

National Federation of Municipal Analysts

December 9, 1999

Ms. Lynnette Hotchkiss
The Bond Market Association
40 Broad Street
New York, NY 10004-2373

Dear Ms. Hotchkiss:

We have reviewed and considered TBMA's Recommended Uniform Disclosure Practice Municipal Official Statements Exposure Draft Dated October 6, 1999. We applaud the efforts of TBMA to standardize the language in official statements and to clear up the confusion that has arisen around this issue in the municipal market.

As the end users and beneficiaries of municipal official statements, we offer the following comments:

1. We believe that the use of the term "review" will create rather than alleviate the type of market confusion that TBMA was trying to eliminate with its recommendation. The investor will be left wondering whether the proposed language is an attempt by the underwriter to circumvent the standards of due diligence and disclosure otherwise imposed upon it by the federal and state securities laws (including statutes, regulations and case law), which clearly was not the intent of TBMA. To clear up this confusion, we strongly suggest that reference be made to the securities laws without an attempt to reduce the complex web of this jurisprudence into one-word standards. We propose that the following language would be clearer and more appropriate: "The underwriter has taken such steps as are required of it under the applicable securities laws with respect to the disclosure contained in the official statement but does not guarantee its accuracy or completeness." This would allow for the underwriter to take such steps as it deems necessary in light of the legal requirements and the facts and circumstances of each case (as suggested in Guidance Note 5), without the lingering question for the market as to whether there is some attempt being made to limit the underwriter's level of responsibility or accountability under the securities laws.
2. The draft language seems to be inconsistent with footnote 103 of the Securities and Exchange Commission's 1994 Release (cited by TBMA itself), which declares that:



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“...disclaimers by underwriters of responsibility for the information provided by the issuer or other parties, *without further clarification regarding the underwriter’s belief as to accuracy*, and the basis therefor, are misleading and should not be included in official statements [emphasis added].” The release does not specify any clarifications with respect to the underwriter’s belief as to the accuracy of the information.

3. TBMA references the history of municipal disclosure and the practice of underwriters including disclaimer language in official statements dating back to the 1970’s. This may be true. Today, however, many municipal bond offerings are far more complex in terms of legal structure and credit analysis than offerings of twenty or more years ago. The official statement is the primary (and often the only) document available to investors. The need for accurate information in the official statement is critical if investors are to properly assess the suitability of the investment.

4. We also note that it appears that conduit issuers are more frequently disclaiming responsibility for information. A clear statement that specifies the responsibility of various parties for the provision of information should be recommended.

Thank you for your consideration of our comments. We would be happy to discuss this matter with you at your convenience.

Sincerely,

Mary Metastasio
Chairman, National Federation of Municipal Analysts

Cc: Paul Maco, Securities and Exchange Commission

