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Opportunities and Risks in Municipal Underwritings and Derivatives: WilmerHale

In the current economic climate, opportunities are expanding significantly for municipal underwriters and derivatives specialists as states and municipalities across the country clamor to pay for infrastructure and services, fill expanding budget gaps, and shore up unfunded or underfunded pension obligations. In evaluating and pursuing these opportunities, however, banks need to proceed with caution. Regulators are ever more focused on the activities of financial institutions in the municipal market due to possible disparities in sophistication between underwriters and municipal decisionmakers, the potential for municipal financial advisor conflicts of interest, and issues surrounding the adequacy of disclosure concerning the risk profile of different financial products in a period of elevated volatility in global financial markets. In particular, banks should cautiously assess and carefully document the appropriateness and suitability of proposed financing solutions and the disclosure to counterparties of risks associated with those solutions.

The Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board (MSRB), and the Financial Industry Regulatory Authority (FINRA) are all paying greater attention to these issues in 2015. The importance of scrutinizing transactions in this area cannot be overstated – a finding by the SEC of inadequate or inaccurate risk disclosure or a conflict of interest can lead to significant liability.

Continue reading.

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