T. ROWE PRICE ASSOCIATES, INC.

WWW.TROWEPRICE.COM

P.O. Box 89000
Baltimore, Maryland
21289

100 East Pratt Street
Baltimore, Maryland
21202-1009

Phone 410-345-2000

October 6, 2009

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

Re: File Number S7-18-09; Political
Contributions by Certain Investment Advisers

Dear Ms. Murphy:

We are writing on behalf of T. Rowe Price Associates, Inc. ("**T. Rowe Price**")[1], a federally registered investment adviser, to express our views on the proposed amendments to the Investment Advisers Act of 1940 (the **"Advisers Act"**) regarding political contributions by certain investment advisers.

T. Rowe Price agrees that the use of political contributions to influence officials in a position to award advisory contracts raises serious fiduciary issues. However, we believe that the proposed amendments to the Advisers Act raise many issues that must be addressed and that the rule G-37 approach, if adopted, cannot be effectively applied in all respects to the much different business of investment advisers.

Relationship with MSRB Rules; Alternative Approaches. The Commission has asked whether it should use MSRB rules G-37 and G-38 as the models for proposed rule 206(4)-5. We believe that, as suggested by the Investment Advisers Association in its comment letter, the best approach would be to require an adviser to include a prohibition on engaging in pay-to-play activities in its Code of Ethics. If the Commission decides to adopt some form of rule 206(5)-4, however, T. Rowe Price believes that rules G-37 and G-38 provide an appropriate framework for the proposed regulation as long as they are modified to fit the advisory business.

Rule 206(4)-5: "Pay-to-Play Restrictions." T. Rowe Price is commenting on several components of the proposed rule, which we will discuss in the order presented in the Commission's Release.

---

[1] T. Rowe Price Associates, Inc., a wholly-owned subsidiary of T. Rowe Price Group, Inc., together with its advisory affiliates, had $315 billion of assets under management as of June 30, 2009. T. Rowe Price has a diverse, global client base, including institutional separate accounts, T. Rowe Price sponsored and sub-advised mutual funds, and high net worth individuals. The T. Rowe Price group of advisers includes T. Rowe Price Associates, Inc., T. Rowe Price International, Inc., T. Rowe Price (Canada), Inc. and T. Rowe Price Global Investment Services Limited. In addition, T. Rowe Price is the program manager for section 529 College Savings Plans issued by two states; its registered broker/dealer affiliate acts as primary distributor for these Plans and, as a result, is subject to MSRB rules G-37 and G-38.

Ban on Providing Advisory Services for Compensation. As currently proposed, new rule 206(4)-5 would make it unlawful for an adviser to receive compensation for providing advisory services to a government entity for a two-year period after the adviser or any of its covered associates makes a political contribution to a public official of a government entity that is in a position to influence the award of advisory business. The Commission refers to this ban as a two-year "time out." This proposal is based on rule G-37's two-year ban, but the Commission has specifically requested comments on whether two years is an appropriate length of time.

We believe that the proposed two-year ban is excessively severe in the context of a typical advisory relationship, which differs greatly from the business of brokers, dealers and municipal securities dealers that underwrite municipal debt business ("**Municipal Dealers**"), the business that rule G-37 was adopted to address. Under rule G-37, if a Municipal Dealer, one of its municipal finance professionals, or a related PAC makes a prohibited contribution to a covered official of an issuer, then the Municipal Dealer may not bid on additional municipal business from that issuer for the following two years.

In footnote 67 of its release proposing this amendment to the Advisers Act, the Commission notes that "[w]hile municipal underwritings themselves tend to be episodic, underwriting relationships are often longstanding" and thus "the rules' time outs [as currently exist in G-37 and as proposed here] may have similar effects." We do not agree with this statement. The ban in rule G-37(b)(i) is on *engaging* in municipal securities business, **not** on *receiving* compensation while continuing to provide services. Because each debt underwriting is a separate event, the ban merely prohibits future business. Although the loss of a long-standing underwriting client for a period of two years is a regrettable event for any Municipal Dealer, it is not nearly as onerous as requiring that Municipal Dealer to continue to provide services without compensation. In contrast, proposed rule 206(4)-5 does require an adviser to provide professional services without compensation and ultimately will lead in most instances to the forced termination of advisory contracts. This is a much harsher penalty than that provided in rule G-37.

