



February 22, 2011

DELIVERED VIA EMAIL ATTACHMENT

Ms. Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington DC, 20549-1090

RE: File No. S7-45-10 -- Registration of Municipal Advisors

Dear Secretary Murphy:

Kidwell & Company is an independent Municipal Advisor ("MA") headquartered in Brentwood, Tennessee that is fully compliant with all SEC and MSRB requirements as issued to date. The firm was founded in 2001 and will celebrate a decade of service to municipal issuers this year. Prior to the founding of the firm, I was employed by bank and broker dealers firms; subject to regulation by various authorities while meeting professional qualifications requirements having taken and passed the Series 6, 7, 52, and 63 examinations; and this marks my 24th year of providing municipal advisor/investment banker services to municipal issuer clients.

Our firm has, and continues, to support legislative and regulatory efforts with respect Municipal Advisors as defined by the Dodd-Frank Act (the "Act") and we believe such actions can provide for a more disciplined, knowledgeable, accountable industry for the issuers of municipal securities and the investors that provide the capital for their many endeavors. At question now is whether the rules written to govern the industry will place the interests of issuers, investors and the public trust before those of special interests.

Statutory Definition Release Number 34-63576; File S7-45-10:

Securities and Exchange Commission Release Number 34-63576; File S7-45-10 states Section 15B(e)(4)(A) of the Exchange Act, as amended by the Dodd-Frank Act, defines the term Municipal Advisor to mean a person (who is not a municipal entity or employee of a municipal entity) (i) 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, or other similar matters concerning such financial products or issues, or (ii) that undertakes a solicitation of a municipal entity. The Release further states the statutory definition of a Municipal Advisor is broad and includes persons that traditionally have not been considered to be municipal financial advisors. The release specifically states the definition of a Municipal Advisor includes "financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors" that engage in municipal advisory activities.

The Release states the definition of a Municipal Advisor explicitly excludes "a broker, dealer, or municipal securities dealer serving as an underwriter," as well as attorneys offering legal advice or providing services that are of a traditional legal nature and engineers providing engineering advice. The Release further states the definition of a Municipal Advisor excludes "any investment adviser registered under the Investment Advisers Act of 1940, or persons associated with such investment advisers who are providing investment advice" and "any commodity trading advisor registered under the Commodity Exchange Act or persons associated with a commodity trading advisor who are providing advice related to swaps."

The Release states that consequently, the statutory definition of Municipal Advisor includes distinct groups of professionals that offer different services and compete in distant markets. The three principal types of Municipal Advisors are stated in the Release to be (1) financial advisors, including, but not limited to, broker dealers already registered with the Commission, that provide advice to municipal entities with respect to their issuance of municipal securities and their use of municipal financial products; (2) investment advisers that advise municipal pension funds and other municipal entities on the investment of funds held by or on behalf of municipal entities (subject to certain exclusions from the definition of a Municipal Advisor); and (3) third party marketers and solicitors.

Consideration of Municipal Advisor Regulation:

The financial crisis America is still experiencing was caused in part by the acts of termed financial advisors who acted to serve various entities while engaged in conflicts of interest that were either undisclosed, or disclosed and misunderstood, by debt issuers, borrowers, and investors. While conflicts of interest may have been disclosed to issuers, we believe it to now be evident many did not fully understand the meaning of how their interests could be adversely affected by permitting such conflicts of interest to exist. Many issuers did not understand the implications associated with firms they trusted to represent their interests in transactions being engaged to serve in multiple capacities such as underwriter, remarketing agent, liquidity agent, credit enhancement provider, swap advisor, swap broker, or swap counterparty where transaction interests were not aligned and gain to such firms was at direct or indirect expense to tax and rate payers.

We believe it now apparent that municipal issuers did not have a proper understanding of the nature of disclosed conflicts of interest; fact financial firms were wearing multiple hats in transactions; how disclosed conflicts could adversely affect the interests of tax and rate payers; risks associated with certain transaction types; capacity to measure, metric, and manage such risk; total amount of fees paid to financial firms; capacity to observe when associated rates of interest were higher than market competitive; or the massive costs associated with termination and/or continuance of certain financial structures and instruments. We would suggest that it was the intent of the Act to eliminate actual or perceived conflicts resulting from the actions of financial entities to represent more than one interest in a transaction and to provide for protections for issuers, investors, and the public trust to safeguard such actions in future years.

Definition of Municipal Advisor:

A Municipal Advisor acts to provide issuers with advice relating to the structure, timing, terms, or other matters according to the Act. We believe it is evident that the Act differentiates between firms choosing to serve in Municipal Advisor versus underwriting capacity and does not intend for the actions of such firms to be in real or perceived conflict. The Act imposes a Fiduciary Duty on firms acting to provide Municipal Advisor services to their clients. We do not believe the Act intended for municipal securities dealers to retain the ability to serve in multiple capacities in same transactions. We would suggest the actions of a Municipal Advisor be defined by the advice and service provided and not by type of entity providing the service.

If a municipal securities dealer wishes to provide Municipal Advisor services we believe such to be consistent with the Act. We believe a municipal securities dealer should not be allowed to engage in conflicts of interest where both issuer and investor are in positions of vulnerability and expectations of Fiduciary Duty may exist where neither is assured that any person or entity is acting in their best interests. We believe this to be an exact example of the type of activity the Municipal Advisor provisions of the Act were intended to negate from the marketplace and which the Fiduciary Duty provisions of the Act underscore.

Albert Einstein once said "The definition of insanity is doing the same thing over and over again and expecting different results". If financial firms are allowed to once again provide Municipal Advisor services while engaging in conflicts to those of the issuer and investors why should we expect for the results to be different than those of our recent past which we are still experiencing? Many issuers and investors were subjected to unnecessary risk in efforts to protect and extend the boundaries of proprietary trading product in the years leading to the current financial crisis.

We would suggest it to be in the best interests of issuers, investors, and the public trust to not repeat the mistakes for which we are now so dearly paying. Our suggestion would be for financial firms desiring to be engaged in a municipal securities transaction to pick a side -- and then provide the best services possible in representing that side -- and only that side.

What of suggestions that relegating municipal securities dealers to one side of a transaction will reduce competition for the securities of issuers? We stipulate that may, or may not, be true in the short run. At the same time we recall and submit for consideration that mergers; acquisitions; and practices associated with friendship, familiarity, and favoritism may have done far more to eliminate municipal securities competition from the marketplace than the relegation of one firm to one side of a transaction ever could.

Summary:

The Act can provide for a better municipal securities industry for issuers and investors. Will the rules now being written rightfully position the needs of issuers, investors, and the public trust in front of those of financial firms seeking to maintain access to proprietary trading product? If not, will the SEC send such rules back for reconsideration?

We believe it is in the long term best interests of issuers, investors, and the public trust for clear lines of delineation to be established between the various interests in, and parties to, municipal securities transactions. We believe such to be the intent of the Act which will be preserved by rules if written to serve its means. We believe the result will be a stronger more vibrant and competitive marketplace for all participants.

Sincerely,

A handwritten signature in black ink that reads "Larry Kidwell". The signature is written in a cursive, slightly stylized font.

Larry Kidwell, CIPFA
President
Kidwell & Company Inc.