



June 2, 1998

Catherine McGuire
Associate Director and Chief Counsel
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: Interests in Local Government Pools and Higher Education Trusts

Dear Caite:

In a telephone conference last month between staff of the Commission and the Board, we discussed two requests that the Commission has received during the preceding year for exemptions from Board rules. These exemption requests relate to dealers effecting transactions in certain interests in pooled investment funds under trusts established by states or local governmental entities ("local government pools")¹ and in higher education savings plan trusts established by states ("higher education trusts").² In both instances, the entities making the requests have stated that the interests are municipal securities.

¹ Based on materials you have provided, we understand that local government pools are generally established by a state or local governmental entity as a trust that serves as a vehicle for the pooled investment of cash reserves and other cash assets of governmental entities participating in the pool. Participants purchase shares of beneficial interests in the trust and the trust assets are invested in a manner consistent with the trust's stated investment objectives. Owners of trust interests do not have a right to control the investment of trust assets. Certain transactions in the interests described in the exemption request are effected by a dealer.

² Based on materials you have provided, we understand that higher education trusts are established by states under section 529(b) of the Internal Revenue Code of 1986 as "qualified state tuition programs" through which individuals make investments for the purpose of accumulating savings for higher education costs of beneficiaries. Individuals purchase interests in the trust and the trust assets are invested in a manner consistent with the trust's stated investment objectives. Individuals purchasing trust interests do not have a right to control the investment of trust assets. The interests described in the exemption request are expected to be sold by a dealer.

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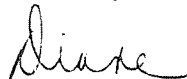
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During the discussion of this matter at its May 20, 1998 meeting, the Board noted that, if interests in local government pools and higher education trusts constitute municipal securities, the Board would consider the application of its rules to transactions in such interests effected by dealers. However, the Board believes that it would be inappropriate to create a body of regulations governing transactions by dealers in interests in local government pools and higher education trusts without knowing whether the Board has authority to do so under section 15B(b)(2) of the Securities Exchange Act of 1934. This, of course, depends on whether, under section 3(a)(29) of the Exchange Act, these interests are municipal securities. Therefore, the Board requests the Commission's position on whether these interests are, in fact, municipal securities for purposes of the Exchange Act.³ In addition, because the application of certain Board rules is based on the definition of "primary offering" in Commission Rule 15c2-12, the Board would be interested in the Commission's view as to whether a dealer's participation in the sale of these interests would subject the dealer to the requirements of Rule 15c2-12.

If either or both of these types of interests are determined by the Commission to be municipal securities, the Board intends to undertake a detailed review of the application of its existing rules to these interests. This review may result in interpretative guidance with respect to existing Board rules and/or the filing of proposed rule amendments or new rules designed to provide an appropriate regulatory structure for dealers effecting transactions in such municipal securities. Based on a preliminary review, the Board believes that many of its existing rules could be properly applied to such interests.

If you have any questions regarding these matters, please do not hesitate to call me.

Sincerely,



Diane G. Klinke
General Counsel

³ The Board is particularly concerned about the regulation of interests in local government pools because this would involve rulemaking focusing on a new class of municipal securities investors – local governmental entities.