February 13, 2012

To whom it may concern:

We are writing on the behalf of the National Conference of State Legislatures (NCSL) in response to proposed rulemaking related to Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203). The proposed rule, known as the “Volcker Rule,” would create an imbalance in the use and treatment of municipal securities.

As the proposed rulemaking states, the Volcker rule would “generally prohibit any banking entity from engaging in proprietary trading…, subject to certain exemptions.” However, while the rule attempts to exempt municipal securities, it fails to provide an all-encompassing definition of ‘municipal obligations’ for state and local governments. By not using the well-established definition of municipal securities in the Securities Act of 1934, the Volcker rule threatens to create a two-tiered securities market that may raise costs for state and local governments and create market preferences for municipal bonds.

Therefore, we ask that instead of using the definition as “obligations of states and political subdivisions thereof,” to please define securities as “obligations guaranteed as to principal or interest by, a state or any political subdivision thereof, or any agency or instrumentality of a state or any political subdivisions thereof, or any municipal corporate instrumentality of one or more states, or any security which is an industrial development bond.” This definition has been used for almost 80 years and has shown state and local securities to be a safe asset in U.S. capital markets. Conversely, the definition as used in the proposed rulemaking would leave up to 40 percent of the municipal securities market exposed to the Volcker Rule.

We appreciate the opportunity to provide comments on the proposed rule. For additional information, please contact Michael Bird (202-624-8686; michael.bird@ncsl.org) and James Ward (202-624-8683; james.ward@ncsl.org). Thank you for consideration of this request.
Respectfully,

Representative Dan Flynn  
Texas House of Representatives  
Chair, NCSL Budgets and Revenue Committee

Representative Jay Kaufman  
Massachusetts House of Representatives  
Chair, NCSL Budgets and Revenue Committee

Representative Greg Wren  
Alabama House of Representatives  
Chair, NCSL Communications and Financial Services Committee

Senator Carol Fukunaga  
Hawaii Senate  
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