

**NATIONAL ASSOCIATION OF
INDEPENDENT PUBLIC FINANCE ADVISORS**

**Board Resolution on Cooperation with
Muni Council and Central Post Office**

WHEREAS, the Muni Council consists of approximately 20 national associations broadly representative of varying interests throughout the state and local government securities market; and

WHEREAS, the National Association of Independent Public Finance Advisors is represented on the Muni Council; and

WHEREAS, the Muni Council has undertaken the improvement of continuing disclosure practices in the state and local government securities market; and

WHEREAS, the Muni Council, in furtherance of that goal, has established a Central Post Office operated by Texas Municipal Advisory Council; and

WHEREAS, the Central Post Office makes significant contributions to sound disclosure practices with respect to continuing disclosure in the state and local government securities market by, among other things, **(1)** providing an easy, less time-consuming and less expensive one-stop filing location for use by issuers of and obligors on state and local government securities, thereby assuring simultaneous continuing disclosure filings with all nationally-recognized municipal securities information repositories; **(2)** providing a tracking system and receipts that create a record, so that issuers of and obligors on state and local government securities are able to document compliance with their continuing disclosure undertakings; and **(3)** providing a reminder system to notify issuers of and obligors on state and local government securities when continuing disclosure filings are due; and

WHEREAS, broad national usage of the Central Post Office is desirable as a uniform practice; and

WHEREAS, NAIPFA believes that its members are fully-compliant with the practice of encouraging the use of the Central Post Office;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors of the National Association of Independent Public Finance Advisors hereby respectfully urges all members of NAIPFA to continue to encourage the use of the Central Post Office by their issuer clients and agents acting for them; and

IT IS HEREBY FURTHER RESOLVED that the Board of Directors of NAIPFA hereby respectfully urges all financial advisors in the state and local government securities market, regardless of whether those financial advisors are members of NAIPFA and regardless of whether those financial advisors are independent or are associated with brokers, dealers, or municipal securities dealers, to encourage the financial advisors' issuer clients, and agents acting for them, to use the Central Post Office and further urges those financial

advisors to refrain from discouraging their issuer clients, or agents acting for them, from using the Central Post Office.

**NATIONAL ASSOCIATION OF
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Board Resolution on Best Practices

WHEREAS, the National Federation of Municipal Analysts (“NFMA”) has issued a number of Best Practices relating to disclosure content and practices in specific sectors of the state and local government securities market; and

WHEREAS, those Best Practices have an important impact upon disclosure content and practices throughout the market; and

WHEREAS, there is concern that investors may assert that members of NAIPFA, and their issuer clients, may have potential responsibilities to comply with the Best Practices; and

WHEREAS, although NFMA publishes preliminary versions of the Best Practices for comment, such a process is not as useful or effective as is direct participation in drafting committees; and

WHEREAS, it is desirable that the quality of the Best Practices be optimized; and

WHEREAS, NFMA’s interests, and the quality and market acceptance of the Best Practices, would be furthered by achieving broad market participation in the drafting of the Best Practices; and

WHEREAS, NAIPFA members are knowledgeable about disclosure practices applicable throughout the state and local government securities market and have participated in Best Practices previously completed;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors of the National Association of Independent Public Finance Advisors hereby respectfully urges the National Federation of Municipal Analysts to include members of NAIPFA on each committee drafting or reviewing any Best Practices so that a fuller direct participation may be achieved from the sell side of the market during the drafting and review processes.

**NATIONAL ASSOCIATION OF
INDEPENDENT PUBLIC FINANCE ADVISORS**

Board Resolution on Informed Issuer Choice under MSRB Rules G-17 and G-23

WHEREAS, state and local government securities issuers require independent and affirmative financial advice with respect to their issues of securities and other financial matters; and

WHEREAS, the Securities and Exchange Commission has asserted repeatedly, and a number of courts and administrative law judges have agreed, that financial advisors have responsibilities to render independent and affirmative advice as fiduciaries to their issuer clients; and

WHEREAS, important differences exist between responsibilities of financial advisors to issuers of state and local government securities, on one hand, and on the other, the absence of responsibilities to those issuers of underwriters functioning solely as principals dealing with the issuers at arms'-length; and

WHEREAS, financial advisors, as fiduciaries, are not permitted to remain silent regarding information important to their issuer clients in connection with the subject matters of the financial advisors' employment, including with respect to such matters as conflicts of interest, appropriateness of securities structure, timing, terms, pricing, costs, transactional risks, investigatory activities, disclosure, or other matters of importance to the issuer clients; and

WHEREAS, in sharp contrast to responsibilities of financial advisors, underwriters functioning solely as arms'-length principals generally assert that they are not so responsible to render independent or affirmative advice to issuers; and

WHEREAS, underwriters owe fiduciary, statutory and regulatory duties to investors, whose interests often differ significantly from the interests of issuers; and

WHEREAS, a change in roles from that of a fiduciary to one in which the fiduciary will function as a principal dealing solely at arms'-length inherently entails significant conflicts of interest on subjects including, but not limited to, appropriateness for the issuer client, as opposed to the interests of a particular underwriter or the interests of investors, of the structure, timing, and terms of the issuer's securities, transactional risks, investigatory activities, disclosure, and costs and interest rates charged to the issuers; and

WHEREAS, it is a fraudulent, deceptive and misleading practice when brokers, dealers and municipal securities dealers gain employment by issuers as financial advisors for the purpose of rendering independent and affirmative advice to those issuers with the intention of later resigning from their fiduciary responsibilities in order to function as underwriters of securities of the issuers in the role solely of principals dealing with the issuers at arms'-length, or when brokers, dealers and municipal securities dealers evidence such intent by engaging in frequent patterns of gaining employment as financial advisors and then resigning in order to serve as underwriters; and

