

BOND COMPLIANCE

Continuing Disclosure and Other Compliance Topics for Municipal Issuers

May 5, 2023

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C Continuing Disclosure

Background Info: Continuing Disclosure Undertaking

- Mandated by [Securities and Exchange Commission Rule 15c2-12 \(the “Rule”\)](#) of the Securities Exchange Act of 1934
 - Intent is to deter fraud and manipulation by improving the availability of information about municipal securities outstanding in the secondary market
 - Underwriters prohibited from purchasing or selling municipal securities unless Issuer enters into a Continuing Disclosure Agreement (CDA)
 - Underwriter required to review disclosure in final official statement – must disclose compliance failures within a 5-year window
 - A municipal issuer of bonds in the public securities market will almost always have continuing disclosure obligations under the Rule
 - Some exemptions from the Rule:
 - ✓ Certain Private Placement transactions (most common exemption)
 - ✓ Bond issues with par amounts of \$1 million or less
 - ✓ Issues offered in \$100,000 denominations
 - ✓ Small issuer exemption
 - Check with your Bond Counsel

Background Info: Continuing Disclosure Undertaking

➤ CDA form approved as part of bond financing

➤ Issuer contract with investors with:

1. Annual Financial Information:

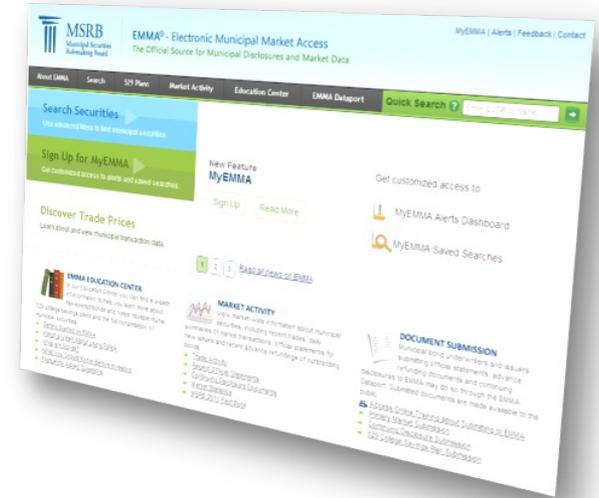
- Audited annual financial information AND
- Operating Data as specified in the CDA

2. Notice(s) of Listed Event(s)

3. To a single national repository hosted by the Municipal Securities Rulemaking Board (MSRB). Electronic Municipal Market Access (EMMA) portal located at www.emma.msrb.org.

4. Voluntary Disclosures

- Specific to each bond issue outstanding
- Promise extends over the life of every bond issue outstanding



Electronic Market Municipal Access (“EMMA”) Registration

- Create a login at www.emma.msrb.com to be able to access and make filings to the website
 - Individual Login: One person has access
 - Institutional Login: Multiple people would have access to a general account for your municipality
 - For those who have not previously registered with EMMA, the process may require a “Confirmer’s Email Address.” You could enter Stifel employee Peggy Hickey’s email address (phickey@stifel.com) and she will confirm the new account

- Additional Resources:
 - **MSRB Submission Tutorials and Manuals:**

<http://www.msrb.org/Market-Transparency/Submission-Tutorials.aspx>

 - **MSRB Support:**

Phone: (202) 838-1330

Email: msrbsupport@msrb.org

 - For further assistance, call your bond counsel and/or your banking team

30,000-foot view of Continuing Disclosure Requirements

- If you have **publicly issued bonds**, you should assume you have continuing disclosure obligations
- All filings must be made to the EMMA website by a certain date, **typically by February 1st** following the end of the previous fiscal year
- Annual Filing Requirements include two items:
 - **Audited Financial Statements**
 - **Operating Data** promised in the Official Statement of the bond transaction
 - ✓ Look in the Continuing Disclosure Appendix **for each bond issue** for the promised Operating Data
- There are **Listed Events** that require notice within 10 days of occurrence, the most common are:
 - Credit rating changes (upgrades or downgrades)
 - Any material new Financial Obligations (ask your bond counsel on materiality)
 - ✓ Do **NOT** need to file notice of publicly sold bonds as investors have access to that information
 - ✓ Notice of new Financial Obligations is only required if you have entered into a Continuing Disclosure Agreement after February 2019

