SIFMA Municipal Advisor Model Language:   
Model Language Confirming Independent Registered Municipal Advisor Exemption

SIFMA has prepared model documents and related guidance to help municipal securities dealers comply with the new regulatory requirements created by the SEC’s Municipal Advisor Rule. The SEC’s Municipal Advisor Rule imposes a registration regime upon firms that give advice to municipal entities and obligated persons, and imposes a fiduciary duty upon firms that give advice to municipal entities.

The Rule granted certain exemptions and exclusions to the rule for advice that would typically be covered. One such exemption is for advice given to municipal entities that have an independent registered municipal advisor. In order to rely on this exemption, a firm must receive certain representations from the municipal entity or obligated person. The model email below can be used to confirm with municipal entities or obligated persons that the underwriter is relying on the independent registered municipal advisor exception to the SEC’s Municipal Advisor Rule.

SIFMA’s model documents are designed to be a starting point to aid firms with compliance with the SEC’s Municipal Advisor Rule. SIFMA encourages underwriters to expand or modify these documents as necessary to reflect their own analysis of the rule or specifics of particular transactions.

SIFMA recommends that firms update their internal procedures and continue to educate their personnel and clients about this new regulatory requirement.

Email to [Municipal Entity/Obligated Person] with Copy to Municipal Advisor

Thank you for your representation concerning your independent registered municipal advisor.  By obtaining such representation from you, [FIRM] is not a municipal advisor and is not subject to the fiduciary duty established in Section 15B(c)(1) of the Securities Exchange Act of 1934, as amended.  In the context of a potential engagement between [FIRM] and you, in any discussions, communications, conferences, negotiations and undertakings, [FIRM] (a) will act as a principal and not in a fiduciary capacity; (b) has not assumed an advisory or fiduciary responsibility in favor of you[; and (c) is acting as underwriter and not as financial advisor.[[1]](#footnote-1)  As such (i) the primary role of [FIRM] as an underwriter is to purchase, or arrange for the placement of, securities; (ii) such purchase or placement will be effected in an arm’s-length commercial transaction between you and [FIRM]; and (iii) [FIRM] has financial and other interests that may differ from yours.][[2]](#footnote-2)  Further, [FIRM] advises you to consult your own legal, financial and other advisors to the extent you deem appropriate.

1. Firms should consider if they need to disclose conflicts, and consider when they should send their MSRB Rule G-17 notices. [↑](#footnote-ref-1)
2. The bracketed language is necessary for compliance with MSRB Rule G-23. Delete the bracketed language when using for transactions other than underwriting (e.g., brokerage accounts containing bond proceeds). [↑](#footnote-ref-2)