

# Washington Update



## MUNICIPAL ADVISOR CHARGED FOR FAILING TO DISCLOSE CONFLICT OF INTEREST

The U.S. Securities and Exchange Commission continues to focus its enforcement efforts on municipal market behavior. The SEC announced last week that it has charged Kansas-based Central States Capital Markets, its CEO, and two employees for breaching their fiduciary duty by failing to disclose a conflict of interest to a municipal client. The case is the SEC's first to enforce the fiduciary duty for municipal advisors created by the 2010 Dodd-Frank Act, which requires these advisors to put their municipal clients' interests ahead of their own.

According to the SEC's order, while Central States served as a municipal advisor to a client on municipal bond offerings in 2011, two of its employees, in

consultation with the CEO, arranged for the offerings to be underwritten by a broker-dealer where all three worked as registered representatives. The order found that Central States CEO John Stepp and employees Mark Detter and David Malone did not inform the client of their relationship to the underwriter or the financial benefit they obtained from serving in dual roles.

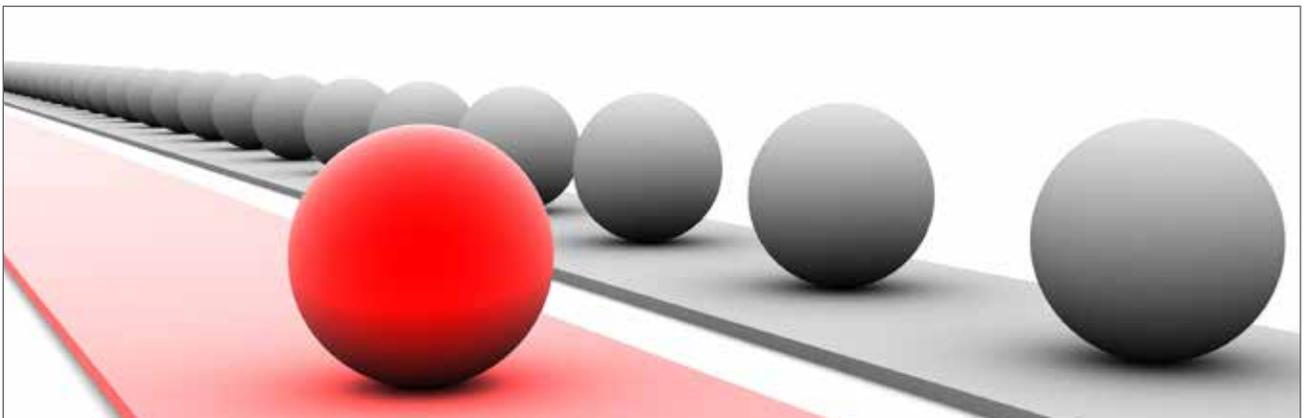
In announcing the charges, Andrew J. Ceresney, director of the SEC's Enforcement Division, stated:

“By failing to disclose their financial interest in the underwriting of the city's offerings, Central States—the city's municipal advisor—and its employees deprived the city of the opportunity to seek unbiased financial advice. A municipal advisor's first duty should be to its municipal client, not its own bottom line.”

Central States agreed to settle the SEC's charges by paying \$289,827.80 in disgorgement and interest and an \$85,000 civil penalty.

## SEC ISSUES GUIDANCE ON FUND DISCLOSURES

The SEC has issued an investment management guidance update on the subject of reminding mutual funds, exchange traded funds, and other registered investment companies to provide investors with full and accurate information about fund risks, including risks that arise as a result of changing market conditions. Specifically, the update outlines several steps that mutual funds should take to provide risk disclosures to investors in changing market conditions:



- **Monitor market conditions and their impacts on fund risks:** In order for a fund to determine whether its risk disclosures appropriately address current market conditions, the fund should effectively monitor market conditions on an ongoing basis and assess the impact of changing conditions on the fund and the risks associated with its investments.
- **Assess whether fund risks have been adequately communicated to investors in light of current market conditions:** If a fund determines that changed market conditions have affected the risks associated with the fund, the fund should assess the significance of the change and whether it is material to investors. If so, a fund should consider whether its existing disclosures are adequate in light of the changed conditions.
- **Communicate with investors:** A fund that determines that changes in current market conditions have resulted in changes to the fund's risks that are material to investors, and that its current disclosures do not adequately communicate the changes, should update its communications to investors as needed. The fund should provide any such updated communications to investors at the time and in the manner required by the federal securities laws and as otherwise appropriate. Means of communication to be considered include the prospectus and shareholder reports, as well as less formal methods, such as website disclosure and letters to shareholders.

The full update can be found at <https://www.sec.gov/investment/im-guidance-2016-02.pdf>.

## GAO RELEASES TANF MOE UPDATE

The U.S. Government Accountability Office has released its latest assessment of state program management of the Temporary Assistance for Needy Family block grants and maintenance of effort (MOE) expenditures. The report, "Temporary Assistance for Needy Families: Update on States Counting Third-Party Expenditures Toward Maintenance of Effort Requirements," provides

information on the extent to which states count non-governmental third-party expenditures for services as TANF MOE spending, and the types of non-governmental third-party services provided that states counted as TANF MOE spending. GAO surveyed state TANF directors in all 50 states and the District of Columbia and reached a 100-percent response rate.

GAO found that of the 16 states that reported counting non-governmental third-party expenditures as TANF MOE spending in fiscal year 2015, most said the types of services they counted involved food assistance and programs serving youth. One state even reported working with a food bank to count the value of the food the bank provided to families deemed needy under state TANF rules. GAO also found that after fiscal year 2010, the number of states counting non-governmental third-party expenditures toward their TANF MOE requirements fell, but remained higher than pre-Recovery Act levels for other reasons. States that reported such expenditures as TANF MOE spending cited reasons such as developing public-private partnerships and meeting state MOE requirements.

The full report can be found at [www.gao.gov/assets/680/675110.pdf](http://www.gao.gov/assets/680/675110.pdf).

## SENATE SCHEDULES FIXED-INCOME HEARING

The Senate Banking, Housing and Urban Affairs Subcommittee on Securities, Insurance and Investment and the Subcommittee on Economic Policy have scheduled a joint hearing: "Examining Current Trends and Changes in the Fixed-Income Markets." The hearing is scheduled for Thursday April 14 when the Senate returns from its Easter recess. The witnesses will be Jerome Powell, governor of the Board of Governors of the Federal Reserve System and Antonio Weiss, counselor to the secretary in the Department of the Treasury.

Hearing details will be updated at [www.banking.senate.gov/public/index.cfm/hearings?ID=82821509-B74C-4ECA-83F8-1136FBDFD740](http://www.banking.senate.gov/public/index.cfm/hearings?ID=82821509-B74C-4ECA-83F8-1136FBDFD740).

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