



December 9, 2019

Ms. Vanessa Countryman
Secretary, Securities and Exchange Commission
100 F Street, NW
Washington, DC 20549

Dear Secretary Countryman:

The National Association of Municipal Advisors (NAMA) is a professional organization founded in 1989, that represents independent municipal advisory firms and individual municipal advisors from around the country. NAMA is the largest professional organization solely dedicated to the municipal advisor (“MA”) profession and provides educational and compliance resources to our members.

We appreciate the opportunity to comment on the proposed exemptive relief that will permit registered municipal advisors, under certain conditions, to solicit specified institutional investors in connection with the direct placement of securities without registering as a broker (“Proposed Order”). The Proposed Order will allow municipal advisors to fulfill their statutory obligations to municipal entities and obligated persons (“Municipal Issuers”) as described by the Commission in its Municipal Advisor Adopting Release¹ by fully representing the interests of Municipal Issuers in certain, limited direct placement transactions. The Proposed Order limits exemptive relief to direct purchase transactions with a narrow class of investors identified as “Qualified Providers” and recognizes that municipal advisors, like brokers, have a fair dealing obligation to Qualified Providers. The Proposed Order largely imposes the same conditions on dealing with investors/Qualified Providers as would be required under FINRA and MSRB rules for brokers and therefore continues the U.S. Securities and Exchange Commission (“SEC” or “Commission”) practice of limiting exemptions from broker registration unless it has imposed conditions to ensure investor protection. The fair dealing standard, together with the MA requirements of written disclosure to the Qualified Provider and receipt of written representations from the Qualified Provider required in the Proposed Order, will allow for increased protection for Municipal Issuers without lessening investor protection.

NAMA supports the comprehensive regulatory framework that has been developed to prevent fraudulent and manipulative acts and protect investors, municipal entities, obligated parties and the public interest in the municipal marketplace. We agree with the Commission when it notes that while certain exclusions from municipal advisor registration were incorporated in the Municipal Advisor Adopting Release, there has been no discussion (until the publication of the Proposed Order) of the circumstances under which municipal advisors performing municipal advisory activity are required to register (or not register) as brokers. We have raised the issue about the lack of exemptive relief in the past because our members have been concerned that they are not able to fully represent the interests of their Municipal Issuer clients in direct placement transactions. In many cases, bank loans have been used as a substitute for the issuance of a security, but concerns raised by the MSRB in Notice 2011-37 and Notice 2016-12 as well as statutory limitations and local practice for many Municipal Issuers makes

¹ Exchange Act Release No. 70462, 78 FR 67468 (November 12, 2013) (“Municipal Advisor Adopting Release”)

the use of bank loans impractical or impossible in many situations. The Proposed Order provides a solution that eliminates the need to extensively document whether transactions covered by the Proposed Order are a loan or a security. This not only provides relief to professionals from having to make that determination – or hire outside counsel to advise them on this issue – but also allows for all Municipal Issuers across the country to access the same protection afforded to them by using a municipal advisor regardless of state restrictions on bank loans.

The fiduciary duty that municipal advisors owe to their municipal entity clients provides important protection to municipal entities seeking to take advantage of capital formation efficiencies in the direct placement market.² This benefit is particularly relevant when municipal advisors participate as advisors in connection with direct placements or with bank loans that allow governments to avoid many of the costs associated with issuing debt in the capital markets. Because certain fixed costs will be incurred irrespective of the size of the transaction, the relatively small transactions that make up the bulk of direct placement activity³ will receive the most benefit from the Proposed Order. The Municipal Issuers involved in these transactions will be able to rely on their municipal advisor to advocate for their best interests and will not need to pay the cost of a broker unless such services are actually required.

As we have previously noted, MAs have at times been reluctant to provide advice to Municipal Issuer clients in direct purchase transactions, not because of a lack of knowledge or expertise, but because of the concern that such activity could be perceived, especially by SEC examiners, as broker activity.⁴ Hiring a placement agent may provide regulatory protection for the municipal advisor but is not a cost-effective solution for the Municipal Issuer when the purchaser has already been identified by the Municipal Issuer either directly or through an RFP. An option to address cost considerations has been to have a placement agent and no MA. This has left some Municipal Issuers without important representation as they enter into and negotiate the terms of direct placement transactions.⁵ GFOA's Best Practices⁶ note that MAs "... are the only parties with a federal fiduciary duty to state and local government issuers. In contrast, the relationship between the municipal issuer and underwriter is one where the relationship has a common purpose but also some competing objectives... ."

