

# Overview of Change in Regulatory Environment

- Increased regulatory activity
  - New Jersey
  - SEC Comments
- New Specialized Unit at SEC
- Changes to 15c2-12

# State of New Jersey Cease and Desist Action

- Thought of by the markets as a “pension disclosure” action
- To us, most significant aspects are:
  - Predicated solely on negligence
  - Against a major issuer
- Probably represents a *de facto* change in the regulatory framework
- Heavily targets the State’s process of disclosure
- Another reminder that the SEC is concerned about the state of disclosure of pension obligations

# Implications of Tower Amendment

- Cannot directly regulate issuers
- Historically, SEC has sought to change behavior primarily through broker-dealers
  - Rule 15c2-12
  - MSRB Rules
- Due to the limitations of the Tower Amendment, the SEC is forced to effect regulatory change only through enforcement action
- The SEC would like to discuss with Congress the need to expand the SEC's authority over issuers regarding municipal disclosure

# SEC has been doing a lot of talking...

- “Unfortunately, investors in municipal securities today do not always have access to the type of information they need to evaluate their municipal investments.” *Remarks by Chairman Mary L. Schapiro, May 7, 2010*
- “...while our options seem to be limited absent legislation, we should further leverage our current antifraud authority to improve the quality and timeliness of disclosures.” *Speech by SEC Commissioner Elisse B. Walter, October 28, 2010.*

# New Specialized Unit at the SEC: Municipal Securities and Public Pensions

- In January 2010, the SEC created a specialized unit for Municipal Securities and Public Pensions
- “This unit will ... focus on misconduct in the large municipal securities market and in connection with public pension funds including: offering and disclosure fraud; tax or arbitrage-driven fraud; pay-to-play and public corruption violations; public pension accounting and disclosure violations; and valuation and pricing fraud.”

## Changes to 15c2-12

- Now requires a continuing disclosure agreement for variable rate demand bonds
- Expanded the list of material events and defined the time period within which they must be filed
- Overall, municipal market participants should see it as a formal regulatory response to what the SEC believes is an inadequate level of disclosure in the municipal markets

# What does this all mean to municipalities?

- **SEC is watching**
  - They have allocated more resources than they have historically
  - They are paying attention to the newspapers
    - New Jersey action started this way
- **SEC is generally dissatisfied with the level of disclosure in the municipal market disclosure**

# Take your disclosure seriously

- **Implement intentional and sound procedures**
  - **Problem in State of New Jersey**
  - **Make sure all subject matter experts are involved and work together**
  - **Make sure that sections properly connect to each other**
- **Make sure to include all information that matters to investors**
- **Make sure to clearly communicate what matters to investors**