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CII's Halloween Request to Top Bar Associations: No More "Zombie" Directors

Washington, D.C., Oct. 25, 2012 — Frustrated by the continued existence of "zombie" directors on corporate boards, the Council of Institutional Investors is urging key federal and state bar associations to require that U.S. public companies elect directors by majority vote.

In [letters](#) sent today to the American Bar Association and the Delaware State Bar Association, the Council proposed draft revisions to current standards governing director elections. Under the Council's suggested amendments, in uncontested elections for board seats, any director who fails to receive a majority of the votes cast is not elected and must leave the board.

In the bizarre world of corporate board elections, scores of directors continue to serve on boards even though a majority of shareowners voted against them. These zombie corporate overseers are protected because at most U.S. public companies, directors are elected by a plurality of votes cast rather than a majority. Under a plurality vote system in an uncontested election, a director is elected even if he or she receives only a handful of votes.

In fact, a recent IRRC Institute [study](#) found that only 5% of 175 director nominees at Russell 3000 companies who failed to win majority support in the three years ending June 30, 2012 actually left their boards. And even some companies that have adopted majority voting for directors let zombie directors stick around.

More than 70% of S&P 500 companies have embraced the majority vote standard in uncontested elections. But the vast majority of U.S. public companies still use plurality voting.

"Electing directors by majority vote is a basic shareholder right," said Ann Yerger, the Council's executive director. "Directors who lack the support of the shareowners they represent should not serve. Majority voting ensures that shareowners' votes count and makes directors more accountable. Plurality voting for directors results in rubber stamp elections."

The letters mark the latest effort by the Council in a long campaign to persuade the American Bar Association Business Law Section's Committee on Corporate Laws and the Council of the Corporate Law Section of the Delaware State Bar Association to modernize their standards for director elections. Upgrading Delaware's corporate law rules is critical because about half of all U.S. public companies are incorporated in the state.

"Despite the overwhelming support for majority voting at leading U.S. public companies and in many other global markets, the ABA and Delaware continue to embrace an antiquated system that coddles undeserving directors," said Yerger.

The Council of Institutional Investors (CII) is a nonprofit association of pension funds, other employee benefit funds, endowments and foundations, with combined assets that exceed \$3 trillion. The Council is a leading voice for good corporate governance and strong shareowner rights. The Council strives to educate its members, policymakers and the public about corporate governance, shareowner rights and related investment issues, and to advocate on members' behalf.