NASACT National Association of State Auditors, Comptrollers and Treasurers

APRIL 18, 2016

Washington Update

SEC CHARGES ISSUER WITH HIDING INFORMATION FROM BOND INVESTORS

Last Thursday, the Security and Exchange Commission (SEC) announced fraud charges against Ramapo, New York, saying the town hid a deteriorating financial situation from their municipal bond investors. The SEC alleges that Ramapo officials resorted to fraud to hide the strain in the town's finances caused by the approximately $60 million cost to build a baseball stadium, as well as the town's declining sales and property tax revenues. Because the stadium bonds issued by the Ramapo Local Development Corporation (RLDC) were guaranteed by the town, certain officials also masked an operating revenue shortfall at the RLDC and investors were unaware the town would likely need to subsidize those bond payments and further deplete its general fund.

The SEC found that inflated general fund balances were used in offering materials for 16 municipal bond offerings by Ramapo or the RLDC to investors. The SEC also charged that town supervisor Christopher St. Lawrence purposely misled a credit rating agency about the town's general fund balance before certain bonds were rated.

The full statement from the SEC can be found at https://www.sec.gov/news/pressrelease/2016-68.html.

SEC CHAIR ASKS FOR MORE MONEY TO COMBAT MUNI BOND MISCONDUCT

In her testimony before the Senate Appropriations Subcommittee on Financial Services and General Government, SEC chair Mary Jo White announced that she will be seeking 52 additional positions for the Enforcement Division in FY 2017. The division will use the additional requested positions to support its three core functions: intelligence analysis, investigation and litigation. Specifically, these additional resources will support the enforcement program's current and future initiatives in the following areas:

- Increasing the experienced forensic accountants, attorneys, industry experts, and information technology and support staff needed to promptly detect, prioritize, and investigate areas appropriate for enhanced enforcement efforts
- Adding experienced trial attorneys to prosecute the growing number of highly-complex enforcement actions
- Enhancing Enforcement's data analytics expertise to assist in the implementation of data intensive projects, state-of-the-art investigative tools (such as eDiscovery and knowledge management), and improved forensic capabilities

Buoyed by initiatives like self-reporting (i.e. The Municipalities Continuing Disclosure Cooperation Initiative (MCDC)), the SEC has taken an aggressive approach to assess risks for investors across the market. Areas of focus include market structure requirements, financial reporting failures and disclosure deficiencies in municipal securities offerings.

Full text of her testimony can be found at https://www.sec.gov/news/testimony/testimony-white-budget-request-2017-senate.html.

SIFMA RELEASES WHITE PAPER RECOMMENDING IMPROVEMENTS TO DISCLOSURE IN THE MUNICIPAL SECURITIES MARKET

The Securities Industry and Financial Markets Association (SIFMA) has released a white paper on SEC Rule 15c2-12, which requires dealers, when underwriting certain types of municipal securities, to ensure that the state or local government issuing the bonds has agreed to provide certain information to the Municipal Securities Rulemaking Board about the securities on an ongoing basis. The paper examines the existing framework for disclosure in the municipal securities market, and suggests ways in which the framework and related guidance for compliance could be improved to result in better disclosure for investors.

Among SIFMA's recommendations is a proposal to assign to municipal advisors (MAs) responsibility for checking that statements in offering documents on competitive transactions are accurate when MAs are engaged by issuers to help prepare official statements. SIFMA's other suggested changes to the rule include:

- Update the collection of disclosure information to reflect the availability of information on the Municipal Securities Rulemaking Board's EMMA system, including notification of ratings changes and provision of the final official statement to potential customers
- Specifying a date on which annual financial information will be provided and harmonization with continuing disclosure agreements

The full white paper can be found at http://www.sifma.org/newsroom/2016/sifma-releases-white-paper-recommending-improvements-to-disclosure-in-the-municipal-securities-market/.

INVESTOR ADVISORY COMMITTEE REQUESTS MORE MUTUAL FUND DISCLOSURE

The SEC Investor Advisory Committee (IAC) released a bulletin last week recommending that the commission explore ways to improve mutual fund cost disclosures. Specifically, the IAC believes the SEC should take action to enhance investors' understanding of the actual costs they bear when investing in mutual funds and the impact of those costs on total accumulations over the life of their investment by standardizing disclosure of actual dollar amount costs on customer account statements.

The IAC found several investor-protection issues with the current disclosures:

- The disclosures are located in documents that many investors do not read
- The complex, technical nature of the fee table disclosures likely inhibits investors' willingness and ability to make good use of the information provided
- Presentation of the costs as a percentage of assets can give the appearance that costs are negligible when this is not the case
- Current disclosures do not provide a ready context to show whether a fund's costs are relatively high, low or about average or how those costs might impact total accumulations
- As a first step toward improving cost disclosures, the SEC should take immediate steps to require dollar amount cost disclosures on account statements as a supplement to existing prospectus disclosures.

The full disclosure bulletin can be found at https://www.sec.gov/spotlight/investor-advisory-committee-2012/iac-041416-recommendation-investor-as-purchaser.pdf.

WASHINGTON STAFF

CORNELIA CHEBINOU
Washington Director
cchebinou@nasact.org

NEAL HUTCHKO
Policy Analyst
nhutchko@nasact.org

TANYA GRAYSON
Administrative Assistant
tgrayson@nasact.org

National Association of State Auditors, Comptrollers and Treasurers

HEADQUARTERS OFFICE

449 Lewis Hargett Circle, Suite 290
Lexington, KY 40503-3590
P (859) 276-1147, F (859) 278-0507

WASHINGTON OFFICE

444 N. Capitol Street, NW, Suite 234
Washington, DC 20001
P (202) 624-5451, F (202) 624-5473

www.nasact.org

For more information on this newsletter's content, contact Cornelia Chebinou at cchebinou@nasact.org or (202) 624-5451.

Washington Update