



THE NEW MUNICIPAL ADVISOR RULE AND HOW IT AFFECTS LOCAL GOVERNMENTS

May 1, 2014 Presentation to the
Government Finance Officers Association of Missouri



Speakers

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Background

- **Dodd-Frank Act**. July 21, 2010, Act establishes regulatory framework for “Municipal Advisors”
- **SEC’s Proposed Rule**. December 20, 2010, SEC proposes broad definition of Municipal Advisor which includes municipal appointed officials
- **SEC’s Final Rules**. September 18, 2013, SEC adopts final rule to become effective on July 1, 2014



Definition – Municipal Advisor

- Anyone that provides “Municipal Advisory Activities” which is advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues.”
- Municipal Advisors have a fiduciary duty to their municipal entity clients.



Municipal Advisor Exclusions

- Parties to a municipal transaction that do not provide advice
- Broker-Dealers
 - **Only** when serving as an Underwriter
 - Advice is restricted



Definition - Advice

- No “Bright Line” Definition
- Information is not advice
- Transaction recommendations are advice



Impact of Rule on Local Governments

- Municipal Advisor
- Underwriter – Advice is Now Limited



Definition - Underwriter

“Underwriting is the process of purchasing all or any part of a new issue of municipal securities from the issuer and offering such securities for sale to investors.”



Underwriter Regulatory Exemptions

- 1) Underwriter Exemption
- 2) Independent Registered Municipal Advisor
- 3) Request for Proposal



Underwriter Regulatory Exemptions

Underwriter Exemption - Permits

Advice relating to structure, timing, terms, and other similar matters from the time of engagement, as underwriter, on a specific transaction to the end of underwriting period.



Underwriter Regulatory Exemptions

Underwriters May Not Advise on the Following:

1) Investment Strategies	7) Competitive Sales
2) Derivatives	8) Financial Feasibility
3) Method of Sale	9) Budget Planning
4) Determination to Issue	10) Overall Rating Strategies
5) Election Campaign	11) Financial Controls
6) Capital Planning	12) Terms of RFPs



Underwriter Regulatory Exemptions

- 1) Underwriter Exemption
- 2) Independent Registered Municipal Advisor Exemption – (IRMA Exemption)
- 3) Request for Proposal Exemption



Other Rules Affecting Relationships

➤ Rule G-23

Underwriter Cannot Serve as FA on Issue

➤ Rule G-17

Underwriters Must Disclose they are Not FA

Underwriters Must Not Advise Against Having FA



Do You Need a Financial Advisor?

- Recommended by GFOA
- Not Required by MA Rule
- Benefits

Only party working solely in your interest

Insures favorable financing terms and rates