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CDFA – BNY Mellon Development Finance Webcast Series: Regulatory Issues Debate

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Regulatory Issues Debate

Speakers:

Lynnette Kelly Hotchkiss

Executive Director

MSRB

Kathleen C. McKinney

Haynsworth Sinkler Boyd

President, National Association of Bond Lawyers

Antoine Zemor

Tax Law Specialist

Tax Exempt Bonds

Internal Revenue Service

Moderator:

Mark P. Brown

Managing Director

The Bank of New York Mellon Trust Company, N.A.

Regulatory Issues Debate

Lynnette Kelly Hotchkiss

Executive Director

Municipal Securities Rulemaking Board

MSRB
Municipal Securities Rulemaking Board

MSRB Agenda and Initiatives

CDFA-BNY Mellon Development Finance Webcast
Lynnette Kelly Hotchkiss, Executive Director
April 20, 2010

MSRB in a Nutshell

- Self Regulatory Organization for broker-dealers and bank dealers in the municipal market
  - no rulemaking authority over issuers, intermediaries or other market participants
  - no non-securities rulemaking authority (e.g., derivatives)
- MSRB coordinates with SEC, FINRA, bank regulators and others on enforcement, examinations and surveillance
- Market resource on market issues to Capitol Hill, IRS, Treasury, SEC and other regulators and policymakers
- Congressionally mandated mission:
  - protect investors and the public interest
  - promote fair and efficient municipal bond market
- MSRB furthers mission through *rulemaking*, *information services/systems*, *outreach and education* and *market leadership*

MSRB's Recent Initiatives – Build America Bonds

- **Build America Bonds** – MSRB Notice 2009-15 (April 24, 2009)

  Reminder that all MSRB rules apply to transactions in Build America Bonds – fair dealing, disclosure of material facts, suitability of recommendations.

- **Build America Bonds** – MSRB Notice 2009-30 (June 9, 2009)

  Reminder that ban on business may be triggered by solicitations of Build America Bond business by employees whose contributions have not been vetted (e.g., taxable desk personnel).

- **Build America Bonds** – MSRB Notice 2009-49 (August 25, 2009)

  Reminder of requirement to disclose on confirm yield at which transaction is priced. Some BABs have pro rata mandatory sinking fund redemptions and are priced to average life.

MSRB’s Recent Investor Protection and Fair Practice Initiatives

- **California IOUs** – MSRB Notice 2009-41 (July 10, 2009)

  IOUs are municipal securities and most MSRB rules apply. Trading reporting is not required because the IOUs have no CUSIP numbers. Focus on customer protection obligations – fair dealing, disclosure of material facts, suitability of recommendations, and fair pricing.

- **Electronic Confirms** – MSRB Notice 2009-50 (Sep. 15, 2009)

  Requirement in Rule G-15(a) to provide a customer with a written confirmation may be satisfied by an electronic confirmation for DVP/RVP transactions if URL link to Rule G-15(a) information and Provider has no-action letter from SEC under SEC Rule 10b-10.

- **Priority of Orders** – MSRB Notices 2009-47 and 59 (August 11 and November 18, 2009)

  How do fair dealing rules apply to retail order periods and priority of orders.

MSRB's Recent Investor Protection Initiatives

- **MSRB/FINRA Notice** – MSRB Notice 2009-38 (June 30, 2009)

  Joint reminder on issues to consider when investing in municipal bonds in light of current market conditions.

- **MSRB Publication** – Seven Questions to Ask When Investing in Municipal Bonds (January 20, 2010).

- **Duty of Fair Dealing to Retail Investors** – MSRB Notice 2009-42 (July 14, 2009)

  Reminder to dealers on duty of fair dealing to investors. Focus is on individual and other retail investors. Disclosure of material facts, suitability of recommendations, fair pricing in the context of VRDOs.

MSRB's Recent Pay – to – Play Initiatives

- **Bank PAC Contributions** – MSRB Notice 2009-51 (September 16, 2009)

  Request for comment on mandatory disclosure of contributions to issuer officials by dealer-affiliated PACs of banks and bank holding companies.

- **Bond Ballot Campaign Contributions** – MSRB Notice 2009-35 (June 22, 2009)

  Requires mandatory disclosure of contributions to bond ballot campaign committees and associated municipal securities business. Related Q & As have been updated.

- **Regulation of Financial Intermediaries –**

  Pay-to-play restrictions should be implemented.

MSRB's Recent Disclosure Initiatives and Proposals

- **Access Equals Delivery**
  - Effective June 1, 2009, underwriters must submit electronic copies of official statements to EMMA (except where exempt).
  - Submission of the OS is required within one business day after receipt but no later than bond closing.
  - Certain key information must be submitted on or prior to the date of first execution – plain English name of issue, original issue prices.
  - Paper copies of official statements are only required during the "primary offering disclosure period" – ending 25 days after the bond closing – <u>and</u> only if a customer requests one.
  - Confirms must direct customers to the EMMA website for a copy of the official statement.
- **Proposal to permit issuers to post Preliminary Official Statements and other pre-sale documents.**

MSRB's Recent Disclosure Initiatives

- **Continuing Disclosure**
  - Effective July 1, 2009, EMMA became the sole repository, so all continuing disclosure filings must be made to EMMA, either by issuers, obligors or their agents.
  - EMMA accepts mandatory continuing disclosure – required by SEC Rule 15c2-12 – and voluntary disclosure.
  - Filers are provided with categories to assign to voluntary continuing disclosures – such as quarterly financials, IRS letters and derivatives.
  - Since January 1, 2010, all documents submitted to EMMA are required to be word-searchable.

