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February 22, 2011

Ms. Elizabeth M. Murphy
Secretary
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

RE: Registration of Municipal Advisors, Proposed Rule
File Number S7-45-10, Release No. 34-63576, 76 Fed. Reg. 824 (2010)

Dear Ms. Murphy:

We appreciate the opportunity to respond to the Securities and Exchange Commission's ("SEC") proposed rules for implementing the "municipal advisor" provisions of the Dodd-Frank legislation (the "Proposed Rules").

We note that SEC Release No. 34-63576, which disseminated the Proposed Rules (the "SEC Release"), specifically asked for comments on the applicability of the proposed definition of the term "municipal advisor" to accounting services. SEC Release at 49-50. The definition of the term "municipal advisor" in the Proposed Rules is very broad, and includes "providing advice to or on behalf of a municipal entity . . . or obligated person . . . with respect to municipal financial products or the issuance of municipal securities". As a result, the Proposed Rules cover many traditional accounting and tax services, regularly provided by accountants, which we believe were not meant to be covered by the Dodd-Frank Act, and which should not be deemed to be "municipal advisor" activities. In this letter, we briefly describe our concerns and suggest some possible adjustments to the Proposed Rules.

We note that the Proposed Rules contain an exemption for the preparation of financial statements, the preparation of letters for underwriters, and audits. We agree with these exemptions for accountants. However, we believe that these exemptions do not go far enough, and that the rules should exempt other services traditionally performed by accountants, such as providing advice on Generally Accepted Accounting Principles, because these other traditional services are related to, or similar to, the professional services already mentioned in the Proposed Rules. For the same reasons that the Proposed Rules recognize that the preparation of financial statements, the preparation of letters for underwriters, and audits should not be considered to be "advice" relating to municipal securities – even though those services can touch upon the structure, timing, and terms of an issuance of municipal securities -- we believe that these other services traditionally performed by accountants also should not be considered to be "municipal advisor services".

We note that the Proposed Rules contain a broad exemption for attorneys, which provides that an attorney who offers legal advice or provides "services that are of a traditional legal nature" is not deemed to be acting as a municipal advisor. See Proposed Rule 15Ba1-1(d)(2)(iv). The SEC



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Release provides a brief explanation of the Staff's view that legal advice given by an attorney to a client about the structure, timing, or terms of an offering of municipal securities does not constitute "municipal advisory services":

"Generally, the Commission interprets advice provided by a lawyer to its client with respect to the structure, timing, terms and other similar matters concerning municipal financial products or the issuance of municipal securities to be services of a traditional legal nature if such advice is provided within a lawyer-client relationship specifically related to such products in conjunction with related legal advice. Thus, for example, advice comparing the structures, terms, or associated costs of issuance of different types of securities or financial instruments (such as fixed rate bonds or variable rate demand obligations) given by an attorney hired to advise a municipal entity client embarking on a bond offering, would be considered to be services of a traditional legal nature, as would advice concerning the tax consequences of alternative financing structures or advice recommending a particular financing structure due to legal considerations such as the limitations included in existing contracts and indentures to which the issuer is a party."

SEC Release at 38.

We believe that this analysis is fully applicable to accountants. The SEC Release describes the Staff's preliminary view that the rules should not contain a broad exemption for accountants because "accountants may provide advice to municipal entities that includes advice about the structure, timing, terms, and other similar matters concerning the issuance of municipal securities." SEC Release at 36-37. However, the SEC Release does not appear to provide any concrete explanation or support for the notion that the rules should exempt "traditional" legal services relating to municipal securities – including legal advice relating to "structure, timing, terms and other similar matters concerning municipal financial products or the issuance of municipal securities" – but that it would not be reasonable or appropriate for the rules to include a parallel exemption for accountants who provide "traditional" accounting and tax services and advice, including accounting services and advice related to the "structure, timing, terms and other similar matters" relating to municipal securities.

We believe that it would be reasonable and appropriate for the rules to include this sort of exemption for accountants, which would cover audit services (and other attest services) and non-attest accounting and tax services. For example, if a client is contemplating a potential issuance of municipal securities, and seeks advice from an accountant on the proper accounting for the proposed transaction in accordance with Generally Accepted Accounting Principles ("GAAP"), based on factors including the "structure" and "terms" of the proposed transaction, then providing advice on the application and/or interpretation of GAAP – a subject which traditionally has been the province of accountants -- should not be deemed to be a form of "municipal advisory services". Similarly, if a client is contemplating a potential issuance of municipal securities, and seeks advice from an accountant on a tax issue relating to the proposed transaction, then providing that tax advice, based on the structure and terms of the proposed transaction, also should not be deemed to be a form of "municipal advisory services". Moreover, we believe that this exemption for accountants would not be inconsistent with the Dodd-Frank Act. The SEC Release states that



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the Dodd-Frank Act was intended to regulate activities relating to municipal securities which previously had been “largely unregulated”. This characterization would not apply to accountants, whose services already are regulated by state boards of accountancy, the SEC, the PCAOB, and the IRS.

In short, we believe that the rules should include some form of exemption for accountants who provide “traditional” accounting and tax services. However, if the SEC ultimately concludes that the municipal advisor rules should not include this specific language, we respectfully suggest that in addition to the exemptions already contained in the Proposed Rules – for the preparation and audit of financial statements, and the issuance of letters to underwriters – the rules also should include, at a minimum, specific exemptions for providing attest services, providing accounting advice relating to GAAP, and providing tax advice, relating to municipal securities and municipal derivatives.

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We appreciate the opportunity to submit our comments on the Proposed Rule. If you have any questions regarding our comments or other information included in this letter, please do not hesitate to contact Glen L. Davison, (212) 909-5839, gdavison@kpmg.com or Amanda E. Nelson, aenelson@kpmg.com.

Very truly yours,

KPMG LLP