

February 22, 2011

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

**Re: Registration of Municipal Advisors,
Release No. 34-63576, File No. S7-45-10**

Dear Ms. Murphy:

LeighFisher submits these comments in response to the Commission's proposed rule on the registration of municipal advisors as published in the Federal Register on January 6, 2011, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Our comments address proposed Rule 240.15Ba1-1: Definition of Municipal Advisor and Related Terms, and specifically the definitions of "municipal advisor" and "municipal advisory activities" as such terms cover engineers and other professionals who prepare financial feasibility studies and advice in connection with the issuance of municipal securities.

LeighFisher is an international firm of management consultants providing, among other services, financial planning and consulting services to the developers and operators of publicly and privately operated airports and other transportation infrastructure. Since 1990, LeighFisher has prepared financial feasibility studies in the United States in connection with the issuance of \$60 billion of airport revenue bonds by authorities, cities, counties, and other municipal entities. LeighFisher staff who prepare such studies have professional qualifications as engineers, economists, accountants, business analysts, and in other disciplines. LeighFisher does not provide services as financial advisors as that term is commonly used in the U.S. municipal securities industry.

Section 975 of Dodd-Frank requires "municipal advisors" to register with the Commission. Section 15B(e)(4)(A)(i) of the Securities Exchange Act (which incorporates the provisions of Dodd-Frank) defines the term "municipal advisor" as a person that "provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such

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financial products or issues.” The term “municipal advisory activities” is defined in the proposed rule using the same language.

Our concern with the proposed definitions of “municipal advisor” or “municipal advisory services” is that, notwithstanding the fact that Dodd-Frank did not identify feasibility or similar studies as being within the intended scope of these definitions, the Commission has included the preparation of feasibility studies within the universe of activities which constitute municipal advisory services. We believe the Commission’s inclusion of feasibility studies is inappropriate.

The primary purpose of such feasibility studies – whether prepared by accountants, engineers, or other professionals – is to evaluate the underlying need for a project or enterprise, the likely extent of activity or patronage, required fees or charges, other revenues and operating expenses, and the net revenues available to pay debt service and other financing costs. (See 76 FR 834, footnote 138, for a comparable definition as used by the Municipal Securities Rulemaking Board (MSRB).) The purpose of such feasibility studies is not to advise on the structure, timing, or terms of the financing or the issuance of municipal securities.

We have met with representatives of the MSRB to discuss qualifications examinations being developed in response to Dodd-Frank. A telling indication of the inappropriateness of grouping feasibility consultants with municipal advisors is the difficulty that MSRB is having in developing a curriculum for a core competencies examination. The curriculum currently being discussed is almost entirely irrelevant to the feasibility study services provided by consulting companies such as ours.

Section 15 of the Securities Exchange Act, at 15B(e)(4)(C), makes certain exceptions to the definition of municipal advisor for, among others, “engineers providing engineering advice.” In the proposed rule, the term “municipal advisor” is defined to include any engineer who engages in “municipal advisory activities other than providing engineering advice.” In the discussion of the roles of attorneys, engineers, and other professionals (at 76 FR 834), the Commission proposes to adopt the position that feasibility studies are not considered to be within the scope of “engineering advice.” We disagree and suggest that the preparation of feasibility and similar studies is often integral to the services provided by engineers and other professionals in support of projects and enterprises being financed with municipal securities.

In summary, we believe that feasibility studies prepared in connection with the issuance of municipal securities do not constitute “advice with respect to the structure, timing, terms, and other similar matters concerning financial products or issues” as intended by Dodd-Frank. We believe that such studies should be excluded from the

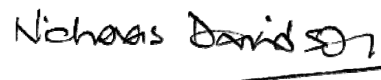
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definition of municipal advisory activities and that professionals who prepare such studies should be excluded from the definition of municipal advisors.

Our suggested exclusion could be achieved in one of two ways: (1) by defining feasibility studies that are subject to regulation under the proposed rule as "feasibility studies that provide advice with respect to the structure, timing, terms, and other similar matters concerning municipal financial products or the issuance of municipal securities" and thereby excluding all feasibility studies not covered by the definition or (2) by including such studies within the scope of "engineering advice." In the second approach, planning, management, and other consultants and practitioners who provide such studies would need to be included within the definition of "engineers" for the purposes of the rule. Corresponding changes in Form MA, Item 4 (at 76 FR 843) would be required.

We appreciate the opportunity to comment on this rulemaking. We would be glad to discuss any of our concerns or comments with the Commissioners and the staff.

Respectfully submitted,



Nicholas Davidson
President

JRND/sjh

cc: Chairman Mary L. Schapiro
Commissioner Luis A. Aguilar
Commissioner Kathleen L. Casey
Commissioner Troy A. Paredes
Commissioner Elisse B. Walter
Mr. Robert W. Cook, Director, Division of Trading and Markets
Ms. Martha M. Haines, Chief, Office of Municipal Securities