MSRB's Recent Disclosure Proposals

- **Proposed Continuing Disclosure Amendments**

  Permit issuers or obligated persons to state on a voluntary basis that:

  • they have undertaken to prepare audited financial statements pursuant to generally accepted accounting principles ("GAAP") as established by the Governmental Accounting Standards Board ("GASB"), or pursuant to GAAP as established by the Financial Accounting Standards Board ("FASB");

  • they have undertaken to submit annual financial information to EMMA within 120 or 150 calendar days after the end of the applicable fiscal year; and

  • the uniform resource locator (URL) of the issuer's or obligated person's Internet-based investor relations or other repository of financial/operating information.

MSRB's Recent Disclosure Proposals

- **Proposed Continuing Disclosure Amendments**

  Would require dealers to submit the following information:

  • whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Exchange Act Rule 15c2-12;

  • the name of any obligated person, other than the issuer of the municipal securities, that has or will undertake, or is otherwise expected to provide, continuing disclosures;

  • the date or dates identified in the continuing disclosure undertaking, pursuant to Exchange Act Rule 15c2-12(b)(5)(ii)(C) or otherwise, by which annual financial information is expected to be submitted each year by the issuer and/or any obligated persons to the EMMA system.

MSRB's Recent Transparency Proposals for Short-term Debt

- **Auction Rate and VRDO Transparency**
  - MSRB currently collects and disseminates interest rate resets and related data for each ARS auction and VRDO remarketing
  - Proposal to collect additional documents and information –
    - ARS and VRDO documents, including liquidity facilities
    - ARS bidding information
    - Identity of liquidity provider
    - VRDO tender agent identity
    - Amount of VRDO held as bank bonds and amount held by other market participants

MSRB's Research Department Initiatives and Activities

- **Research and Market Statistics**
  - Build America Bond Reports – July 2009 and February 2010
  - Daily Market Statistics on EMMA (continually enhanced)
  - Resource to other Regulators
  - 2008 and 2009 Municipal Market Fact Books

MSRB Recent Market Leadership Initiatives

- **MSRB Letter to Congress** with Specific Recommendations on Regulating Financial Intermediaries on February 11, 2009:
  - Focus on regulation of intermediaries
  - Calls for better coordination of federal and state enforcement activities
  - Muni derivatives to be subject to same regulatory framework developed for other derivative markets
  - Articulates role for market-specific SROs to complement anti-fraud authority of federal securities laws

- **MSRB Report on Unregulated Market Intermediaries**
  - Recommends regulation of unregulated market participants, including such as financial advisors, swaps advisors and investment brokers.

The Increased Focus on the Municipal Market in Washington

- **Congress**
  - House Financial Services Hearings and Financial Reform Bill
  - Senate Banking Committee Hearings and Financial Reform Bill
  - Congressional Oversight Panel (chaired by Elizabeth Warren)
  - Financial Crisis Inquiry Commission
- **Obama Administration**
- **Treasury/Federal Reserve**
- **State Governments (as Issuers and as Regulators)**
- **SEC – priority of Mary Schapiro**

The Increased Focus on the Municipal Market in Washington

- **Side-By-Side Comparison of House and Senate Bills**
  - Regulation of Advisors
  - Fiduciary Duty Standard
  - MSRB Board Composition
  - SEC Office of Municipal Securities
  - Studies: Transparency, Credit enhancement, GASB funding
  - Credit Ratings
  - Derivatives

Side-by-Side of Municipal Bond Legislative Proposals

Current Law/Issue	Senate Banking Committee Draft Bill II	House Financial Services Committee Bill
Advisors to municipal issuers are not subject to federal regulation unless they are broker-dealers or banks.	"Municipal advisors," GIC, and other investment brokers, swap and other municipal derivatives advisors, and certain third party solicitors of municipal entities are registered with SEC and regulated by MSRB (including advice provided to obligated parties). The bill's definition of "municipal advisor" includes any person (e.g., consultant/placement agent) who solicits a municipal entity to hire an investment advisor – consultant/placement agents to register with SEC as a municipal advisor. Under the proposal, the MSRB would have limited authority to write rules solely relating to the solicitation activities of such consultants/placement agents.	"Municipal financial advisors" are registered with, and regulated by, SEC. Definition includes broker-dealers not acting as underwriters.
No federal fiduciary duty standard for financial advisors.	"Municipal advisors" are not subject to federal fiduciary duty standard.	"Municipal financial advisors" are subject to federal fiduciary duty standard.
MSRB writes rules for broker-dealers and banks.	MSRB writes rules for broker-dealers, banks, and municipal advisors.	No provision.
SEC, FINRA, and bank regulators enforce MSRB rules. MSRB provides information to regulators.	MSRB assists in enforcement. MSRB receives 1/2 of fine revenue collected by SEC for MSRB rule violations; SEC determines level of MSRB fine sharing with FINRA.	No provision.

