



ANNUAL MUNICIPAL DISCLOSURE TRAINING WEBINAR

OCTOBER 15, 2024 | 10:00AM – 11:30AM

HOUSEKEEPING

SLIDES

Available in the *Handouts* section of the GoToWebinar control panel

QUESTIONS

Submit your questions throughout the webinar to be addressed during a Q&A session

CAPTIONING

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<https://www.streamtext.net/player?event=CDIAC>

CERTIFICATE OF ATTENDANCE

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WEBINAR REPLAY

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TECHNICAL ISSUES

Contact GoToWebinar at (877) 582-7011 or <https://support.logmeininc.com/gotowebinar>

SPEAKER INTRODUCTIONS



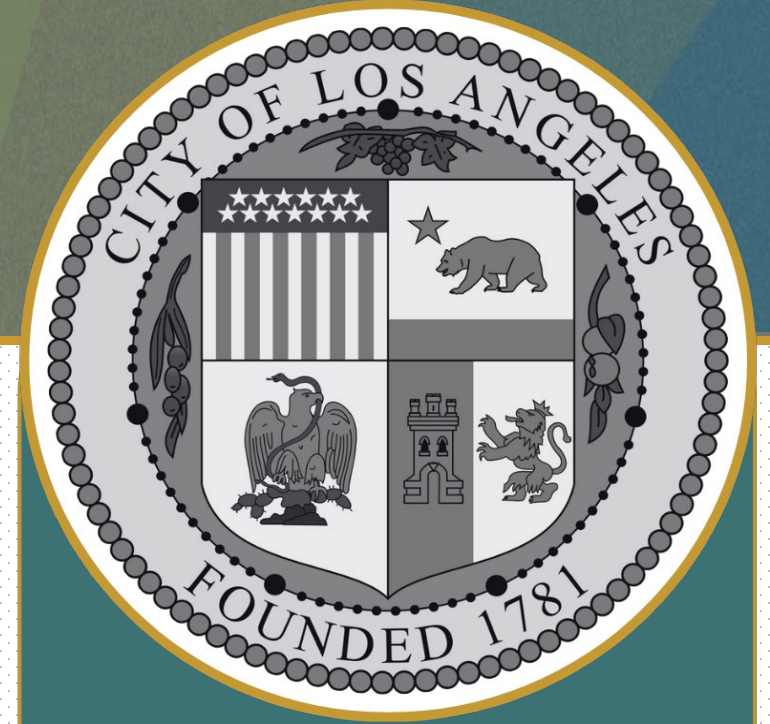
KEVIN CIVALE

Shareholder
Stradling Yocca
Carlson & Rauth LLP



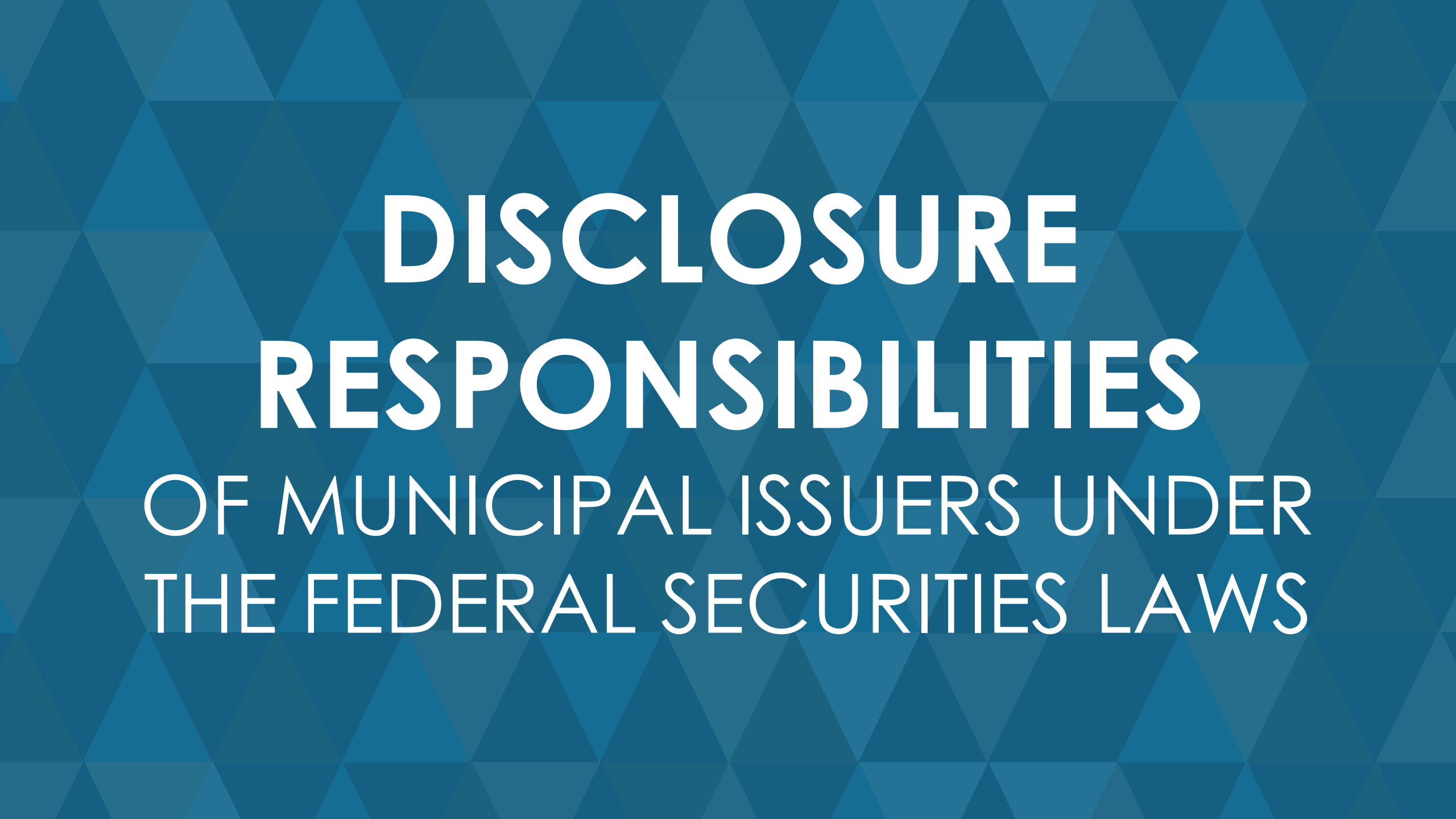
DAN DEATON

Partner
Nixon Peabody LLP



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*Chief of Debt
Management*
City of Los Angeles



**DISCLOSURE
RESPONSIBILITIES**
OF MUNICIPAL ISSUERS UNDER
THE FEDERAL SECURITIES LAWS

WHY IS DISCLOSURE NECESSARY?

- Municipal issuers issue securities in the public capital markets
- Investors in municipal securities have rights under federal securities laws
- All “material” information must be disclosed

THE FEDERAL SECURITIES ACTS

SECURITIES ACT OF 1933

- Registration requirement for most securities, but municipal bonds are not included

SECURITIES EXCHANGE ACT OF 1934

- Creates ongoing disclosure requirements for public companies, and regulates brokers and dealers
- Both 1933 Act and 1934 Act contain antifraud provisions, which do apply to municipal securities

RULE 10b5

“It shall be unlawful for any person . . .

- a) To employ any device, scheme or artifice to defraud,

- b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading”

THE “MATERIALITY” STANDARD