The MSRB noted as early as 1997 that the ban was not the appropriate remedy in some situations. On February 21, 1997, the MSRB issued an interpretation specifically permitting a Municipal Dealer subject to a ban to continue to execute certain obligations in effect prior to the date of the contribution that caused the prohibition if the obligations were not viewed as "new" municipal securities business.

More recently, the MSRB issued another interpretation in recognition of a new type of municipal securities distribution that has developed for municipal fund securities in the form of local government investment pools and section 529 college savings plans. In this April 2, 2002 Interpretation, the MSRB acknowledged that the prohibition on business that worked well with underwriters of short-term, stand-alone deals does not work well in

the context of municipal fund securities distributions, where the client has typically signed an agreement for continuing services over a long period of time.

In its April 2002 Interpretation, the MSRB noted that dealers are typically "selected by issuers to serve as primary distributors of municipal funds securities on terms that differ significantly from those of a dealer selected to underwrite an issue of debt securities." Because of the fundamental differences between the two types of distribution activities, the MSRB concluded that, given the structure of these municipal fund securities agreements, not only could activities being performed at the time of the contribution continue for compensation, but that "any changes in the services to be provided by the dealer to the issuer throughout the duration of the ban that are contemplated under the pre-existing contractual arrangement (*e.g.*, the addition of new categories of securities within the framework of the existing program) would not be considered new municipal securities business so long as such changes do not result in: (1) an increase in total compensation received by the dealer for services performed for the duration of the ban (whether paid during the ban or as deferred payment after the ban); or (2) in an extension of the term of the dealer in its current role."

The long-term relationship that an investment adviser typically has with its clients is akin to the role of a Municipal Dealer involved is a municipal fund securities distribution and has very little similarity to the one-time securities underwritings that are the subject of a complete two-year ban. The Commission should draft its political contribution rule to recognize this fundamental difference and to show the flexibility that recognizes the best interests of the client *and* fundamental fairness to the adviser. A prohibited contribution should bar an adviser from assuming any new business with the client for an appropriate period of time, but should either not require the adviser to continue to provide existing services for no fee or should provide the adviser with the option to resign upon reasonable notice.

Officials of a Government Entity. The Commission has asked for comment on its proposed definition of "official." We believe that the proposed definition, with its inclusion of those with "indirect" responsibility or influence or with appointment power, is too broad for an adviser to comply with successfully, short of prohibiting its employees from making any political contributions at all, which we believe would raise serious public policy concerns. For example, if a state's Attorney General must review all material state contracts, would her opinion regarding an advisory contract for the state's pension plan constitute "indirect" influence on the selection of the adviser? Especially in light of the very complicated levels of review and approval to which many public plan contracts are subject and the draconian effect of a violation, we believe that the rule, if adopted, should apply only to readily-identifiable officeholders and candidates with direct decision-making authority and not be extended to the much more amorphous and

unwieldy group of individuals with "indirect" responsibility, influence or appointment power.

In response to the Commission's request for comment on this point, we believe that a contribution to a candidate for federal office should be excluded from the ban as long as the contribution is made to a committee organized for purposes of the federal campaign.

Covered Associates. We urge the Commission to provide greater clarity in defining a "covered associate." As the Commission itself notes "[n]o group analogous to municipal finance professionals .... exists within the typical investment advisory firm." Although the Commission states that it is proposing to limit application of the time-out provision to what it presumably views as a narrow group of individuals, we believe that the currently proposed definition of covered associate provides many pitfalls for even the most compliance-oriented firm. In view of the potentially catastrophic effect of a rule violation, it is imperative that this group be defined as precisely as possible and be limited to those individuals whose primary function is solicitation or who fall within a clearly-defined executive category.