Side-by-Side of Municipal Bond Legislative Proposals

MSRB has 15 members: 5 broker-dealers, 5 banks, 5 public members (at least 1 issuer and at least 1 investor)	MSRB has 15 members: 8 public members (at least 1 institutional or retail investor, at least 1 issuer, at least 1 municipal expert); 7 non-public members, including at least 1 broker-dealer, at least 1 bank, and at least 1 municipal advisor).	MSRB has 15 members: majority independent, public members (at least 1 issuer and at least 1 investor); remaining members must include at least 1 broker-dealer and at least 1 bank. No requirement to have municipal financial advisor representation on Board.
MSRB provides information systems for municipal securities.	MSRB may develop additional information systems for systemic regulator/and SROs, and may assess reasonable charges and fees. Not limited to municipal securities.	No provision.
SEC Office of Municipal Securities	Creates a new Office of Municipal Securities at the SEC to coordinate with the MSRB for rulemaking and enforcement actions, as required by law.	No provision.
Studies	GAO to study 1) disclosure transparency in trading mechanisms and 2) credit enhancement of municipal securities.	No provision.
GASB	SEC to study funding for GASB	No provision.

Side-by-Side of Municipal Bond Legislative Proposals

Issue	Credit Rating Provisions	
SEC	Authorizes the SEC to temporarily suspend or permanently revoke the registration of a credit rating agency with respect to a particular class or subclass of securities if it finds that the rating agency lacks adequate financial and managerial resources to consistently produce credit ratings with integrity. The draft creates an Office of Credit Ratings at the SEC with its own compliance staff and the authority to fine agencies. The bill requires the SEC to issue rules directing each NRSRO to use universal ratings symbols.	Authorizes the SEC to oversee credit rating agencies registered with the Commission as NRSROs and requires rating agencies to register with the SEC. SEC must establish an office to administer SEC rules with respect to the practices of credit rating agencies in determining ratings, in the public interest and for the protection of investors.
Ratings	Requires rating agencies to consider information in their ratings that comes to their attention from a source other than the organizations being rated if they find it credible. The SEC is authorized to deregister an agency for providing bad ratings over time. The Senate draft would allow investors to bring private rights of action against ratings agencies for a knowing or reckless failure to investigate or to obtain analysis from an independent source. The draft would require rating agencies to disclose their methodologies, their use of third parties for due diligence efforts, and their ratings track record.	Requires national rating agencies to rate securities on the likelihood of loss to investors and apply ratings consistently across all asset classes—effectively to require a global, or uniform, rating scale for the ratings of governmental debt, but bars the SEC from adopting rules that bar the rating agencies from considering credit factors "that are unique to municipal securities" or establishing "complementary" ratings to measure a "discrete aspect of the security's or instrument's risk." The bill creates a prototype independent committee to oversee the SEC regulation and enforcement of the rating agencies: The Credit Ratings Agency Advisory Board established by the SEC would consist of seven members appointed by the SEC.

Side-by-Side of Municipal Bond Legislative Proposals

Issuers	No similar provision.	Requires issuers to publicly disclose preliminary credit ratings received from NRSRO's on structured products and all forms of corporate debt.
NRSROs	Dodd II would require each NRSRO to establish, enforce, and document an effective internal control structure governing the implementation of policies and methodologies it uses to determine credit ratings. Further, the SEC must adopt rules requiring credit rating agencies to submit to the Commission an annual internal controls report, containing a description of the responsibility of the management of the rating agency in establishing and maintaining effective internal controls. In addition, the rating agency must assess the effectiveness of the internal controls and the attestation of the CEO. The draft would require an NRSRO to refer to the appropriate law enforcement or regulatory agency any credible information from a third party alleging a material violation.	Clarifies the ability of individuals to sue NRSROs. Statements made by rating agencies would not be deemed forward-looking statements for purposes of the Exchange Act's safe harbor and requires each NRSRO to have a board with at least one-third independent directors to oversee policies and procedures aimed at preventing conflicts of interest. The compensation of the directors cannot be linked to the business performance of rating agencies and must be structured to ensure the independence of their judgment. Significantly enhances the responsibilities of NRSRO compliance officers to address conflicts of interest. The measure also requires the compliance officer to be responsible for administering the policies and procedures required to be established by the legislation and, more broadly, ensure compliance with securities laws and SEC regulations.

