

CDIAC Conference

**MUNICIPAL MARKET DISCLOSURE:
CURRENT TOPICS AND PRACTICES**

Recent SEC Enforcement Actions

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Background

- **SEC Enforcement Division Municipal Securities and Public Pensions Unit**
 - Created in 2010
 - 25 attorneys in offices around the country – most are former prosecutors
 - SEC has longstanding agenda to align municipal disclosure with corporate requirements

Historical Enforcement Actions

- **Orange County – (Board approved Official Statement without review. Failed to disclose risk of pool investments.)**
 - Board that authorizes securities is responsible for disclosure
 - Reliance on professionals must be reasonable
- **San Diego (City voluntarily files secondary market disclosure on pension and retiree healthcare liability and errors in financial statements.)**
 - Excessive Reliance on outside professionals
 - Inadequate procedures
 - Absence of high level oversight

2013 Enforcement Actions

- **State of Illinois**

- State charged with misleading investors by omitting material information relating to the unfunded liabilities of its pension system. SEC only found negligence, similar to New Jersey. (March 2013)

- **City of Harrisburg (Pennsylvania)**

- City made material misstatements in budget documents, audited financial reports and public statements. Generally SEC actions are based on Officials Statements or continuing disclosure filings, however the SEC stated that, since the City failed to make required annual disclosure filings, investors were forced to rely on the public documents and statements. (May 2013)

2013 Enforcement Actions – (cont.)

- **City of Victorville (California)**

- The SEC charged the City with securities fraud in connection with a 2008 bond offering, by utilizing inflated values relating to property securing the bonds. (The City is contesting the charges.) (April 2013)

- **City of Miami (Florida)**

- The SEC charged the City and its Budget Director with making misleading statements and omissions to investors and rating agencies about certain interfund transfers in bond offerings and in the city's audited financial reports. (The City is contesting the charges.) (July 2013)

2013 Enforcement Actions – (cont.)

- **City of South Miami (Florida)**

- City made material misstatements in documents provided to the issuer of bonds to finance a City project, which the issuer relied on in connection with the issuance of the bonds. The misrepresentations related to the City's compliance with various tax requirements, and were not specifically contained in the Official Statement for the bonds. (May 2013)

- **West Clark Community Schools District (Indiana)**

- District fraudulently stated in 2007 OS that it was in compliance with its continuing disclosure obligations related to prior bond offerings. (District had not submitted any of the required annual reports or notices for a previous 2005 bond offering.) (July 2013)

2013 Enforcement Actions – (cont.)

- **Greater Wenatchee Regional Events Center Public Facilities District (Washington)**

- The SEC charged the District and its Contracts Manager with misleading investors by providing financial projections for the Events Center in the Official Statement that were questioned by two independent reports and falsely stating that no other examination of the financial projections to verify the projections existed. The financial projections included in the Official Statement were also revised upwards based on optimistic statements by the Mayor and the Contracts Manager. (The District and Contracts Manager entered into a consent order to settle the charges. The District agreed to pay a \$20,000 penalty and undertake remedial actions.)

Common Themes of Enforcement Actions

- **Implement Disclosure Training and Written Policies/Procedures**
- **Have the right people involved – make sure that the personnel involved in disclosure preparation can reasonably be expected to know material information**
- **Give the investors all the material facts, and let them decide**