As we have observed before, relief of the type offered in the Proposed Order does not run counter to established regulatory precedents for broker registration developed before the municipal advisor regulatory regime existed because such precedents had never considered the protections to the market offered by municipal advisor registration.⁷ The Proposed Order is consistent with the past practices of the SEC and other financial regulators

² This important protection also exists for obligated persons because the duty of care that a municipal advisor owes them is still a higher duty than generally offered by a placement agent alone.

³ It has been noted by market participants that the majority of these transactions are for capital amounts less than \$10 million and the vast majority (approximately 90%) are for capital amounts less than \$50 million. See, e.g., Letter to Brett Redfearn, Director, Joanne C. Rutkowski, Senior Counsel, Division of Trading and Markets; Rebecca Olsen, Director, Office of Municipal Securities from Mike Nicholas, Chief Executive Officer, Bond Dealers of America, Re: Request from PFM Financial Advisors LLC ("PFM") for Interpretive Relief for Private Placements dated June 28, 2019.

⁴ NAMA is aware of MAs that have received deficiency letters from the SEC's Office of Compliance, Inspections and Examinations (OCIE) that have questioned whether MA services were actually broker-dealer activity in relation to a bank loans or direct placements. Additionally, other organizations have specifically asked the SEC to investigate MAs for broker-dealer activity when assisting clients with RFPs and negotiating contract terms related to direct placement transactions even though these are core municipal advisory activities.

⁵ For example, SIFMA's model placement agent engagement agreements require both municipal entities and obligated persons to acknowledge that the broker-dealer acting as placement agent is not agent of or an advisor to either the municipal entity or obligated person and that the broker-dealer does not owe either type of party or any other person a fiduciary duty. See, <https://www.sifma.org/resources/news/sifma-issues-muni-model-placement-engagement-agreements/> (hereafter, "SIFMA Model Placement Agent Documents")

⁶ <https://www.gfoa.org/selecting-and-managing-method-sale-bonds>

⁷ It is also worth mentioning that for the majority of pre-Dodd-Frank precedents cited previously by commentators with respect to broker registration, the party seeking relief from broker-dealer registrations was not registered under any

that provide activities-based exemptions for regulated entities otherwise subject to dual or multiple registrations merely by engaging in their core regulated activities.⁸ The Proposed Order will create regulatory parity for municipal advisors and brokers as the latter were granted certain exemptive relief in the Municipal Advisor Adopting Release. Without the exemptive relief provided by the SEC that extended the underwriting exclusion to include placement agent activity, brokers would likely not be able to act as placement agents for municipal securities without also registering as municipal advisors.

The Proposed Order does not allow MAs to act as placement agents, and NAMA has not made such a request. Rather, the objective is to allow MAs the regulatory clarity to provide continuous and all-encompassing municipal advisory services to their clients in the limited scope of transactions covered by the Proposed Order.

Certain commenters have argued in previous submissions to the SEC that the Proposed Order undermines MSRB Rule G-23. We disagree. MSRB Rule G-23 addresses conflicts and seeks to protect municipal entity issuers. As currently implemented it prohibits a municipal advisor from switching roles and acting as underwriter or placement agent on a specific transaction. Prior to the amendment of Rule G-23 in 2011, a municipal entity issuer could waive the conflict created by such role switching but the SEC and the MSRB determined that the conflict created for the municipal entity issuer was so fundamental that waivers did not adequately protect them. The Proposed Order does not create a similar conflict for municipal entity issuers but rather allows the municipal advisor to unambiguously serve as a fiduciary to municipal entity clients throughout the transaction. Current Rule G-23 requires a broker, whether acting as underwriter or any type of placement agent, to notify the municipal entity issuer that it is acting in an arms-length role at the outset of the transaction and also requires it to actually act in an arms-length role throughout the transaction. Prior to the amendments to Rule G-23 in 2011, a municipal entity issuer could waive its fiduciary protections prior to one of the most critical junctures (pricing) in the transaction.

Questions

1. *Has the Commission appropriately identified the activities in which a registered municipal advisor would be able to engage when representing a municipal entity or obligated person in connection with direct placements pursuant to the exemption? Please explain.*

We believe that the Commission has clearly identified the MA activities that would be exempt from broker rules. The exemptive relief in the Proposed Order increases protection for Municipal Issuers without reducing investor protection.

