

September 30, 2014

VIA CERTIFIED MAIL

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: Regulatory Notice 2014-15 (Request for Comment on Draft Amendments to Rules G-37 to Extend Its Provisions to Municipal Advisors)

Dear Mr. Smith:

We write today to comment on the Board's proposed amendments to Rule G-37. As members of Caplin & Drysdale's Political Law Group, we frequently advise major corporations and political organizations on compliance with Rule G-37, Securities & Exchange Commission Rule 206(4)-5, state-level "pay-to-play" regulations, and campaign finance laws generally.¹ We are therefore pleased to offer two narrow suggestions that we believe, based on first-hand experience, would improve the efficacy and administration of amended Rule G-37.

First, we urge the Board to set the thresholds for the *de minimis* contribution exemption,² the returned contribution exemption,³ and required contribution disclosure⁴ at \$350 rather than \$250. This modest increase would partly account for the effects of inflation since the Board first established \$250 as an important measure in 1994.⁵ Perhaps more importantly, though, raising these thresholds to \$350 would better harmonize Rule G-37 with SEC Rule 206(4)-5. We recognize that harmonizing the two rules is likely not an overall priority of the Board, but doing so in this limited manner would facilitate compliance by simplifying the number of relevant threshold amounts for individuals and entities covered by both rules.

¹ Caplin & Drysdale represents clients with an interest in the outcome of this amendment to Rule G-37, but this comment letter is filed on our own behalf and not on behalf of any client or clients.

² Proposed Rule G-37(b)(iii)(A).

³ Proposed Rule G-37(j).

⁴ Proposed Rule G-37(e)(i).

⁵ Were the \$250 amount fully indexed for inflation in 1994 by the Board, the threshold would now be at \$401.23. Federal campaign finance laws, along with state laws that limit the amount that an individual can contribute to candidates, index these contribution limits for inflation. *See, e.g.*, 11 C.F.R. § 110.1(b)(1)(i)-(ii). When the Bipartisan Campaign Reform Act of 2002 was first adopted, for example, the contribution limit for individuals was \$2,000 per election per candidate. That contribution limit is now \$2,600.

Second, we suggest that the Board institute a new *de minimis* contribution exemption of \$150 per election for contributors who are not eligible to vote for an official. Rule G-37 has historically lacked such an exemption. But the Securities & Exchange Commission, in promulgating Rule 206(4)-5, acknowledged that “persons can have a legitimate interest in contributing to campaigns of people for whom they are unable to vote,” particularly “in large metropolitan areas where a covered [individual] may work and live in different jurisdictions.”⁶ Because amended Rule G-37 will cover additional individuals and entities, the Board should attempt to avoid any undue impositions on legitimate and constitutionally protect interests. The Board, in our opinion, can better tailor the amended Rule’s scope by instituting a new *de minimis* contribution exemption of \$150 per election for contributors who are not eligible to vote for an official.

We welcome the opportunity to discuss these two suggestions with the Board and its staff. If we can be of further assistance, please contact us at (202) 862-5000.

Respectfully submitted,



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⁶ 75 Fed. Reg. 41018, 41035 (July 14, 2010).