The Increased Focus on Municipal Market Enforcement

- **SEC**
  - Priority of Mary Schapiro
  - Created specialized unit on Municipals within newly reinvigorated Enforcement Division. Unit will focus on misconduct in the municipal securities market and in connection with public pension plans
- **SEC – IRS Memorandum of Understanding**
  - MOU reflects the commitment both agencies have in using all means possible to ensure the municipal bond market operates in accordance with all the laws that govern it
- **State Governments as Regulators**

The Increased Focus on Municipal Market Enforcement

- **FINRA 2010 Exam Priorities**
  - Annual examination priorities letter sent to member firms on March 1
  - Municipals market is near the top of their 2010 exam priority list
    - Confirm continuing disclosure undertaking of issuer
    - Procedures to receive these continuing disclosures
    - G-17 obligation to disclose material facts
    - Obligations apply even when dealer is an order taker
    - G-32 obligation on delivery of official statements
  - Fair Pricing and Best Execution for Fixed Income Securities

EMMA – Electronic Municipal Market Access
The Official Source for Municipal Disclosures and Market Data

EMMA: www.emma.msrb.org

- Components of EMMA:
  - **Official Statements** – current & historical from 1990
  - **Advance Refunding Documents** – current & historical from 1990
  - **Trade Data** – real-time & historical from 2005
  - **Market Statistics**
  - **SHORT: Variable Rate Security Rates –** for ARS and VRDOs
  - **Educational Resources**
  - **Continuing Disclosure Documents –** since July 1, 2009

MSRB Municipal Securities Rulemaking Board

EMMA - Electronic Municipal Market Access

The Official Source for Municipal Disclosures and Market Data

Muni Search

Find the official statement, continuing disclosures and trade price information for a specific bond, note or other municipal security (for best results, use CUSIP number). For more information on finding an official statement, click here.

Enter CUSIP or Name

Advanced Search

529 Plan Search

Search Help

Welcome to EMMA

EMMA is the comprehensive source for official statements, continuing disclosure documents, advance refunding documents and real-time trade price information on municipal securities.

New Developments

MSRB Creates Instructional Video About EMMA

Watch Video

January 15, 2010

EMMA EDUCATION CENTER

In our Education Center you can find a wealth of information to help you learn more about tax-exempt bonds and notes, taxable munis, 529 college savings plans and the full constellation of municipal securities.

- Getting Started on EMMA
- Watch a Video About Using EMMA
- What are Bonds?
- What You Should Know Before Investing
- Frequently Asked Questions

MARKET ACTIVITY

View market-wide information about municipal securities, including recent trades, daily summaries of market transactions, official statements for new issues and recent advance refundings of outstanding bonds.

- Trade Activity
- Recent Official Statements
- Continuing Disclosure Documents
- Market Statistics

DOCUMENT SUBMISSION

Municipal bond underwriters and issuers submiting official statements, advance refunding documents and continuing disclosures to EMMA may do so through the EMMA Dataport. Submitted documents are made available to the public.

- Primary Market Submission
- Continuing Disclosure Submission

Regulatory Issues Debate

Kathleen C. McKinney

Haynsworth Sinkler Boyd

President, National Association of Bond Lawyers

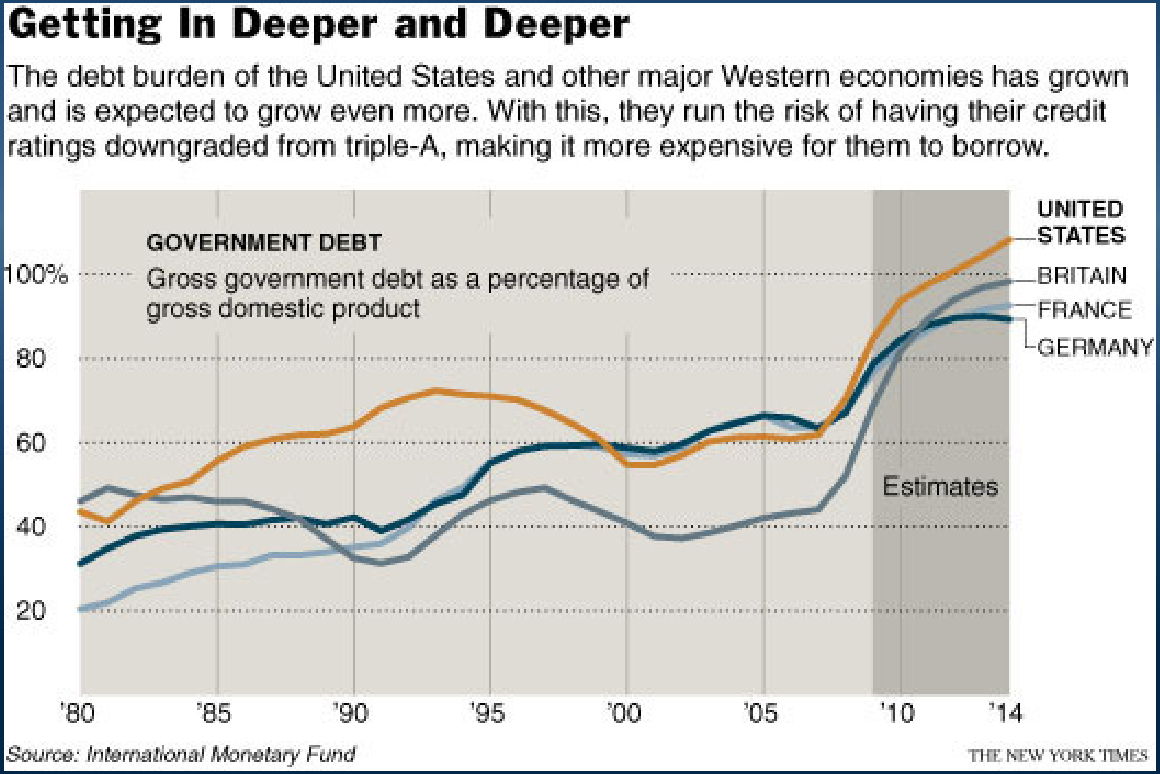
National Association of Bond Lawyers: 2010 Projects and Activities