Although rule G-37's definition of municipal finance professional may appear to be narrowly drawn, it is often interpreted to apply to anyone with any connection to a bid for business, no matter how attenuated that connection is. Thus, if an employee of a firm's information technology department or subsidiary makes a presentation during the bidding process about how monthly statements for municipal fund securities accounts will be generated, he or she may be viewed as a municipal finance professional. We would ask the Commission to clarify that an individual should be viewed as a covered associate soliciting business **only** if his or her job responsibilities include sales. Other individuals, from an administrative assistant who may provide copies of material at a solicitation meeting, to the Information Technology professional, to the Chief Compliance Officer who may make a Code of Ethics presentation during a meeting, should not fall within this definition.

The Commission has asked whether employees of companies that are related persons of an adviser who solicit government entity clients for the adviser should be included in this definition of covered associates. We do not object to including these employees, who solicit government entities, in the definition. However, we do not believe that the adviser's affiliates or the employees of those affiliates who do not solicit government entities should be included within the scope of the rule. For example, the executive officers of an adviser's parent and the parent itself should not fall within the definition. In addition, we do not believe that family members of covered associates should be included simply because of their relationship with a covered associate. We believe that the proposed ban on doing indirectly what is prohibited directly, adopted from rule G-37, is a much more effective method of addressing these issues and covers all possible

methods of circumventing the rule, without unfairly restricting the ability of spouses and children to make their own decisions regarding what political contributions they will make.

We also request additional clarification on what executive officers would be covered by the rule. We understand from the Release that those in charge of sales, administration or finance would be covered, but that those in charge of areas such as human resources and information services and the comptroller would not be covered solely by virtue of their positions. More guidance on how to make these distinctions is necessary.

We also request clarification on the scope of the proposal to include within the definition of covered associate any executive officer who performs investment advisory services or who supervises, directly or indirectly, someone who performs them. We ask the Commission to confirm that this definition would include personnel who perform actual portfolio management activities, primarily portfolio managers, and their supervisors, but would exclude those who support the portfolio managers (*e.g.*, analysts) or perform back office functions in support of the advisory process (*e.g.*, personnel in fund accounting and investment operations). A large advisory firm typically has a significant number of employees who provide support to the firm's core investment advisory activities, so clarification on this point is critical.

Look Back. One of the more problematical issues with rule G-37 is its look-back provision. The Commission has asked if its proposed look-back provision for the Advisers Act would inappropriately deter politically active individuals from joining advisory firms that provide investment advice to government entities or are seeking to do so. In our view, the answer is in the affirmative. However, we understand the Commission's concern this area. We believe that a shorter (*e.g.*, six month) look-back period, accompanied by the acknowledgement of the sufficiency of certain actions by an adviser in this area as described below, would both advance the public policy issues and avoid an unfair application of the ban.

When a Municipal Dealer wishes to hire or transfer an individual into a position that will make him a municipal finance professional, it typically "scrubs" that individual to ensure that he has not made any problematical political contributions during the look-back period. An investment adviser subject to the Commission's proposed rule will undoubtedly be required to go through a similar process to remain in compliance with the rule if adopted. We believe that the Commission should affirmatively recognize that an advisory firm may rely on the statements of its employees and prospective employees regarding their past political contributions in connection with this process. Many investment advisers do business throughout the United States. It is not feasible for such a firm to check every political contribution website maintained by the various jurisdictions, even if those sources were always open to the public, accurate, and up-to-date. The rule

as adopted should make it clear that an adviser acting in good faith may rely conclusively on a prospective transferee's or prospective employee's statements regarding whether and where he has made political contributions during the look-back period and will not be subject to a ban if a statement about past political contributions is later found to be inaccurate.

