

Ounavarra Capital LLC

Comments on Proposed Rule: Political Contributions by Certain Investment Advisers

File No. S7-18-09

Recent scandals involving a relatively small number of investment advisors, placement agents/finders, and public sector funds in New York, New Mexico and other places certainly warrant the attention of the SEC and the asset management industry as a whole. Ounavarra Capital, LLC is a registered broker dealer that provides marketing services for a number of investment advisors that would be subject to the proposed rules regarding campaign contributions and use of third party marketers. My colleagues at Ounavarra Capital and I:

- Fully support a ban on all but de minimus campaign contributions to elected officials (and candidates for their offices) that are responsible for or influential in the allocation of public funds to investment advisors.
- Strongly oppose a ban on the use of third party marketers to solicit government business.

Illegal activity in our industry hurts us all. In an ideal world, the public sector would make every business decision on the basis of complete information and in as objective and unbiased a manner as possible. In the real world, we know that a range of political and personal relationships can influence outcomes. As a general rule, transparency in all matters provides the best defense against the untoward or illegal use of influence. We support any measures that the SEC can impose that will mandate full disclosure, readily and easily available to the public, of the relationships between finders of any kind, investment advisors, and public sector investors. As a registered broker dealer, our activities can be easily regulated and monitored by the SEC, and we are willing to operate our business in compliance with appropriate rules in general and the proposed restrictions on contributions in specific.

Banning the use of third party marketers will hurt public sector funds by severely limiting their access to investment advisors who may better help them achieve their goals. It will hurt our firm, making us another victim of the inappropriate and in some cases illegal actions of others. It will harm a very large number of investment advisors who are unable to staff their own marketing efforts. It will favor the larger and institutional investment advisors who are already dominant in this field. In each of these respects it will not create a fairer and more level playing field.

Campaign Contributions

The proposed rules are modeled on Municipal Securities Rulemaking Board Rules G-37 and G-38. Prior to my involvement with Ounavarra Capital, I spent over 20 years as an investment banker in public finance. Early in my career, G-37 provided welcome relief from managers who regularly asked me to contribute to candidates in places where my firm sought negotiated bond business. As often as not, it was the elected officials and candidates who aggressively solicited these contributions and banning them certainly eliminated one means of influencing how public sector business was awarded.

The SEC should consider restricting contributions to political parties as well. Candidates for office cannot generally win without substantial party support, so large contributions to a candidate's party clearly benefit elected officials who control and influence business. The contributions ban should extend to the widest range of individuals on both sides. On the investment advisor side considerable attention should be given to which employees should be subject to the rule. It might be appropriate, for example, to ban contributions from anyone working for a hedge fund with only a few employees since every employee could reasonably be expected to benefit directly from a large award of funds. Forward thinking states like Connecticut, which has placed broad restrictions on campaign contributions to a wide range of elected officials from any company doing business with the State or any of its agencies, should be a model for others. Connecticut has also been a leader in transparency. Every vendor that does business with the State Treasurer's office is required to disclose any payments to third parties and that information is readily available to the public.

Third Party Marketers

It is true that following the enactment of Rule G-37, municipal finance departments increasingly turned to consultants and lobbyists for the influence they could provide with governmental decision makers. No doubt that influence was sometimes heightened by the campaign fundraising efforts of the consultant/lobbyist.

I urge you to consider a key difference between the municipal bond and public fund investment arenas. In the municipal bond business, a relatively small number of firms provide fairly similar products and services to public sector clients. Their bankers perform two key functions: they both market their firm's capabilities and then execute whatever business transaction is awarded. In all but the most corrupt environments, access to government staff (if not always the decision makers) for marketing purposes has not been a barrier and bankers continue to perform their marketing functions without the assistance of third parties. Consultants and lobbyists were retained by public finance bankers almost exclusively to lend influence through a relationship with the public sector decision maker that the banker did not have. Banning consultants in the municipal bond world did not adversely affect most bankers' ability to conduct basic marketing.

Unlike G-38's consultants and lobbyists, Ounavarra Capital provides only marketing services to investment advisors who have either no marketing capability of their own or one that is very limited in scope. Some of our clients are not domiciled in the United States and are therefore restricted in the scope of any marketing they can conduct with investors here. Our goal is to understand the needs and objectives of investors and introduce them to investment advisors who may help them achieve their investment goals. We are not lobbyists. We have no influence to peddle beyond whatever trust we have established with investors through our understanding of their portfolios and preferences, market and economic conditions, and the strategies and performance characteristics of our clients' investment products.

We appreciate this opportunity to comment on the proposed rule.

Sincerely,
Joelle Wyser-Pratte, Managing Partner
Paul O'Reilly-Hyland
David Gabrielson

Ounavarra Capital LLC

410 Park Avenue

New York, NY 10022

646-201-4886

www.ounavarra.com