Kathleen Crum McKinney
President, National Association of Bond Lawyers

April 20, 2010

The New York Times
Business Day
Tuesday, March 16, 2010

Moody's Says U.S. Debt Could Test Triple-A Rating



The Bond Buyer

Ratings Warning Sought
NABL Urges an Alert on EMMA
Thursday, April 8, 2010

By Andrew Ackerman and Lynn Hume

WASHINGTON — The National Association of Bond Lawyers is urging federal regulators to put a notice on EMMA alerting investors that rating information in offering and continuing disclosure documents may not be accurate as credit rating agencies recalibrate the ratings for tens of thousands of municipal bonds.

NABL proposed the notice in a letter sent to the Securities and Exchange Commission and the Municipal Securities Rulemaking Board late Tuesday.

The notice would warn investors using the Electronic Municipal Market Access site that, prior to making a decision to buy or sell a muni bond, they should check with Fitch Ratings and Moody's Investors Service, which have either taken action or announced plans to recalibrate their municipal ratings based on a "global" or uniform rating scale that applies to corporate debt.

"During this period of recalibration there may be some market confusion as to the applicable rating on any given municipal security," NABL president Kathleen McKinney wrote in a letter sent to Martha Mahan Haines, the SEC's municipal securities chief, and MSRB executive director Lynnette Hotchkiss.

McKinney, a partner at Haynsworth Sinkler Boyd PA in Greenville, S.C., noted that at least one rating agency said it would not directly notify issuers of their recalibrated ratings. Issuers have complained in the past that they cannot disclose rating changes if they are unaware of them.

Debt Service Reserve Fund Surety Problem

- Is the rating of bonds tested only upon initial deposit?
- Is there a rating maintenance requirement?
- What if the insurer no longer has any rating?

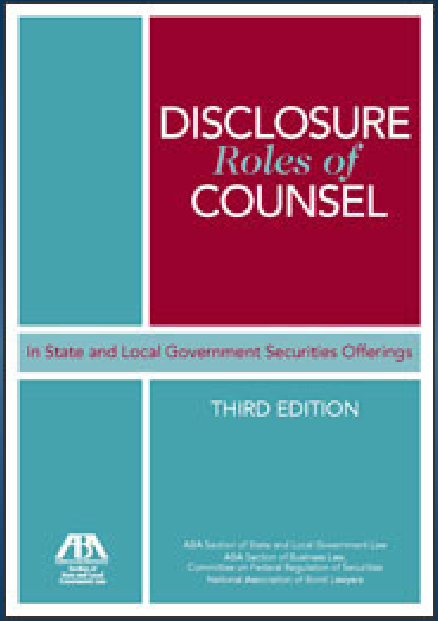
Municipal Bond Credit Report 2009

Issuance of variable rate demand obligations (VRDOs) accounted for 9.0 percent of total municipal issuance in the first three quarters of 2009, down from 30.4 percent in the same year-earlier period, while fixed-rate issuance increased to 88.0 percent from 67.0 percent. Unenhanced new issues rated AAA by Moody's Investors Services declined to 7.6 percent on a dollar volume basis in the first nine months of 2009 from 13.5 percent in the same year-earlier period, and those rated AAA by Standard & Poor's declined to 17.4 percent from 21.0 percent.

Disclosure Roles of Counsel

Conduit Issues

When a conduit borrower provides information for inclusion in a conduit issuer's Official Statement, the conduit borrower has the same duties under the Antifraud Provisions as a municipal issuer to avoid material misstatements and omissions. Consistent with the analysis in the Massachusetts Turnpike Authority proceeding, a conduit borrower providing information for use in the Official Statement is making a statement in Connection with the purchase or sale of securities and is therefore subject to the Antifraud Provisions. But what of the conduit issuer? Does it have a duty to employ its own diligence procedures to check on the accuracy and completeness of the conduit borrower information? In the view of most practitioners, it has no such duties if (1) it negates any implication that it has done so and (2) it has no reason to believe that the conduit borrower's information is not accurate. As to the latter belief, it the conduit borrower's information is consistent with facts know to the conduit issuer, the conduit issuer should be able to take comfort from the fact that accountants, lawyers, and underwriters have conducted diligence procedures, even if not engaged by the conduit issuer to do so.



