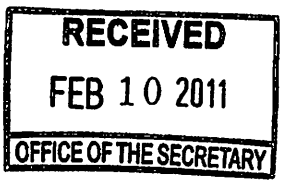
February 4, 2011



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

Re: Comments on Securities and Exchange Commission Release No. 34–63576; File No. S7–45–10

Ladies and Gentlemen:

Please accept the following comments of the Colorado Local Government Liquid Asset Trust ("COLOTRUST") on proposed rules 15Ba1–1 through 15Ba1–7 and Forms MA, MA–I, MA–W, and MA–NR pursuant to the request for comments set forth in Release No. 34-63576, Federal Register 76:4 (January 6, 2011) p. 824 (the "Release"). The rules proposed in the release seek to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 (the "Act").

COLOTRUST is a local government investment pool organized and existing under Title 24, Article 75, Part 7 of the Colorado Revised Statutes ("C.R.S."). COLOTRUST provides local governments with a convenient method for investing in short-term investments carefully selected to provide maximum safety and liquidity, while still maximizing interest earnings. COLOTRUST serves over 1,200 local government entities and has current combined assets of over $5 billion. Pursuant to the Indenture of Trust that governs COLOTRUST, there are twelve members chosen to serve as the Board of Trustees (the "Board"). Each of the Board members is a representative of one of the participating local governments. At least one, but no more than four of the members of the Board must come from each of the following categories of local government: (i) counties; (ii) cities and towns; (iii) school districts; (iv) special districts; and (v) other public entities. The members of the Board are elected by the participating local governments acting through a designated representative.

Colorado law provides that local government investment pools such as COLOTRUST are subject to regulation by the Colorado Securities Commissioner. See C.R.S. §§ 24-75-703(2), 704(2), 707(2)(b), 707(3)(b), 708(1), 708(2)(b), 709. In addition, the members of the Board have a fiduciary duty to COLOTRUST that is described in C.R.S. Section 25-75-705 as follows:

> The [Board] shall invest . . . with that degree of judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital and need for liquidity as well as the probable income to be derived.
>
> The [Board] shall exercise the functions over which such [Board] has substantial discretion solely in the interest of the participating local governments and for the exclusive purpose of providing earnings and defraying expenses incurred in administering the trust fund. The [Board] shall act . . . with the care, skill, and due diligence in light of the circumstances then prevailing that a person in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.
>
> It is unlawful for a member of the [Board] to engage in any activities which might result in a conflict of interest with such member's functions as a fiduciary of the trust fund.

Pursuant to Section 975 of the Act, 15 U.S.C. 78o–4(e) is amended to add a definition of "municipal entity," which includes "any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof." Page 826 of the Release further provides that the proposed rules will apply to those who advise local government investment pools.

On page 835 of the Release, the Commission asks for comment on the following question: "In light of our understanding of Congressional objectives and intent, are the Commission's interpretations under the definition of 'municipal advisor' and related terms, and the exclusions from the definition of 'municipal advisor' appropriate? Should any of these interpretations be modified or clarified in any way?" COLOTRUST believes that Commission's definition of "municipal advisor" and the related exclusions from the term should be modified so that none of the members of the Board are considered to be municipal advisors.

Pursuant to the rules proposed in the Release, individuals who meet the definition of a "municipal advisor" will be required to register with the Commission and the Municipal Securities Rulemaking Board, pay hundreds of dollars in registration fees and be subject to significant additional regulation. Section 15B(e)(4)(A) of the Securities Exchange Act of 1934, as amended, excludes "employees of a municipal entity" from the definition of "municipal advisor." However, on page 834 of the Release, the Commission states:

> The Commission does not believe that appointed members of a governing body of a municipal entity that are not elected *ex officio* members should be excluded from the definition of a ''municipal advisor.'' The Commission believes that this interpretation is appropriate because employees and elected members are accountable to the municipal entity for their actions. In addition, the Commission is concerned that appointed members, unlike elected officials and elected ex

officio members, are not directly accountable for their performance to the citizens of the municipal entity.

