



NEW YORK STATE BRIDGE AUTHORITY

February 17, 2011

Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Proposed SEC Rule, Rel. No. 34-63576 dated December 20, 2010, File No. 87-45-10

Dear Ms. Murphy:

This letter responds to the Securities and Exchange Commission's (the "SEC") request for comments on its proposed rule regarding registration of municipal advisors.

We understand that the proposed rule would determine who is treated as a municipal financial advisor under the *Dodd-Frank Act*. The *Act*, among other things, requires municipal advisors to register with the SEC, establishes a fiduciary duty between a municipal advisor and a municipal entity for which it is acting as a municipal advisor, and subjects municipal advisors to additional anti-fraud requirements. A municipal financial advisor is one that provides advice to a state or municipal entity, including public pension funds, as to the issuance of municipal securities, swap transactions and/or investment strategies. Registration requirements would include payment of registration fees, testing, and continuing education requirements among other things.

The SEC treats members of a governing body of a municipal entity or obligated person as municipal advisors, subject to a limited exclusion for "elected" members. We believe this approach should not be followed.

The proposed rule fails to recognize how the governing board of a municipal authority functions. Board members of public authorities are specifically charged with certain fiduciary responsibilities, including oversight of the chief executive and senior management, understanding and monitoring financial and management controls, prudent investment of funds, and establishing policies regarding compensation. The municipal entity acts through its governing body, which is necessarily comprised of individual members. Board member participation in decision making cannot be treated as equivalent to advising the Board without significantly interfering with the proper functioning of a board.

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This is true whether the board is meeting and acting as a full board, or whether members of the board are meeting and acting as part of a committee making recommendations to the full board. In both contexts the board members must meet and discuss information and points of view as to matters of fact and policy in order to reach a decision; this is part of the deliberative process and not advising.

Accordingly, the exception for a "municipal entity" should properly be interpreted to mean all governing body members.

Governing board members of public authorities are typically appointed by state or local governmental officials. They are no different from employees or elected officials in this regard except that they are typically unpaid volunteers. They have the same fiduciary responsibilities as employees and elected officials for their conduct and performance. All members of a governing board, whether elected or appointed, should be exempt from the municipal advisor definition.

Appointed members are volunteers who serve in the interests of the public and often have special expertise that is critical to the effective functioning of the governing body. The proposed exclusion of appointed members is inappropriate, overly costly, burdensome and very likely to discourage participation by qualified volunteer officials.

For the foregoing reasons, the Authority strongly urges the SEC to reconsider the approach taken towards appointed board members in the rule. We recommend that the SEC provide for a specific exclusion from the definition of municipal advisor for all board members of municipal entities.

Very truly yours,



James P. Sproat, Chairman
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