Bond Case Briefs

Municipal Finance Law Since 1971

Assured and Orrick Retain Top Insurance, Counsel Ranks in Q2, First Half.

Assured Guaranty topped the rankings of municipal bond insurers for the second quarter while Orrick Herrington & Sutcliffe LLP was the leading bond counsel.

Quarterly League Tables

Muni issuance is only a little behind last year's pace but bond insurance penetration fell to 5.59% in the second quarter from 5.87% in the first quarter to land at 5.85% for the first half. Overall, the principal amount wrapped by Assured, Build America Mutual, and National Public Finance Guarantee – the three insurers writing new business – decreased to $12.79 billion for the first half of this year over 970 transactions, down from the $14.36 billion in 1,084 transactions during the first half of 2015, according to data from Thomson Reuters.

Assured retained its first place perch, despite having a lower principal amount insured and fewer deals with $6.84 billion in 464 deals from $8.75 billion in 594 deals, while also seeing its market share slip to 53.5% from 61% percent. The data includes Assured's subsidiary Municipal Assurance Corp.

"During the second quarter of 2016, Assured Guaranty continued to lead the industry, insuring 267 small, medium and large new issues, which represented 53% of the insured par sold in the primary market. Our $3.8 billion of primary-market par was up 25% from the first quarter of 2016," said Robert Tucker, senior managing director, investor relations and communications at Assured.

Tucker also mentioned that looking at Assured's first-half 2016 primary market activity, they captured a similar 53% of the market by guaranteeing $6.9 billion of par.

"Our secondary-market activity for the half of 2016 was very strong," Tucker said. "We issued 234 policies, totaling an industry-leading $752 million of par, 87% higher than in the first half of 2015. Our combined primary and secondary market par insured during the first half totaled $7.6 billion."

BAM also saw increases, as its principal amount insured rose to $5.59 billion in 468 issues from $5.29 billion in 479 issues. Although the mutually-owned company didn't do as many deals during the first six months of 2016 compared to the same period in 2015, they did see an increase in market share, improving to 43.6% from 36.9%.

"BAM had a great first half and a record second quarter, when our primary market par insured exceeded $3 billion for the first time," said Bob Cochran, BAM's chairman. "We got there by staying focused on our core mission of improving market access and transparency, particularly for small- and medium-sized issuers, and expanding investor demand for our guaranty."

Cochran also said that they are definitely seeing a growing awareness of the unique benefits BAM brings to a transaction as a mutual insurer, which he said includes its excellent financial strength and durable, AA/stable rating, as well as the additional transparency it provides for every insured bond by publishing a free credit profile on its website.

“The increased investor demand for BAM-insured paper was particularly obvious in our secondary market activity, which totaled almost $260 million in 190 trades in the second quarter, more than doubling volume from both the first quarter of 2016 and the second quarter last year,” Cochran said.

National also had a better first half this year compared to last year, as its amount insured increased to $367 million over 39 transactions from $309 million in 11 transactions.

“In light of the ongoing difficult environment for our industry – with extremely low interest rates and the uncertainty regarding the outcome for Puerto Rico – we are pleased that investors continue to express demand for bond insurance,” said Tom Weyl, head of new business development at National.

The municipal arm of MBIA Inc., which started writing new business in the third quarter of 2014, saw its market share inch up to 2.9% from 2.1%.

“We are also pleased with National’s steady progress. We are gaining greater attention from important parties in the market that will further our progress, especially as market conditions become more favorable,” said Weyl.

In the bond counsel rankings, Orrick not only held its first-place position but extended its lead, as the firm finished the first half of 2016 with a par amount of $22.12 billion or 10.4% market share in 217 transactions, an improvement over the $20.69 billion or 9.7% market share in 205 transactions during the first six months of 2015.

“We are obviously happy with our firm’s results for the first half of 2016,” said Roger Davis, chair of Orrick’s public finance practice. “The national market volume was down by about 4% compared to the first half of 2015. Orrick’s volume was up by about 9%, and our market share jumped by almost two full percentage points to over 10%.”

Davis said that persistent low interest rates, accompanied until recently with the threat of rate increases by the Federal Reserve, led to a large number of refundings.