As discussed above, COLOTRUST will constitute a "municipal entity" for purposes of the Act and the Release, and therefore members of the Board could be affected by this interpretation. The members of the Board are elected to their positions by the local governments that participate in COLOTRUST. However, the citizens of the underlying local governments do not participate in the elections.

In connection with the Commission's request for comments on the Release, COLOTRUST makes the following three recommendations for the adoption of final rules: (i) remove the distinction between elected and appointed members of a governing body and exempt all from registration as employees of a municipal entity; (ii) if the distinction is not removed, clarify that the election process used to choose the members of the Board is sufficient to make them "elected members" of the governing body of a municipal entity; and (iii) if the members of the Board are not considered "elected members," clarify that the members of the Board that are considered employees of a separate municipal entity will be exempt from registration as municipal advisors with respect to COLOTRUST.

1. Remove the distinction between elected and appointed members of a governing body and exempt all from registration as employees of a municipal entity. The members of the Board all have significant experience working within Colorado local government. Because all Board members participate in discussions and offer opinions on the best course of action for COLOTRUST, there is a risk that any appointed Board member, in sharing his or her views on the matters covered by the Release, could qualify as a "municipal advisor." The significant cost, in both money and effort, associated with that designation would likely cause many qualified potential Board members to decline appointment. Board members provide invaluable guidance and leadership to COLOTRUST, and the ability to recruit and retain these public servants would be significantly burdened by the proposed rules set forth in the Release.

Article XXIX of the Colorado Constitution contains sweeping ethics rules for employees and officials of state and local governments. Section 2 of that article defines the "local government officials" to whom the restrictions apply as "an elected *or appointed* official of a local government..." (emphasis added). Therefore, the already existing citizen protections in the Colorado Constitution do not need to be supplemented by federal regulation of appointed officials.

In addition, Colorado law places stringent ethical rules upon members of the Board. Board members have a fiduciary duty to the trust and are prohibited from engaging in any activity that might result in a conflict of interest. *See* C.R.S. § 24-75-705. The Colorado Securities Commissioner is fully authorized and directed to enforce these laws. C.R.S. § 24-75-09. The goals of the Act include providing a fiduciary responsibility for municipal advisors and ensuring accountability for those who influence decisions relating to local government finance. In Colorado, there is already a regime in place to accomplish these goals with respect to members of the governing body of local government investment pools.

The members of the Board are also accountable for their actions to the municipal entities with which they are employed. By exempting municipal employees from regulation as municipal advisors in the Act, Congress displayed its belief that municipal employees are subject to separate accountability rules that obviate the need for additional federal regulation. The Commission acknowledges this in the Release, stating, "employees . . . are accountable to the municipal entity for their actions."

All the members of the Board are employees or officers of local governments who help manage COLOTRUST as a service to the local governments they lead. However, because COLOTRUST is a separate municipal entity from each of its local government participants, it is possible that the employees of municipal entities chosen to serve on the Board will become subject to regulation as municipal advisors against the will of Congress. This will provide a significant disincentive for employees of municipal entities that participate in COLOTRUST to volunteer to serve on the Board. If an employee chooses not to serve, he will be specifically exempted from regulation as a municipal advisor, but if he chooses to serve, he risks the additional administrative burden under the interpretation set forth in the Release.

If the distinction between appointed and elected board members is removed from the rules, then the negative effects on COLOTRUST will be mitigated. If it is not, COLOTRUST will need additional guidance to proceed, as described below.

2. *Clarify the meaning of the term "elected member."* Page 834 of the Release distinguishes between "elected members" and "appointed members" of the governing body of a municipal entity, but does not clarify the nature of the election that must be held for a member to qualify as an "elected member." The Release states that "appointed members, unlike elected officials and elected *ex officio* members, are not directly accountable for their performance to the citizens of the municipal entity." This suggests that an official elected by all registered voters in an area would be an elected member and that a member chosen and approved by only one person would be an appointed member. However, the process by which the members of the Board are chosen is somewhere in between.

