SINCE 1941
CLEARWATER HOUSING AUTHORITY
Innovators in Affordable Housing

February 22, 2011

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

Re: Comments to Proposed Rule Regarding Registration of Municipal Advisors, SEC Release No. 34-63576; File No. S7-45-10

Dear Ms. Murphy:

I am writing on behalf of Clearwater Housing Authority (the "Authority") in response to the referenced Release (the "Release"), which invites comments on new rules proposed by the Securities and Exchange Commission (the "SEC") that would require "municipal advisors" (as defined in the proposed rules) to register with the SEC. As discussed below, the Authority has significant concerns regarding the effect the proposed rules will have on our Board of Commissioners.

The Authority is a public housing authority, established under Chapter 421, Florida Statutes (the "Act") to provide for safe and sanitary housing for low- and very low-income citizens through, among other things, the development and operation of housing projects within its area of operation. Under the Act, the Authority acts through its five-member Board of Commissioners (the "Board") appointed pursuant to the Act by the Mayor of the City of Clearwater.

The appointed members of our Board are all volunteers, each with a diverse background. One Commissioner (the "Tenant Commissioner") must be a resident of a housing project or a person of low or very low income who resides within the Authority's jurisdiction and is receiving rent subsidy through a program administered by the Authority or public housing agency that has jurisdiction for the same locality served by the Authority. Historically, the other Commissioners have included business leaders, housing professionals, real estate professionals and community activists, each of whom (including the Tenant Commissioner), once appointed must take an oath of office that requires the member to uphold the constitution and laws of the State of Florida. These laws include Chapter 112, Florida Statutes, which encompasses Florida's code of ethics for public officials. Very little distinction is made within the Florida code of ethics between appointed and elected officials because all such public officials are held to the same high standard of conduct. As a public official, each Board member owes a fiduciary duty to the Authority and is specifically subject to Florida laws concerning conflicts of interest, gifts, public meeting and records, financial disclosure and doing business with one's agency.

In order to fulfill its housing mission, the Authority is empowered, among other things, to establish, construct, operate and maintain housing projects, and to provide for the financing of these projects including through the issuance of municipal bonds. Because the Authority is a relatively infrequent issuer of municipal securities, the Board separately engages independent consultants to advise it with respect to matters relating to the issuance of municipal bonds and financial products.

During the Board's meetings, all of which are subject to Florida's open meeting laws, each Board member is encouraged to participate in the discussion of all matters coming before the Board, including financial matters. Board members customarily ask questions of outside consultants, make comments, express their opinions, discuss proposed actions and vote on whether or not to authorize issuance of bonds and other matters before the Board. These are all part of the normal but vital deliberative process of the Authority's Board.

The SEC's proposed rules regarding the registration of municipal advisors would exclude elected Board members of a municipal entity from the definition of "municipal advisor", but not appointed Board members. In light of the close similarity in duties and treatment of elected and appointed public officials under the laws of Florida as described above and, we understand, under the laws of many other states, the Authority does not believe that disparate treatment of elected and appointed Board members proposed by the SEC to be justified.

Thus, as a threshold matter, the Authority would respectfully request the SEC to modify the proposed rules to exclude from the definition of "municipal advisor" all Board members of a municipal entity, whether elected or appointed.

The SEC's proposed rules do not include any definition of what constitutes "advice" or "providing advice." They also lack provision of what should be a key element in determining what a "municipal advisor" is. That missing element is that the person must be acting in some professional capacity and holding him or herself out to the public as having special expertise in the area in which he or she is providing advice. There must be some risk or expectation that the municipal entity being provided the advice will view the person in a professional capacity with the knowledge, experience and competence to make the advice reliable. To omit this key element is to bring under the purview of the SEC's proposed rules literally anyone who offers an opinion or view ("advice") on these matters to a municipal entity, including Board members and members of the general public filing written comments or making oral comments at Board meetings. To fail to address these matters and leave them subject to the interpretation and opinion of each municipal entity's legal counsel is unfair to the municipal entities that will ultimately have to pay for the legal advice.

The Authority would therefore further respectfully request that the SEC provide specific guidance with respect to what it means to "provide advice" by requiring that the advice be provided in a professional capacity by a person holding him or herself out to have special

knowledge and expertise in municipal financial matters where there is an expectation and a likelihood that the advice will be relied upon by others in making financial decisions for the municipal entity. The SEC should also provide a clear and unconditional statement in the final rules that the statements and other activities of Board members (whether elected or appointed) of municipal entities made or taken in the course of performing their duties as Board members will not be construed as "providing advice" in the role of a "municipal advisor" to a municipal entity requiring prior registration by the Board member with the SEC.

Without such modifications and guidance, the SEC's proposed rules will have significant deleterious effects on our Board and the efforts of its members to ensure that the best possible financial decisions are made for the Authority. They would have a material and negative impact on the normal deliberative process of our Board by restraining the freedom of its members to express their views on matters relating to municipal bond issues and municipal financial products for fear of subjecting themselves to the potential risk and expense of an SEC investigation over whether their comments constituted "advice" requiring prior registration as a "municipal advisor". They would also make it more difficult for the Authority to find individuals with business acumen, financial knowledge and backgrounds and other helpful experience who are willing to serve on the Board if doing so will require them to register with the SEC as a "municipal advisor." They would thereby deprive the Authority – and the citizens its serves ---of talent and robust discussion and deliberation by Board members that is needed for the Board to make sound financial decisions.

The Dodd-Frank Act provision that led to the SEC's proposed rules was intended to protect municipal entities but, with all due respect, municipal entities, such as the Authority, do not need to be protected from their own Board members, whether appointed or elected. In the case of the Authority (and we suspect this is the case with respect to most municipal Boards), the members are the legislative or policy decision makers. In that capacity, they are entitled to rely, and in the case of the Authority's Board, indeed do rely, on advice rendered by professional, independent consultants. The Board members are the *recipients* of the financial advice, not the *providers* of such advice. Moreover, nothing in the Dodd-Frank Act indicates Congress intended the SEC to require registration of appointed members of municipal entities before they could engage in deliberations with their Board colleagues and execute the duties they were appointed to perform under state law.

To summarize, for the foregoing reasons, the Authority respectfully requests that the SEC specifically modify the proposed rules as follows:

1. exclude from the definition of "municipal advisor" all Board members of a municipal entity, whether elected or appointed;

2. provide specific guidance with respect to what it means to "provide advice" by requiring that the advice be provided in a professional capacity by a person holding him or

herself out to have special knowledge and expertise in municipal financial matters where there is an expectation and a likelihood that the advice will be relied upon by others in making financial decisions for the municipal entity; and

3. provide clear and unambiguous guidance that the statements and activities of Board members of municipal entities made or taken in the course of performing their respective duties as Board members will ***not*** be construed as "providing advice" to a municipal entity such as would require prior registration by the Board member with the SEC.

If you have any questions concerning these comments or desire any additional information regarding the Authority, please contact the undersigned.

Respectfully submitted,

Jacqueline Rivera
Chief Executive Officer

cc: Board of Commissioners
Senator Bill Nelson
Senator Marco Rubio
Congressman Gus Bilirakis