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Recent SEC Enforcement Actions Highlight Continuing Disclosure Obligations of Municipal Bond Underwriters.

On September 13, 2022 the Securities and Exchange Commission filed litigation against four separate municipal securities underwriters for failing to comply with municipal bond offering disclosure requirements. The four firms at issue (three of which have settled with the Commission) sold new issue bonds without first obtaining required disclosures for investors. Each firm attempted to rely on an exemption to Rule 15c2-12 known as a limited offering. In each case, however, the participating underwriter failed to satisfy the requirements of the limited offering exemption for continuing disclosure. Among other things, the underwriters failed to establish a reasonable belief that the broker-dealers who were purchasing the securities were doing so for investment purposes, as opposed to resale. The SEC has begun further investigations of firms relying on limited offering exemptions and has opened a communication line for self-reporting and additional information. These recent enforcement actions highlight the need for underwriters to fully understand their obligations relating to continuing disclosure, including Rule 15c2-12 and its relevant exemptions.

by Richard Spoor

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