Practical Tips to Stay in Compliance

- **Include the required Operating Data in the Statistical Section of your ACFR**
 - Filing of your ACFR would satisfy **both** filing requirements of audited financial statements and Operating Data
 - Presumably the Statistical Section would have the same tables going forward each year, making the filing of the Operating Data **automatic** to a certain extent
 - Some or all of the required Operating Data may already be in the Statistical Section
 - Note: Issuers do NOT all have the same promised Operating Data tables, especially on older transactions

- **Set a recurring reminder to staff each year before filing date**
 - Outlook / calendar invite
 - EMMA website includes helpful notification features

- **Create a Matrix that organizes the disclosure obligations by each issuance**

Sample Matrix

Create a **Matrix** of your requirements for each outstanding issue

	\$14,740 General Obligation Refunding Bonds Tax-Exempt Series 2017A Dated: 12/ 14/ 2017	\$21,390 General Obligation Bonds Series 2019 Dated: 5/ 23/ 2019	\$13,670 General Obligation Bonds Series 2021 Dated: 12/ 16/ 2021
1 Annual Filing Date:	February 1	February 1	February 1
2 Operating Data from OS Tables:			
TABLE 2 - Average Daily Membership	✓	✓	✓
TABLE 5 - Current Year Statistics			
TABLE 6, 13 or 14 - Direct General Obligation Bonded Debt Outstanding and to be Outstanding			
TABLE 7, 14 or 15 - Constitutional Debt Limit/ Unused Borrowing Capacity after Bond Issuance	✓	✓	✓
TABLE 8, 15 or 16 - Statutory Debt Limit/ Unused Borrowing Capacity after Bond Issuance	✓	✓	✓
TABLE 10, 14 or 17 - Direct and Overlapping General Obligation Bonded Debt Ratios			
TABLE 11 or 18 - Other Obligations			
TABLE 6 or 13 - Real and Secured Property Taxes Levied and Collected			
TABLE 7 - Property Taxes Levied and Collected	✓	✓	✓

Sample Matrix

Create a **Matrix** of your requirements for each outstanding issue (continued)

3	CJSIP-6*:	567134	567134	567134
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4	Underlying Rating(s):	At Issuance	As of 12/19/22	At Issuance	As of 12/19/22	At Issuance	As of 12/19/22
	Moody's	NR	NR	NR	NR	NR	NR
	Standard & Poor's	"A+"	"A+"	"A+"	"A+"	"A+"	"A+"
	Fitch	NR	NR	NR	NR	NR	NR

5	Insurer:	BAM		BAM		AGM	
	Insured Rating(s):	At Issuance	As of 12/19/22	At Issuance	As of 12/19/22	At Issuance	As of 12/19/22
	Moody's	NR	NR	NR	NR	NR	NR
	Standard & Poor's	"AA"	"AA"	"AA"	"AA"	"AA"	"AA"
	Fitch	NR	NR	NR	NR	NR	NR

Link to Official Statement:	https://emma.msrb.org/P21462904-P21135232-P21547988.pdf	https://emma.msrb.org/P11536056-P11186992-P11604052.pdf	https://emma.msrb.org/P21624553-P21251234-P21676090.pdf
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6	Latest Final Maturity:	7/1/2040	7/1/2041	7/1/2042
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7	When Filed:	1/31/2023	1/31/2023	1/31/2023
	Who Filed:	Ceedee Yoo	Ceedee Yoo	Ceedee Yoo
	Who Supervised:	Der Ector	Der Ector	Der Ector
	Source Documents:	ACFRand Operating Data Tables	ACFRand Operating Data Tables	ACFRand Operating Data Tables
	Record Location:	File Cabinet A	File Cabinet B	N:\CDU Records

NOTE: The tables needed for continuing disclosure can change for each offering

What if the ACFR won't be available by the filing date?

- If the ACFR or audited financial statements will not be finalized by the required filing date:
 1. File a notice of late filing and include when the ACFR may be expected
 2. File unaudited financial statements, if available
 3. File the required Operating Data tables

Always feel free to reach out to your bond counsel or banking team if you have questions or concerns

Sample Requirement: Annual Filing Deadline

- ① Using your **Continuing Disclosure Certificate**, record the **Annual Filing Deadline** for each outstanding issue
 - **February 1 is most common**, but if your municipality typically finalizes their audit later than that, a different date may have been used.