“And on top of that, we saw increasingly robust new money financing activity, particularly in multifamily housing, health care, public and charter schools, energy (including alternative and distributed energy), even governmental purpose (general fund and enterprise revenue) projects, all sectors in which Orrick is particularly strong,” said Davis.

Davis also noted that the office Orrick launched in Houston in January has been busy from inception is a substantial new contributor to the firm’s public finance group and its results.

“Looking ahead, we are as busy in all of our nine public finance offices around the country as I can remember being during the summer months,” said Davis.

Hawkins Delafield & Wood LLP stayed in second place with $11.09 billion or 5.2% market share over 173 deals, all slightly down from the $12.41 billion or 5.8% market share over 225 deals the firm finished with during the same period of time last year.

McCall Parkhurst & Horton LLP saw increased year over year, as the firm moved up to third from fourth place, finishing the half with $8.48 billion in 264 transactions versus $7.89 billion in 251 transactions.

Norton Rose Fulbright dropped from third to fourth to $6.87 billion from $9.69 billion, while Kutak

Rock LLP moved up one spot into the top five with $6.14 billion from $6.10 billion.

Rounding out the top 10 are Squire Patton Boggs, Chapman and Cutler LLP, Stradling Yocca Carlson & Rauth, Sidley Austin LLP and Bracewell LLP.

The two biggest movers from the first half are Chapman and Cutler LLP, who jumped up to seventh from 15th a year ago and Bracewell LLP who leaped into the top 10 after finishing 16th during the first half of 2015.

Hawkins held the top underwriters counsel spot and pushed its lead further, finishing the first half of 2016 with $13.75 billion or 9.2% market share in just 65 deals, which compared to $10.58 billion or 7.1% market share in 83 deals in the first six months of 2015.

"For Hawkins in the first half of 2016, we had strong results across the board in terms of sectors and geography," said Howard Zucker, managing partner at Hawkins. "This is due to having more lawyers devoted to the full-time practice of public finance than any other law firm in the nation, including 14 tax attorneys. Hawkins is 162 years old, and has been doing public finance for over 135 years but we know that we cannot rest on our laurels–we understand that we have to come to work each and every day to earn and deserve the trust and confidence of our clients."

Zucker added that among the many deals in which Hawkins participated in that were noteworthy, the firm was counsel to the underwriters in the $2.4 billion dollar bond issue for the rebuilding of LaGuardia Airport that was a P3 transaction, and bond counsel for the refunding of bonds of the NYS Utility Debt Securitization Authority. In addition, Hawkins was also involved in several large transactions for the State of California, and many housing and hospital financings around the nation.

"After the bankruptcy of, among others, the City of Detroit, and the Federal enactment of legislation to address the financial situation in Puerto Rico, there is much more attention to the legal structure of transactions, including statutory liens and special revenues, and that requires expertise in bankruptcy and secured transactions," said Zucker. "This is another example of the requirement that bond lawyers have the necessary expertise in multiple areas of the law."

Hawkins opened its ninth office in Michigan last fall and as of Jan. 1, the firm added three partners to its ranks.

"We look forward with excitement to the future of public finance," said Zucker.

Norton Rose Fulbright finished second with $8.02 billion, Stradling Yocca Carlson & Rauth was in third with $6.41 billion, Kutak Rock LLP came in fourth place with $5.78 and Nixon Peabody LLP was fifth with $5.75 billion.

Rounding out the top ten are Orrick, Squire Patton Boggs, Andrews Kurth LLP, Bracewell LLP and Greenberg Traurig LLP.

The biggest jump belonged to Bracewell LLP, who finished the first half of last year in 21st place and moved up to ninth this year.

"The trend for many years has been for greater specialization in the bond legal practice. This is a reflection of the increased complexity of municipal bond issues, the highly extensive regime of federal tax regulations, as well as the heightened disclosure expectations of the market and of the SEC," said Zucker.

Zucker also noted that today law firms that want to be leaders in this field have to be truly dedicated, and have to commit significant resource to the depth and breath of expertise in order to be able to advise issuers and others in the navigation of the matrix of issues across the full range of sectors of public finance.

The Bond Buyer

By Aaron Weitzman

July 20, 2016