

Comment on Notice 2014-15

from Hardy Callcott,

on Tuesday, September 09, 2014

Comment:

I request that my comment letter on the MSRB's prior proposal concerning regulation of political contributions by municipal advisors be considered as part of the record in this rulemaking. See <http://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2011/~media/Files/RFC/2011/2011-04/Callcott.ashx>. As was true in 2011, unless the MSRB conforms Rule G-37 to the higher contribution limits contained in SEC Rule 206(4)-5, there is no hope that the proposed limits in Rule G-37 could be deemed "narrowly tailored to achieve a compelling government interest". This conclusion is reinforced by the Supreme Court's decision earlier this year in *McCutcheon v. FEC*, 572 U.S. ____ (2014). The *McCutcheon* Court's holding that "The Government may no more restrict how many candidates or causes a donor may support than it may tell a newspaper how many candidates it may endorse" perforce applies to the MSRB's proposal, in particular the portion of the MSRB's proposal that municipal advisors not be permitted to contribute at all to candidates for whom they are not entitled to vote. As the *McCutcheon* Court stated, such "limits deny the individual all ability to exercise his expressive and associational rights by contributing to someone who will advocate for his policy preferences" and are therefore contrary to the First Amendment. For the reasons expressed in my prior letter and here, in order to survive constitutional challenge, the MSRB should conform Rule G-37, including the existing portions of the rule applying to municipal securities dealers, to the more narrowly tailored provisions of SEC Rule 206(4)-5.