

# NONPROFIT

*Coordinating Committee of New York*

February 18, 2011

Elizabeth M. Murphy, Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20001

Re: Proposed Rules 15Ba1-1 through 15Ba1-7 Regarding Registration of  
Municipal Advisors, Release No. 34-63576 (File Number S7-45-10)

Dear Ms. Murphy:

The Nonprofit Coordinating Committee of New York (NPCC), an “umbrella” organization representing and serving nearly 1,600 member nonprofit 501(c)(3) organizations in the New York City area, is submitting these comments on proposed Rules 15Ba1-1 through 15Ba1-7 (the “Proposed Rules”) set forth in SEC Release No. 34-63576, available at <http://www.sec.gov/rules/proposed/2010/34-63576.pdf>, regarding registration of municipal advisors with the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

The Proposed Rules, implementing Section 975 (Title IX) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, would create a procedure for individuals considered “municipal advisors” (as defined by the Dodd-Frank Act) to register with the Commission,

We are concerned that the Proposed Rules may have a substantial adverse (and wholly unintended) impact on nonprofits that have tax-exempt debt or on other nonprofits that are deemed to be municipal entities, such as charter schools.

This issue surfaces because the Proposed Rules provide interpretative guidance on the meaning of the term “municipal advisor.” Please see the discussion starting at page 19 of the Release and the discussion on pages 40-41 of whether appointed or elected members of governing bodies of municipal entities would be exempt, as are employees of such municipal entities. The key question, posed by Commission staff, starting on page 51, is whether employees (and volunteers such as board members) of obligated persons should also be excluded from the definition of “municipal advisor” (as are employees of a municipal entity) to the extent that they are providing advice to the obligated person, acting in its capacity as an obligated person, in connection with municipal financial products of the issuance of municipal securities.

We are concerned that the Proposed Rules could be read to require board members who almost exclusively are volunteers, as well as employees of nonprofit organizations, to register with the SEC as "municipal advisors" even if their only involvement is in their capacity as board members or management of an obligated person in dealing with decisions about municipal financial matters. The individuals dealing with such matters do not provide advice *to* a nonprofit company -- they, in effect, acting collectively, are the nonprofit (the nonprofit, of course, only can act through its board, officers and employees).

We believe that any suggestion that registration may be required would be likely to cause many to refuse to serve on charitable boards or work or volunteer for nonprofits. These individuals typically provide some combination of wisdom, wealth and work to the nonprofit that is vital to its survival, in particular, expertise with respect to financial matters, including municipal financings. Such a registration requirement may also lead to nonprofits being unable to utilize tax-free municipal bonds if their directors, employees and volunteers are unwilling to register. We would be astonished if such effect was intended by the legislators adopting the Dodd-Frank Act.

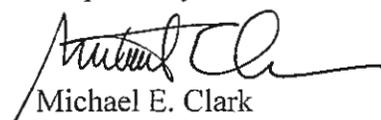
In short, we believe that it could not be the intent of the statute and the Proposed Rules to require board members of nonprofits to register as municipal advisors or to require employees or volunteers of obligated persons to register. While the language used in the Dodd-Frank Act may not be precise, we believe that the intent was to regulate market professionals, not volunteer board members, employees and other volunteers who act on behalf of obligated persons. We believe that directors should be treated like elected or appointed members of the governing body of a municipal entity. Similarly, we think that employees and other volunteers of the conduit obligors should be treated like employees of a municipal entity, and thus also be exempt.

Accordingly, we believe that it is appropriate for the Commission, in its final release, to note the ambiguity in the legislation, as it does with respect to elected and *ex officio* members of governing bodies of municipal entities, and to include language exempting from the scope of the term "municipal advisors" members of nonprofit boards of conduit obligors and other nonprofit organizations.

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Thank you for your consideration of this letter. If further comment is desired, I can be reached at 212-502-4101, ext. 23, or [mclark@npccny.org](mailto:mclark@npccny.org).

Respectfully submitted,

  
Michael E. Clark  
President