

JACK REED
RHODE ISLAND

COMMITTEES

APPROPRIATIONS

ARMED SERVICES

BANKING, HOUSING, AND URBAN AFFAIRS

United States Senate

WASHINGTON, DC 20510-3903

February 18, 2011

Mr. Eric Spitler
Director of Legislative & Intergovernmental Affairs
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

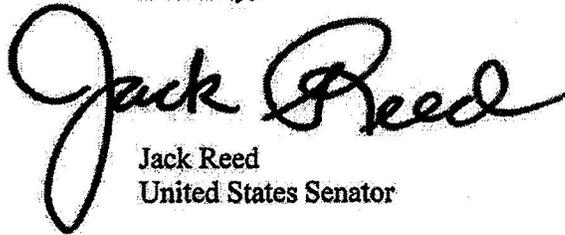
Dear Mr. Spitler:

I write on behalf of Mr. Robert Donovan, Executive Director of the Rhode Island Health and Educational Building Corporation.

For your review, I have enclosed a copy of the letter I received from Mr. Donovan, which details his concerns about the proposed rules for the registration of municipal advisors. So that I can more fully respond to his concerns, I would greatly appreciate any information you may be able to provide my office.

Thank you in advance for your attention to this matter, and I look forward to your response.

Sincerely,



Jack Reed
United States Senator

Enclosure

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Rhode Island
Health And Educational
Building Corporation

January 7, 2011

The Honorable Jack Reed
U.S. Senate
728 Hart Senate Office Building
Washington, D.C. 20510

RE: Securities and Exchange Commission Proposal: Municipal Advisors

Dear Senator Reed,

The Rhode Island Health and Educational Building Corporation ("RIHEBC") has been informed by its national association that the Securities and Exchange Committee ("SEC") has contained in its proposed rules for the registration of Municipal Advisors a provision which would classify all appointed members of Boards, unless elected officials, as Municipal Advisors and require them to register as such.

This provision will negatively impact RIHEBC whose members are appointed by the Governor as well as every other agency with appointees at both the state and local level. The provision is very broadly written and could be interpreted to involve other Boards whose functions are not finance related. Also as written, Board Members of the nonprofit organizations financed by RIHEBC would be considered Municipal Advisors.

This proposal by the SEC clearly exceeds the intent of the "Dodd-Frank Act" which required the registration of Municipal Advisors and is a direct intrusion into the way a state carries out its responsibilities by dictating who can serve on Boards and Commissions. It will shut down the functions of numerous Boards who provide vital services.

Attached, is the section of the proposed SEC regulation dealing with appointed Board Members with the full proposal available on the SEC website at www.sec.gov/rules/proposed.shtml as 34-63576 Registration of Municipal Advisors.

We request that you consider commenting on these proposed regulations and encourage the SEC to exempt appointed Board Members in order to avoid a disruptive and costly impact on the state and local government.

Should you or your staff require any other information, please feel free to contact me.

Sincerely,

Robert E. Donovan
Executive Director

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-63576; File No. S7-45-10]

RIN 3235-AK86

Registration of Municipal Advisors

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") amended Section 15B of the Securities Exchange Act of 1934 (as amended, the "Exchange Act") to require municipal advisors, as defined below, to register with the Securities and Exchange Commission ("Commission" or "SEC") effective October 1, 2010. To enable municipal advisors to temporarily satisfy this requirement, the Commission adopted an interim final temporary rule and form, Exchange Act rule 15Ba2-6T and Form MA-T, effective October 1, 2010. Rule 15Ba2-6T will expire on December 31, 2011.

The Commission is proposing new rules 15Ba1-1 through 15Ba1-7 and new Forms MA, MA-I, MA-W, and MA-NR under the Exchange Act. These proposed rules and forms are designed to give effect to provisions of Title IX of the Dodd-Frank Act that, among other things, would establish a permanent registration regime with the Commission for municipal advisors and would impose certain record-keeping requirements on such advisors.

Employees of a Municipal Entity

Exchange Act Section 15B(e)(4)(A) provides that the term "municipal advisor" excludes employees of a municipal entity.¹³⁹ One commenter suggested that the Commission clarify that this exclusion from the definition of "municipal advisor" would include any person serving as an appointed or elected member of the governing body of a municipal entity, such as a board member, county commissioner or city councilman.¹⁴⁰ This commenter stated that because these persons are not technically "employees" of the municipal entity (but rather are "unpaid volunteers"), these persons would not fall within the exclusion from the definition of "municipal advisor" for "employees of a municipal entity" and, therefore, may have to register as municipal advisors.¹⁴¹

The Commission believes that the exclusion from the definition of a "municipal advisor" for "employees of a municipal entity" should include any person serving as an elected member of the governing body of the municipal entity to the extent that person is acting within the scope of his or her role as an elected member of the governing body of the municipal entity. "Employees of a municipal entity" should also include appointed members of a governing body to the extent such appointed members are ex officio members of the governing body by virtue of holding an elective office.¹⁴² The Commission does not believe that appointed members of a governing body of a municipal entity that are not elected ex officio members should be excluded from the definition of a "municipal advisor." The Commission believes that this interpretation is appropriate because employees and elected members are accountable to the municipal entity for their actions. In addition, 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

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