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MEMORANDUM

TO: Interested Persons
FROM: Michael J. Sullivan, Director *MJS*
SUBJECT: Restrictions on Contributions by Securities Dealers and Investment Advisors

From time to time OCPF receives questions regarding the extent to which stock brokers, bond dealers, state and municipal securities dealers and other persons dealing with state and municipal securities, or investment advisors who provide investment advice to government entities, referred to in this memorandum as "securities dealers and advisors," may contribute to candidates, political party committees, political action committees (PACs) or other entities.

The campaign finance law, M.G.L. c. 55, does not contain any specific limit on contributions by securities dealers and advisors. The campaign finance law does, however, contain provisions which securities dealers and advisors should be aware of. For example, an individual eighteen years of age or older may contribute no more than \$1,000 to any one candidate during a calendar year, unless the individual is a lobbyist, in which case the individual may contribute no more than \$200 to any one candidate during a calendar year. See M.G.L. c. 55, §§ 7A. In addition, contributions made to a candidate through a "regulated intermediary," such as a person who directs or authorizes the collection or delivery of contributions from corporate officers or employees, may be treated as contributions from the regulated intermediary to the candidate. Such contributions place special limitations and reporting obligations on the regulated intermediary. See M.G.L. c. 55, § 10A.

Although the campaign finance law does not contain specific provisions applicable to securities dealers, both the Securities and Exchange Commission (the SEC) and the Municipal Securities Rulemaking Board (MSRB), a regulatory organization established by Congress that is overseen by the SEC, have issued rules relating to securities dealers and advisors.

The SEC adopted Rule 206(4)-5 in 2010. Under the rule (referred to as a "pay-to-play" rule), an investment advisor who makes a political contribution to an elected official in a position to influence the selection of the advisor may, subject to certain exceptions, be prohibited from providing advisory services to the governmental entity for two years after the contribution is made. The rule also prohibits an advisory firm or executives and employees of the firm from soliciting or coordinating campaign contributions from others, i.e., "bundling." The rule contains a broad catch-all provision which makes it unlawful for an advisor to do anything indirectly which, if done directly, would result



in a violation. Contributions to political parties or PACs do not implicate the rule's prohibitions on contributions, however, if the contributions are not attributable to a particular candidate.

MSRB Rule G-37 contains similar restrictions applicable to securities dealers who engage in municipal securities business with state or local governments, which prohibits the dealer from being involved in municipal securities business with a state or local governmental entity that issues securities for two years after the making of a contribution to an official of the entity.

Both SEC Rule 206(4)-5 and MSRB Rule G-37 contain recordkeeping and disclosure requirements to facilitate compliance with and enforcement of their provisions. Reports required by the rules must be made to the SEC or MSRB, not OCPF.

This memorandum is not issued to provide guidance regarding SEC or MSRB rules, and we strongly encourage investment advisors or securities dealers to contact the SEC or MSRB for more information about these rules. To learn more about the SEC pay-to-play rule, please contact the SEC by email at iarules@sec.gov, or by telephone (202-551-6787). To learn more about the similar MSRB Rule G-37 or other MSRB restrictions,¹ please contact the MSRB at 1150 18th Street, N.W., Suite 400, Washington, DC 20036-2491 (telephone: 202-223-9347, fax: 202-872-0347). MSRB Rule G-37 and all other MSRB rules are contained on the Board's Web site at www.msrb.org.

¹ In addition, it is our understanding that a new MSRB pay-to-play rule (Rule G-42) will become effective in July 2014, which will prohibit a "municipal advisor" (in contrast to the application to "brokers or dealers" in Rule G-37) from engaging in municipal advisory business for two years after making contributions to a public official.