- “[w]hether or not there is a substantial likelihood that a reasonable investor or prospective investor would consider the information important in deciding whether or not to invest.”
- Materiality is determined in context of all the facts and circumstances, but usually on a retroactive basis
- Guidance comes primarily from court decisions and SEC enforcement cases.

WHAT SHOULD BE DISCLOSED?

- Unlike corporate securities, there is no “line item” set of rules for what goes into an Official Statement (“OS”)
- Leaders in municipal market have developed guidelines for OS content
- Other groups have suggested disclosure for particular market segments
- Look at practices in the industry; recent developments
- In the end, Issuers must use their own good judgment

WHEN DO DISCLOSURE RULES APPLY?

- New offerings
- Annual Report under Rule 15c2-12
- Any other circumstance where an Issuer is “speaking to the market”
 - Speeches and other public statements
 - Investor communications
 - Website

MUNICIPAL DISCLOSURE

- Official Statement is offering document to investors
 - equivalent to prospectus
- Must contain all material information for the particular bond sale
- Official Statement is the Issuer's document
- Underwriters, financial advisers and lawyers can help develop the Official Statement but the Issuer is ultimately responsible for content



DISCLOSURE PRINCIPLES

- Broad description of Issuer's financial and economic condition (for General Fund backed transactions)
- Description of budget process, major revenue sources and expenditure programs
- Information on recent and current budgets – “structural” deficit?
- Information on debt – types and amounts
- Litigation

DISCLOSURE PRINCIPLES – REVENUE BONDS

- Description of enterprise
- Description of capital improvement program
- Historical and projected revenues, expenses and debt service coverage
- Rate covenant and additional bonds test
- Regulatory issues
- Information on debt – types and amounts
- Litigation

DISCLOSURE PRINCIPLES (cont.)

