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March 18, 2011

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

Re: File Number S7-45-10 – Registration of Municipal Advisors, 76 *Fed. Reg.* 4 (Jan. 6, 2011)

Dear Ms. Murphy:

Piper Jaffray & Co. appreciates the opportunity to comment on the proposal by the Securities and Exchange Commission ("**SEC**") to establish a permanent registration program for municipal advisors under Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "**Dodd-Frank Act**").

We have particular concerns about three aspects of the proposal: the SEC's proposed definition of "investment strategies," the limited guidance provided by the SEC on the term "advice," and the lack of any guidance as to the appropriate treatment under the underwriter exception of private placement agents who offer securities of a municipality or obligated person on a private placement basis.

In addition, we support the comments made to the SEC by the Securities Industry and Financial Markets Association in respect of the proposal.

The SEC's Proposed Definition of "Investment Strategies"

The SEC has proposed an interpretation of the Dodd-Frank Act that we believe would fundamentally change for the worse the traditional access that municipalities have to brokerage services. The SEC's proposal appears to require that brokerage transactions with municipalities respecting the investment of all funds, including but not limited to bond proceeds, be regulated within the scope of activities of a "municipal advisor" under the Dodd-Frank Act, including the imposition of a fiduciary duty on the brokerage firm with respect to such entities.

Brokerage transactions with our larger municipal clients typically take place in a highly competitive environment. Some clients have portfolios in the billions of dollars and are in the market for securities on a daily basis. In many of these transactions, these clients come to us looking for very specific types of securities with specific durations, meeting specific constraints of their investment policies that are approved and adopted by their governing boards. These clients may call on several other brokerage firms for the

same information. The investment ideas are frequently initiated by the municipality directly to our sales representative. In these cases, we are competing, if informally, in a process in which "advice" is not being explicitly provided in the sense that the municipal entity has already formulated its own view as to what securities it seeks to purchase within the constraints imposed under state law, its governing body and its own expertise and the broker dealer is simply providing information about securities available or obtainable and then executing after negotiating a price. Prior to execution, we believe clients are aggressively negotiating among several firms for the best yield.

Even when municipal clients do not conduct a competitive process for the purchase of securities, it is not clear that they exhibit a uniform lack of sophistication and access to information in the context of the securities available to them that would merit this proposal. Even small municipal issuers may have little discretion as to what they can purchase, after considering their state law and internal policy constraints. For both larger and smaller municipal clients, we would anticipate a chilling and significant regulatory burden affecting both us and our municipal clients and a legal standard that would make every innocent purchase of treasuries a source of outsize legal liability for the dealer.

If the SEC does decide to make brokerage transactions with municipalities subject to the Dodd-Frank Act and a fiduciary duty, Piper Jaffray would strongly urge the SEC to provide explicit guidance as to (1) when a broker dealer is providing "advice" that would make it a municipal advisor under Dodd/Frank in connection with the sales of securities to a municipality, carving out situations when we are merely executing a municipality's idea, or are in competition with other dealers, or providing general market, transactional or financial information and (2) what specific fiduciary duties are imposed on broker dealers providing such services.

Limited Guidance Provided by the SEC on the Term "Advice"

The SEC has not provided sufficient guidance on what it means to provide the "advice" that would trigger the fiduciary duty obligations of the Dodd-Frank Act in the financial advisory or underwriting context. This is problematic because we communicate regularly with municipal issuers on a broad variety of topics, in many different contexts. We respond to RFP's, answer general questions at conferences or other marketing events, conduct countless informal conversations in which we have not been hired or have not established the expected role we will be asked to play and conduct general educational seminars for the benefit of municipal issuers, all prior to being formally engaged as a financial advisor or underwriter. We are concerned that in these situations, in which our legal relationship has not been defined by the municipal issuer because they have not determined the participants of a transaction or even the general outlines of their financing, these casual conversation will have given rise to a fiduciary duty and the duties of care, disclosure and consent that this will imply. Piper seeks guidance on when these interactions give rise to the "advice" that trigger fiduciary responsibilities and requests that the SEC not make the free flow of pre-engagement interaction a source of legal concern to municipal advisors and underwriters.

No Guidance Provided by the SEC Respecting the Role of Placement Agents in a Private Offering of Municipal Securities

The SEC should clarify that the underwriter exception extends to a private placement agent offering securities of a municipal entity or obligated person on a private placement basis under the Securities Act of 1933, even if the agent is not serving as an underwriter within the strict meaning of Section 2(a)(11) of the Securities Act. Under the currently effective MSRB Rule G-23 and the changes proposed to that rule, the MSRB already recognizes private placement activity as an underwriter-like activity insofar as private placement agents are, like underwriters, required to resign and obtain informed consent to acting in this capacity if they acted as financial advisor on the same issue, and under the proposed amended MSRB Rule G-23, are treated similarly to underwriters in respect of the prohibitions being contemplated.

We feel strongly that because the activity mirrors almost exactly the role underwriters play in assisting issuers and because issuers also see this as an underwriter-type activity, this activity should be rolled into the underwriter exception for municipal advisors under the Act. Any uncertainty with respect to a private placement agent's role can be adequately clarified to municipal issuers or obligors through mandatory disclosures. This is an issue of great uncertainty and confusion among the dealer community and in our relationships with clients and we need to know how to proceed with clarity under the Act with respect to this activity.

Piper Jaffray hopes that it can serve as a constructive voice as the SEC and other regulators work together to define the registration and regulatory structure and fiduciary duty, applicable to municipal advisors and establish final rules and interpretative guidance relating to municipal advisors.

Sincerely yours,

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