COLUMBIA CAPITAL
MUNICIPAL ADVISORS

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[redacted]

September 10, 2015

Robert W. Errett
Deputy Secretary
US Securities and Exchange Commission

VIA WEB UPLOAD

RE: Request for Comment/Revised Draft MSRB Rule G-42
File Number SR-MSRB-2015-03

Dear Mr. Errett:

Columbia Capital Management, LLC is a municipal advisor registered with the US Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB"). Thank you for the opportunity to comment on proposed MSRB Rule G-42.

1. Standards of Conduct

We do not believe the proposed regulation is unclear. As a fiduciary, we must put the needs of our clients before everyone else's, including our own. We understand the regulation's definition of "duty of care" and "duty of loyalty" to be illustrative of types of actions and behaviors encompassed by the broader fiduciary duty.

2. Disclosure of Conflicts of Interest

While we empathize with other commenters' concerns about multiple points of disclosure, we believe it is reasonable to expect that municipal entities and obligated persons would want to understand, in their *consideration* with respect to engagement of a specific municipal advisor, whether such municipal advisor has a conflict or potential conflict of interest. Waiting until the engagement documentation point for such disclosure to emerge might create difficulties for the municipal entity or obligated person if that entity had, for instance, made a recommendation to its governing body to authorize engagement of the municipal advisor without having had knowledge of such conflicts or potential conflicts.

A change in the text of the regulation from "…prior to or upon engaging in…" to "…at any time requested by the municipal entity or obligated person, but not later than engaging in…" might better allow for full compliance with the disclosure requirements while recognizing that municipal entities and obligated persons engage municipal advisors in numerous ways.

Additionally, as with other commenters, we take exception to the regulation (at (b)(i)(F)) singling out contingent fee structures, implying that they are the only fee structure that creates a

conflict between advisor and client. Every fee structure creates a tension: the advisor wants to maximize its fee income and the municipal entity/obligated party wants to minimize the professional fees it pays. As we noted in our testimony to the MSRB with respect to the original draft of G-42, every fee structure creates a set of incentives and disincentives that can be detrimental to the municipal entity or obligated person. (We noted, for example, that the popular media contains numerous stories about law firms overbilling their clients on an hourly basis, a fee modality that does not seem to be a cause for concern under the proposed regulation.) We recommend the regulation require the municipal advisor disclose how it is being compensated and to discuss the set of incentives and disincentives such fee structure generates, without having the regulations imply that one fee structure is better or worse than any other.

3. Recommendations and Review of Recommendations of Other Parties

The general sentiment of the commenters seemed to be that: (a) it would be very easy for regulators to "Monday Morning Quarterback" the advice and recommendations made by the municipal advisor to its client with the benefit of hindsight; (b) it is not reasonable to hold the municipal advisor accountable for a municipal entity's or obligated person's failure to provide the municipal advisor with pertinent non-public information that might have impacted its advice or recommendations; and (c) it is incredibly cumbersome, if not impossible, to document the rationale for every point of advice in the municipal advisory relationship, including documenting the rationale for every conceivable path not taken. We concur with this general sentiment. We have struggled in our internal firm discussions about implementing these proposed regulations to identify which of the myriad points of advice on each engagement might be material (or might be seen as having been material at some unknown point in the future) and how to appropriately document such. In certain cases, particularly with public clients subject to open records laws, our obligation to comply with the regulation by documenting every twist and turn in the development of a plan of finance or certain a course of action might actually conflict with our fiduciary duty where our client desires to maintain such internal dialogue in confidence.

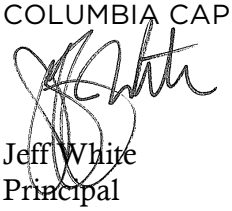
While it is reasonable for regulators to ensure municipal advisors sought, considered and presented appropriate alternatives to the path taken by their client, it is important that the regulatory regime recognize that information is not perfect, that governmental entities and obligated parties make decisions that are influenced by more than financial analysis and that municipal advisors may have little control or influence over the plans of finance chosen by their clients. Unlike investment advisory work where the adviser's work is memorialized in a series of discrete actions documented through trade confirmations for each of those discrete actions, municipal advisory work, particularly on financings, is characterized by a series of actions and decisions of varying consequence, often over multiple months, leading to a single decision: do we proceed or not and, if so, how? Those actions and decisions along the way are influenced by more than the municipal advisor's advice—they are impacted by market conditions, the client's political and operating environment, statutory regimes, bond and tax counsel preferences or edicts, rating agency constraints, public meeting notices and publication requirements, etc. We encourage the SEC and MSRB to recognize the practical challenge of the municipal advisor recognizing and documenting each of these actions and decisions at the time they are made with the idea that such actions and decisions might turn out to be of greater significance in an unknown way at some point months in the future.

4. Inadvertent Advice

We concur with the commenter who suggested that the inadvertent advice regulation is rife for abuse. Once a suggestion, an idea, an actionable recommendation—all falling within the definition of "advice"—is made to a municipal entity or obligated person, the proverbial bell cannot be un-rung. Advice has been given and the fiduciary duty has been triggered. We encourage the SEC and MSRB to define and enforce "inadvertent" quite narrowly.

Thank you for your consideration of our comments.

Respectfully submitted,
COLUMBIA CAPITAL MANAGEMENT, LLC



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