Official Statement – Concluding Statement

The Issuer and its staff assume no responsibility for the accuracy or completeness of any representation or statement herein except for material with respect to them included under the captions “THE ISSUER” and “LITIGATION.”

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NATIONAL ASSOCIATION OF BOND LAWYERS

EXTENDING ARRA RELIEF FOR DEBT ISSUANCE OF SMALL GOVERNMENTAL ENTITIES AND 501(C)(3) ORGANIZATIONS

The American Recovery and Reinvestment Act ("ARRA") contains two provisions which have been most beneficial to smaller issuers of governmental bonds as well as 501(c)(3) organization borrowers of tax-exempt bond proceeds in this recent period of market disruption. By expanding the ability of banks to "buy" bonds or make loans at a tax-exempt rate and hold them in their own portfolio, these provisions have provided a source of financing and refinancing for local governmental and 501(c)(3) organizations. These provisions of ARRA have saved smaller local governmental units as well as nonprofits such as colleges, schools, hospices, nursing homes, YMCA's and cultural arts facilities substantial interest expense as well as substantial costs of issuance. In many cases these smaller nonprofit issuers do not have established bond ratings due to their infrequent accessing of the market. Under ARRA, smaller issuers and 501(c)(3) organizations are directly evaluated by the bank purchaser, who in many cases is better able to assess the credit strength and monitor the borrower's financial condition.

Extending ARRA Relief for Debt Issuance of Small Governmental Entities and 501(c)(3) Organizations

Conclusion. We believe that the ARRA changes to Section 265 have accomplished their goals and could have a continued beneficial impact if extended beyond the December 31, 2010 sunset date. These two provisions of ARRA addressing Section 265 have given small issuers and 501(c)(3) organizations access to capital at a time when they needed to exit from a VRDO because the rating on the bank providing the letter of credit declined enough to greatly increase interest rates or to cause a failed remarketing of bonds. Without the ARRA provisions, these entities often had to draw upon taxable bank loans to purchase the bonds that were tendered, often increasing the overall borrowing by 3.00-4.00%. Some banks who have seen their letters of credit no longer accepted by the public markets have offered to buy the bonds as long as they can be designated as BQ. This restructuring should be encouraged because this BQ structure is often the only alternative available. Financings to meet new money needs face similar problems of market access. Upon expiration of the ARRA provisions, the pre-ARRA regime comes back into play with smaller issuers losing the banks as purchasers and the advantages to small borrowers of having a much less complex and risky financing.

Extending ARRA Relief for Debt Issuance of
Small Governmental Entities and 501(c)(3) Organizations

For additional information please contact:

