

Summary Outline Accompanying CDIAC's Webinar “Regulatory Update: The Municipal Advisory Rules and Their Effect on Public Investments”* Offered on June 23, 2014

STATUTORY DEFINITION – “MUNICIPAL ADVISOR”

- A person who is not a municipal entity or an employee of a municipal entity
- A person who provides **advice**
 - To a municipal entity or obligated person
 - With respect to **municipal financial products**
 - Or the issuance of municipal securities

DEFINITIONS OF COMPONENTS OF STATUTORY DEFINITION

- “Advice” (provided by Rules) – **not general information** such as general market and financial information or information regarding a financial institution’s currently available investments; question is degree to which information is tailored to the issuer
- “Municipal Financial Product” – includes investment strategies
- “Investment Strategies” – includes plans for **investment of bond proceeds** or **municipal escrow investments**

- **“Bond Proceeds”** – uses tax concept of actual proceeds of securities offering, funds set aside as security for bonds, and investment proceeds of the foregoing

EFFECT OF BEING MUNICIPAL ADVISOR

- MSRB Rule G-42 (as proposed) provides that municipal advisor and affiliates may not do principal trades with municipal entity or obligated person as counterparty

STATUTORY EXCLUSION APPLYING TO UNDERWRITER

- Only applies to underwriting activities, which expressly exclude “investment strategies”

EXEMPTIONS ESTABLISHED BY RULES

- Banks
 - for investments in deposit accounts
 - purchase of a municipal security by the bank for its own account

- investment made by a bank acting in the capacity of an indenture trustee
- Independent Registered Municipal Advisor (IRMA) exemption
- RFP/RFQ exemption

PRACTICAL IMPACT

- Traditional banking and trustee service not impacted
- In general, broker-dealers that don’t wish to be registered municipal advisors will need to (i) provide only general information which is not advice or specific recommendations (refer to SEC FAQ guidance) or (ii) determine if an exclusion or exemption is available
- Considerations may include the municipal entity’s investment capabilities to determine necessity for advice or specific recommendations
- Possible need to track and segregate bond proceeds that arise after July 1, 2014

The information provided herein does not constitute legal advice. Consult an attorney regarding how the SEC’s Municipal Advisor Rules apply to your agency.

* The webinar and transcript are available at www.treasurer.ca.gov/cdiac under the Education link.