



The VOICE of the Independent Broker/Dealer

October 5, 2009

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

Re: Release No. IA-2910; File No. S7-18-09; Proposed Rule 206(4)-5

Dear Ms. Murphy:

I am writing on behalf of the National Association of Independent Broker Dealers ("NAIBD"). Our association was formed more than 25 years ago to educate, inform and advocate on behalf of the business interests of small, independent broker-dealer firms. A significant percentage of our members, including my own firm, Keystone Capital Corporation, will be severely impacted by the rule proposal as drafted. Accordingly, we appreciate the opportunity to comment.

By the date of this letter, more than 100 commenters have responded to the proposed rule. As such, almost everything that needs to be said has already been said. Commenters including 25 pension funds and 35 managers have written to establish the legitimate and necessary role of placement agents, and have presented viable alternatives to a ban, such as enhanced disclosures. Several trade associations and law firms have challenged the rule proposal's legal foundation, including jurisdictional issues among the divisions of Investment Management, Trading and Markets, the FINRA and the states, among other significant legal obstacles within the proposal. More than 40 executives representing placement agents themselves have provided anecdotal evidence demonstrating the extent to which they deserve to remain in business, and have expressed their willingness to embrace reform designed to prevent bad actors from sullyng the marketplace.

In addition to expressing our general support of the many meaningful comments of our peers as noted above, we further seek to draw the SEC's attention to the particularly dramatic impact a ban on placement agents would have on small broker-dealers. Although exact statistics are not publicly available, we believe that nearly 400 small broker-dealers currently in good standing with the FINRA and numerous states presently engage in placement agent services. Should this ban occur, we believe than many such firms will be forced out of business.

National Association of Independent Broker/Dealers

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For decades, the vast majority of licensed placement agents have required their broker-dealers and related associates to complete licensing and continuing education requirements, and have undergone routine regulatory cycle examinations, and generally performed in accordance with regulatory and compliance requirements. Even before the proposed regulation was released, key industry executives, (including myself on behalf of Keystone Capital and the NAIBD, directors of the Third Party Marketers Association and others) initiated discussions with regulators to propose expanded regulation, licensing requirements, examinations, and disclosures specifically tailored for placement agents and the services engaged in. Nonetheless, and despite this constructive approach, many of these firms and their principals will not survive a ban and that would be a shame.

For these reasons, in concert with 100% of the other commenters on this topic, the NAIBD firmly opposes the proposed ban on the use of placement agents in the public funds marketplace.

As already conveyed by the overwhelming majority of previous commenters, NAIBD strongly supports the SEC's goal of eliminating pay-to-play from the selection of investment advisors to public retirement funds. We encourage the SEC to carefully evaluate the legal and regulatory issues related to jurisdiction. Further, we urge the SEC to invite the FINRA and the Division of Trading and Markets into the dialogue, since the crux of the matter centers on broker-dealers and regulated brokerage activity.

Finally, we would welcome the opportunity to participate in any discussions about expanded regulation and industry best practices, to the extent our experience would be of value in this regard.

Respectfully,

A handwritten signature in black ink, appearing to read 'LRoth', written over a horizontal line.

Lisa Roth
NAIBD Past-Chair and currently, Chair of NAIBD Member Advocacy Committee