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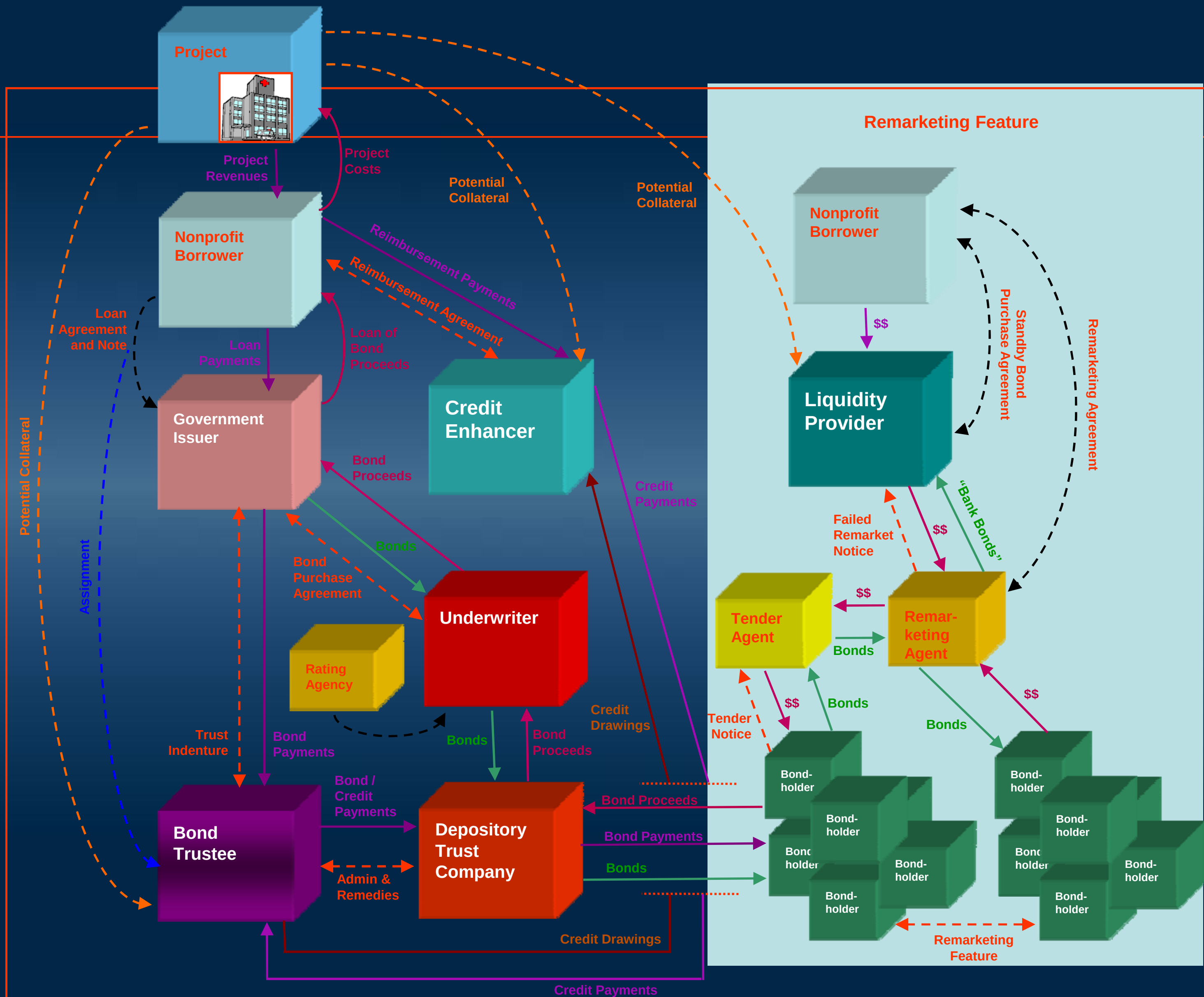
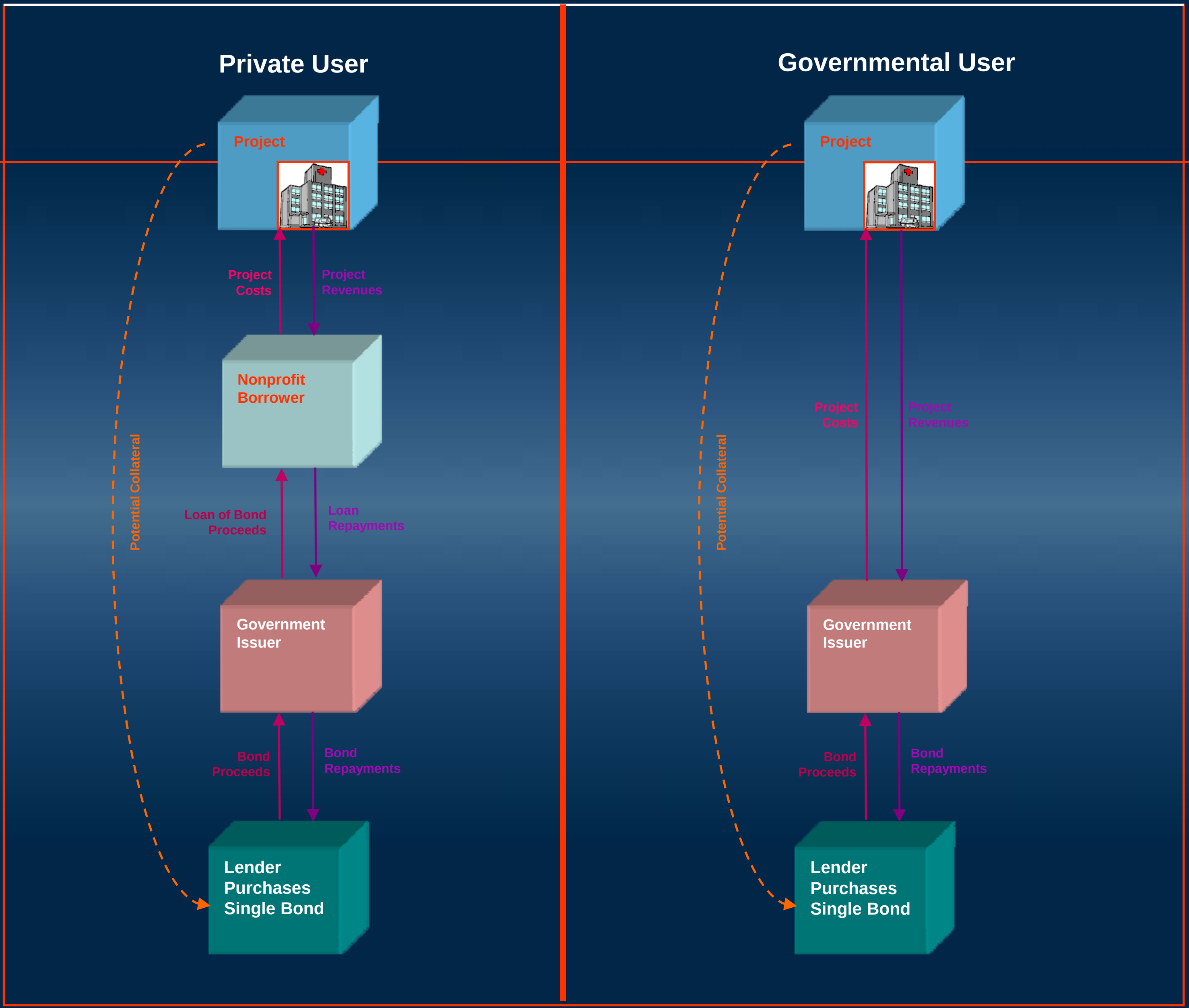
Traditional Variable Rate Demand Structure Illustration 1



