's "say-on-pay" votes on behalf of a manager exercising voting power over some or all the fund's securities.

At this point, it does not appear that any changes are being made to the Form 13F filing under this proposal. It would appear that the triggering event on the required additional information on Form NP-X would be a filing being made under Form 13F.

The compliance date for this Rule is August 2024, however, the initial filing will cover proxies voted from July 1, 2023 through June 30, 2024. Reports will need to be filed no later than August 31st of each year and must incorporate the most recent one-year period. In an effort to meet regulatory requirements, third-party proxy voting services as well as other service providers have already begun the process of implementing new procedures to ensure that the information needed from records properly reflects the required information to be reported for all future proxy votes.

At present, STC is working on how the changes would be implemented, given the historical fact of STC having filed its own Form 13F, but not filing a Form NP-X, as CIT managers are most often exercising proxy voting authority on behalf of STC for securities held by the CITs. More information on the impact of the change of the rules on the STC CITs will be addressed in the near term.

LEGISLATIVE UPDATE

The U.S. House of Representatives Begin Movement on Permitting 403(b) Plans into CITs as Permissible Investors

Bipartisan legislation entitled the Retirement Fairness for Charities and Educational Institutions Act of 2023, H.R. 3063, 118th Cong. 2023-2024 ("HR 3063") has recently been introduced into a committee of the U.S. House of Representatives in an effort to amend the U.S. federal securities laws to allow the use of CITs within 403(b) retirement savings plans.

Currently, registration exemptions only existed under the Investment Company Act of 1940, the Securities Act of 1933 and the Securities Exchange Act of 1934 for 401(k) plans, 475(b) plans, the Thrift Savings Plan, governmental plans and other limited plan types to invest in CITs. 403(b) plans were originally not included under the list of exempt plans due to the plans previously being sold directly to retirement savers as retail products at applicable organizations. Additionally, the Internal Revenue Code of 1986 as amended (the "Code") previously stated directly that 403(b) plans were permitted only to invest into registered open end mutual funds.

CITs include a significant range of benefits for retirement investing. CITs are typically known for having lower expenses in comparison to their mutual fund counterparts. This is in part due to lower administrative and regulatory requirements. Record keepers and plan sponsors are increasingly making the choice to invest through these vehicles. Further, SECURE ACT 2.0 amended the Code at the end of 2022 to remove the "mutual fund investment only" requirements of the Code, but failed to include the required securities laws amendments, allegedly at the direction of the SEC and some U.S. legislators who expressed some concerns with a lack of consumer protections for 403(b) investors.

The proposed bill has been met with overwhelming support. Many supporters believe that HR 3063 would create a more level playing field for eligible plan participants and benefit millions of employees currently participating in 403(b) retirement plans. 403(b) plans are currently the only tax-preferred retirement plan that does not have access to CITs and various practitioners have said that the "whole point of this is to get parity" between different defined contribution-style retirement plans. For tax-exempt organizations, such as health systems, charities and schools that sponsor 403(b) plans, the proposed legislation may bring new investment options and welcome relief from higher than necessary fees.

There has been some commentary that these changes may be included in an appropriations bill later this year, but that information has not yet been confirmed. STC continues to monitor these developments with the intent to communicate final changes to the CIT investment advisors if and when these proposed legislative changes become law.

About SEI Trust Company

SEI Trust Company (STC) is a non-depository trust company chartered under the laws of the Commonwealth of Pennsylvania that provides trust and administrative services for various collective investment trusts. SEI Trust Company is a wholly-owned subsidiary of SEI Investments Company (SEI). For more information, visit www.seic.com/stc.

About SEI

SEI (NASDAQ:SEIC) delivers technology and investment solutions that connect the financial services industry. With capabilities across investment processing, operations, and asset management, SEI works with corporations, financial institutions and professionals, and ultra-high-net-worth families to solve problems, manage change and help protect assets—for growth today and in the future. As of March 31, 2023, SEI manages, advises, or administers approximately \$1.3 trillion in assets. For more information, visit seic.com.