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Up In Smoke: The Declining Health of NYC’s Tobacco Settlement Bonds

Introduction

The Tobacco Settlement Asset Securitization Corporation (“TSASC”) is a local development corporation created pursuant to the Not-For-Profit Corporation Law of the State of New York (the “State”). TSASC was created as a financing entity whose purpose is to issue and sell bonds and notes to fund a portion of the capital program of the City of New York (the “City”). The City sold its right to receive tobacco settlement revenues (“TSRs”) to TSASC and issued debt secured by the TSRs, which are paid by cigarette companies as part of their settlement with 46 states, including the State of New York, and other U.S. Territories.

In the late 1990’s the City was faced with the possibility of curtailing its capital program because it was approaching its debt issuance capacity under the Constitutional Debt Limit.[1] To provide for the City’s capital program, the Transitional Finance Authority (“TFA”) and TSASC were created to bridge the gap and provide the City with additional financing capacity beyond the debt limit to continue to meet its capital needs. Without the TFA or TSASC, or other legislative relief, the City’s capital program would have been virtually brought to a halt beginning in early fiscal year 1998.

However, relief was fleeting and TSASC was never able to reach its full potential as the credit structure began to unwind. TSASC suspended issuance for new capital projects in 2003 and has restructured its outstanding debt twice, in 2006 and 2017, to avoid default and deliver debt service savings to the City. As discussed in this fiscal note, the City and the broader market has never been able to effectively forecast revenues or material events in the tobacco market and the TSASC credit has been subject to a suspension of issuance and two restructurings, neither of which has been successful in holding off projected default.

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