- Provide main points but do not overwhelm readers with detail
- Highlight important developments “up front”
- Determine appropriate level of importance for any particular event or budgetary item
- Bringing all these factors together into final product is ongoing process of give and take

PROCESS



Input from involved departments; empower staff at all levels



Issuer coordinates with assistance from Municipal Advisor



Counsel helps pull information together and maintains document



Consider materiality of projections



Drafts reviewed by working group



"Due diligence" meeting before distribution of Preliminary Official Statement



Monitor throughout process for material developments

DISCLOSURE CONSIDERATIONS

- Tomorrow's "hot topic" may be different than today's
- Disclosure must evolve to reflect changing circumstances
- Read the disclosure with "fresh eyes"
- If you think something may be a concern, raise the issue with colleagues and the working group
- There are no "stupid questions"
- Political sensitivity and confidentiality considerations are not exceptions to disclosure

TOPICS OF SEC ENFORCEMENT ACTIONS

- Inadequate Pension Disclosures (San Diego, New Jersey)
- Misleading or Incomplete Financial Disclosures (Miami, City of Allen Park)
- Unusual Accounting Adjustments (Westlands Water)
- “Controlling Person” (Ramapo)
- Failed Economic Development Projects (Greater Wenatchee Regional Events Center, City of Allen Park)
- Failure to Disclose Risk (Port Authority)



CONSEQUENCES OF SEC ENFORCEMENT ACTIONS

- Fines against issuers or individual officials
- Loss of market access
- Significant legal and accounting costs
- Required implementation of remedial actions and training; in some cases, issuer required to hire outside disclosure counsel for a period of years

SUMMARY

- Full and transparent disclosure is essential
- Investors must be provided all material information when making their investment decision
- Officials participating in the disclosure process must be in a position to know material information (i.e., “the right people must be in the room”)
- Vigorous disclosure program requires buy-in and encouragement from top levels
- Empower everyone in the organization
- Be careful when making public statements
- When in doubt, disclose

1. City of LA Bond Programs

2. Disclosure Training

3. Managing Disclosure Process

4. Assembling Working Group/Professionals

5. Continuing Disclosure

HOT TOPICS

- Status of fund balance and reserves
- Cybersecurity
- Climate Change/Labeled Bonds
- ESG (Governance) Disclosure
- Federal Data Transparency Act (FDTA)

QUESTIONS?



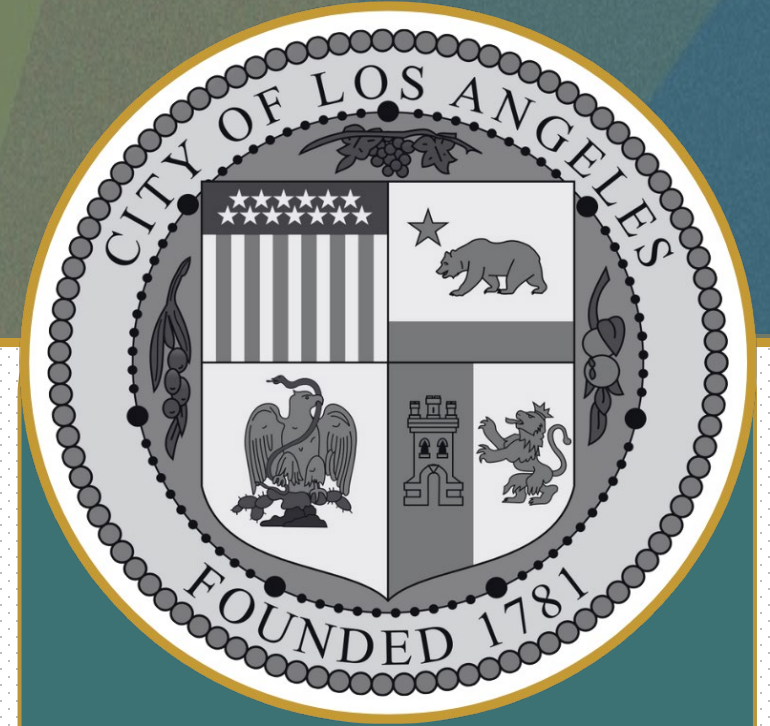
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THANK YOU

Please complete the survey immediately after the conclusion of this webinar.

UPCOMING EVENTS

23rd Annual CDIAC Pre-conference to *The Bond Buyer's* California Public Finance Conference
October 23, 2024 | San Francisco, CA

**Practical Adaptations
to the Evolution of Credit Ratings**
November 19, 2024 | Webinar

**Advanced Public Funds Investing:
The Analytics of Investment Selection**
January 22–23, 2025 | Costa Mesa, CA

Municipal Market Disclosure
April 8–9, 2025 | Costa Mesa, CA

For more information, visit:
treasurer.ca.gov/CDIAC/seminars