

Bond Case Briefs

Municipal Finance Law Since 1971

Hawkins Update: Disclosure Obligations of Municipal Advisors and Municipal Fund Securities Disclosure

Introduction

This Hawkins Update discusses recent publications by the Securities and Exchange Commission Office of Municipal Securities staff (the “SEC”, “OMS” and the “OMS Staff”), addressing disclosure undertakings and obligations of municipal advisors (the “OMS Statement”)[1] and by the Municipal Securities Rulemaking Board (the “MSRB”), requesting comments on its proposal to amend MSRB Rule G-32 to permit electronic access to municipal fund disclosure documents without physical delivery (the “MSRB Request”). [2]

The Office of Municipal Securities Staff Statement

The OMS Statement follows publication by OMS earlier this year of an update to its posted frequently asked questions (“FAQs”) addressing non-solicitor municipal advisors that included new specific guidance as to the scope of municipal advisory activity in the context of public-private partnerships, [3] which was discussed in the July 31, 2026 Hawkins Update.[4] As with the revisions to the FAQs, the OMS Statement addresses the scope and implications of municipal advisor activities (in this case in connection with disclosure). Each of the FAQs and the OMS Statement provides an overview of factors that OMS Staff may be expected to take into account in considering recommendations relative to enforcement or regulatory actions, rather than rules, regulations, or statements approved by the SEC that permit legal reliance.

The OMS Statement recognizes that not all municipal advisory activity requires a municipal advisor to undertake disclosure responsibilities and that not all participation in the preparation of disclosure documents by an entity that is acting as a municipal advisor in connection with the related bond issue constitutes regulated municipal advisory activity. The OMS Statement notes that MSRB Rule G-42(c) requires a municipal advisor to document its municipal advisory relationships in writing that identifies the specific municipal advisory activities that it expects to undertake and any limitations on their scope, but that the presence of limiting language in such a written statement should not be conclusive if a broader set of undertakings is evidenced by actual activities.[5] It also notes that ambiguity may arise from a written statement that is not executed and returned by the client, by subsequent oral statements that may be deemed to modify the scope of the written undertaking or by a pre-existing course of dealing, any of which may evidence an expansion of the scope described in the written statement.[6] Accordingly, a municipal advisor’s failure either to: (i) address the scope of its municipal advisory activity undertakings relative to disclosure in a writing that complies with Rule G-42(c); or (ii) maintain a scope of actual activity that is consistent with any such applicable writing may constitute both an MSRB rule violation and a factor in an OMS Staff assessment of the scope of such undertakings. Where such a writing does exist, an OMS Staff assessment of the scope of such undertakings that differs from that described in the writing may suggest a potential Rule violation, separate and apart from any disclosure issues resulting from the advisor’s participation in disclosure preparation. Such an assessment might be based on evidence of actual activity, as well as the other factors noted in this paragraph.

[Continue reading.](#)

Hawkins Delafield & Wood LLP

by Kenneth Roberts, Brian Garzione, and Brandon M. Muniz

10.22.2026

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com