NASACT National Association of State Auditors, Comptrollers and Treasurers

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Washington Update

SEC ANNOUNCES MUNICIPAL SECURITIES FRAUD SETTLEMENT WITH ILLINOIS ISSUER

The U.S. Securities and Exchange Commission has announced a settlement with Juan Rangel, the former president of UNO Charter School Network Inc. and former CEO of United Neighborhood Organization of Chicago, for his role in a misleading $37.5 million bond offering to build three charter schools. The SEC's complaint alleges that Rangel negligently approved and signed a bond offering statement that omitted the charter schools' multi-million-dollar contracts with two brothers of UNO's chief operating officer–conflicted transactions that could have threatened UNO's ability to repay bond investors. David Glockner, regional director of the SEC's Chicago Regional Office, stated: "We allege that Juan Rangel signed off on the offering document without even reading it. This kind of negligent behavior is unacceptable in the securities markets."

According to the SEC's complaint, UNO entered into grant agreements with the Illinois Department of Commerce and Economic Opportunity (IDCEO) to build three charter schools. Rangel signed the agreements, which required UNO to certify that no conflict of interest existed and to immediately notify IDCEO in writing if any conflicts subsequently arose. However, UNO did breach the agreement when, at Rangel's direction, it contracted with its COO's brothers, agreeing to pay approximately $11 million to one brother's window company and approximately $1.9 million to another brother for services during construction. According to the complaint, UNO did not notify IDCEO about either transaction, and the offering statement disclosed only the $1.9 million contract, not the larger $11 million contract. In addition, the offering document did not disclose that by breaching its agreement, IDCEO could seek to recover the grants, requiring UNO to liquidate its charter schools to repay them, and losing the assets it depended on to repay bond investors.

NASBO RELEASES LATEST FISCAL SURVEY OF THE STATES

The National Association of State Budget Officers has released a new report on the general view of state government fiscal health. NASBO found that most state budgets continue to grow at a moderate pace after several years of slow recovery following the Great Recession. However, the progress has been uneven across states, and long-term spending pressures remain in areas such as health care, education, pensions and infrastructure.

NASBO also found that most states saw revenue growth accelerate in fiscal 2015, partially due to the strong stock market performance in calendar year 2014, with total general fund revenues having increased 4.9 percent. Thirty-two states estimated positive general fund revenue growth of less than five percent, while 10 states estimated growth greater than five percent. Of note is the fact that states have made significant progress rebuilding their reserves. In fiscal 2015, total balances reached an all-time high in actual dollars, resulting in part from larger-than-anticipated ending balances as revenue collections came in above budget projections in most states. NASBO concluded that state fiscal conditions have significantly improved and largely stabilized since the tough years during and immediately following the Great Recession. In fiscal 2016, for the first time, general fund spending and revenue levels in the aggregate are estimated to have finally surpassed their pre-recession peaks, after adjusting for inflation.

The full fiscal survey report can be found at www.nasbo.org/sites/default/files/Spring%202016%20Fiscal%20Survey%20of%20States-S.pdf.

MSRB MAKES ABLE DOCUMENTS AVAILABLE ON EMMA

The Municipal Securities Rulemaking Board has announced that offering documents about securities established by states under the Achieving a Better Life Experience Act of 2014 (ABLE Act) will now be available on the MSRB's Electronic Municipal Market Access, or EMMA, website. The ABLE Act allows states to establish tax-advantaged savings vehicles that support individuals with disabilities in maintaining health, independence and quality of life. ABLE offering documents will be made available on EMMA both voluntarily by states and per MSRB regulations by municipal securities dealers involved in the primary offering of ABLE programs.

The program disclosure booklet for Ohio's ABLE program is now on EMMA. Commenting on the new documents posted by Ohio, MSRB Executive Director Lynnette Kelly stated:

> "We are very happy to see that the first ABLE disclosure document was filed voluntarily by a state. To promote a fair and transparent municipal securities market, we look forward to making all ABLE program disclosure booklets widely available to the public on EMMA."

The EMMA website is the MSRB's official repository for information on virtually all municipal securities, including municipal fund securities. EMMA provides free public access to official disclosures, trade data, credit ratings, educational materials and other information about the municipal securities market.

CHOICE ACT INTRODUCED

House Financial Services Committee Chairman Jeb Hensarling (R-TX) has released a discussion draft of the 126-page Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs Act (CHOICE Act). In promoting the bill, Rep. Hensarling has declared it a "plan to replace the Dodd-Frank Act." The legislation would:

- Impose an across-the-board requirement that all financial regulators conduct a detailed cost-benefit analysis of all proposed regulations.
- Reauthorize the SEC for a period of five years with funding, structural and enforcement reforms.
- Abolish the Office of Financial Research.
- Impose enhanced penalties for financial fraud and self-dealing and promote greater transparency and accountability in the civil enforcement process.
- Allow the SEC to triple the monetary fines sought in both administrative and civil actions in certain cases where the penalties are tied to the defendant's illegal profits.
- Give the SEC new authority to impose sanctions equal to investor losses in cases involving "fraud, deceit, manipulation or deliberate or reckless disregard of a regulatory requirement" where the loss or risk of loss is significant, and increase the stakes for repeat offenders.
- Increase the maximum criminal fines for individuals and firms that engage in insider trading and other corrupt practices.
- Stipulate that all fines collected by the Public Company Accounting Oversight Board and Municipal Securities Rulemaking Board will be remitted to the Treasury for deficit reduction.

The three-page executive summary of the CHOICE Act can be found at http://financialservices.house.gov/uploadedfiles/financial_choice_act-_executive_summary.pdf.

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