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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

June 9, 2011

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2011 JUN -9 PM 4:05  
CHAIRMAN'S  
CORRESPONDENCE UNIT

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

Dear Madam Chair:

The Commission in its notice of proposed rulemaking on "Registration of Municipal Advisors" (Release No. 34-63576, File No. S7-45-10), as mandated by Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, has solicited comments on its proposed definitions of "investment strategies" and "municipal entity." As the Commission considers this rulemaking, I want to offer my views.

The historic legislation passed by Congress last year aimed to better equip the Municipal Securities Rulemaking Board to protect issuers and the SEC and MSRB to fulfill their mission of protecting investors. Section 975 responded to a serious problem in the municipal securities market. Some unscrupulous individuals who were unqualified and unaccountable were giving bad advice to municipalities preparing to issue bonds.

The Commission has proposed to define "investment strategies" to include "without limitation the investment of the proceeds of municipal securities," and "plans, programs or pools of assets that invest funds held by or on behalf of a municipal entity." Some have argued that the SEC proposal could be interpreted to require registration as a municipal advisor by banks that offer bank products, such as traditional loans, deposit accounts, and cash management products, to municipalities. Such registration was not the focus of Section 975 of the Act, and in my view, was not intended by the Act. I believe any final regulation should preclude such a requirement.

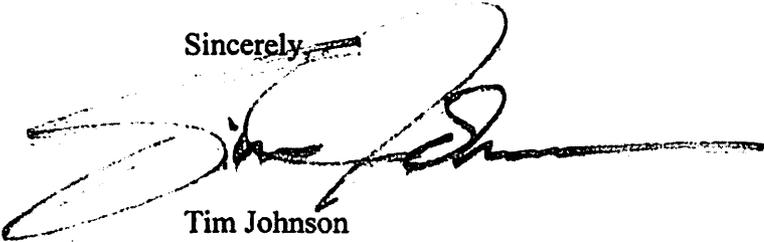
The Act requires a "municipal advisor" to register with the SEC, and defines a municipal advisor to exclude a person who is not a municipal entity or an employee of a municipal entity. The Act does not create, nor does the legislative history suggest the creation of, a distinction between an elected member of a governing body of a municipal entity and an appointed member of such body who is acting within the scope of his or her authority. The legislation was not intended to discourage such well-meaning and competent individuals, who are appointed and who often volunteer their time, from serving on municipal governing boards that consider the issuance of bonds or make decisions on financial matters. In my view, an individual who has been appointed to serve on a municipal entity governing board is not necessarily less accountable than an individual who has been elected.

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I agree with the Commission's view that elected members of the governing body of a municipal entity and appointed members who are ex officio members by virtue of holding an elective office should be exempted from the definition of "municipal advisor." However, I feel that the regulation should not require registration of some members of a governing body of a municipality solely because they have been appointed and not elected.

Congress in the Dodd-Frank Act has equipped the Commission to renew its commitment to protecting investors, maintaining fair, orderly, and efficient markets, and helping with capital formation. I appreciate the work that you and your staff are doing to reform the agency and to address challenges in the marketplace, directly and through the self-regulatory organizations. I will continue to monitor these developments, and stand ready to support you in the effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Johnson", with a long horizontal flourish extending to the right.

Tim Johnson  
Chairman