

Annual Continuing Disclosure Filing Deadline Approaching

The annual continuing disclosure deadline to file financial information and operating data with EMMA is rapidly approaching. Each School District should check its own bond documentation, but for most Districts the annual filing deadline is 210 days after the close of the District's fiscal year. For this reporting period the deadline is on or about January 26, 2012. If you are unsure of your filing deadline or requirements, please check with us or with your underwriter or financial advisor. We have recently seen increased scrutiny by the Securities and Exchange Commission (the "Commission") with respect to such filings, and it is important that you comply with the requirements of each of your Continuing Disclosure Undertakings.

Pursuant to Section (b)(5) of Rule 15c2-12 (the "Rule") adopted by the Commission under the Securities Exchange Act of 1934, many School Districts (each, a "District") that have issued bonds (the "Bonds") were required to enter into an "undertaking" in order for such Bonds to be publicly offered. The "undertaking" document is commonly referred to as a Continuing Disclosure Undertaking (the "Undertaking"). The following is a summary of certain key portions of a standard Undertaking, although provisions can vary from document to document.

Annual Financial Information Disclosure: Contents, Timing, and Filing

Most Undertakings require certain financial information and operating data contained in a Final Official Statement ("Annual Financial Information Disclosure") to be updated by the District on an annual basis and filed with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system ("EMMA"). Additionally, Districts are required to file their audited financial statements on an annual basis.

The specific financial information and operating data which must be updated on an annual basis is set forth in either or both of the Undertaking or the Final Official Statement. If a District's audited financial statements are not available by the required filing date, such District is required by the Rule to submit unaudited financial statements, with audited financial statements to follow when available.

The District's Annual Financial Information Disclosure and audited financial statements are required to be filed with EMMA in word-searchable PDF format and accompanied by identifying information as is prescribed by the Municipal Securities Rulemaking Board (the "MSRB") or the Commission at the time of delivery of such information and by such time so that such entities receive the information by the dates specified.

Material Events and Reportable Events Disclosure

A. Contents and Timing

(i) Material and Reportable Events Disclosure

In addition to the annual filing requirements, we remind Districts that there are certain events that must be reported by the District on the EMMA system on an occurrence basis. For Undertakings entered into prior to

December 1, 2010, the “material” events required to be disclosed on an occurrence basis are as follows:

- Principal and interest payment delinquencies
- Non-payment related defaults
- Unscheduled draws on debt service reserves reflecting financial difficulties
- Unscheduled draws on credit enhancements reflecting financial difficulties
- Substitution of credit or liquidity providers, or their failure to perform
- Adverse tax opinions or events affecting the tax-exempt status of the security
- Modifications to the rights of security holders
- Bond calls
- Defeasances
- Release, substitution, or sale of property securing repayment of the securities
- Rating changes
- Substitution of credit or liquidity providers, or their failure to perform
- Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB), or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
- Modifications to the rights of security holders, if material
- Bond calls, if material, and tender offers
- Defeasances
- Release, substitution or sale of property securing repayment of the securities, if material
- Rating changes
- Bankruptcy, insolvency, receivership, or similar event of the District*
- The consummation of a merger, consolidation, or acquisition involving the District or the sale of all or substantially all of the assets of the District, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material

For Undertakings entered into on or after December 1, 2010, the “reportable” events required to be disclosed within 10 business days of the occurrence are as follows:

- Principal and interest payment delinquencies
- Non-payment related defaults, if material
- Unscheduled draws on debt service reserves reflecting financial difficulties
- Unscheduled draws on credit enhancements reflecting financial difficulties

- Appointment of a successor or additional trustee or the change of name of a trustee, if material

(ii) Disclosure Regarding Failure to Provide Annual Financial Information

Each Undertaking requires a District to file in a timely manner a notice with the EMMA system if the District has failed to provide Annual Financial Information Disclosure

* This event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the District in a proceeding under the US Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the District, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the District.

by the date specified in the Undertaking. The Rule requires that the notice be filed in a “timely manner.” This term is not defined in the Rule.

B. Filing

The Rule and each Undertaking require that either the material event and reportable event disclosure must be filed with EMMA in word-searchable PDF format and accompanied by identifying information as is prescribed by the MSRB or the Commission at the time of delivery of such information.

Failure to Comply with an Undertaking

A failure by a District to comply with an Undertaking does not generally constitute a default under the applicable bond resolution pursuant to which the Bonds were issued, and bondholders are limited to the remedy of seeking specific performance as described in the Undertaking. Nevertheless, a failure to comply with the Undertaking must be reported and must be considered by any broker, dealer, or municipal securities dealer before recommending the purchase or sale of bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price.

Consequences of Failure to Comply with the Undertaking on Future Bond Issues

Any failure to comply with the Undertaking in the five years prior to the date of a new bond issue must be reported in the official statement with respect to such bond issue. Such disclosure may adversely affect the marketing of the bond issue.

If you have questions at any time regarding your continuing disclosure responsibilities, we would be pleased to discuss them with you and trust that you will not hesitate to contact us.

Recordkeeping

We remind Districts to maintain records of all Annual Financial Information Disclosure, audited financial statement filings, and material events and reportable events disclosure, including the content of such disclosure, the names of the entities with whom such disclosure was filed, and the date of filing of such disclosure. This requirement is of particular importance for pre-EMMA filings.

If you would like to discuss any of the issues presented in this Client Alert, please contact any attorney in our Public Finance Group or visit us at chapman.com.

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