

January 19, 2009

*Via Email and Fax*

Mr. Rupert T. Borgsmiller, Director  
Campaign Disclosure Division  
Illinois State Board of Elections  
1020 S. Spring Street  
Springfield, IL 62708-4187

Mr. Ben Bagby, Esq.  
Illinois Department of Central Management Services  
720 Stratton Building  
401 Spring Street  
Springfield, IL 62706

**Re: State Board of Elections “Business Entity Registration Form”**

Dear Messrs. Borgsmiller and Bagby:

Thank you for discussing with me the Investment Adviser Association’s (“IAA”) concerns regarding the Illinois State Board of Elections’ newly-issued “Business Entity Registration Form” (the “Form”). We appreciate your consideration of our concerns. The IAA is a not-for-profit association that represents the interests of SEC-registered investment advisory firms. The Association’s membership consists of investment advisory firms that manage assets for a wide variety of individual and institutional clients, including pension plans, trusts, investment companies, endowments, foundations, and corporations.<sup>1</sup>

Some of our members provide investment advisory services with respect to investment funds of the state of Illinois and state agencies, including contracts for services over \$50,000. Therefore, these members must comply with Illinois Public Act 095-0971 (the “Act”), which contains new registration and reporting requirements for certain Illinois vendors and bidders on the Form, as well as additional limitations on campaign contributions by these entities and their affiliated entities. The IAA supports the State of Illinois’ goal of providing transparency in the procurement process and ensuring that the award of State contracts is based on merit rather than political contributions. We have a number of significant concerns, however, with the new requirements. Specifically, we are writing to request: (1) clarification from the Board that an affiliated person’s business address, rather than a residential address, may be supplied on the Form, or at a minimum that residential addresses not be publicly disclosed; (2) that the disclosure of minor children’s and spouses’ names be eliminated or, at a minimum, that the spouses’ names not be publicly disclosed; (3) that the 2-day requirement to amend the Form

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<sup>1</sup> For more information, please visit our web site: [www.investmentadviser.org](http://www.investmentadviser.org).

be increased to a more reasonable time period; and (4) an extension of time beyond January 31, 2009 to file the Form.

#### Requirement to Include Residential Address on Form

Section 9-35(b) of the Act requires the “name and address of any affiliated person of the business entity”. This section does not specify a residential address.<sup>2</sup> In this instance, the business address of the affiliated person, or the business address of the executive, with respect to the executive, his or her spouse and minor children, should be deemed to comply with the Act. An affiliated person’s business address, rather than a residential address, should be permitted on the Form because privacy concerns of individuals override policy concerns of disclosure in the contracting process with the State. Despite the important public policy goals of transparency in the State’s process of conducting business with a vendor, we do not believe this information is critical to the public’s assessment of the State’s conduct in doing business with vendors. The business address of a vendor’s employees, coupled with the prohibition on certain political contributions by affiliated persons, should suffice to achieve these goals. At the very least, we request that the disclosure of residential addresses be eliminated from a publicly searchable electronic database.

In addition, we are concerned that certain employers may be unable to comply with the Act’s requirements to disclose the home addresses of vendors’ executives without violating other state privacy laws prohibiting disclosure of personally identifiable information. Other state laws may prohibit employers from disclosing employees’ home addresses and other personally identifiable information. For example, New York Labor Law Section 203-d, effective January 3, 2009, prohibits employers from disclosing employees’ “personal indentifying information,” including a person’s home address. Thus, certain investment advisers otherwise required to file the Form may be forced to refuse to do business with Illinois investment funds as a result of these conflicting laws.

#### Disclosure of Spouse and Minor Children

Although spouses and minor children of executives of a bidding or contracting entity are included in the definition of “affiliated person[s]” under Section 50-37(a) of the Act, they should nevertheless not be subject to disclosure either to the State or publicly, as required by the Form. Disclosure of personally identifiable information such as an individual’s minor children’s names, as well as their spouses’ names and residential addresses, is contrary to the public policy concerns of public safety and prevention of identity theft. While we appreciate the State’s sensitivity in not making minor children’s names publicly available, we believe that it is inappropriate to require disclosure of minor children’s or spouses’ names to the State at all because this information is highly personal in nature and subjects these individuals to potentially unwanted and intrusive attention and publicity. Such information is not relevant to assessing conflicts of interest in the bidding process. Thus, we respectfully request that the

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<sup>2</sup> We understand that Section 9-35(g) references links to contributions by anyone reporting the same residential address as any affiliated person. Because Section 9-35(b) does not specify a residential address, Section 9-35(g) should be reasonably interpreted to apply only to the extent that residential addresses are provided in the Form.

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Board reconsider these required disclosures on the Form. At a minimum, in addition to names of minor children, names of spouses should not be publicly disclosed on the searchable electronic database.

Additional Time for Reporting Changes to Information

In addition, we request that the burdensome requirement in Section 20-160(c) of the Act, that any change in information on the Form must be reported to the State Board of Elections "within 2 business days" following such change, be alleviated to the extent possible. Employers may not necessarily receive notification by employees of a change of address, marriage, divorce or birth of a child in such a short period of time. Thus, we respectfully suggest that a 30-day notice is more appropriate for those entities that have already contracted with the State. At a minimum, we request that a good faith safe harbor be provided for entities that make their best efforts to comply with the requirements.

Extension for Filing Business Entity Registration Form

Finally, due to the outstanding issues discussed above that require clarification, we respectfully request an extension of time beyond January 31, 2009 to comply with Act's filing requirements. We respectfully submit that 30 days is a reasonable extension of time, assuming that appropriate clarification is provided in a timely fashion.

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The IAA greatly appreciates your consideration of our concerns regarding the effect of disclosure of the information required by the Form and our request to extend the Form's filing deadline. Please do not hesitate to contact me or Karen L. Barr, IAA General Counsel, at 202-293-4222 if we may provide additional information or assistance to you regarding these matters.

Sincerely,

/s/

Monique S. Botkin  
Senior Counsel