



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

DIVISION OF  
INVESTMENT MANAGEMENT

December 18, 2009

Mr. Richard G. Ketchum  
Chairman & Chief Executive Officer  
Financial Industry Regulatory Authority, Inc.  
1735 K Street NW  
Washington, DC 20006

Re: Political Contributions by Certain Investment Advisers

Dear Mr. Ketchum:

Earlier this year, the Securities and Exchange Commission proposed a rule under the Investment Advisers Act of 1940 designed to prevent investment advisers from seeking to influence the award of advisory contracts by government entities by making or soliciting political contributions to those officials who are in a position to influence the awards. *See* Investment Advisers Act Release No. 2910 (Aug. 3, 2009). The proposed rule included a provision that would prohibit investment advisers from using third parties to solicit government business on their behalf. This provision, modeled on the Municipal Securities Rulemaking Board's Rule G-38, was designed to prevent investment advisers from circumventing pay to play restrictions by using third parties to make political contributions or otherwise seek to exert influence designed to secure business on their behalf.

We received numerous comments on this proposed third-party solicitor ban advocating that placement agents can provide important services to investment advisers seeking to compete for government business and requesting that the Commission reconsider its approach. Some commenters suggested that, if an exception to proposed ban existed for regulated entities serving as legitimate placement agents (*i.e.*, FINRA-registered broker-dealers), those placement agents could be subject to separate regulations that might restrict their ability to engage in pay to play activities on behalf of their investment adviser clients.

The Division of Investment Management is currently formulating a recommendation to the Commission for a final rule. It occurs to us that an exception to the ban for registered broker-dealers acting as legitimate placement agents might be feasible if FINRA were to implement rules that would prohibit pay to play activities by those persons. In this regard, I am very interested to learn whether FINRA would consider crafting and adopting such rules for its members.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Donohue".

Andrew J. Donohue  
Director