

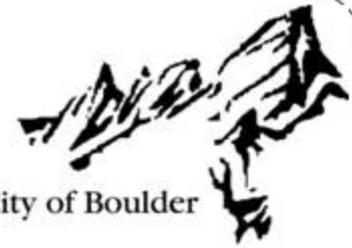
Municipalities Continuing Disclosure Cooperation Initiative

November 18, 2014

Presentation by Bob Eichen & Tom Carr

Tower Amendment

City of Boulder



- 1975 Amendment to the Securities Exchange Act of 1934
- Prohibits the SEC from requiring Municipal Bond Issuers to file disclosures before issuing municipal bonds.

SEC Rule 15c2-12

City of Boulder



- Prohibits **brokers, dealers, and municipal securities dealers** from purchasing or selling municipal securities unless they reasonably believe that the issuer **has agreed to disclose** such things as annual financial statements and notices of certain events, such as payment defaults, rating changes and prepayments.
- So much for the Tower Amendment

MCDC Initiative

City of Boulder



- In March 2014, the SEC's Enforcement Division offered issuers and underwriters an opportunity to self-report previous failures to report violations of continuing disclosure requirements.
- Underwriters reported by September 20.
- Issuers are required to report by December 1.

Reporting

City of Boulder



- Required to Report a **Material** failure to disclose
- As part of the report the issuer must agree in advance to the entry of a cease and desist order.
- The SEC staff then gets to decide whether the misstatements reported were material.
- SEC staff have refused to give guidance about what is material.
- If an omission is reported voluntarily, the SEC will not seek monetary penalties.

Settlement Terms

City of Boulder



- Establish appropriate policies and procedures and training regarding continuing disclosure obligations;
- Comply with existing continuing disclosure undertakings, including updating past delinquent filings;
- Cooperate with any subsequent investigation by the Division regarding the false statement(s);
- Disclose the settlement terms in any final official statement for an offering by the issuer for five years; and
- Provide the Commission staff with a compliance certification regarding the applicable undertakings by the issuer on the one year anniversary of the date of institution of the proceedings.

Continuing Disclosure Omissions Identified by Staff

City of Boulder



- On two occasions the city's bond rating was increased and the city did not report the improved bond rating.
- The city is required to update annually a table of tax revenue from trash haulers and a table of ten largest customers and base rate history for the Stormwater Utility. These tables were not updated annually. In August, staff discovered this omission and corrected the tables.
- The ratings for various insurers of city bonds were downgraded. The city decided not to report these changes, because the downgrades were common knowledge in the investment community.

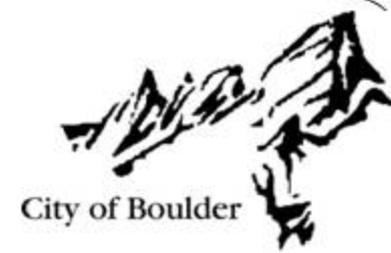
Report by Underwriters

City of Boulder



- The city used seven underwriters in the last five years.
- Six of the underwriters did not report any material omissions by the city.
- One underwriter reported the city's failure to disclose the improved bond rating.

Staff Recommendation



- Staff recommends that the city **not** participate in the MCDC.
- Neither the city nor outside counsel believe that any of the omissions discovered were “material.”
- Staff should continue to develop and implement procedures to support compliance with continuing disclosure obligations.