



Item 8.2: Municipal Bond Presentation by Stradling Yocca Carlson & Rauth on Disclosure Responsibilities

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Presentation to the City Council of the City of Chula Vista

Disclosure Responsibilities Under the Federal Securities Laws

**Presented by:
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Why Is Disclosure Necessary?

- **The City from time-to-time issues securities in the public capital markets**
- **Investors in municipal securities have protections under federal securities laws**
- **All “material” information must be disclosed**

Basic Securities Disclosure Legal Framework

- **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**

Antifraud Provisions

“Rule 10b-5”

- “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.”
- Provide all the facts and let the investor decide

When Do Disclosure Rules Apply?

- **New offerings**
- **Annual Continuing Disclosure Reports**
- **Any other circumstance where an Issuer is “speaking to the market”**
 - **Whether a communication is “speaking to the market” will depend on the official making the statement and the audience (e.g., public speeches, press releases/interviews, social media)**

City Disclosure

- **Preliminary Official Statement/Official Statement (POS/OS) is the offering document to investors - equivalent to corporate prospectus**
- **Must contain all material information for the particular bond sale**
- **POS/OS is the City's document**
- **Municipal advisor, underwriters and lawyers can help develop the POS/OS but the City is ultimately responsible for the accuracy and completeness of content**

Disclosure Principles – General Fund

- **Broad description of City’s financial and economic condition**
- **Description of budget process, major revenue sources and expenditure programs**
- **Information on recent and current budgets – “structural” deficit?**
- **Information on debt – types and amounts**
- **Information on derivatives**
- **Litigation**
- **Other risks – e.g., cyber security and climate change**

Summary

- **Make sure that a robust disclosure process is being implemented, with senior staff members in the organization actively involved in the disclosure process**
- **Familiarize yourself with the POS/OS**
- **If you are aware of any particular areas of concern, inquire how they are addressed**
- **During the marketing and sale of the bonds, make sure any public statements are consistent with the POS/OS**
- **Create a culture of transparent disclosure – it comes from the top**

QUESTIONS?