Need for Enhanced Exceptions. One of the most striking aspects of rule G-37 is the absence of any exceptions for inadvertent violations of the rule or for violations over which the regulated entity had no control. Rule G-37 provides only for limited automatic or self-regulatory association-granted exemptions. We believe that the rule, if adopted, should be revised to recognize that certain contributions should be excepted from the rule and therefore not trigger a ban.

For example, under the rule as currently proposed, the two-year time out would continue in effect after the covered associate who made the triggering contribution has left the firm. If the rule is adopted with this blanket provision, a disgruntled employee on her way out of the firm could materially harm the firm by making a prohibited contribution to an official of a plan that is either a current client of the adviser or of a plan on whose business the adviser is bidding.

To avoid such a patently unfair result, the proposed rule should be amended to permit the adviser to disclose to the appropriate parties (*e.g.*, to the government entity other than the official who received the contribution) prohibited contributions made without its knowledge and in violation of its procedures to the affected client and request a waiver of the ban.

Exception for De Minimis *Contributions.* The Commission has proposed a "de minimis" exception to the rule that would permit a covered associate to make aggregate contributions of $250 or less, per election, to an official or candidate for whom he is entitled to vote without triggering the rule's prohibitions. We believe that limiting the exception only to contributions to officials or candidates for whom the associated person can vote is too narrow an approach. An individual may live in one jurisdiction but work in another and have a strong interest in elections in the jurisdiction where she works. She may also have an important interest in an election for personal reasons; for example, a college roommate may be running for office in a jurisdiction where the associated person cannot vote, yet her interest in contributing may be genuine and disinterested.

T. Rowe Price also urges the Commission to increase the $250 limit for this exception. The Commission noted that the MSRB has not adjusted rule G-37's de minimis $250 limit since that rule became effective in 1994. Although we understand the Commission's desire to adopt a rule that is as similar as possible to the MSRB's pay-to-

play rule, we believe this is another instance where rule G-37 in its current form is not a perfect model and that the Commission should revisit this issue.

We do not believe that a contribution of $250 per election or any higher amount that the Commission might adopt is sufficient to buy influence with any candidate or official. We also do not believe that an adviser will successfully be able to do indirectly what it cannot do directly, in violation of the rule, by directing several of its employees to make individual contributions to an officeholder in an attempt to influence him, because the records of contributions that the adviser will be required to keep will clearly disclose this attempt.

Exception for Certain Returned Contributions. The Commission is also proposing an exception for contributions to officials for whom a covered associate was not entitled to vote at the time of the contribution if certain conditions are met. As discussed above, we do not believe that associated persons should be limited to contributing only to those for whom they may vote. If the Commission adopts such a narrow view, then the conditions of this second exception should be expanded so that the contribution limit to any one official per election is increased from $250 to a higher amount, as discussed above.

The exception requires the discovery of contributions within four months of the date of the contribution. We believe that if an adviser has in place procedures to require covered associates to report all contributions no less frequently than quarterly and an associate fails to report a contribution in violation of the procedures, the discovery of a prohibited contribution outside this four-month window should not preclude the use of this exception.

In addition, we do not believe that the exception should be unavailable in a situation where the adviser has been unsuccessful in having the contribution returned to the contributor despite taking all available steps. For example, if the contribution of a disgruntled employee just before she leaves the firm will trigger a ban, it is highly unlikely that the adviser will be able to cause her to get her contribution returned after she has left the firm. The rule as adopted should require the adviser to take appropriate steps to have the contribution returned, but should not require that the adviser succeed.

Finally, we believe limiting use of the exception to no more than twice in total and once per covered associate per 12-month period is unreasonable. The experiences of our affiliated broker/dealer with rule G-37 have made us familiar with how confusing these restrictions are to even the most compliance-minded employees. We believe that most firms will have violations, unless they forbid all covered associates from making any political contributions, and that for large firms with many covered associates, a numerical restriction to two is particularly unfair.

