



**Hilltop**Securities  
A Hilltop Holdings Company.

# Update on Continuing Disclosure

---

Lou Ann Heath

Director

1201 Elm Street, Suite 3500

Dallas, Texas 75270

214.953.4169 Tel

[Louann.Heath@hilltopsecurities.com](mailto:Louann.Heath@hilltopsecurities.com)

## Table of Contents

---

- Introduction: HTS Continuing Disclosure Services
- Timeline – History of Continuing Disclosure
- The New 15c2-12 Amendments
- What is a Financial Obligation?
- Why did the SEC Include the New Amendments?
- SEC Rule 15c2-12 Required Material Events Filing
- What Does This Mean for Me?
- Where Do I Find the Information Required to be Filed Annually?
- Why is Compliance with Rule 15c2-12 Important?
- Non-Compliance – What Really Happens and Why?
- Know Your CUSIPs

## Introduction: HTS Continuing Disclosure Services

---

- Hilltop Securities Continuing Disclosure Services has been providing services to our customers for over 25 years, and our sole focus is on helping municipalities to meet their continuing disclosure obligations.
- HTS Continuing Disclosure Services works closely with individual municipal clients to assist them in meeting the disclosure requirements set forth in U.S. Securities and Exchange Commission Rule 15c2-12.
- We align very closely with the Hilltop Securities Financial Advisory team, offering a suite of services and products to provide you seamless, turnkey services, reducing the amount of time spent on complex reporting requirements from project inception to execution and ongoing monitoring of disclosure items.
- Hilltop Securities Continuing Disclosure Services also performs look-back reviews when our customers are issuing new bonds. Our team reviews the past 5 years of disclosure filings on EMMA for each of our customers' debt types, and deliver a report to the Financial Advisory team of the conclusions as to current continuing disclosure status.
- For new customers, we review past EMMA filings, and will make any needed 'catch-up' filings to meet our customers' requirements.

## Timeline – History of Continuing Disclosure

---

- **1975** Municipal Securities Rulemaking Board (MSRB) created by Congress to establish rules with respect to the activities of municipal securities deals – no enforcement authority
- **1975** Tower Amendment prohibits the SEC and the MSRB from requiring Issuers to file information with them prior to the sale of securities, with the intent to keep municipal issuers from being subject to federal registration and disclosure requirements
- **1989 SEC adopts Rule 15c2-12**, an amendment to the Securities Exchange Act of 1934, which mandates underwriters obtain an Issuer's agreement to deliver an official statement to determine whether key factors are disclosed, and requires a contractual obligation for the benefit bondholder that Issuer prepare and file annual reports and financial information
- **1994** SEC amends Rule 15c2-12 which prohibits a broker, dealer or municipal securities dealer from purchasing or selling municipal securities unless they have reasonably determined that an Issuer or obligated person has undertaken in a written agreement to provide certain annual financial information and event notices (*in a timely manner*) for eleven (11) specific Events

## Timeline – History of Continuing Disclosure (continued)

---

- **2008** MSRB launches the EMMA website (Electronic Municipal Market Access), a single source, free online system to provide public access to disclosure documents
  - Prior required information had to be printed and mailed to multiple information repositories to SIDs and NRMSIRs
- **2009** MSRB begins collecting and posting Continuing Disclosure documents associated with municipal bonds
- **2010** Requires Material Events to be posted in 10 business days (*not just in a “timely manner”*), adds four Material Events to the previous list, and removes the materiality determination for certain of the Events
- **2014 MCDC – Municipal Continuing Disclosure Cooperation** initiative by the SEC to consider “favorable settlement terms” for Underwriters and Municipal Issuers who self-report possible violations
- **2015/2016** SEC fined 72 underwriting firms \$18 million for these self-reported violations; 71 Municipal Issuers enter into settlement agreements – no fines

## The New 15c2-12 Amendments

---

- **2019 February 27** SEC amends Rule 15c2-12 to add two new Material Events, expanding from fourteen (14) to sixteen (16) the number of Events that Issuers must report within 10 business days of occurrence *if material*
- 15 – Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material
- 16 – Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties

## The New 15c2-12 Amendments (continued)

---

- Financial obligation means a:
  - Debt obligation
  - Derivative instrument entered into in connection with, or pledged as security of a source of payment for, an existing or planned debt obligation, or
  - Guarantee of either of these two
- Financial obligation does not include municipal securities for which a final official statement has been provided to the MSRB
- For any **new** bond offering after February 27, 2019, the two new material events must be added to the list of reportable Events and included in the Official Statement
- Subsequent “financial obligations” must be reported within 10 business days, if determined to be material
- **SEC does NOT define materiality**

# What is a Financial Obligation?

---

- May include, if deemed material:
  - Leases that operate as a vehicle to borrow money
  - Private placements
  - Bank Loans
  - Swaps
  - Energy savings performance contracts
- Take an inventory right now of what Financial Obligations are in place
- For new Financial Obligations, be prepared to file notice on EMMA within 10 business days



