



June 12, 2012



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

Re: Proposed Rule: Registration of Municipal Advisors  
SEC Release No. 34-63576  
File No. S7-45-10

Dear Ms. Murphy:

Hawaii Pacific University (the "University") appreciates the opportunity to submit this letter in response to the request of the Securities and Exchange Commission (the "Commission or "SEC") for comments on the proposed rule regarding the registration of municipal advisors. In submitting our comments, we echo the concerns and suggestions offered by the Association of Governing Boards of Universities and Colleges, which were communicated to the Commission in their letters dated February 15, 2011 and March 18, 2012. Specifically, the Request for Comment that we would like to address is set forth below, followed by our respective comments.

**"The Commission is proposing to exclude from the definition of "municipal entity" elected members of a governing body of a municipal entity, but to include appointed members of a municipal entity's governing body unless such appointed members are ex officio members of the governing body by virtue of holding an elective office. Are these distinctions appropriate? Please explain. Are there other persons associated with a municipal entity who might not be "employees" of a municipal entity that the Commission should exclude from the definition of a "municipal advisor"?" [Emphasis Added]**

We agree with the Commission's proposal to exclude elected members of the governing body of a municipal entity from the definition of municipal advisor. We further propose to exclude from the definition of municipal advisor, elected members of a governing body of an obligated person and employees of an obligated person. Securities Exchange Act of 1934, Section 15B(e)(8), states:

**"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."**

Based on this interpretation, it does not appear the University would be considered a municipal entity, even if it were to issue municipal securities through a municipal entity, resulting in it not being covered by the Commission's proposal above. Instead, the University could arguably be considered an obligated person, which the Commission does not exclude from the definition as part of its proposal.

Hawaii Pacific University is the largest independent private university in the State of Hawaii with over 8,000 undergraduate and graduate students. The University is governed by a Board of Trustees (the "Board") in accordance with the University's bylaws. The Board consists of 21 trustees and 4 non-voting emeriti trustees, who are elected by a self-perpetuating board. The trustees do not receive compensation for their service. As part of their governance duties, trustees oversee the endowment and make decisions concerning all financing arrangements. The University does not currently utilize municipal securities, but may do so in the future.

The University is concerned that the proposal would require our trustees or employees to register as municipal advisors if they are not specifically excluded from the definition. We believe requiring trustees to register would adversely affect our ability to attract and retain highly-qualified individuals whose volunteer service is vital to our mission.

Furthermore, we do not believe it was the intent of the legislation to require university trustees and employees to register as municipal advisors. Congress specifically excluded employees of municipal entities from the definition of municipal advisor. We believe Congress' rational for making this distinction is the fact that employees act on behalf of an organization within the scope of their employment and do not merely provide advice. The Commission further proposes to consider elected members of the governing body of a municipal entity as excluded employees, which we agree with for the reasons noted herein. As the Commission recognizes in Release No. 34-63576, section (I)(A)(1)(b), "municipal securities are issued by government entities to pay for a variety of public projects, for cash flow and other governmental needs, **and to fund non-governmental private projects by acting as a conduit on behalf of private organizations that wish to obtain tax-exempt interest rates.**" [Emphasis Added]. We do not believe it was Congress' intent to exclude private organizations that would be considered obligated parties from the exception to the definition of municipal advisor. A private organization, like the University, has the same responsibilities in issuing municipal securities as those of a State or municipal entity. Trustees and employees each make decisions on behalf of the University as part of their fiduciary responsibly and scope of employment, respectively.

We would also like to reinforce the position put forth by the Association of Governing Boards of Universities and Colleges which asserts that SEC regulation of college and university trustees' conduct is not needed and where such conduct is already regulated. The University's trustees, faculty and administrators must comply with institutional policies, including those related to conflicts of interest, state laws regulating not for profit organizations, IRS rules for tax-exempt organizations and various federal and state regulatory agencies, most particularly, the U.S. Department of Education.

For the reasons stated herein, we respectfully request that the Commission specifically exclude from the definition of municipal advisor the persons outlined in the Association of Governing Boards of Universities and Colleges letter dated March 18, 2012, which are also included below for your reference:

- Any member of the governing board of municipal entity acting in their official capacity.

- Any member of the governing board of an obligated person acting in their official capacity.
- Any employee of municipal entity acting within the authorized scope of their employment.
- Any employee of an obligated person acting within the authorized scope of their employment.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoffrey Bannister". The signature is written in a cursive style with a large initial "G".

Geoffrey Bannister, Ph.D.  
President