APPENDIX D

FORM OF CONTINUING DISCLOSURE UNDERTAKING

CONTINUING DISCLOSURE UNDERTAKING

\$13,670,000
CITY OF ARIZONA, ARIZONA
GENERAL OBLIGATION BONDS, SERIES 2021

This Continuing Disclosure Undertaking (this “Undertaking”) is executed and delivered by the City of

Section 3. Provision of Annual Reports.

(a) Commencing February 1, 2023, and by no later than **February 1** of each year thereafter (the “Filing Date”), the District shall, either directly or by directing the Dissemination Agent to do so, provide an Annual Report to MSRB. The Annual Report shall be provided electronically and in a format prescribed by MSRB. The Annual Report shall be consistent with the requirements of Section 4 of this Disclosure Certificate and shall include information from the fiscal year ending on the preceding June 30. All documents provided to MSRB shall be accompanied by identifying information prescribed by MSRB. Currently, filings are required to be made with EMMA. Not later than fifteen (15) business days prior to such Filing Date, the District shall provide the Annual Report to the Dissemination Agent (if other than the District).

(b) If the District is unable or for any reason fails to provide electronically to EMMA an Annual Report or any part thereof by the Filing Date required in subsection (a) above, the District shall, in a timely manner, send a notice to EMMA in substantially the form attached as Exhibit A not later than the Filing Date.

(c) If the District’s Audited Financial Statements are not submitted with the Annual Report and the District fails to provide to EMMA a copy of its Audited Financial Statements within thirty (30) days of receipt thereof by the District, then the District shall, in a timely manner, send a notice to EMMA in substantially the form attached as Exhibit B.

Sample Requirement: Operating Data

- ② Using your [Continuing Disclosure Certificate](#), list all Operating Data tables for each outstanding issue

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\$13,670,000
CITY OF ARIZONA, ARIZONA
GENERAL OBLIGATION BONDS, SERIES 2021

This Continuing Disclosure Undertaking (this "Undertaking") is executed and delivered by the City of

EXHIBIT I

ANNUAL FINANCIAL INFORMATION AND TIMING AND
AUDITED FINANCIAL STATEMENTS

"Annual Financial Information" means financial information and operating data of the type contained in Appendix B of the Final Official Statement in [Table Nos. 7, 9, 10, and 15](#) in each case, actual results for most recently completed fiscal year only).

APPENDIX F

FORM OF CONTINUING DISCLOSURE CERTIFICATE

\$21,120,000
TOWN OF ARIZONA, ARIZONA
EXCISE TAX REVENUE OBLIGATIONS, TAX-EXEMPT SERIES 2021

CONTINUING DISCLOSURE CERTIFICATE
(CUSIP Base No. 68702K)

(B) Annually updated financial information and operating data of the type contained in the following tables in the Official Statement:

TABLE 5 – HISTORICAL AND PROJECTED COLLECTIONS OF EXCISE TAXES AND PARKS AND RECREATION TAXES

Sample Requirement: Operating Data

② Using your **Official Statements**, match the required Operating Data tables for each outstanding issue

TABLE 7

Property Taxes Levied and Collected (a)
City of Arizona, Arizona

Fiscal Year	Combined Primary and Secondary Tax Rates	Adopted City Tax Levy	Adjusted City Tax Levy as of June 30th	Collected to June 30th of Initial Fiscal Year		Adjusted City Tax Levy as of 9/30/2021	Cumulative Collections to September 30, 2021	
				Amount	% of Adj. Levy		Amount	% of Adj. Levy
2021/22	\$ 1.4224	\$ 6,995,317	\$ 6,940,836	(b)	(b)	\$ 6,995,064	\$ 325,696	4.66%
2020/21	1.4242	6,579,129	6,566,644	\$ 6,414,655	97.69%	6,520,694	6,462,993	99.12
2019/20	1.6543	7,162,807	7,156,361	6,989,449	97.67	7,112,023	7,109,577	99.97
2018/19	1.7619	7,049,735	7,040,684	6,960,919	98.87	7,001,300	6,999,453	99.97
2017/18	1.6000	5,941,343	5,923,946	5,858,479	98.89	5,922,970	5,921,634	99.98
2016/17	1.6952	5,913,568	5,898,543	5,825,124	98.76	5,891,962	5,890,792	99.98