2. *Should any of the identified activities proposed to be included be eliminated or modified? Please explain.*

We do not propose eliminating or modifying any of the identified activities. If the Commission does consider changes to the Proposed Order, we would welcome further discussion and input. We note that in previous correspondence, the Bond Dealers of America has suggested that the SEC condition any exemptive relief on

regulatory regime and certainly was not regulated under a regime that imposed the exact same fair dealing rule (MSRB Rule G-17) as that imposed on municipal broker-dealers. Unlike past parties seeking exemption from broker registration, municipal advisors are also subject to a litany of other rules governing professional qualifications, continuing education, supervision and compliance requirements.

⁸ See, e.g., Securities Exchange Act Release No. 34-56501 (Sept. 24, 2007), 72 FR 56514 (Oct. 3, 2007) and Securities Exchange Act Release No. 34-56502 (Sept. 24, 2007) 72 FR 56562 (Oct. 3, 2007) for banks from broker registration, Securities Exchange Act Release No. 34-51523, Investment Advisers Act Release No. 2376, 70 Fed. Reg. 20424 (April 19, 2005) for brokers from investment adviser registration, Section 4m(3) of the Commodity Exchange Act for investment advisers from CTA registration and exemptions and exclusions granted to banks, broker-dealers, investment advisers, swap dealers and commodity trading advisers in the Municipal Advisor Adopting Release.

limiting a municipal advisor to solicit no more than three potential investors, among other limits. We do not believe such a condition would work in practice — in the context of their fiduciary duty, how would the municipal advisor decide which three investors to contact? Absent the Proposed Order, municipal advisors will continue to struggle to determine if they can survey potential investors for indicative terms or provide a broad list of potential investors (based on RFP/RFQ responses or other interest provided to another client) to whom to send an RFP. Limiting the range of purchasers in either context is contrary to the goal of efficient capital formation.

3. *Has the Commission appropriately defined Qualified Provider? If not, what would be a more appropriate definition and why?*

The Qualified Provider definition fairly encompasses the types of investors who participate in this market while also ensuring that certain types of sophisticated investors (natural persons) are excluded. The definition of Qualified Provider corresponds to existing MSRB and FINRA definitions and therefore effectively utilizes past regulatory thinking and stakeholder input on the topic.

4. *Should the definition of Qualified Provider be edited to add “credit unions”? If so, please explain.*

We are not aware of credit unions as participants in this market.

5. *Does the definition of Qualified Provider, together with the required conditions, provide adequate assurance that the potential investors included in such definition will be sufficiently able to evaluate the creditworthiness of the Municipal Issuer and the relevant terms of the direct placement offering, among other things? If not, please explain.*

NAMA believes that the definition of Qualified Provider together with the required conditions provide appropriate protections to the narrow class of potential investors that could be solicited for this type of transaction. The Qualified Provider representations required by the Proposed Order are consistent with the representations used by brokers in their dealings with direct placement investors. In addition, the Proposed Order does not harm the ability of potential investors to evaluate the creditworthiness of the Municipal Issuer. It allows the Qualified Provider the same access to information currently provided when a placement agent is involved, and the investor is required to acknowledge that it has made its own inquiry and analysis with respect to the credit of the Municipal Issuer⁹. Qualified Providers dealing directly with a Municipal Issuer and their municipal advisor would not be in a worse position. General antifraud provisions apply to the issuer and the municipal advisor, and the municipal advisor is subject to Rules G-17 and G-42 which require complete and accurate information be provided to investors.

⁹ For example, the SIFMA model placement agent agreement requires the investor to acknowledge that it has “requested [access to information] from the Issuer and the Borrower to which a reasonable investor would attach significance in making investment decisions, and the Investor has had the opportunity to ask questions and receive answers from knowledgeable individuals, including its own counsel, concerning the Issuer, the Borrower, and the Bonds and the security therefor so that, as a reasonable investor, the Investor has been able to make a decision to purchase the Bonds.” It further requires the investor to acknowledge that it has “made its own inquiry and analysis with respect to the Bonds and the security therefor, and other material factors affecting the security and payment of the Bonds.” The SIFMA commentary to this model agreement notes that these and other acknowledgements by the investor “negat[e] reliance of the investor on the placement agent by [the investor] acknowledging its burden of inquiry.” See, *supra*, note 5, SIFMA Model Placement Agent Documents.

