

Washington Update



OMB, COFAR SCHEDULE A NEW UNIFORM GUIDANCE WEBCAST

The U.S. Office of Management and Budget and the Council on Financial Assistance Reform have announced the third in a series of webcasts on the Uniform Guidance. The webcast, “Uniform Guidance: Promising Practices,” will provide an opportunity to hear from thought leaders representing the federal, state, university, and nonprofit grant community on their best practices, tools and techniques for successfully implementing pre-award, post-award, and single audit processes under the Uniform Guidance. This will not be a live session but will be available for unlimited viewing at the COFAR website beginning July 5 at <https://cfo.gov/cofar/training/>.

Questions regarding the webcast can be directed to Melissa Evans, OMB/Office of Federal Financial Management, at (202) 395-5009 or mevans@omb.eop.gov.

SEC ISSUES SETTLEMENT CHARGES AGAINST MUNI ADVISORS

The U.S. Securities and Exchange Commission has announced that two California-based municipal advisory firms and their executives have agreed to settle charges that they used deceptive practices when soliciting the municipal bond business of five California school districts. The investigation found that while School

Business Consulting was advising the school districts about their hiring process for financial professionals, it was simultaneously retained by Keygent LLC, which was seeking the municipal advisory business of the same school districts. Without permission, School Business Consulting shared confidential information with Keygent, including questions to be asked in Keygent’s interviews with the school districts and details of competitors’ proposals including their fees. The school districts were unaware that Keygent had the benefit of these confidential details throughout the hiring process, and Keygent ultimately won the municipal advisory contracts. This is the SEC’s first enforcement action under the municipal advisor antifraud provisions of the Dodd-Frank Act.

Commenting on the settlement, Andrew Ceresney, director of the SEC Enforcement Division, stated:

“This unauthorized exchange of confidential client information could have given Keygent an improper advantage over other municipal advisors that were candidates for the same business. The Dodd-Frank Act prohibits this type of deceptive behavior by advisors when dealing with municipal issuers.”

SENATORS ASK SEC TO INVESTIGATE PUERTO RICO BOND DEALS

In a letter to SEC Commissioner Mary Jo White last week, seven senators called on the Commission to investigate potential fraud and illegal conduct, which may have contributed to Puerto Rico’s debt crisis. Specifically, the senators called upon the SEC to probe possible municipal bond market manipulation, conflicts of interest, trading practices, and fraud in the underwriting, sale, distribution and trading of municipal securities of and relating to Puerto Rico, as well as any other fraudulent, illegal or wrongful conduct. The letter states:

“Puerto Ricans deserve to know whether illegal activity contributed to the current debt burden. Separate from Congressional efforts to provide a path for Puerto Rico out of its municipal debt crisis, we believe that the SEC should immediately commence an investigation into the acts, actions and activities in connection with the underwriting, sale, distribution and trading of Puerto Rico debt in the years leading up to the present crisis.”

The seven Senators who signed the letter are Bob Menendez (D-NJ), Elizabeth Warren (D-MA), Chuck Schumer (D-NY), Kirsten Gillibrand (D-NY), Bernie Sanders (D-VT), Jeff Merkley (D-OR) and Richard Blumenthal (D-CT). The full text of the letter can be found at <https://www.menendez.senate.gov/imo/media/doc/PuertoRicoLetter.pdf>.

GFOA ISSUES NEW ALERT ON MCDC SETTLEMENT TERMS

The Government Finance Officers Association has issued another alert regarding the SEC's Municipalities Continuing Disclosure Cooperation initiative, "MCDC Initiative Settlement Terms for Issuers." The alert informs issuers that they can expect to receive settlement offers containing standard provisions to which they must consent. The SEC is requesting an extraordinarily short turn-around for the settlement (5-10 days) but has indicated that it will extend the settlement offer if the issuer requests it. To assist in a quick but thorough review, GFOA has recommended that state and local governments participating in the MCDC initiative become familiar with the standard terms that are expected to be in the offered settlements.

The alert also notes that participating issuers should remember that the MCDC settlements apply only to the issuer and not to the issuer's staff or elected officials, and that it will not release them from personal liability for federal securities law violations. Depending on the facts and circumstances, individuals involved in the alleged securities law violations may want to engage their own legal counsel to protect them individually.

The full risk alert can be found at www.gfoa.org/gfoa-alert-mcdc-initiative-settlement-terms-issuers.

SIFMA RELEASES STATE DISCLOSURE REVIEW

The Securities Industry and Financial Markets Association recently conducted a 50-state review of laws and regulations that govern local government disclosure, issuance and audit practices in an effort to better understand the financial reporting and municipal bond disclosure laws that are currently in place. In its review, SIFMA looked at questions like whether states require the submission of (and make public) official statements when bonds are issued, audited annual financial statements, and other information relevant to investors. As a result, SIFMA believes that states are in a unique position to help ensure that local government issuers make complete and timely disclosure of financial information and comply with all federal and contractual requirements.

Commenting on the new report, Michael Decker, managing director and co-head of SIFMA's Municipal Securities Division, stated:

"SIFMA supports a robust disclosure regime in the municipal market to ensure that investors have timely access to information they need to evaluate their investments. In light of our review of state policies, we believe states are the best positioned to lead the way going forward to ensure the highest level of compliance and investor information."

The report highlights can be downloaded at www.sifma.org/issues/item.aspx?id=8589960672.

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.

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