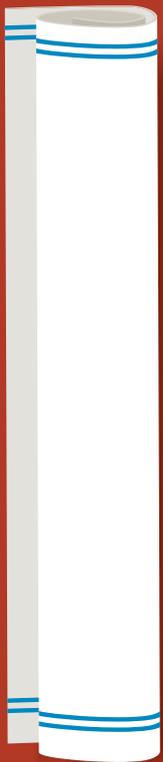


Journal

OF GOVERNMENT FINANCIAL MANAGEMENT[®] SUMMER 2017 VOL. 66, NO. 2

Guidance & Standards





Controller's Corner

Your Word Is Your Bond: Accountability in Municipal Finance

By: Lynnette Kelly, J.D.



ABOUT THE MSRB

The Municipal Securities Rulemaking Board (MSRB) is a Congressionally chartered self-regulatory organization that oversees the \$3.8 trillion municipal securities market. The MSRB protects investors; state and local governments and other municipal entities; and the public interest by regulating firms that engage in municipal securities and advisory activities. To further protect market participants, the MSRB provides market transparency through its Electronic Municipal Market Access (EMMA®) website, the official repository for information on virtually all municipal bonds. The MSRB also serves as an objective resource on the municipal market, providing educational resources for market participants. The MSRB is subject to oversight by the Securities and Exchange Commission.

www.msrb.org | emma.msrb.org

Many of the necessities of modern life are financed at the state and local level. Roads connecting homes and businesses; pipes carrying clean and waste water; public schools; and other vital infrastructure projects are built and maintained by states and municipalities. As stewards of the taxpayer dollars that bring infrastructure projects to life, state and local financial managers are accountable to citizens for how those dollars are deployed. Sound financial reporting practices are essential to preserving public trust in government.

For a state or local government that chooses to finance infrastructure projects by borrowing money from investors, the government's annual financial information speaks not only to taxpayers but also to investors in the capital markets. When preparing annual financial statements, your word truly is your bond. The content and timing of this information shapes how the market views the creditworthiness of the government's debt.

It is important for government financial managers to understand the basic legal framework for disclosure by issuers of municipal bonds, why compliance with disclosure obligations matters and how the Municipal Securities Rulemaking Board (MSRB) can help.

The Regulatory Framework

The regulatory framework for municipal bond disclosure is established at the federal level under the Securities

Exchange Act of 1934, which prohibits materially false or misleading information in disclosures to investors. Securities and Exchange Commission (SEC) Rule 15c2-12 identifies the information a municipal bond issuer is expected to provide to the market about its bonds, such as a comprehensive annual financial report (CAFR) or audited financial statement.

The rule also ensures bond issuers enter into "continuing disclosure agreements" with their bond underwriters to establish contractual obligations for when and how disclosures are provided to investors. Government financial managers in municipalities with outstanding bonds can review the terms of these agreements to determine the type, content and timing of disclosures the government pledged to make.

In recent years, the SEC ramped up enforcement of federal disclosure regulations. SEC penalties can be severe for state or local officials charged with fraud or negligence, for example a sitting mayor barred from future bond issuances or a charter school CEO personally fined \$10,000. The SEC's focus on disclosure further sharpened in 2014, with the launch of the Municipalities Continuing Disclosure Cooperation Initiative to address misrepresentations in bond-offering documents about past compliance with continuing disclosure obligations. Seventy-one municipal securities issuers in 45 states settled cases

involving the sale of municipal bonds using offering documents that contained materially false statements or omissions about past compliance with continuing disclosure obligations.

Resources and Tools to Facilitate Disclosure

State and local financial managers have an important ally in their efforts to fulfill financial disclosure obligations to taxpayers and investors. The MSRB operates its EMMA website as the official repository for disclosures about municipal bonds and to support market transparency. The EMMA website is a useful platform for issuers to disclose information to investors and the market.

Principles for Timely and Complete Disclosure

Good disclosure practices help build investor confidence and can insulate states and municipalities from potentially higher costs of capital, negative publicity and federal securities law liability. Written policies and procedures support good disclosure and ensure appropriate government finance staff understand how and when to meet the issuer's disclosure obligations. When new municipal bonds first come to market, the official statement is the document prepared by or on behalf of the issuer that describes its financial condition, risk factors and key characteristics of its bonds.

Each year that the bonds remain outstanding, the issuer has an ongoing obligation to provide an updated snapshot of its financial and operating condition. Written policies and procedures assist government financial managers with providing these annual financial disclosures as pledged in the continuing disclosure agreement. Many industry organizations provide templates for creating disclosure policies and procedures. The MSRB provides the following guiding principles for

government financial managers seeking to enhance their disclosure practices:

- 1 Fully own the official statement and include all relevant information for investors, such as detailed cost of issuance, priority of creditor payments and the most current financial and operating information and pension liability.
- 2 Make timely and complete continuing disclosures to investors throughout the life of the bond, facilitated with effective policies, procedures and industry best practices.
- 3 Voluntarily disclose to investors information on bank loans, alternative financings and other information that could affect the debt or credit profile of the issuer.
- 4 Fully utilize the EMMA website and specialized issuer and disclosure features as a resource.
- 5 Institute regular training for — and make educational resources about the municipal market and its rules available to — professionals at all levels of government.

EMMA Tools

EMMA is a resource to facilitate complete and timely disclosure. Useful EMMA tools include:

- **organization accounts**, which make the process of submitting disclosure documents to EMMA easier and more coordinated by creating a consolidated disclosure filing account for all staff and agents of an issuer;
- free **email reminders** alerting issuers when deadlines for recurring financial disclosures are approaching; and
- customizable **issuer homepages** that help investors find all disclosure documents and recent bond-trading activity by state or municipality on EMMA.

MSRB Education Center

For many government financial managers, the issuance of municipal bonds is only a small part of what they do. The online MSRB education center is a source of information about the bond issuance process, including the critically important ongoing obligation to disclose financial information to investors.

The newest MSRB educational offering is a suite of interactive, online courses that uses real-life scenarios to explore municipal market activities and MSRB regulations. The MSRB's MuniEdPro® catalog includes a complimentary course highlighting best practices and potential pitfalls of issuing municipal bonds.

Your Word Is Your Bond

It is important to remember that good financial disclosure practices facilitate accountability to both taxpayers and bondholders. If government financial managers want to maintain reliable access to capital in the municipal market, committing to making timely, accurate and complete disclosures is a fundamental management practice. Take advantage of the many tools and resources available from the MSRB to support this commitment. ▮



*Lynnette Kelly, J.D.
is executive director
of the Municipal
Securities
Rulemaking Board.*