6. *Should the Commission limit the exemption to direct placements of a specific size threshold—e.g., limited by aggregate principal amount or by Municipal Issuers with a limited aggregate amount of municipal securities outstanding? If so, why and how should the Commission define such thresholds?*

We do not believe that the Commission should limit the size threshold by either transaction amount or by the amount of a Municipal Issuer's outstanding debt portfolio. The determination of the best transaction structure and pricing depends on a full analysis of upfront and ongoing costs, interest rates, price, maturity, redemption provisions—and any other attributes of the transaction. Prevailing thought and anecdotal evidence is that direct placements have higher interest rates but lower up-front costs than public offerings. As transaction size increases, the lower interest rate of a public offering can mitigate the larger up-front costs and make the public offering the better borrowing alternative. However, this relationship between interest rates and costs can change for different Municipal Issuers in different market conditions based upon the attributes of the specific transaction.

7. *Should the exemption for municipal advisors with respect to direct placements be conditioned on municipal advisors being precluded from engaging in solicitation activities on behalf of their Municipal Issuer clients? If so, which activities and why? Please explain.*

No. The exemption for municipal advisors should not be predicated on their preclusion from engaging in solicitation activities on behalf of their Municipal Issuer clients. The activity most closely aligned with identifying investors for direct placements is the solicitation of banks willing to make loans. Though these are not securities transactions, MAs generally recognize that they have a fiduciary duty in these circumstances and use an RFP or RFQ process to determine the most cost-effective transaction. We expect the same behavior in connection with the identification of direct placement investors. Municipal issuers expect their advisors to provide assistance in drafting, or to simply draft, these RFPs and RFQs. They also expect them to provide either specific or general insight on who should receive the RFP/RFQ. In the current environment, our members are concerned that performing such activities may make them vulnerable to enforcement actions.

If the Commission decides to preclude municipal advisors from engaging in solicitation activities, we request clear guidance about the types of advice that a municipal advisor could give as part of an RFP/RFQ process, particularly in light of the fact that advice with respect to RFP/RFQs is recognized as municipal advisory activity. This would include whether a municipal advisor could identify specific recipients of an RFP for the Municipal Issuer or contact potential individual purchasers once the RFP was public. This guidance should also address whether a municipal advisor could contact potential purchasers for indicative quotes prior to deciding on a financing option (direct placement or public sale).

8. *Has the Commission appropriately defined the conditions that should apply to the proposed exemption? Please explain.*

We believe that the Proposed Order fully defines the conditions that would apply to MAs under the proposed exemptive relief. However, if after additional consideration, the Commission wishes to further define or discuss the conditions, we would welcome the opportunity to engage in conversation and comment on these issues.

9. *Should any of the proposed conditions be eliminated or modified? Please explain.*

At this time, we do not believe that any of the conditions imposed on municipal advisors should be eliminated or modified.

10. *Are there other or different conditions that should apply to the proposed exemption? Please explain.*

At this time, we do not have any further suggestions on additional or different conditions that should apply to the proposed exemptive relief. NAMA is generally supportive of any additional conditions that would ensure parity between brokers and municipal advisors with respect to their fair dealing obligations to Qualified Providers. This could involve either additional conditions in any final exemptive order or a review and modification or elimination of any FINRA or MSRB rules that impose unneeded technical obligations on either brokers or broker/municipal advisor firms.

11. *Are there any specific written disclosures to Qualified Providers that should be required, beyond those that are a condition of the proposed exemption? For example, should the municipal advisor be required to provide a written disclosure to the Qualified Provider that it may elect to engage a registered broker or other intermediary for the transaction? Please explain.*

NAMA supports the MA written disclosure requirements in the Proposed Order. We also do not object to additional disclosures that the Qualified Provider may elect to require or engage a registered broker or other intermediary for the transaction.

12. *Should the exemption be expanded to include transactions in which multiple Qualified Providers purchase portions of the entire municipal securities offering directly from the Municipal Issuer? What are the relevant issues for the Commission to consider in determining whether such an expansion is necessary or appropriate in the public interest, and consistent with the protection of investors? For example, would the participation of multiple purchasers necessitate additional or different conditions or present heightened investor protection concerns? Please explain.*

While we understand that there may be instances where both small and large municipal entities could benefit from situations where multiple investors may be sought, we believe the proposed relief is appropriate in allowing the exemption to apply only when a single Qualified Provider is engaged.

