

January 2, 2014

John J. Cross III  
Director, Office of Municipal Securities  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Dear John:

Thank you to the staff of the Office of Municipal Securities for taking the time to meet with the Investment Adviser Association (“IAA”)<sup>1</sup> on December 11, 2013, and with the IAA, the Asset Management Group (“AMG”)<sup>2</sup> of the Securities Industry and Financial Markets Association, and outside counsel on December 30, 2013, to discuss the municipal advisor rule.

Following up on our discussions with you and as described below, we believe that time-limited relief from compliance with Rule 15Ba1-1 (the “Rule”) under the Exchange Act is essential and justified for a narrow class of potential municipal advisor registrants: SEC-registered investment advisers that provide investment advice to municipal entities pursuant to an advisory agreement regarding a portfolio of investments that contains swaps and/or security-based swaps as part of ongoing portfolio management.

As we noted in our meetings with you, neither the statute, published in October 2010, nor the SEC’s rule proposals, nor the extensive record developed by the Commission indicated that the Rule could potentially be applicable to traditional asset managers. Accordingly, many of our members only became aware that their portfolio management activities could potentially trigger municipal advisor registration and compliance obligations, solely as a result of including a single swap or security-based swap within the portfolios of their municipal entity clients, upon close review of the final rule. As a result, many of our members have had insufficient time to analyze the Rule, apply it to their businesses to determine their status, and potentially come into compliance by January 13, 2014, the effective date of the new definitions in the Rule.

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<sup>1</sup> The IAA is a not-for-profit association that represents the interests of investment adviser firms registered with the Securities and Exchange Commission. The IAA’s membership consists of more than 550 advisers that collectively manage in excess of \$11 trillion for a wide variety of individual and institutional investors, including pension plans, trusts, investment companies, private funds, endowments, foundations, and corporations. For more information, please visit our web site: [www.investmentadviser.org](http://www.investmentadviser.org).

<sup>2</sup> AMG’s members represent U.S. asset management firms whose combined assets under management exceed \$20 trillion. The clients of AMG member firms include, among others, registered investment companies, ERISA plans and state and local pension funds.

As we discussed, we believe that the scope of the registered investment adviser exclusion as it relates to the clause referencing advice concerning municipal derivatives raises interpretive issues. In our view, the registered investment adviser exclusion should be read in light of the statutory background and context to cover investment management of portfolios that may include derivatives as “investment advice,” rather than as “advice concerning municipal derivatives.”

We believe that the Rule is properly interpreted to exclude registered investment advisers to the extent they engage in traditional asset management, including managing portfolios of municipal entity clients that may include swaps or security-based swaps. This interpretation would prevent duplicate regulation of the same activity by the SEC under the Advisers Act and by the MSRB under its rules (as well as the SEC under the Exchange Act) and even potential triplicate regulation for some investment advisers that are also commodity trading advisors registered with the CFTC. Duplicative regulation would be a peculiar result since the municipal advisor regime was targeted at concerns raised by unregulated entities. This interpretation excluding traditional asset management activities would also avoid the potential for “regulatory arbitrage” among the SEC, MSRB, and CFTC.

Furthermore, this interpretation avoids illogical consequences that we believe were not intended by Congress or the Commission. For example, certain SEC-registered investment advisers that include a large amount of swaps exposures in their portfolios would be exempt from registration as municipal advisors (under the registered commodity trading advisor exclusion), while those that use a de minimis amount of swaps or that use any amount of security-based swaps would be required to register as municipal advisors. It would also alleviate disruption to client portfolios and reduce substantial regulatory burdens and costs on asset managers due to differences in regulatory requirements under the Advisers Act and in both existing and future rules administered by the MSRB and the Commission under the Exchange Act.

To further inform your analysis of the important interpretive issues raised by the registered investment adviser exclusion, you requested that we provide substantial data and other information concerning the current regulatory regimes related to derivatives. We are looking forward to working with you to provide any information or assistance that you might find useful. However, since much of the information that you have requested is not readily available, it will take additional time to collect and analyze it. We also understand that the staff is actively considering numerous requests for FAQs or other interpretive guidance, and may be unable to clarify all of the important interpretive issues before the January 13, 2014 compliance date.

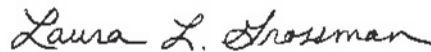
Therefore, we strongly urge the staff to grant narrowly-based, time-limited relief from compliance with the Rule for SEC-registered investment advisers that provide investment advice to municipal entities pursuant to an advisory agreement regarding a portfolio of investments that contains swaps and/or security-based swaps as part of ongoing portfolio management until July 1, 2014 while we work with the staff to resolve significant open interpretive matters. This date is consistent with the initial compliance date for the permanent registration and regulatory regime.

We appreciate your consideration of our comments and requests in this letter. Should you have any questions, please do not hesitate to contact Karen Barr or Laura Grossman of the IAA at 202-293-4222 or Tim Cameron of AMG at 212-313-1389 or Matt Nevins of AMG at 212-313-1176.

Sincerely,



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Matthew J. Nevins, Esq.  
Managing Director and Associate General Counsel, Asset  
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cc: The Honorable Mary Jo White, Chairman  
The Honorable Luis A. Aguilar, Commissioner  
The Honorable Daniel M. Gallagher, Commissioner  
The Honorable Kara M. Stein, Commissioner  
The Honorable Michael S. Piwowar, Commissioner