TABLE 10

Net Limited Assessed Property Value of Major Taxpayers
City of Arizona, Arizona

Major Taxpayer (a)	2021/22		As % of 2021/22 Net Limited Assessed Property Value
	Net Limited Assessed Property Value	Net Limited Assessed Property Value	
J & J Coldwater LLC	\$ 8,317,383		1.69 %
Phoenix Speedway Corp.	8,313,304		1.69
Inland Western Avondale McDowell LLC	5,559,555		1.13
Arizona Public Service Company	4,771,790		0.97
Avalon TIC Two LLC/Avalon TIC One LLC	4,557,000		0.92
PR 101 Logistics Park Building 2 LLC	4,404,650		0.89
Universal Technical Institute of Arizona LLC	3,799,010		0.77
Avondale Commerce LLC	3,770,537		0.76
Gateway Crossing SC LLC	3,683,608		0.75
MREI IV Mirabella LLC	3,595,037		0.73
	<u>\$ 50,771,874</u>		<u>10.29 %</u>

TABLE 9

Net Limited Assessed Property Value by Property Classification (a)
City of Arizona, Arizona

Class	2021/22	2020/21	2019/20	2018/19	2017/18
Commercial, Industrial, Utilities & Mines	\$ 160,729,805	\$ 148,296,026	\$ 141,158,509	\$ 126,875,220	\$ 116,071,672
Agricultural and Vacant	18,673,793	17,360,322	14,771,820	13,766,283	13,443,493
Residential (owner occupied)	200,081,720	187,913,902	175,040,571	163,390,668	149,096,112
Residential (rental)	113,343,669	108,152,473	102,750,767	93,855,337	91,364,163
Railroad	322,535	309,352	322,790	319,883.00	900,915
Certain Government					
Property Improvements	55,670	53,020	50,495	81,557	45,801
Totals (b)	<u>\$ 493,207,192</u>	<u>\$ 462,085,095</u>	<u>\$ 434,094,952</u>	<u>\$ 398,288,948</u>	<u>\$ 370,922,156</u>

TABLE 15

General Municipal Purpose Bonds		Water, Light, Sewer, Open Space, Public Safety, Law Enforcement, Fire and Emergency Services, Park, Street and Transportation Facilities Bonds	
Total 6% General Obligation Bonding Capacity	\$ 46,896,339	Total 20% General Obligation Bonding Capacity	\$ 156,321,133
Less: 6% General Obligation Bonds Outstanding	(13,901,225) (a)	Less: 20% General Obligation Bonds Outstanding	(32,908,775) (a)
Less: Original Issue Premium of the Bonds	(1,171,296) (b)	Less: Original Issue Premium of the Bonds	(1,358,704) (b)
Less: Unamortized Original Issue Premium of the Prior Bonds	(994,801) (c)	Less: Unamortized Original Issue Premium of the Prior Bonds	(1,539,323) (c)
Net 6% General Obligation Bonding Capacity	<u>\$ 30,829,017</u>	Net 20% General Obligation Bonding Capacity	<u>\$ 120,514,331</u>
Total Capacity	<u>\$ 151,343,348</u>		

Sample Requirement: Operating Data

- ② Using your **Official Statements**, match the required Operating Data tables for each outstanding issue

TABLE 5

HISTORICAL AND PROJECTED COLLECTIONS OF EXCISE TAXES AND PARKS AND RECREATION TAXES (a)

