Congress of the United States
Washington, DC 20515

October 1, 2020

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

The Honorable Hester M. Peirce
Commissioner
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

The Honorable Elad L. Roisman
Commissioner
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

The Honorable Allison Herren Lee
Commissioner
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

The Honorable Caroline A. Crenshaw
Commissioner
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Dear Securities and Exchange Commissioners:

Thank you for your service and leadership throughout this challenging health crisis. We are writing you today regarding the Securities and Exchange Commission's (SEC) Temporary Exemptive Order[1] (Order) released on June 16, 2020 which allows municipal advisers to solicit banks and credit unions for certain direct placements of securities through December 31, 2020. We remain concerned with the potential negative impacts on investor protections and lack of proper disclosures and transparency. As such, we respectfully ask the Commission to withdraw the original proposed Exemptive Order[2] and, should a majority of the Commission seek to pursue a change in Municipal Advisor authority on a temporary or permanent basis, do so by the rulemaking process under the Administrative Procedures Act (APA) and be subject to notice and comment by market participants, the public, and investors.

Unfortunately, we believe the decision to issue this Order under the guise of COVID-related relief was not warranted, as the municipal markets are now, and have been functioning quite well due to in part to the programs created by the Treasury Department and Federal Reserve, including the Municipal Liquidity Facility (MLF). As evidenced by information released by the Federal Reserve Bank of New York, municipal market rates have stabilized,

[1] https://www.sec.gov/rules/exorders/2020/34-89074.pdf
[2] https://www.sec.gov/rules/exorders/2019/34-87204.pdf

issuance has increased, and inflows have resumed from previous market lows seen in March 2020.[3]

The municipal securities market plays a critical role in the financing of infrastructure, including schools, hospitals, roads and other public projects. Therefore, we question why the Commission is using a temporary exemptive order instead of the standard administrative rulemaking process. Now is not the time to weaken the existing regulatory structure that was designed to protect investors by improving transparency in the municipal securities markets.

While this measure is temporary in nature, and some changes have been made related to the size and qualified purchasers of the issue, we believe this Order unnecessarily weakens investor protections for consumers who purchase these municipal securities as it will deprive these investors of the full financial picture of an issuer as well as cause a lack of transparency in the market as a whole. As such, we believe this Order will create a gap in information available for an entire segment of municipal securities issuances.

Given our concerns, we ask the Commission to let this temporary Order expire without extension on December 31, 2020. Further, if the Commission seeks additional action on this Order or the related proposed order, we urge any future action be taken in accordance with the APA process, thereby ensuring that market participants, regulatory agencies, the investing public and additional stakeholders have the opportunity to publicly provide comments and receive Commission feedback.

We appreciate the Commission's work in maintaining safe and secure capital markets throughout the COVID-19 pandemic, and we look forward to finding a workable solution for the municipal market that benefits both investors and issuers.

Sincerely,

French Hill
Member of Congress

Vincente Gonzalez
Member of Congress

[3] https://libertystreeteconomics.newyorkfed.org/2020/06/municipal-debt-markets-and-the-covid-19-pandemic.html