



February 22, 2011

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Municipal Advisors (SEC File No. S7-45-10)

Jeffrey Feldman
President and
Chief Executive Officer

As President and Chief Executive Officer of the United Nations Development Corporation ("UNDC"), I am responding to the Commission's request for comments regarding registration of municipal advisors, as set forth in the Commission's proposed rules 15Ba1-1 through 15Ba1-7 (the "Proposed Rules"). We understand that the purpose of the Proposed Rules is to give effect to Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), under which municipal advisors are required to register with the Commission.

UNDC is a public benefit corporation organized by statute enacted by the legislative bodies of the State of New York (the "State"). The enabling statute, as amended, is compiled as Section 9601 *et seq.* of the New York Unconsolidated Laws. UNDC has no stockholders. UNDC's purpose is to undertake coordinated development of office space and other facilities in the area of the United Nations headquarters in The City of New York (the "City") needed for the official international community in the City, including the United Nations (the "U.N."). UNDC's financial transactions involving securities consist solely of the issuance of debt instruments, almost exclusively long-term bonds, the investments of proceeds of UNDC's debt and the investment of other funds of UNDC. UNDC's operations, including its financial transactions, are governed by its Board of Directors (the "Board"). The Board consists of fifteen members who serve without compensation; eight are appointed by and serve at the pleasure of the Governor of the State, five are appointed by and serve at the pleasure of the Mayor of the City, and two serve *ex officio* by virtue of their positions at City departments to which they are appointed by and in which they serve at the pleasure of the Mayor.

The definition of “municipal advisor” under the Dodd-Frank Act expressly excludes a “municipal entity or an employee of a municipal entity.” In the Proposed Rules, the Commission proposes to exclude from the definition of “municipal entity” elected members of a governing body of a municipal entity, but proposes to include in that definition appointed members of a municipal entity’s governing body unless such appointed members are *ex officio* members of the governing body by virtue of holding an elective office. We respectfully request that the Commission revise the Proposed Rules to exclude from the definition of “municipal entity” all members and directors, as well as all employees, of municipal entities such as UNDC and other similar entities, regardless of whether such members and directors are appointed, elected or serve on an *ex officio* basis. Our objection to the Proposed Rules, as described below in more detail, is based on the following:

(a) a board member of a municipal entity such as UNDC does not provide advice to or on behalf of that municipal entity on financial and securities matters; instead each such board member receives advice on which he or she acts in accordance with his or her business judgment and fiduciary duty as a board member;

(b) the distinction in the definition of “municipal entity” between “appointed” board members (included in the definition) and “elected” board members (excluded from the definition), is not appropriate because the Commission’s reasoning that “appointed” directors are not sufficiently accountable is incorrect; and

(c) subjecting “appointed” board members who are, in the case of UNDC and many other similar entities, uncompensated, to the municipal advisor registration requirements will discourage qualified individuals from serving as board members.

Board members of municipal entities are not providing advice; they are recipients of advice

Under the Dodd-Frank Act the term “municipal advisor” is broadly defined to mean, in relevant part, a person that provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues. In fact, UNDC’s Board members do not provide advice to or on behalf of UNDC concerning such matters in connection with financial products, specifically UNDC’s issuance of debt instruments; rather they receive such advice from third parties engaged by UNDC, such as professional financial advisors, underwriters and legal counsel, and from UNDC employees (ironically, if all members of UNDC’s governing body were advisors, then who would they be advising?)

The duties and responsibilities of our Board members are governed by State law (see, for example, Sections 2, 2824 and 2825 of the New York Public Authorities Law, and Section 73-a of the New York Public Officers Law), which requires them to exercise their business judgment and to act in a manner which they reasonably believe is in the best interests of UNDC. As UNDC’s governing body, the Board oversees the operation of UNDC and the services of its Chief Executive Officer, and performs functions that include (i) establishing corporate policies

and approving, reviewing and monitoring fundamental financial, management and operational decisions; (ii) overseeing UNDC's employees in the effective and ethical day-to-day management of UNDC; and (iii) reviewing UNDC's processes for maintaining the integrity of its financial statements and compliance with law. As part of and consistent with these functions and as described above, UNDC Board members solicit professional advice on the issuance of bonds and any other debt instruments and other financial matters, and then make informed decisions based on that advice consistent with their fiduciary duty as Board members. State law also requires that UNDC and other similar entities in the State that issue debt establish a finance committee comprised of board members, which, among other duties, reviews proposals for the issuance of debt prepared by professional advisors, and makes recommendations to the full board for consideration and approval.

Given the responsibilities of UNDC's Board members described above, it is evident that our Board members are receivers of advice, not givers of advice; they do not advise UNDC, but rather make decisions on its behalf.

No distinction between appointed and elected board members

Under the Dodd-Frank Act the term "municipal advisor" excludes employees of a municipal entity. The Commission proposes that "appointed" and "elected" directors should be treated differently for purposes of this exclusion, stating that "elected" directors should be considered as employees of the municipal entity while "appointed" directors should not, stating that this interpretation is appropriate because "employees and elected members are accountable to the municipal entity for their actions," and going on to state "the Commission is concerned that appointed members, unlike elected officials and elected *ex officio* members, are not directly accountable for their performance to the citizens of the municipal entity."

This characterization of accountability between members and directors of a municipal entity who are municipal employees or elected officials on the one hand, and Board members of UNDC or other similar entities in the State who are appointed by elected officials on the other hand, is incorrect and objectionable because there is no accountability or like distinction between those members and directors who are "appointed" and those who are "elected." In fact, members and directors appointed by and serving at the pleasure of elected officials are accountable at all times to their appointing officials at least to the same extent and perhaps to a greater extent than the accountability to the electorate of municipal employees or elected officials. Specifically in the case of UNDC, Board members appointed by the Governor may be removed by the Governor at any time and members appointed by the Mayor may be removed by the Mayor at any time.

In addition, all Board members of UNDC and other similar entities in the State are required under State law to comply with extensive obligations intended to assure loyalty and accountability, regardless of status as an appointed or elected director (see, for example, Sections 2, 2824 and 2825 of the New York Public Authorities Law, and Section 73-a of the New York Public Officers Law). These obligations include, among others, submission of annual financial disclosure forms, execution of a State-prescribed acknowledgment of fiduciary duty, and State-approved corporate governance training programs.

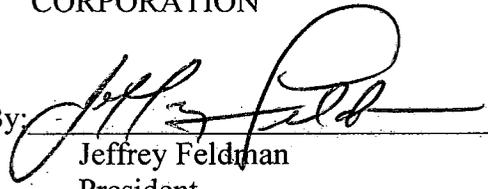
Individuals will be discouraged from serving as board members

Those who currently serve as Board members of UNDC or of other similar entities in the State, and their prospective successors, will be discouraged from serving by being required to register as municipal advisors, especially when added to the extensive State law requirements relating to corporate governance, fiduciary duty, loyalty and accountability. In light of the fraud and misconduct uncovered recently, we understand the Commission's emphasis on strengthening federal regulation in these areas. However, requiring "appointed" Board members of UNDC and other similar entities to register as municipal advisors will for no good reason expose those members to potential penalties and fees, increase legal costs and discourage qualified individuals from serving as board members.

For the above reasons, we respectfully request that the Commission revise the Proposed Rules to exclude from the definition of "municipal entity" all members and directors, as well as all employees, of municipal entities such as UNDC and other similar entities, regardless of whether they are appointed, elected or serve on an *ex officio* basis.

Very truly yours,

UNITED NATIONS DEVELOPMENT
CORPORATION

By: 

Jeffrey Feldman
President