



February 21, 2011

Ms. Elizabeth Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549

Dear Ms. Murphy:

I appreciate the opportunity to comment on the notice of proposed rulemaking issued by the Securities and Exchange Commission to establish a permanent registration system for municipal advisors under Section 975 of the Dodd-Frank. Section 975 establishes a system of dual registration with the Commission and the Municipal Securities Rulemaking Board that will require covered municipal advisors to comply with rules of fair dealing, ongoing education requirements, and a fiduciary duty to their municipal entity clients.

The banking needs of the residents of South Dakota's communities, large and small, are served by a healthy mix of small community banks, larger regional community banks and branches of large money center banks. The South Dakota Bankers Association is a trade association which represents the interests of that entire range of banking institutions, but most of our members are independently owned community banks. Only 13 of the SDBA's member banks exceed \$500 million in assets and 53 are under \$100 million in assets. Only 5 of South Dakota's 88 banking institutions are publicly traded, thus the vast majority have no reason to be registered with the SEC at the present time.

Most those 88 South Dakota banking institutions do provide deposit services to one or more units of local government; cities, counties, schools, universities and the like. I understand that the SEC's interpretation of the language of section 975 would cover traditional bank products and services such as deposit accounts, cash management products and loans to municipalities, meaning banks would have to register as municipal advisors. So the vast majority of South Dakota's banks would be faced with the choice of subjecting itself to costly and burdensome regulation by the SEC or discontinuing service to local government entities

Section 975 was intended to establish a regulatory scheme for unregulated persons providing advice to municipalities with respect to municipal derivatives, guaranteed investment contracts, investment strategies or the issuance of municipal securities. But from the perspective of a privately held, traditional community bank, the SEC's interpretation of 975 just adds a new layer of regulation on bank products for no meaningful public purpose. Community banks would have to weigh the costs of new regulation against the relatively minimal returns

associated with providing simple deposit products to their local city, county or school organizations. One can be certain that this new level of duplicate regulation will raise costs and limit availability of financial services, ultimately harming state and local governments.

Another problem area of SEC's proposed rule-making relates to the reach of the SEC over community volunteers. Many bank employees act as citizen volunteers offering their financial expertise for the benefit of their communities. In very small communities, local bankers may be the only source of much-needed financial expertise for city or county officials. If these volunteers were to be required to register as individuals with the Commission and the MSRB, many well-qualified volunteers would be discouraged from subjecting themselves to these requirements. The Commission should carve out community volunteers from the reach of its new registration and regulatory requirements.

In order that the SEC's new proposed rules do not result in the types of unintended consequences I have referenced in this letter, I respectfully suggest the following:

- The Commission should state clearly that neither Section 975 nor its implementing regulation reach traditional bank products and services.
- The Commission should extend the exemption for registered investment advisers to banks that are exempt from Investment Adviser Act registration.
- Appointed members of a municipality's governing board should be deemed to be "employees" of the municipality and thus exempt from registration.

I hope that you will accept my comments in a positive vein. Community banks and the interests of their government customers will not be well served by layering a new set of expensive, unnecessary regulations over an area of local government finance which is all ready heavily regulated at both the state and federal levels.

Sincerely,

  
Curtis A. Everson  
SDBA President