



April 5, 2011

The Honorable Ed Hernandez
California State Senate
State Capitol, Room 4085
Sacramento, California 95814

Re: Support for SB 398 as currently drafted

Dear Senator Hernandez:

The Securities Industry and Financial Markets Association¹ (“SIFMA”) is writing to express its support for SB 398 as currently drafted. As you well know, last year California enacted placement agent legislation you sponsored known as AB 1743. Among other things, the bill required placement agents to register as lobbyists and banned such agents from being paid on a contingency fee basis. The legislation had an effective date of January 1, 2011.

As entities sought to comply with the new law, several questions were raised as to how the language was to be interpreted. For example, there was concern that the final definition of external manager could be interpreted in a way that virtually all securities transactions between a broker-dealer and a California state retirement system - including the routine trading and sales of securities - would be subject to the Act’s provisions. This was not what was intended when the bill was enacted. In addition, the competitive bidding language in Section 82047.3(c)(2) was in the past tense, raising concerns that the exception could be read as applying to those selected in the competitive bidding process but not those who competed but were not selected.

SB 398 is a technical corrections package which resolves these questions consistent with AB 1743’s legislative intent. We very much appreciate your willingness to address these issues which arose only after AB 1743’s passage.

Please feel free to contact me at 212-313-1311 should you have any questions.

Sincerely,

Kimberly Chamberlain
Managing Director, State Government Affairs

Cc: The Honorable State Treasurer Bill Lockyer
The Honorable State Controller John Chiang
Ms. Anne Stausboll, Chief Executive Officer, California Public Employees’ Retirement System

¹ The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA’s mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit www.sifma.org.