



Americans for Financial Reform
1629 K St NW, 10th Floor, Washington, DC, 20006
202.466.1885

July 20, 2012

Dear Representative,

On behalf of Americans for Financial Reform, we are writing to express our opposition to HR 2827, legislation that would weaken standards for the oversight of municipal financial advisors.¹ This legislation would effectively eliminate new safeguards passed in the Dodd-Frank Act to protect taxpayers from financial exploitation. It must be rejected.

The taxpayer protections that would be effectively overturned by this legislation were a response to extraordinary revelations detailing brazen corruption, fraud, and abuse in municipal finance. The most famous and publicized case was in Jefferson County, Alabama, which became the largest municipal bankruptcy in U.S. history. The county was driven into bankruptcy by billions of dollars in losses suffered in exploitative swaps deals sold by JP Morgan Chase and assisted by corrupt public officials and municipal advisors.

But the Jefferson County case is just the tip of the iceberg. Since the financial crisis, we have seen hundreds of regulatory investigations and legal cases concerning fraud and corruption in municipal finance, due to actions ranging from bank bid-rigging to deceptive and exploitative practices in swaps deals and bond underwriting. Many of these cases involve poor and self-serving advice and at times outright corruption by financial advisors to municipalities. Taxpayers across America have suffered enormous losses in exploitative financing deals, and municipalities continue to pay exorbitant fees to large Wall Street banks on these deals. Joseph Kalotay, a respected expert on municipal financing, has aptly referred to this issue as “Wall Street’s multi-billion tax on Main Street”.

As one response to these problems, Congress in the Dodd-Frank Act required financial advisors to municipalities to register with the SEC and to comply with basic rules and duties involving the advice they give in financing deals. These rules are meant to prevent corruption and conflict of interest. They include a fiduciary duty for municipal advisors to respect the best interests of taxpayers and the municipal client in the advice they give. This fiduciary duty is a necessary and common sense protection that simply requires financial advisors to live up to their responsibilities as unbiased and effective outside advisors.

¹ Americans for Financial Reform is an unprecedented coalition of over 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups.

HR 2827 would effectively gut these new protections and make them unenforceable. The legislation would exempt all financial institutions and employees of financial institutions from registering or being regulated as municipal advisors – even if these entities were in fact acting as advisors. The legislation also exempts brokers, dealers, and municipal securities brokers from designation as municipal advisors, even if they are acting as advisors and not arms-length underwriters. The combination of these two exemptions will open up massive loopholes for entities and individuals who are in fact acting as municipal advisors to avoid registration or regulation as such. In addition, the legislation restricts the definition of municipal financial instruments in ways that will create further opportunities to avoid designation as a municipal advisor. Finally, the legislation eliminates fiduciary duties for municipal advisors, so that even those advisors who cannot avoid registering with the SEC using the massive new exemptions opened up by this legislation will not be required to place the best interests of taxpayers first in the advice they give.

The massive new exemptions added here are unjustified and harmful. The Dodd-Frank legislation already contains exemptions from advisor designation for a range of ordinary businesses that provide advice that is not central to municipal finance. The Dodd-Frank law also already exempts underwriters from advisor designation when they are simply acting as underwriters (as opposed to advising on how to structure the transaction). The SEC has ample discretionary authority to make specific and limited additional exemptions in cases where it is actually justified.

Another excuse given for the massive exemptions in HR 2827 is that exempted entities, such as banks and broker-dealers, already are regulated under other laws. However, these other regulatory regimes are not intended or designed to protect the interests of public entities and taxpayers when providing advice in structuring municipal transactions. For instance, banking regulation is mainly designed to protect the stability and solvency of the bank, not to protect customers from fraud. None of these other regulatory regimes create a fiduciary duty to taxpayers, which is so vital in the case of providing financial advice to municipalities.

The likely result of eliminating these safeguards is to unnecessarily impose large financial risks on states and localities and their accompanying residents who pay taxes and use public services. When states and localities suffer financial losses, the inevitable victims are local residents, who through no fault of their own, are faced with higher taxes or fewer services. The typical result is tax increases or budget cuts to education, health care, public safety, infrastructure, and other vital public services protecting the vulnerable and helping middle class families. These unnecessary and harmful outcomes must be avoided. The Dodd-Frank safeguards should be retained.

The need for more effective taxpayer protections in municipal finance should be a matter of bipartisan consensus. There are over 50,000 municipal issuers in the U.S. and many of them are relatively small and unsophisticated in the area of finance. The great majority of these issuers do not have in-house financing expertise and rely heavily on outside financial advisors. The large

profits that can be made through the misdirection of public monies create major incentives for financial advisors and indeed even public officials to act against the best interests of taxpayers. HR 2827 would totally undermine efforts by Congress and the SEC to provide effective oversight. Anyone who wishes to protect American taxpayers from financial exploitation in the state and local finance market should reject HR 2827.

Sincerely,

Americans for Financial Reform

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Greenlining Institute
- Good Business International
- HNMA Funding Company

- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Move On
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Council of Women's Organizations
- Next Step
- OMB Watch
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group

- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Signers

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)

- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network

- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- The Holographic Repatterning Institute at Austin
- UNET

