

## US Corporate Law News: Council of Institutional Investors voices concern over SEC decisions regarding proxy rights

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On January 31, 2018, the Council of Institutional Investors (CII), a group representing institutional investors, sent a letter to the SEC's Director, Division of Corporation Finance, regarding the SEC's December 19, 2017 no-action determination as to a shareholder proposal to The AES Corporation (AES) concerning the threshold required to call a special meeting. The AES shareholders' proposal requested that the holders of 10% of the outstanding AES common stock be given the power to call a special shareholder meeting. AES had requested the SEC's permission to exclude the shareholder proposal from its proxy because AES planned to propose a resolution requiring 25% of the outstanding AES common stock to call a special shareholder meeting. The SEC agreed with AES and allowed exclusion under Exchange Act Rule 14a-8(i)(9), determining that the shareholders' proposal conflicted with management's proposal. In its letter, CII voiced its concerns over the SEC's lack of transparency and argued that AES was gaming the system by developing a management proposal after receiving the shareholder proposal. For more information, see [http://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2018/January%202018%2014a-8\(i\)\(9\)%20FINAL.pdf](http://www.cii.org/files/issues_and_advocacy/correspondence/2018/January%202018%2014a-8(i)(9)%20FINAL.pdf).


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