13. *Is the type of direct placement contemplated by this proposed exemptive order typically resold into the secondary market? If so, how often and to what type of investor? Does the possibility of such a resale raise any investor protection concerns? If so, please explain. How should the Commission address those concerns?*

In the experience of our members, resales of direct purchases in the secondary market are not common. While we must assume that resales occur, our members do not see this on a regular basis. The responsibility of the MA under the Proposed Order and to the Municipal Issuer client is to place the financing as a primary transaction. However, if the Commission believes that there may be concerns with secondary market trading, those issues could be dealt with within the MSRB rulemaking framework and covered under the secondary market trading and selling of securities, to the extent not already fully addressed. It is important to note that the Proposed Order does not exempt the particular security being purchased by the Qualified Provider from the securities laws, nor does it exempt the participants in any future sale of such security from the securities laws where the availability of adequate information about the security is required if it is going to be traded. In addition, the recent changes to Rule 15c2-12 will ensure that information regarding direct purchase transactions covered by the Proposed Order will also be available if the Municipal Issuer also issues debt in the public markets. Finally, as noted above, a Qualified Provider is not precluded from requesting any and all information it needs to make an investment decision. For these reasons, there is no loss of market transparency created by the Proposed Order and no special investor protections concerns raised that are not already addressed by the Proposed Order.

14. Under the proposed definition of “Municipal Issuers,” the exemption would apply to conduit transactions involving obligated persons—i.e., the issuance of municipal securities by a municipal entity to finance a project to be used primarily by a third-party obligated person, such as a non-profit hospital or private university. Are there reasons the exemption should not apply with respect to obligated persons? If so, why not? If the exemption should apply, should the Commission impose additional or different conditions concerning those transactions? Should the exemption be conditioned on additional or different disclosure requirements for transactions involving obligated persons? Please explain.

NAMA does not object to including obligated persons within the definition of Municipal Issuers. Even though the municipal advisor’s federal statutory duty to obligated persons is not the same as it is for municipal entities, it is still a higher standard/duty of care than that of a broker. The essential result achieved by the Proposed Order of maintaining higher issuer protections without diluting investor protections applies in the obligated person context as well.

15. Should the Commission, instead of granting the conditional exemption, require municipal advisors wishing to solicit Qualified Providers for direct placements on behalf of their Municipal Issuer clients to also register as brokers? For example, would a broker registration requirement provide necessary protections for investors, and if so, what specific protections would result from broker registration with respect to direct placement transactions? What would be the impact of such a requirement on municipal advisors operating in this space, in terms of both cost and competitive considerations? Please explain.

NAMA does not believe that MAs providing MA services to their Municipal Issuer client, including the limited solicitation allowed under the Proposed Order, should also be required to register as brokers.

As a matter of regulatory principle, broker registration would not offer any additional protection to the limited class of investors that would be Qualified Providers in the types of direct purchase transactions that are allowed in the Proposed Order. It is possible that because of the operation of existing legacy MSRB and FINRA rules that either broker firms or broker/municipal advisor firms might be subject to some additional rules or filings that are premised on investor protection. Some of these rules were never modified to account for the existence of the municipal advisor regulatory regime and do impose obligations on broker/municipal advisor firms even when they are acting as municipal advisors. However, letting technical provisions in the MSRB or FINRA rulebooks dictate the overall principle embodied in the Proposed Order would be a mistake. Those types of technical provisions can be addressed after the fact and NAMA would support such endeavor.

Requiring MAs to register as brokers so that they can provide the full array of MA services in direct purchase transactions will negatively impact Municipal Issuer protection. The regulatory framework for brokers would be cost prohibitive for many existing municipal advisors—a cost that would ultimately be absorbed by our clients. Requiring registration would likely result in fewer protections for Municipal Issuers (firms would generally seek to operate just as placement agents which have a diminished responsibility to Municipal Issuers)¹⁰ or additional costs (paying for unnecessary¹¹ placement agent services) and no additional protections for investors.

¹⁰ See, *supra*, note 5, SIFMA Model Placement Agent Documents which require both municipal entities and obligated persons to acknowledge that the broker-dealer acting as placement agent is not agent of or an advisor to either the municipal entity or obligated person and that the broker-dealer does not owe either type of party or any other person a fiduciary duty.

¹¹ Again, as noted previously, many direct purchase transactions involve a purchaser that has independently contacted the Municipal Issuer or an open RFP/RFQ process.

