www.lppc.org

The Large Public Power Council

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Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F. Street, NE

Re: Proposed Rule Regarding Registration of Municipal Advisors
File Number S7-45-10

Dear Ms. Murphy:

The Large Public Power Council ("LPPC") submits its comments in response to the Securities and Exchange Commission's ("SEC") proposed rule, "Registration of Municipal Advisors", as published in the Federal Register on January 6, 2011 (the "Proposed Rules").

A. LPPC.

The Large Public Power Council is an organization representing 24 of the largest locally owned and operated public power systems in the nation. LPPC members own and operate over 75,000 megawatts of generation capacity and nearly 34,000 circuit miles of high voltage transmission lines. Collectively, LPPC members own nearly 90% of the transmission investment owned by non-federal public power entities in the U.S. Our member utilities supply power to some of the fastest growing urban and rural residential markets in the country. Members are located in 11 states and Puerto Rico -- and provide power to some of the largest cities in the country including Los Angeles, Seattle, Omaha, Phoenix, Sacramento, Jacksonville, San Antonio, Orlando and Austin. LPPC members' public service mission is to provide reliable, safe electricity service, keeping costs low and predictable for its customers while practicing good environmental stewardship.

B. Comments.

1. Background. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") new rules were enacted for municipal advisors. Specifically, a municipal advisor that provides advice to a municipal entity with respect to municipal financial products or the issuance of municipal securities must register with the SEC. Second, the Act provides the Municipal Securities Rulemaking Board ("MSRB") with regulatory oversight regarding municipal advisors and imposes on municipal advisors a fiduciary duty when providing advice to municipal entities.

2. Summary of comments. The LPPC strongly believes that the Proposed Rules should be modified so that the definition of "municipal advisor" does not include any board member of a municipal entity. Second, the Proposed Rules should be modified to better clarify the circumstances under which a broker-dealer is acting as a municipal advisor. Third, the Proposed Rules improperly extend the restrictions on municipal advisors to investments of municipal entities made with funds that are not bond proceeds and these results should be changed.

3. Municipal entity board members are not municipal advisors. The Proposed rules effectively provide that a governing board member of a municipal entity is a municipal advisor unless the board member is elected. The SEC stated in the proposed rule that appointed members are not considered "employees" of the municipal entity and not covered by the exclusion from the municipal advisor definition for "employees." The SEC explained that appointed boards are not directly accountable to the municipal entity or the citizens of the municipal entity as the rationale for not treating such persons as employees. The SEC specifically requested comments on this aspect of the Proposed Rules. We strongly disagree with this interpretation of the Act.

First, the Act provides an exception to the term "municipal advisor" for a person who is a municipal entity or an employee of a municipal entity. The approach taken in the Proposed Rule seems to ignore the portion of the exception for a person who is a municipal entity. Obviously a person cannot be an entity in the ordinary sense of these words. However, it also seems clear that these words in the Act were intended to have meaning. We believe that the proper reading of this language is that the governing board of a municipal entity is the municipal entity. In other words, a municipal entity acts through its board and the board members should be viewed as being the municipal entity for this purpose. Not only does this interpretation give meaning to the language of the Act but it also is consistent with comment sense: how can the people who govern an entity be considered an advisor to that entity.

Apart from this, we also disagree with the notion that a board member is an employee of the organization only if that person is responsible to the municipal entity or the citizens of the entity. We do not understand why the determination of whether an individual is an employee of an entity should hinge on responsibility to citizens, rather than responsibility to the entity and we disagree with the notion that an appointed board member is not responsible to the municipal entity. We do not believe that "direct accountability to citizens" should be standard for qualification as an "employee." The absence of direct accountability to citizens through voting does not mean that a board member is not accountable to the citizens, customers, etc. This

would suggest that the commissioners, officers, directors, etc. of a governmental agency are not accountable unless elected.

Approximately half of LPPC's members have boards that are appointed. Beyond LPPC, a large percentage of other public power systems have appointed boards and in the larger, universe of municipal entities, it is extremely common for boards to be appointed. There would be huge consequences if every appointed board member of a municipal entity was subject to registration and MSRB regulation. We also note that the problem with the "municipal advisor" being defined to include non-elected board members is not solved by the fact that the Act only applies if these individuals provide "financial advice" since this term is defined so broadly and includes advice with respect to the issuance of municipal securities.

We are concerned the Commission's proposal may discourage citizens from serving on the boards of LPPC's members. Typically, board members of governmental entities receive little or no compensation or benefits for their service. Imposing financial advisor registration, liability, and other requirements would discourage individuals from serving on these boards.

4. The definition of "municipal financial products" is overly broad. Under the Proposed Rules, a municipal advisor includes a person that provides advice regarding an investment of a municipal entity's funds, regardless of the source of those funds. The Act, however, defines a municipal advisor in a more limited manner as a person who provides advice with respect to "municipal financial products." The Act defines "municipal financial products" as municipal derivatives, guaranteed investment contracts ("GICs") and investment strategies. The Act, in turn, defines "investment strategies" to include plans or programs for the investment of the proceeds of municipal securities that are not municipal derivatives, GICs, and the recommendations of municipal escrow investments.

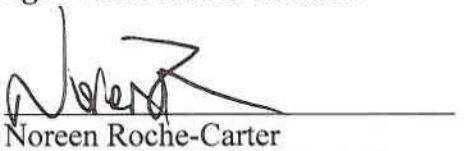
Despite this limited approach in the Act, the Proposed Rules state that the definition of "investment strategies" was not intended by Congress to be limited to those providing advice with respect to the investment of proceeds from municipal securities. The SEC also stated that because every bank account of a municipal entity is comprised of funds "held by or on behalf of a municipal entity," a money manager providing advice to a municipal entity regarding such an account could be a municipal advisor.

We disagree with the above-described approach taken in the Proposed Rules regarding the definition of municipal advisor. As set forth in the Act, Congress created a limited scope regarding the types of investments that can cause an advisor to be a municipal advisor. If Congress meant to include every type of investment of every type of fund, why does the Act state that municipal advisors provide advice with respect to "municipal financial products" which are defined as municipal derivatives, GICs, and investment strategies, with investment strategies defined by reference to investment of the proceeds of municipal securities? It appears that the Proposed Rules ignore this carefully crafted and very specific approach enacted by Congress. We urge the SEC to narrow the Proposed Rules so as to follow the language of the Act.

5. Broker-dealers. Although our members are not broker-dealers, we are concerned that uncertainty regarding the scope of the exemption for broker-dealers will have an adverse affect on the services that we receive from broker-dealers. By limiting that exemption to instances where the broker-dealer is acting as an underwriter, we are concerned this will limit the types of services provided to our members by broker-dealers compared to what has traditionally been provided to our members. We believe this definition is too narrow with respect to the scope of services typically provided. We urge clarification of these issues.

Respectfully yours,

The Large Public Power Council

By: 

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