# Why Did the SEC Include the New Amendments?

---

- Significant increase in number private placements and bank loans executed by governments after 2008
  - Reasons are lower interest costs, lower transaction costs, simpler execution process, greater structuring flexibility, no rating requirements or offering document required
- Longer terms and larger amounts
- **Investor and MSRB concern that these could impair the rights of existing bondholders, impact the seniority status of existing bondholders, or impact credit or liquidity profile of an issuer**
- MSRB Notice 2012-18 (April 2012) encouraged Issuers to voluntarily post information about bank loan financings to EMMA
- Only 88 voluntary bank loan disclosures made on EMMA from April 2012 to January 2015

# SEC Rule 15c2-12 - Required Material Events Filing

---

## File Within 10 Business Days of Their Occurrence

1. Principal and interest payment delinquencies
2. Non-payment related defaults, if material
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, IRS notices or material events affecting the tax status of the security
7. Modifications to rights of security holders, if material
8. **Bond calls**, if material, and tender offers
9. **Defeasances**
10. Release, substitution or sale of property securing repayment of the securities, if material

## SEC Rule 15c2-12 - Required Material Events Filing-(continued)

---

### **File Within 10 Business Days of Their Occurrence**

#### **11. Rating changes**

12. Bankruptcy, insolvency, receivership or similar event of the obligated person
13. Merger, consolidation or acquisition of the obligated person or issuer, if material
14. Appointment of a successor or additional trustee or name change of a trustee, if material
15. Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties

## What Does This Mean For Me?

---

- Required: Annual Audit filed on EMMA; may require Budget as well
  - Usually due within 6 to 9 months of FYE
  - May be due 180 days or 270 days, which is NOT 6 or 9 months
- Required: Annual Financial Information compiled from Issuer financial and operating data (the Tables) filed on EMMA
  - Usually due at the same time as the Annual Audit
- Required: Material Event Notice must be filed on EMMA within 10 business days of occurrence
- Voluntary: Information that Issuer may decide to make publicly available on EMMA (but not required by SEC Rule 15c2-12)

## Where Do I Find the Information Required to be Filed Annually?

---

- Each Official Statement contains a continuing disclosure agreement, and will list what is required to be filed, and when it is to be filed
- EMMA, at <https://emma.msrb.org>, will have copies of Official Statements, plus any prior annual filings and material events that have been made
- Financial information that must be reported can vary from issue to issue, but the requirements are cumulative; ALL the information must be reported until a bond matures or is paid off
- Different revenue streams may require different financial information to be reported; General Obligation, Water/Sewer Revenue, Sales Tax pledge

## Non-Compliance–What Really Happens and Why

---

- Hilltop Securities Inc. Continuing Disclosure Services has over 25 years' experience and has worked with hundreds of customers nationwide
  - we have seen many instances of non-compliance
- Common themes (Unintentional Non-Compliance)
  - Finance personnel turnover and no training on requirements
  - No prior experience with bond issuance and post-compliance requirements
  - Never filed, though Official Statement has requirement
  - Missed CUSIPs on a filing or missed bond issue on filing
  - Missed data information Table or schedule
  - Missed/late rating change filings for previously insured issues
  - Missed/late rating upgrade/downgrade filing
  - Missed filing date deadline due to late Audit completion

## Why is Compliance with SEC Rule 15c2-12 Important?

---

- According to the Rule, Underwriters/institutional investors are prohibited from buying or selling municipal securities unless the Issuer has committed to providing continuing disclosure about the security and financial condition and operating data of the Issuer
- Underwriters may choose to not bid on a transaction if they are unable to confirm that all applicable continuing disclosure has been made
- Non-compliance language must be included in any public offering documents for the subsequent five years
- Inaccurate statements in bond offering documents is considered securities fraud and subject to increased SEC enforcement

## Know your CUSIPs

---

- EMMA is a CUSIP-based system and is how Investors track their securities ownership
- Official Statements will include CUSIPs and maturities, available on the EMMA website
- Make sure your CUSIPs are reported correctly and required information is filed on each outstanding CUSIP on EMMA for each security type
- CUSIP = Committee on Uniform Security Identification Procedures
- CUSIP numbers are frequently missed on EMMA filings
  - From our experience



- QUESTIONS?



Lou Ann Heath, Director  
1201 Elm Street, Suite 3500  
Dallas, Texas 75270  
214.953.4169 Tel  
[Louann.Heath@hilltopsecurities.com](mailto:Louann.Heath@hilltopsecurities.com)

---

## Sources:

MSRB Regulatory Notice 2015-03

<http://www.sec.gov/fules/final/2018/34-83885.pdf>

<https://www.sec.gov/news/press-release/2018-158>

<http://www.msrb.org/Rules-and-Interpretations/MSRB-Rules/Facilities/EMMA-Facility.aspx>

<https://emma.msrb.org/AboutEmma/Overview>

This presentation is for informational purposes only and should not be construed as a complete interpretation of the MSRB 15c2-12 Amendments. Please call 214-953-4169 for more information.

HilltopSecurities is a wholly owned subsidiary of Hilltop Holdings, Inc., (NYSE:HTH) with offices at 1201 Elm Street, Suite 3500, Dallas, Texas 75270, (214) 859-1800. Member NYSE, FINRA, SIPC.

---