16. *With respect only to direct placement transactions described above, what are the practical implications of the requirements resulting from broker registration, for example those related to any due diligence or other investor protection obligations, that are not applicable to municipal advisors? What are the practical implications of the differences between broker obligations and municipal advisors' fair dealing obligations? Please be specific and limit the context of the response to direct placements in which a single institutional investor purchases the entire issuance.*

As a matter of regulatory principle, investors receive the same fair dealing (MSRB Rule G-17) protections from municipal advisors and brokers alike. As noted in the response to Question #5 above, as a practical matter, existing "Qualified Providers" are required to disclaim reliance on placement agents in a broad range of transactions (not just the single purchaser transaction covered by the Proposed Order) and to attest that they sought all of the information they required from the Municipal Issuer. The sales practice obligations that a broker serving as placement agent would have in the direct purchase transactions described in the Proposed Order are largely replicated by the conditions imposed by the Proposed Order. As noted above, NAMA would be supportive of any regulatory review of FINRA or MSRB rules that eliminated stray requirements on broker/municipal advisor firms or that unified MSRB rules on fair dealing as they relate to sales practices in the context of transactions covered by the Proposed Order.

17. *Would the proposed exemption have a competitive impact—either positive or negative— on municipal advisors and/or brokers? For example, would this proposed exemption facilitate capital formation for smaller Municipal Issuers? Are the costs of engaging a broker for direct placements burdensome for smaller Municipal Issuers? Please explain.*

NAMA believes that the primary concern of the Proposed Order and any final order should be on efficient capital formation for Municipal Issuers. As a general matter, the Proposed Order would facilitate more efficient capital formation for the smaller Municipal Issuers that generally take advantage of direct purchase transactions as evidenced by the historical average size of such transactions.

It should also be recognized that engaging a broker/placement agent can be a material cost to a Municipal Issuer depending on the size of the transaction. A Municipal Issuer should be able to determine the appropriateness of hiring different professionals – each with distinct responsibilities - because of an actual need for such services and not just because of regulatory ambiguity. It is important to note that MAs, in this context, are still governed by their fiduciary and related duties to their Municipal Issuer clients. If a transaction will be better served by having a broker, either because the MA lacked the requisite expertise to identify potential investors or because a transaction not covered by the Proposed Order would be more advantageous for the client, the MA would be required by its fiduciary responsibility to advise its client to pursue such a course. Contrary to suggestions from other commentators that MAs could simply direct all transaction to those covered by the Proposed Order and collect extra fees as well, the extremely strong regulatory framework already governing MAs would prohibit these actions.

It is true that there would be certain transactions that previously may have involved both a municipal advisor and a placement agent or only a placement agent that, going forward, would be more likely to only involve a municipal advisor because certain existing regulatory ambiguities have been clarified. However, the competitive impact on brokers is muted because many of the broker firms that engage in transactions of the size generally done as direct purchases are already registered as municipal advisors and would not be precluded from also taking advantage of the relief provided by the Proposed Order. In addition, not providing such relief would perpetuate an existing regulatory imbalance that allows broker firms that are not acting as statutory underwriters to provide municipal advisory services without registering as a municipal advisor. Absent the action by the Commission to extend a

statutory exclusion for broker firms to include placement agent activity, broker-dealer firms would have to register as municipal advisors when providing placement agent services for municipal security transactions.¹²

As an overall matter, having municipal advisor participation in this limited pool of municipal securities transactions results in better protection (with the expectation that this is more efficient capital formation) for Municipal Issuers and no dilution in protection for investors that are Qualified Providers. It also achieves an overall lower regulatory cost to the firms that provide such municipal advisory services because of both additional regulatory clarity and the ability to avoid dual registration when providing these specific services regardless of whether the firm is a municipal advisor firm or a broker/municipal advisor firm.

In conclusion, NAMA supports the Proposed Exemptive Relief as it establishes the necessary framework to allow municipal advisors to provide municipal advisory services to their clients, and by extension represent and protect the best interests of Municipal Issuers in these transactions, as well as maintain important investor protections. The SEC has given exemptive relief from overlapping regulations to other professionals throughout the years, and this Proposed Order continues that precedent. MAs would continue to act within their fiduciary capacity to clients without concern of crossing the line into broker activity. That fiduciary duty, one of the most important tenets of MA regulations, would remain intact, and the Proposed Order does not dilute this responsibility, whether the MA is reviewing and recommending a direct placement, bank loan or public offering.

Thank you for the opportunity to comment on this important issue.

Sincerely,



Susan Gaffney
Executive Director

¹² See Municipal Advisor Adopting Release at footnotes 627-629 and accompanying text.