No person has the right to appoint members to the Board. Instead, the members of the Board are elected by the over 1,200 local governments that participate in COLOTRUST. Each participating entity chooses a designee to represent its interest, and the designees vote to choose the Board. It is not clear from the Release whether Board members who are elected, but not elected directly by all citizens within a municipal entity, will qualify as "elected members" and will therefore be exempt from registration as municipal advisors. If the distinction between elected and appointed members is not removed, the members of the Board will not know whether they will be required to register as municipal advisors without further guidance as to the type of election required to qualify for the exemption. COLOTRUST requests that the Commission find the members of the Board to be "elected" because the selection process ensures accountability to the participating local governments in the same way traditional elections ensure accountability to citizens.

3. *Clarify the scope of the exception for employees of a municipal entity.* Section 925 of the Act states that "an employee of a municipal entity" will not constitute a "municipal

advisor" for purposes of the Act. However, neither the Act, nor the Release, states whether a municipal employee will not constitute a municipal advisor: (a) only with respect to the municipal entity of which she is an employee; or (b) with respect to *any* municipal entity. This distinction is important with respect to the members of the COLOTRUST Board of Trustees.

Nearly all of the members of the Board are employees of municipal entities. For example, the current board includes two town finance managers, two county treasurers, several school district staff members and the elected president of a special purpose district. It is clear that each of these employees would not qualify as municipal advisors with respect to their employers pursuant to the exception for employees contained in the Act. However, it is unclear whether the Board members who are employees of a different municipal entity could be considered municipal advisors to COLOTRUST.

The proper application of the exemption for municipal employees is not clear from the statute itself. Applying the text in a purely literal manner, no employee of any municipal entity would ever be considered a municipal advisor because such employees are specifically exempted. However, the exemption for a municipal employee could also be read merely as an extension of the exemption for municipal entities that applies only with respect to the entity that employs the person in question. Put another way, the sentence in the Act that reads:

the term "municipal advisor" . . . means a person (who is not a municipal entity or an employee of a municipal entity)

could have a meaning similar to:

the term "municipal advisor" . . . means a person (who is not a municipal entity or an employee of *such* municipal entity)

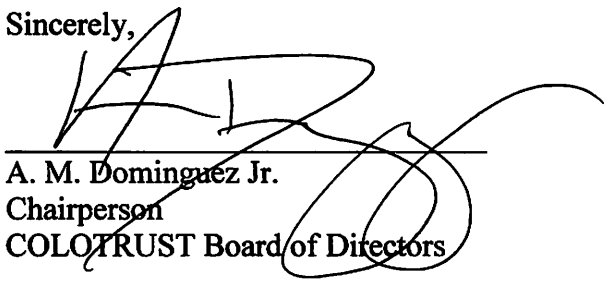
In this case, the exception would link the employee to the municipal entity, thus making it more likely that the employee exception only applies to the municipal entity for which the employee works. On the other hand, the statute could also have a meaning similar to:

the term "municipal advisor" . . . means a person (who is not a municipal entity or an employee of *any* municipal entity)

In this case, no municipal employee would be considered a municipal advisor to any municipal entity, including a municipal entity with which it does not have an employment relationship. As noted above, this distinction is very relevant to COLOTRUST. Most of the members of the Board are employees of municipal entities, but are not employees of COLOTRUST. If the members of the Board are considered to be appointed and not elected, most Board members will not know whether they will be required to register as municipal advisors without further guidance as to the nature of the employee exception. COLOTRUST requests that the Commission apply the exception for municipal employees to the members of the Board with respect to their relationship with COLOTRUST.

In closing, COLOTRUST requests that the Commission take one of the actions described above to assure that COLOTRUST Board members are not "municipal advisors." If the Commission were to proceed in this manner, the members of the Board could continue to provide their valuable insight to COLOTRUST for the benefit of the local governments they represent and all the other municipal entities that use COLOTRUST to invest and protect public funds. The members of the Board would remain accountable to the local governments for their actions and would remain subject to the strictures of Colorado law regarding fiduciary duty and ethics. As the Commission itself notes, this type of accountability removes the need for federal regulation under the Act and the proposed rules set forth in the Release.

Sincerely,



A. M. Dominguez Jr.
Chairperson
COLOTRUST Board of Directors