WHEREAS, consent by a particular issuer official, as opposed to the issuer's governing body, are insufficient with respect to a relationship change of such magnitude; and

WHEREAS, it is not sufficient for a financial advisor to an issuer merely to resign from its fiduciary role in order to serve as underwriter, if there is significant information known to the financial advisor, but not disclosed affirmatively by the financial advisor to, or otherwise known by, the members of the governing body of the issuer client, with respect to the quality, costs and price of the services to be rendered by the advisor firm in a subsequent role as underwriter; and

WHEREAS, it is not sufficient for a financial advisor to an issuer merely to resign from its fiduciary role in order to serve as underwriter, if the financial advisor fails to advise the members of the governing body of the issuer client affirmatively of the important fiduciary benefits the issuer client will lose as a result of the change in roles; and

WHEREAS, because the fiduciary responsibilities of financial advisors to render independent and affirmative advice are so important to their issuer clients, it is not a sufficient consent to the resignation and the significant change in roles by the financial advisor from a fiduciary role to that solely of a principal dealing with the issuer at arms'-length when the consent is not given by the governing body of the issuer after the members of the governing body have been informed fully with respect to all important considerations with respect to the change; and

WHEREAS, it is not sufficient, and is confusing and misleading to issuers, when a financial advisor resigns for a single bond issue, while simultaneously leaving in effect its financial advisory contract on a continuing basis for other services;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors of the National Association of Independent Public Finance Advisors hereby respectfully calls upon the Securities and Exchange Commission and the Municipal Securities Rulemaking Board to examine from policy perspectives, and further respectfully calls upon the Securities and Exchange Commission and the National Association of Securities Dealers, Inc. to examine from enforcement perspectives, in the light of Municipal Securities Rulemaking Board Rules G-17 and G-23, practices in the state and local government securities market involving the following activities and patterns of business practices:

(1) Patterns of business practices in which some brokers, dealers and municipal securities dealers gain employment by issuers as financial advisors for the purpose of rendering independent and affirmative advice to those issuers with the intention of later resigning from their fiduciary responsibilities in order to function as underwriters of securities of the issuers in the role solely of principals dealing with the issuers at arms'-length, or in which some brokers, dealers and municipal securities dealers evidence such intent by engaging in frequent patterns of gaining employment as financial advisors and then resigning in order to serve as underwriters; and

(2) Failures by some brokers, dealers and municipal securities dealers, while still serving as financial advisors, to advise fully and affirmatively the governing bodies of

their issuer clients of the conflicts of interest inherent in a resignation from a fiduciary role in order to assume a role solely of a principal dealing with the issuer at arms'-length; and

(3) Failures by some brokers, dealers and municipal securities dealers, while still serving as financial advisors, to advise fully and affirmatively the governing bodies of their issuer clients of the clients' loss of access to independent and affirmative advice and other important protections for the issuer inherent in a resignation of the advisor from a fiduciary role in order to assume a role solely of a principal dealing with the issuer at arms'-length; and

(4) Failures by some brokers, dealers and municipal securities dealers, while still serving as financial advisors, to advise fully and affirmatively the governing bodies of their issuer clients, in connection with a resignation from a fiduciary role in order to assume a role solely of a principal dealing with the issuer at arms'-length, when the securities structure, timing or terms, underwriter costs or compensation, interest rates, transactional risks, investigatory activities, or disclosure will not be commensurate with those prevailing or otherwise advisable in the market for similar securities; and

(5) Failures by some brokers, dealers and municipal securities dealers, while still serving as financial advisors, to obtain appropriate consents from the governing bodies of their issuer clients to the resignations of those fiduciaries in order to assume the role solely of principals dealing with the issuer at arms'-length; and

(6) Business practices in which some brokers, dealers and municipal securities dealers financial advisory render services, with the expectation of receipt of compensation from underwriting the securities transactions, when those services extend beyond the structure, timing and terms of state and local government securities transactions to other ancillary services in representing the issuer's interests in dealings with third parties or to such advice on matters as underwriter costs or compensation, interest rates, transactional risks, investigatory activities, or disclosure without having a written agreement or evidence of the relationship specifying the expected compensation; and

IT IS HEREBY FURTHER RESOLVED that the Board of Directors of the National Association of Independent Public Finance Advisors hereby calls upon the Municipal Securities Rulemaking Board to amend its Rule G-23 to prohibit the practice of a broker, dealer or municipal securities dealer resigning as financial advisor to an issuer of state or local government securities in order to serve as an underwriter, while leaving in effect its financial advisory contract on a continuing basis for other services, and to require a 180-day cooling-off period after the resignation before the broker, dealer or municipal securities dealer is permitted to underwrite the issuer's securities, and further to require a 180-day cooling-off period after completion of an underwriting period before the broker, dealer or municipal securities dealer is permitted to enter into a financial advisory relationship with the issuer.

**NATIONAL ASSOCIATION OF
INDEPENDENT PUBLIC FINANCE ADVISORS**

Board Resolution on Political Contributions

WHEREAS, on October 14, 1998, the National Association of Independent Public Finance Advisors adopted its Statement of Policy entitled “Statement of Initiative Regarding Political Contributions To State and Local Officials/Candidates” (the “NAIPFA Statement on Political Contributions”)

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors of the National Association of Independent Public Finance Advisors hereby reaffirms the NAIPFA Statement on Political Contributions; and

IT IS HEREBY FURTHER RESOLVED that the Board of Directors of NAIPFA hereby respectfully urges all financial advisors in the state and local government securities market, regardless of whether those financial advisors are members of NAIPFA, to comply with the NAIPFA Statement on Political Contributions.