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BENJAMIN V. LAMBERT
CHAIRMAN

October 5, 2009

Ms. Elizabeth M. Murphy
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20002

Re: File No. S7-18-09, Political Contributions by Certain Investment Advisers

Dear Ms. Murphy:

Eastdil Secured, LLC appreciates this opportunity to comment on the Securities and Exchange Commission's Proposed Rule 206(4)-5. We very much support the SEC's overall goal of eliminating pay-to-play activity in the investment advisory arena, and strongly believe that the investment process for public pension plans and other government entities should be free from the influence of political connections, campaign contributions and kickbacks. However, we also believe, and urge you to consider, that one portion of the proposed rule – the ban on using third-party placement agents to solicit government investment in funds (the "Proposed Placement Agent Ban") – will have substantial detrimental effects without furthering the SEC's goal of eliminating pay-to-play practices.

We note that many other parties, including both placement agents and public pension funds, have already provided you with extensive commentary regarding the Proposed Placement Agent Ban. Rather than repeat points that have been made by others, we would like to take this opportunity to draw your attention to a few critical issues, provide you with an overview of our business as an illustration of the value provided by legitimate placement agents, and offer our suggestion for an alternative regulatory approach.

Discussion of Proposed Placement Agent Ban

In the release accompanying the proposed rule, the SEC evidences concern that some advisers might seek to circumvent direct pay-to-play restrictions through the use of third-party solicitors, and goes on to indicate that, based on comments provided in response to the SEC's similar rule proposal in 1999, holding all advisers responsible for the actions of their unaffiliated solicitors would be a seemingly unfair or impractical approach. These concerns, as well as heavy reliance on the precedent provided in the municipal bond market by MSRB Rule G-38, provide the basis for the Proposed Placement Agent Ban.

While we concur with the SEC that the impact of Rule G-38 on the municipal bond market provides a valuable analogy for consideration in the present context, we believe that the proposed rule fails to take into account that Rule G-38 and the Proposed Placement Agent Ban target different elements of the applicable sectors' market structures. Rule G-38 prohibits registered broker-dealers (the legitimate and still-permitted intermediaries in the municipal bond market) from using nonaffiliates to solicit government clients, whereas the Proposed Placement Agent Ban would forbid investment funds from using any nonaffiliate (including registered broker-dealers) to solicit government investors. In other words, while Rule G-38 served to eliminate the use of unaffiliated parties so that only registered and regulated broker-dealers were involved in the solicitation of municipal bond clients, the Proposed Placement Agent Ban would have the extreme effect of removing regulated, registered broker-dealers from the process altogether.

We also do not believe that banning the use of placement agents is necessary to fully control for potential corruption. Even if one accepts that it could be unfair or impractical to hold an investment adviser responsible for the activities of its placement agent, there is another option between that and a full ban on the use of placement agents. That option is simply to enact direct pay-to-play regulation on the activities of legitimate placement agents (which are SEC-registered broker-dealers), and ban the use of unregistered and unregulated third parties. This approach would achieve the same level of regulation as the Proposed Placement Agent Ban since all parties in the solicitation chain would be subject to direct restrictions on pay-to-play activity. This regulatory structure would also be a more direct corollary to the structure created in the municipal securities market by MSRB Rules G-37 and G-38.

Permitting registered broker-dealers to serve as intermediaries in the placement of securities issued by investment funds is in keeping with the intent of the Exchange Act of 1934 and furthers the SEC's interest in providing for a well-regulated and orderly securities offering process, and we do not believe that any economic or societal interests are furthered through a wholesale elimination of placement agents' involvement. We suggest that the SEC's interest in eliminating corrupt influences would be better served through regulation that (i) eliminates pay-to-play activity by investment advisers, (ii) enacts direct restrictions on pay-to-play activity by registered broker-dealers involved in the solicitation of government investment, and (iii) prohibits circumvention of applicable regulation by either investment advisers or registered broker-dealers through the use of unregulated finders, solicitors or consultants.

Discussion of Placement Agent Activities

The publicity engendered by the recent scandals in New York and the illegal activities of a few rogue middlemen has led to a pervasive and undeserved tarnishing of the reputation of the placement agent industry overall. “Finders” or “consultants” who trade on political access or the reciprocity of political favors are not legitimate placement agents and should not be confused with such. We hope that the following brief description of how our placement agent group assists investment fund clients in raising capital from institutional investors, including governmental entities, will provide you with a helpful illustration of the value contributed by legitimate placement agents.

As background, Eastdil Secured, LLC is a wholly owned subsidiary of Wells Fargo & Co., and is one of the leading commercial real estate advisory firms in the United States, with over 150 real estate professionals in 12 offices throughout the United States and in the United Kingdom. We offer advisory services in connection with the valuation, marketing, structuring and placing of commercial real estate assets, mortgage loans, mezzanine debt and alternative financing options. Across our various engagements, we assist clients in investigating, analyzing and understanding real estate assets, loans and collateral from all relevant perspectives (from complex financial analyses of a property’s capital structure to evaluating zoning restrictions, municipal urban renewal plans and other announced developments impacting values in a given market). For a sense of scale, we have brokered \$136 billion in property sale transactions since 2006, including Class “A” office towers, destination resorts and industrial parks, and, over the same period, have served as agent on \$6.9 billion in loan sales and have helped clients recapitalize or restructure \$60.5 billion in real estate financing.