Typical Bank-Placed Bond (two types shown) Illustration 2



Need to Extend ARRA Relief for Small Local Governments and Nonprofit Organizations

AMERICAN COUNCIL ON EDUCATION
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NATIONAL LEAGUE OF CITIES
Lars Etzkorn,
Center for Federal Relations Program Director

U.S. CONFERENCE OF MAYORS
Larry Jones,
Assistant Executive Director

al

March 5, 2010

The Honorable Sander M. Levin
Committee on Ways and Means
1102 Longworth House Office Building,
Washington, DC 20515

Re: Need to Extend ARRA Relief for Small Local Governments and Nonprofit Organizations

Dear Chairman Levin,

During this recent period of market disruption, small local governmental units, including cities, counties, townships, and school districts and certain nonprofit entities that provide critical health, education and other services, faced considerable challenges in borrowing. Two provisions of the American Recovery and Reinvestment Act ("ARRA") that are currently scheduled to expire on December 31, 2010 brought considerable relief to these borrowers. Each of these provisions temporarily amended Section 265 of the Internal Revenue Code of 1986 in ways that expanded the ability of banks to "buy" bonds issued by these borrowers or to make loans at a tax-exempt rate and hold them in their own portfolio, thereby providing a critical source of financing and refinancing for local governmental and 501(c) (3) organizations. These provisions of ARRA have saved smaller local governmental units as well as nonprofits such as colleges, schools, hospices, nursing homes, YMCA's and cultural arts facilities substantial interest expense and other costs associated with issuance.

The organizations below, which represent government finance officials, management, financial officers of schools, universities and hospitals, and bond lawyers representing issuers, banks and other market participants, believe that the case for extending these provisions permanently is strong. It is generally expected that the fiscal conditions will remain unstable for state and local governments in the next fiscal years and the need for this provision to remain in effect will only intensify. We urge you to ensure that these provisions are extended prior to their expiration on December 31, 2010.

Attached is a memorandum prepared by the National Association of Bond Lawyers, which sets forth further explanation of the provisions.

Respectfully Submitted,

American Council on Education
American Hospital Association
Council of Development Finance Agencies
Government Finance Officers Association
National Association of Bond Lawyers
National Association of College and University Business Officers
National Association of Counties
National Association of Health and Educational Facilities Finance Authorities
National Association of Independent Colleges and Universities
National Association of State Auditors, Comptrollers and Treasurers
National League of Cities
U.S. Conference of Mayors

National Association of Bond Lawyers:

2010 Projects and Activities Affecting 501(c)(3) Financings

Interest Rate Swaps for the General Bond Practitioner: Basic Structures, Documentary and State Law Issues

Municipal Law Group
Committee on Derivatives - State Law Issues

August 2009

National Association
of Bond Lawyers

Post Issuance Tax Compliance

- What records need to be retained?
- How long should records be kept?
- What events should trigger a local government to consult with bond counsel?
  - lease
  - management contract
  - sale of property

Questions and Discussion

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Regulatory Issues Debate

Antoine Zemor

Tax Law Specialist

Tax Exempt Bonds

Internal Revenue Service

Tax Exempt Bonds - Programs

Voluntary Compliance

Education and Outreach

Forms and Guidance

Examinations

Tax Exempt Bonds – 2010 Priorities

Expand presence in tax-exempt bond market

Encourage participation in Voluntary Closing Agreement Program (“VCAP”)

Enhance information gathering and reporting

Research projects

Legislative Developments

American Recovery and Reinvestment Act (“ARRA”)

Build America Bonds – first direct subsidy structure

Hiring Incentives to Restore Employment (“HIRE”)

Expanded direct pay structure to certain tax credit bonds

Additional legislation currently in progress

Other Recent Developments

Training – revision and update of IRS materials

Web page redesign

Memorandum of Understanding with SEC

IRM revisions

Summary

Municipal marketplace continues to increase in complexity

IRS - proactive approach to new developments

Importance of post-issuance compliance and due diligence

Questions

Upcoming Events at CDFA

Advanced Bond Finance Course
Portland, OR
May 10-11, 2010

Annual Development Finance Summit
Portland, OR
May 10-13, 2010

Fundamentals of Economic Development Finance WebCourse
June 22-24, 2010
Online, 1-5pm Daily (EDT)

Register online at www.cdfa.net

Attend the Next WebCast

<u>Tuesday May 18, 2010 at 1:00pm Eastern</u>

CDFA – BNY Mellon Development Finance Webcast Series:
Real Estate Bust Impact on Tax Increment Finance

The use of Tax Increment Financing (TIF) has been directly impacted by the economic challenges in the real estate industry. As property values have plummeted and tax receipts have decreased, determining how and when to use TIF can be difficult. This upcoming CDFA – BNY Mellon Development Finance Webcast Series looks at how the decline in the real-estate market has influenced TIF deals and how communities are overcoming these challenges.