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NABL Paper on MCDC Materiality.

NABL today released a paper on considerations for issuers and obligated persons on the questions of materiality and of self-reporting for the SEC's Municipalities Continuing Disclosure Cooperation Initiative (MCDC). The paper is available here. The paper and the analysis in it will be discussed on NABL's teleconference, "MCDC – Should the Issuer Self-Report." The call will be from 1:00 to 2:30 ET, Wednesday, August 6. Additional lines have become available for the teleconference and will be issued on a first-come, first-served basis to regular NABL members. Email registration requests to registration@nabl.org. Confirmations will be sent by 10AM ET Wednesday, August 6. NABL members who are not registered for the teleconference can listen in with someone who is registered or can listen to the audio recording of the teleconference on NABL's website. The audio recording will be available Thursday, August 7.

A key interpretive issue under MCDC is the meaning of "material" in the context of the Initiative. This document is intended to serve the limited purpose of suggesting a framework to analyze this issue. This document does not address whether a municipal issuer or other obligated person under a continuing disclosure agreement should self-report under the Initiative, as there are numerous factors that are involved in any such determination, but the paper does briefly describe some of the considerations the could go into a decision by an issuer or obligated person to self-report.

The paper is focused on materiality determinations by and self-reporting of issuers. NABL believes that this focus will provide the greatest benefit to its members. Because a determination of materiality is dependent on the unique facts and circumstances in any particular instance, and involves the exercise of judgment informed by experience, different parties may reach different conclusions about what is material with respect to similar facts. Moreover, it can be anticipated that issuers and underwriters will have different perspectives, both regarding what may be material and what should be self-reported, particularly in light of the cap on liability applicable to underwriters and the direct application of Rule 15c2-12 only to underwriters.

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