In addition to our other service offerings, we have a boutique “placement agent group” that specializes in assisting real estate investment funds in raising institutional capital. The investment bankers within our placement agent group are all licensed securities representatives and are dually employed by and subject to the supervision and strict compliance regime of Wells Fargo Securities, LLC, another wholly-owned subsidiary of Wells Fargo & Co. and a registered broker-dealer and member of FINRA.

Our placement agent group is generally engaged to assist funds seeking to raise anywhere from \$500 million to more than \$2 billion in capital. Our client funds typically require a minimum investment of \$10 million per investor, but individual investments more typically range from \$20 million to \$200 million and can reach as high as \$600 million. We only represent funds with established investment advisers looking to expand their investor group or new investment advisers with strong experience in executing corporate or proprietary investments that we believe are ready for institutional sponsorship. We vet all potential clients carefully, and only accept engagements for funds that we believe present compelling investment opportunities for the targeted institutional investor base. Our selectivity in representing the best investment advisers is well known by the investment community, which sees our participation as a valuable indicator of quality.

Our clients include funds formed to invest in commercial real estate assets in various specific geographic or industrial sectors, funds seeking to acquire commercial real estate debt, and funds with other real-estate based investment strategies. In the course of a typical engagement, we will first thoroughly diligence the investment experience and track record of the investment adviser and its management team, the strategy for the fund (including the assumptions underlying the adviser's financial models), and the targeted geographic or industrial sector of the fund. We will also evaluate the fund's proposed structure and ask the investment adviser the "hard questions" – including as to fees, conflicts and governance – from the perspective of the targeted institutional investors, and we will help the adviser prepare a detailed information memorandum (often running longer than 100 pages) describing the material considerations associated with an investment in the fund.

When we are satisfied that the structure of the fund and the quality of the adviser's information and diligence materials meet institutional investment standards, we will begin the marketing phase of the fund. The amount of time required to market a fund varies by the complexity of the fund's proposed structure, the targeted institutional investor base, and market conditions in both the investment community and the real estate sector, but can range anywhere from 6 to 24 months. During this time, we will make initial contact with those prospective investors that we believe, based on our past experience and knowledge of each investor's preferred investment profile, may be interested in the fund. The type and number of investors we contact varies by fund, but will often include public pension plans as well as corporate pension plans and asset managers, endowments and foundations, financial institutions and insurance companies, and other highly sophisticated investors.

In the event that an investor – whether an endowment, a pension plan or otherwise – desires to invest in our client fund, we will arrange in-person meetings for both the investor and the adviser to explore a possible investment. During these meetings, we serve as a valued source of commercial real estate and investment banking expertise for both the investment adviser and the investor to draw upon in their discussions regarding fund structure and the fund's investment strategies, models and assumptions with respect to both straightforward real estate matters and such ancillary issues as the use of leverage, hedging strategies and anticipated sources of debt financing. We are valuable to this process because we have extensive experience in structuring and negotiating the terms of highly sophisticated real estate investments, a strong understanding of the financial issues at play, and a long-term familiarity with the requirements of the institutional investor community. Political contributions, kickbacks and corruption never have any part in our marketing process.

In order for a private real estate fund to effectively replicate the level of service that a placement agent group such as ours can provide, it would need to build an in-house marketing team with (i) substantial real estate and finance expertise, to effectively bridge the communications between the investment manager and institutional investors, (ii) strong experience with the institutional investor community, so as to know which investors will be receptive to various fund strategies and structures, (iii) a strong reputation, to catch the attention of institutional investors, and (iv) a substantial amount of time to devote to the marketing process. It is feasible that this type of marketing team could be developed in-house by some well-funded investment advisers, but it will be impossible for most advisers to develop an

internal team that will be able to match the capabilities and efficiency of simply hiring specialized experts on an as-needed basis.

Summary

We believe the SEC is on the right track with its proposal to eliminate pay-to-play practices and applaud your efforts. We do not think that any markets, anywhere, benefit from corruption or pay-to-play arrangements. We respectfully submit that the Proposed Placement Agent Ban is unnecessarily broad and would result in avoidable market dislocations and inefficiencies. We believe that the SEC could achieve its desired regulatory outcome without any reduction in effectiveness by focusing on regulation that (i) eliminates pay-to-play activity by investment advisers, (ii) enacts direct restrictions on pay-to-play activity by registered broker-dealers involved in the solicitation of government investments, and (iii) prohibits circumvention of applicable regulation by either investment advisers or registered broker-dealers through the use of unregulated finders, solicitors or consultants.

We hope this information has been useful to you and we appreciate the time that you have given to reviewing this letter.

Very truly yours,

Eastdil Secured, LLC

By: 

Name: Benjamin V. Lambert

Title: Chairman