

ORRIN G. HATCH
UTAH

MICHAEL J. KENNEDY
CHIEF OF STAFF

104 Hart Senate Office Building

TELEPHONE: (202) 224-5251
TDD (202) 224-2849
FAX: (202) 224-6331

Website: <http://www.senate.gov/~hatch>

United States Senate

WASHINGTON, DC 20510-4402

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COMMITTEES:

FINANCE
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HEALTH, EDUCATION,
LABOR, AND PENSIONS

AGING

JOINT COMMITTEE
ON TAXATION

The Honorable Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Schapiro:

I am writing to express my concern about proposed rules released by the SEC in December 2010, which attempt to clarify the definition of a "municipal advisor" and to provide a permanent registration process for municipal advisors, for purposes of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Release No. 34-63576). Specifically, I am concerned that these proposed rules could have a very negative impact on the ability of the Utah State Board of Regents to attract and retain the caliber of leaders needed to guide Utah's higher education system.

I understand that the Dodd-Frank Act amended Section 15B of the Securities and Exchange Act of 1934 to make it unlawful for municipal advisors to provide advice to, or solicit, municipal entities or certain other persons without registering with the SEC. However, the term "municipal advisor" is not clearly defined by the Act. The statute did exclude municipal employees from the definition.

As I understand, the proposed rules would also exclude elected and *ex officio* board members from the definition of "municipal advisors," but not appointed board members. I am told that the reason for not excluding appointed board members was that elected board members are accountable to their municipal entity where appointed members are not considered to be directly accountable.

The Utah Board of Regents is comprised of 19 members, 15 of whom are appointed to serve a six-year term by the Governor of Utah with the consent of the Utah State Senate. The other four members are a student Regent and three non-voting *ex officio* Regents. The proposed rules would thus deem the appointed Regents to be municipal advisors, subject to new registration and disclosure requirements, while the *ex officio* board members would be exempt. The idea that the Utah Regents have different levels of public accountability to warrant such different treatment seems preposterous to me. I am also deeply troubled by the proposed rules' notion that board members are considered advisors to the Board of Regents, rather than part of the Board itself.

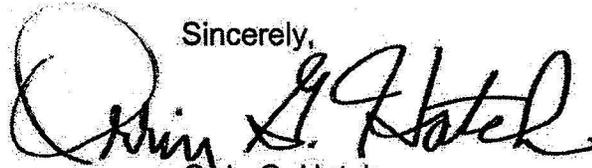
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My immediate concern with these proposed rules is that it would very likely create an extreme chilling effect on the ability of the Utah State Board of Regents to attract qualified people to serve on the board. With a compensation level of less than \$1,000 per year, the Regents are practically volunteers. It seems to me that requiring them to register and become subject to federal securities regulations will discourage many qualified people from wanting to serve. Further, it is hard to see what, if anything, would be gained by such registration. The Utah Board of Regents, both as an entity, and individually, are already subject to numerous state oversight statutes that provide ample protection for the citizens of Utah.

I request that you provide me, as soon as possible, with compelling reasons why this proposed rule is necessary, and how any of its potential benefits would outweigh the significant problems it is likely to create for entities like the Utah State Board of Regents.

Sincerely,

A handwritten signature in black ink, appearing to read "Orrin G. Hatch". The signature is written in a cursive, flowing style with a large initial "O".

Orrin G. Hatch
United States Senator

OGH/eil