Source	Audited (a)					Estimated	Budgeted
	2015/16	2016/17	2017/18	2018/19	2019/20	Actual 2020/21 (b)	2021/22 (b)
Town Sales & Franchise Fees (c)	\$ 14,534,671	\$ 17,073,435	\$ 18,617,863	\$ 19,545,263	\$ 19,800,213	\$ 20,808,176	\$ 19,487,749
Licenses & Permits	1,915,992	2,388,950	2,679,690	2,387,832	2,400,899	3,362,933	1,874,000
Fines	159,154	131,637	131,393	135,771	111,611	135,547	125,000
State-Shared Sales Tax	3,886,852	3,989,179	4,210,168	4,469,774	4,694,491	5,462,343	5,406,272
State-Shared Income Tax	4,937,719	5,329,864	5,422,693	5,370,779	5,870,231	6,580,331	6,007,636
Subtotal (d)	<u>\$ 25,434,388</u>	<u>\$ 28,913,065</u>	<u>\$ 31,061,807</u>	<u>\$ 31,909,419</u>	<u>\$ 32,877,445</u>	<u>\$ 36,349,330</u>	<u>\$ 32,900,657</u>
Parks and Recreation Taxes (e)	\$ 2,030,750	\$ 2,199,466	\$ 2,330,941	\$ 2,469,464	\$ 2,584,916	\$ 2,947,420	\$ 2,932,798
Total	<u>\$ 27,465,138</u>	<u>\$ 31,112,531</u>	<u>\$ 33,392,748</u>	<u>\$ 34,378,883</u>	<u>\$ 35,462,361</u>	<u>\$ 39,296,750</u>	<u>\$ 35,833,455</u>

CUSIP Association

3 Using your **Official Statement**, make a list of CUSIP Numbers for each outstanding issue

➤ What is a **CUSIP** (Committee on Uniform Security Identification Procedures)?

CUSIP-6
Provides base information for most filings

- Identification number assigned to each maturity of an issue (i.e. serial number)
- Example: 5 6 7 1 3 4 H **C** 8

CUSIP-6 = base that uniquely identifies the Issuer

i.e. Town of Nicolaus Municipal Property Corporation

Identifies exact bond issue

“check digit”

i.e. Sewer Revenue Bonds, Series 2011

Add to CUSIP-6 for CUSIP-9 level

LIBERTY ELEMENTARY SCHOOL DISTRICT NO. 25
OF MARICOPA COUNTY, ARIZONA
SCHOOL IMPROVEMENT BONDS, PROJECT OF 2019, SERIES D (2022)

MATURITY SCHEDULE

Maturity Date (July 1)	Principal Amount	Interest Rate	Yield	CUSIP ⁽¹⁾ No. 567134
2023	\$ 90,000	4.000 %	3.030 %	HC8
2024	485,000	4.000	3.130	HD6
2025	315,000	4.000	3.170	HE4
2026	330,000	4.000	3.200	HF1
2027	340,000	4.000	3.250	HG9
2028	355,000	4.000	3.320	HH7
2029	370,000	5.000	3.350	HJ3
2030	385,000	5.000	3.390	HK0
2031	405,000	5.000	3.490	HL8
2032	425,000	5.000	3.540	HM6
2033	450,000	5.000	3.670*	HN4

\$965,000 5.000% Term Bond due July 1, 2035 – Yield 3.860%* CUSIP⁽¹⁾ No. 567134-HP9

\$1,065,000 5.000% Term Bond due July 1, 2037 – Yield 3.920%* CUSIP⁽¹⁾ No. 567134-HQ7

\$3,120,000 4.375% Term Bond due July 1, 2042 – Yield 4.420% CUSIP⁽¹⁾ No. 567134-HR5

Listed Events Information

Securities and Exchange Commission Rule 15c2-12 – Listed Events	
<input type="checkbox"/> Principal and interest payment delinquencies	CDUs Dated Prior to December 1, 2010
<input type="checkbox"/> Non-payment related defaults	
<input type="checkbox"/> Unscheduled draws on debt service reserves reflecting financial difficulties	"In a timely manner"
<input type="checkbox"/> Unscheduled draws on credit enhancements reflecting financial difficulties	
<input type="checkbox"/> Substitution of credit or liquidity providers, or their failure to perform	CDUs Dated on or after December 1, 2010
<input type="checkbox"/> Adverse tax opinions or events affecting the tax-exempt status of the security	
<input type="checkbox"/> Modifications to rights of security holders	Within 10 business days of the event
<input type="checkbox"/> Bond calls and tender offers	
<input type="checkbox"/> Defeasances	CDUs Dated on or after February 27, 2019
<input type="checkbox"/> Release, substitution or sale of property securing repayment of securities	
<input type="checkbox"/> Rating changes	Within 10 business days of the event
<input type="checkbox"/> Bankruptcy, insolvency or receivership	
<input type="checkbox"/> Merger, acquisition or sale of all issuer assets	
<input type="checkbox"/> Appointment of successor trustee	
<input type="checkbox"/> 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; and	
<input type="checkbox"/> 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	