Ban on Using Third Parties to Solicit Government Business. We are concerned with the prohibitive language regarding consultants. Many investment adviser clients utilize consultants to evaluate and recommend investment managers and their services. These consultant firms represent multiple clients and prospects and, therefore, have frequent interactions with advisers. Many investment advisers engage and pay fees to such consultants to attend consultant-sponsored conferences or purchase analytical services and other research offered by such consultants. We would suggest that such unrelated payments for products and services be exempted for the rule.

Although the ban on direct third party solicitation would not affect T. Rowe Price's business, we understand that many firms do use third-party solicitors. Given the existence of the solicitation rule, we do not see the need to prohibit this activity.

Investment Pools. The Commission has asked whether advisers to funds in plans where the adviser is not the sole or primary adviser to the plan or where a different adviser's funds are included as investment options under the plan should be treated differently under the proposed rule. We believe strongly that sub-advisers should not be included within the scope of the proposed rule. A sub-adviser is not necessarily aware of the actions of the investment adviser and the adviser is not necessarily aware of the actions of the sub-advisers. The action of one should not be attributed to the other. Because an adviser may not do indirectly what it is prohibited from doing directly, any collusion between an adviser and sub-adviser regarding political contributions would violate the rule if adopted.

Exemptions. Assuming that the proposed rule is adopted as proposed, we support the exemptive provisions and strongly support the Commission's stated intent to "apply these exemptive provisions with sufficient flexibility to avoid consequences disproportionate to the situation, while effecting the policies underlying the rule."

Recordkeeping. T. Rowe Price is very concerned about the proposal to apply certain recordkeeping requirements of the proposed rule to advisers to pooled investment vehicles even if the vehicle is not included in a plan or program of a government entity. This proposal assumes that the investment adviser is actually aware that a government entity is an investor in the vehicle. This assumption, however, is not correct in the case of mutual funds.

To comply with this recordkeeping requirement, the transfer agent of the Price Funds would have to examine each existing account in a Price Fund that is registered as an "entity" or "plan" to determine if it is a government agency account; the number of accounts in a large mutual fund may number in the hundreds of thousands. Although there is a social code for "Township - City – County," this would not cover all

government entities (for example, it would not cover a state's deferred compensation plan).

Compliance would be even more difficult and, in some cases, impossible for accounts held through third-party intermediaries. These accounts are held at the transfer agent in one of three ways -- (1) omnibus accounts, where all of the underlying accounts are rolled into one account and the identities of the underlying investors are not visible to the transfer agent or T. Rowe Price; (2) networked accounts where the underlying accounts are held on the transfer agent's system but the accounts are registered to the broker; and (3) networked accounts where the underlying accounts are held on the transfer agent's system and the client registration is visible to the transfer agent. We are very concerned about how we could comply with the recordkeeping requirements for account types (1) or (2). For account type (3), the transfer agent would have to weed through thousands of account registrations to make this determination. In addition, unlike the situation for directly held account, the transfer agent does not have access to new account documentation, so it would not be able to retrieve this information to help with the determination.

If this requirement were applied only to directly held accounts opened after the effective date of the rule, the transfer agent could add a question on the new account form to help identify the entity as a government agency and then create a social code on its transfer agent system to track this. It would continue to be very difficult, if not impossible, to comply for new accounts held through intermediaries, however, since the customer does not complete an account application for the specific fund with the transfer agent and the broker controls how the account is coded.

We also do not believe that the proposed scope of the recordkeeping requirements should be further expanded to include contributions or payments to "persons associated with officials of government entities." There is no practical method of identifying every person who might fall within this category. The recordkeeping requirements as proposed are onerous and expanding them to cover such grey areas will make compliance even more difficult.

We appreciate this opportunity to comment on the proposed amendments to the Advisers Act regarding political contributions. If you have any questions concerning our comments or would like additional information, please contact any of the undersigned.

Sincerely,

David Oestreicher
Chief Legal Counsel

John Gilner
Managing Counsel and Chief Compliance Officer

Sarah McCafferty
Senior Legal Counsel

cc: C. Hayes, Esq.