Saba | Capital

March 20, 2020

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

RE: Release No. 34-87547; File No. S7-22-19
Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice

Dear Ms. Countryman:

Saba Capital Management, L.P.[1] is responding to the request of the Securities and Exchange Commission (the "Commission") for comments on a proposed rule amendments under the Securities Exchange Act of 1934, as amended (such act, the "Exchange Act" and the proposed rule amendments, collectively, the "Proposed Amendments") relating to modifying certain exemptions from the proxy rules for proxy voting advice.[2] We recognize the time and effort invested by the Commission and the Staff of the Division of Investment Management (the "Staff") in formulating the Proposed Amendments and appreciate the opportunity to comment.

We are an investment management firm that is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, as amended. We serve as (i) investment adviser to certain private funds that are exempt from registration under the Investment Company Act of 1940, as amended (the "Investment Company Act"), (ii) a sub-investment adviser to an open-end investment company that is registered under the Investment Company Act and operates as an exchange-traded fund, and (iii) certain separately managed accounts.

[1] References in this comment letter to "we", "us" or "our" refer to Saba Capital Management, L.P.
[2] Release No. 34-87457; File No. S7-22-19, *Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice* (the "Proposing Release").

I. Overview of Inherent Conflicts Faced by Proxy Advisory Firms in Evaluating Funds Managed by Existing Clients

As one of the largest investors in the registered closed-end fund space, we have witnessed firsthand the outsized role that proxy advisers play in influencing the voting decisions of shareholders of such registered closed-end funds. In particular, the decision of a proxy adviser often dictates the outcome of a particular vote, given that (i) nearly all institutional investors follow the advice provided by such proxy advisers as part of their proxy voting policies, and (ii) it remains difficult to get the participation of large blocks of retail investors even on critical shareholder votes, leaving primarily the institutional investors to determine the outcome of such votes. As most publicly-traded closed-end funds are held primarily by retail investors, the influence of proxy advisers in the matters of these funds has a direct and material impact on Main Street investors.

Given how proxy voting policies have evolved, asset managers are often the largest clients of proxy advisory firms. In particular, asset managers often pay such proxy advisers for their services across countless institutional accounts, mutual funds, ETFs and other pooled investment vehicles, representing significant and long-term revenue streams for such firms. As a result, we believe that the recommendations of such proxy advisory firms often become biased and conflicted when they consider shareholder votes at registered closed-end funds and other investment companies managed by such asset manager clients, given their desire to protect existing revenue streams – often at the expense of the best interests of Main Street investors who hold shares in such funds.

II. Examples of Conflicted Proxy Advisory Firms

Even in the most egregious examples of mismanagement and bad behavior on the part of a closed-end fund's investment adviser, proxy advisory firms have failed to hold any asset manager accountable. We thought this was best evidenced by an analysis of three examples where we believe proxy advisory firms put their corporate relationships above the interests of a fund's Main Street investors.

A. Vertical Capital Income Fund (NYSE: VCIF)

Vertical Capital Income Fund was a registered closed-end investment company that had elected to operate as an interval fund for Investment Company Act purposes. As an interval fund, VCIF offered quarterly 5% redemptions to its shareholders at net asset value ("NAV"). Upon receiving redemption requests exceeding 40%, the board of VCIF opted to seek shareholder approval to remove its fundamental policy to conduct such quarterly redemptions, thus leaving shareholders with no other source of liquidity than a trading market where the market price fell below the fund's NAV. Notably, ending such quarterly redemptions also ensured no further reductions in the fund's capital base – and correspondingly the management fees paid to the fund's investment adviser. While on its face such a change would seem to go against the basic interests of existing VCIF shareholders, proxy advisory firms actually came out in favor of suspending such quarterly redemptions. We believe this example demonstrates that the recommendation of conflicted proxy advisory firms can generate almost any outcome an investment manager desires even if it will unquestionably lead to substantial harm for that fund's shareholders. In particular, shareholders of VCIF immediately lost 30% on the conversion from an interval fund to a traditional closed-end fund.

B. Dividend and Income Fund (NYSE: DNI)

We believe the Dividend and Income Fund, managed by Bexil Advisers, also highlights the lack of consideration we believe proxy advisory firms give to the mistreatment endured by closed-end fund shareholders. For example, despite a five-year average discount to NAV of -18.1%, DNI has conducted multiple rights offerings at the lesser of 95% of market price or 79% and 80% discount to NAV. Such rights offerings force shareholders to either increase their investment in an already heavily discounted fund or accept severe dilution. Still, despite such a poor record of performance and near constant dilutive rights offerings, a proxy advisory firm strongly supported retaining the manager at DNI's 2019 annual shareholder meeting, going as far to say "there is **an important continuing service to be provided to shareholders and to the investing public by maintaining the operations of the fund** under its current advisory agreement and structure."

Notably, DNI also limits investment ownership to 4.99% to "defend against arbitrageurs" and "also imped[e] or discourage[e] a proxy contest". DNI has, however, permitted one exception to this limit – allowing DNI's own investment adviser to acquire greater than 9% of its outstanding shares, which the adviser not surprisingly uses to vote against proposals contrary to its own interests. Neither of these anti-takeover protections were addressed by the proxy advisory firm in formulating its recommendation in favor of retaining the manager at DNI's 2019 annual shareholder meeting.

As a result of the foregoing circumstances, DNI has one of the largest discounts to NAV in the closed-end fund universe; with little hope for the DNI's shareholders.

C. BlackRock (NYSE: BTZ)

The 2019 annual meetings of BlackRock closed-end funds serve as an example where we believe proxy advisory firms displayed their conflicted relationship with asset managers. Specifically, two funds, BTZ and DSU, committed identical shareholder rights violations in 2016; unilaterally amending their respective bylaws to classify their respective board of directors and put in place a supermajority voting standard for contested elections. We believe that given that the DSU trustees were running unopposed, proxy advisory firms felt comfortable recommending a "withhold" vote. With the knowledge that such a recommendation would not ultimately impact the closed-end fund, proxy advisory firms could take positions in line with their stated policies on corporate governance.

In contrast, at the annual meeting of BTZ, the trustees were running opposed by our own nominees. In this case, the proxy advisory firm recommended to support the same incumbents they withheld against in DSU. We believe this distinction was motivated by a desire not to impact the oversight of the closed-end fund and potentially damage their relationship with the investment manager. We believe such an outcome is akin to an umpire calling balls and strikes depending on the score of the game.

III. Conclusion

As highlighted in the above examples, we feel strongly that proxy advisory firms are often conflicted when considering shareholder votes involving registered closed-end funds or other investment companies that are managed by significant users of their advisory services. By putting the proverbial thumb on the scale in favor of their larger clients, such proxy advisory firms can determine the outcome of important shareholder votes – often leading to outcomes that appear contrary to shareholder interests. This issue is particularly prevalent with registered closed-end funds, given the outsized influence institutional investors can have over shareholder votes given the lesser participation of Main Street investors in such proxy contests. We applaud the Commission for considering the implications such proxy advisory firms may have on shareholder votes, and encourage the Commission to consider ways to mitigate the inherent conflicts proxy advisory firms face when addressing funds managed by existing clients.

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We would be pleased to respond to any inquiries you may have regarding our letter or our views on the Proposed Amendments more generally. Please feel free to direct any inquiries to Michael D'Angelo at michaeldangelo@sabacapital.com or 212-542-4635.

Very truly yours,

M. D'Angelo

SABA CAPITAL MANAGEMENT, L.P.