Best Practices

Resources:

Access EMMA Dataport to Submit Documents

EMMA Tools for State and Local Governments

Schedule Email Reminders for Recurring Financial Disclosures

Login to MSRB Gateway

Don't have an account? Register ▶

[Access Online Training about Submitting to EMMA](#)

[MSRB Gateway Manual](#) ▶

- emma.msrb.org/
- **MSRB's Support Number:**
202-838-1330
EMMAOnline@msrb.org
- **Municipal Securities Rulemaking Board**
1300 I Street NW, Suite 1000
Washington, DC 2005
202-838-1500

Best Practices:

- Have a clear understanding of your responsibilities as defined in the CDA *prior* to execution
- Adopt **written policies and procedures** for disclosures in municipal offerings and continuing disclosure documents
 - Create matrix
 - Identify individuals responsible for collecting and filing CDA items
 - ✓ Ongoing/agency-wide training
 - ✓ Have a succession plan
 - ✓ Audit checklist
 - Establish clear timelines
 - ✓ Tickler system
 - ✓ Audit contract
 - Listed Events Requirements
 - Record Retention
 - Review and update policies and procedures on an annual basis
 - Attach applicable “Notices” with late or missing filings
 - Hire a Dissemination Agent

Resources

➤ Dissemination Agent / Bond Compliance Providers:

BLX	Digital Assurance Certification (DAC)
<p data-bbox="407 419 683 448">www.blxgroup.com</p> <p data-bbox="459 461 631 489">Jeff Higgins</p> <p data-bbox="446 501 645 529">213-612-2209</p> <p data-bbox="374 542 716 571">jhiggins@blxgroup.com</p>	<p data-bbox="1277 419 1553 448">www.dacbond.com</p> <p data-bbox="1344 461 1489 489">Lisa Olsen</p> <p data-bbox="1315 501 1518 529">407-515-1100</p> <p data-bbox="1263 542 1570 571">lolsen@dacbond.com</p>
Issuer to Issuer	NBS
<p data-bbox="378 695 712 723">www.issuer2issuer.com</p> <p data-bbox="446 736 645 765">Deborah Todd</p> <p data-bbox="446 776 645 805">360-910-5053</p> <p data-bbox="355 818 736 846">debbie@issuer2issuer.com</p>	<p data-bbox="1286 695 1543 723">www.nbsgov.com</p> <p data-bbox="1335 736 1499 765">Tim Seufert</p> <p data-bbox="1315 776 1518 805">800-434-8349</p> <p data-bbox="1263 818 1570 846">tseufert@nbsgov.com</p>
Willdan Financial Services	
<p data-bbox="156 972 942 1001">www.willdan.com/financial/continuing_disclosure.aspx</p> <p data-bbox="459 1013 631 1042">Dave Davies</p> <p data-bbox="446 1053 645 1082">951-587-3520</p> <p data-bbox="394 1095 703 1123">ddavies@willdan.com</p>	

Other Compliance Topics

Other Compliance Topics

➤ Federal Tax Laws for Tax-Exempt Issuance

- Use of bond proceeds must only be used for certain types of public infrastructure projects
- Investment earnings and arbitrage rebate

➤ State Laws

- Ballot and publicity pamphlet limits on use of proceeds

➤ Deal-specific

- Legal documents (typically on revenue bonds) can contain promises or “covenants” to investors related to:
 1. Coverage requirements – raise utility or tax rates or tax rates to maintain a certain level
 2. Additional bonds test – can only issue additional parity bonds if this test is met

➤ GASB 88 – Disclosures Related to Debt, including Direct Borrowings and Private Placements

Disclosure

Stifel, Nicolaus & Company, Incorporated (“Stifel”) has prepared the attached materials. Such material consists of factual or general information. Stifel is not hereby providing a municipal entity or obligated person with any advice or making any recommendation as to action concerning the structure, timing or terms of any issuance of municipal securities or municipal financial products.

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