

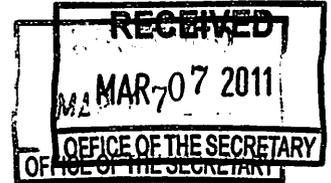


STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

ANDY DILLON
STATE TREASURER

February 28, 2011



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

Dear Ms. Murphy:

Re: SEC Release No. 34-63576, 76 FR 824 (January 6, 2011)

This is submitted in response to the request for comments regarding the above referenced notice of proposed rulemaking.

The Dodd-Frank Act amended Section 15B of the Securities Exchange Act of 1934 (the "Exchange Act") to subject "municipal advisors" to SEC registration and oversight by the Municipal Securities Rulemaking Board ("MSRB"). In the release, the SEC proposes new rules 15Ba1-1 through 15Ba1-7 that would establish a permanent registration regime for "municipal advisors."

As provided in Section 15B(e)(8), the term "municipal entity" means "any State, political subdivision of a State, or municipal corporate instrumentality of a State, including--(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality; (B) any plan, program, or pool of assets sponsored or established by the State, political subdivision or municipal corporate instrumentality or any agency, authority or instrumentality thereof; and (C) any other issuer of municipal securities. 15 U.S.C. 78o-4(e)(8).

Under Section 15B(e)(4)(A) of the Exchange Act, "municipal employees" (with elected members of governing bodies being treated as "municipal employees") would be excluded from classification as "municipal advisors."

Both the statute and the interim rules did not appear to directly and specifically impact the appointed Board members. However, the proposed rule is drafted broadly, and as interpreted, so that appointed board members of a municipal entity would not be excluded from classification as "municipal advisors." (The proposed rule created the issue for the Michigan Education Trust (MET) Board.) (See, 76 Fed. Reg. 824, 834 (2011) (to be codified at 17 CFR Parts 240 and 249) (proposed Jan. 6, 2011). In the preamble to the Notice of Proposed Rulemaking (NPR), in

response to the interim rule, one commenter requested clarification of the status of appointed board members. The response to that comment published in the NPR is:

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." 76 Fed. Reg. 824,834 (2011) (to be codified at 17 CFR Parts 240 and 249) (proposed Jan. 6, 2011).

This is a request that you reconsider and revise the rule to make it clear that appointed board members at least those similar to the MET board are excluded from the definition of "municipal advisors." The MET Board is comprised of one *ex officio* board member who is a state employee and several appointed members, in various categories relating to education, who serve without compensation for a limited term. These members make no specific investment decisions and provide no "advice" relating to the issuance of municipal securities or investment strategy relating to state or municipal funds.

I understand that if the proposed rule becomes final, it will subject appointed board members to SEC and Municipal Securities Rulemaking Board (MSRB) registration and pay-to-play, fair dealing and disciplinary rules of the MSRB. Appointed board members would be required to submit information on new Form MA-I under the Exchange Act to disclose, among other things, basic identifying information, a five year residential history, a ten year employment history and information about business activities, felony charges or convictions, disciplinary history and bankruptcy proceedings. There may be a fee (estimated by one source at \$500-\$600, which may not be reimbursed by the state) associated with the filing of this information and it may become publicly available. (I understand it will be available through the Freedom of Information Act.) In addition, the proposed rule imposes heightened fiduciary standards of care on municipal advisors that would make them civilly and criminally liable for violations of SEC regulations.

These requirements will have a significant chilling effect on the ability of state officials to find volunteers willing to serve on the board. I agree with the statement in the comments of the College Savings Plans Network that "[r]equiring such board members to register with the Commission and MSRB and subject themselves to current and unknown future federal securities regulations will likely discourage a high percentage of capable and valuable potential board members from serving on state entity boards involved in the issuance of securities or investment of funds."

I appreciate the opportunity to provide comments.

Sincerely,



Robin R. Lott
Executive Director
Michigan Education Trust