

OPENING STATEMENT FOR CHAIRMAN LEVITT  
March 9, 1994

The first item for the Commission's consideration is the recommendation of the Divisions of Market Regulation and Corporation Finance to publish companion releases regarding municipal securities disclosure.

The mission of the Securities and Exchange Commission is to ensure that investors and issuers can rely on the openness, fairness, efficiency, and strong values of the U.S. securities market -- in short, to protect the integrity of the world's greatest financial marketplace.

Nowhere is public confidence more critical than the public debt market. The municipal securities market, which has fueled the development of America's infrastructure, is of vital importance to this Nation's economy.

My colleague, Commissioner Rick Roberts, has been at the forefront in highlighting the importance of the municipal securities market and the need for vigilance in preserving the integrity and vitality of that market. Commissioner Roberts has effectively used his office to focus the debate on the key to achieving these goals: information, at the time of issuance and throughout the life of municipal securities. Information, accessible to all is the best way to instill greater confidence in our markets; it is the foundation for strengthening efficiency and integrity.

The municipal marketplace has changed and grown, and with it the need, and demand, for improved disclosure has intensified. There are guidelines today, published by market participants, that give extensive guidance to issuers that provide disclosure on a voluntary basis. This is not enough. Those good practices are not always followed, particularly in providing ongoing disclosure to the secondary market. Further action is needed.

First, Congress should repeal the registration exemption of the federal securities laws for corporate obligations underlying certain non-governmental conduit securities. And I have so testified.

Second, the need for better and more accessible information in the secondary market must be addressed. Many of the market participants we have met with over the past few months have echoed this concern. Although the majority of securities traded are issued by entities that are constantly in the market, a significant number of issuers have no secondary market disclosure at all. It is time for a change.

That is why I am so pleased that in December, in response to our call for a market-sponsored disclosure solution, a group of 12 organizations, representing municipal securities issuers and underwriters, bond lawyers and analysts, presented the SEC with a Joint Statement that calls for voluntary and regulatory action to improve disclosure in the secondary market for municipal securities. The Joint Statement serves as a template for many of the recommendations we are considering today. We will continue to work closely with the market to develop effective and practical mechanisms to improve disclosure.

The staff first recommends that the Commission issue an interpretive release concerning the application of the antifraud provisions of the federal securities laws to municipal securities issuers and other market participants in primary offerings and disclosure in the secondary market. Municipal issuers need to be concerned that they do not mislead investors both when offering their securities and on an ongoing basis. Market participants look to whatever public reports and statements are available for current information on the issuer or underlying obligor. The potential exposure to antifraud liability for misleading investors in the secondary market already exists. The interpretive guidance we are considering today should assist all market

participants in understanding and meeting their responsibilities under the antifraud provisions of the federal securities laws. The interpretive release makes clear that the most effective way to avoid misleading investors is to adopt a program for providing updated financial information on a continuing basis, and for timely disclosure of material events.

Some market participants have expressed concern that the interpretive release under consideration today will impose new disclosure obligations. That is not the case. The interpretive release explains the law as it exists today, and existed a week and a year ago. It goes on to suggest disclosure practices that address and minimize the risk of misleading investors. Failure to follow those practices is not, however, an antifraud violation. Such a violation occurs only where there is fraud.

The staff also is recommending that the Commission issue a second release proposing amendments to Rule 15c2-12 under the Exchange Act. The proposed rule amendments will be effective only after an unusually long 120-day comment period and only after further consideration by the Commission.

One amendment, based on a recommendation in the Joint Statement, will restrict the underwriting of new municipal issues when the issuer does not commit to provide ongoing disclosure to the market by depositing information in a repository.

The second amendment will require broker dealers to review ongoing disclosure prior to recommending secondary market transactions in municipal securities issued after the date of the rule.

We are aware that not all issuers will be able to implement the disclosure practices called for by the proposed rules in a cost effective manner. Thresholds and exemptions are proposed

and comment is requested on their appropriateness. Those comments will receive our full attention.

The second item for the Commission's consideration is proposal of a new confirmation rule requiring the disclosure of mark-ups and mark-downs in riskless principal transactions in municipal securities and the unrated status of a particular municipal security.

Traditionally, the Commission has supported the disclosure of pricing information to investors. The amount of mark-up or mark-down charged has an effect on the overall yield of a security, and this amount often differs between broker-dealers. Investors should receive this key pricing information, allowing them to review their mark-ups or mark-downs in municipal securities transactions. Also, customers are not always aware that they are buying unrated bonds, some of which may be speculative. Disclosure of the unrated status of a particular municipal security is intended to alert customers that further inquiry may be necessary. These disclosure requirements not only aid the investor, but also the municipal securities market. By increasing transparency investor confidence in the municipal securities market is bolstered, as well.

In addition to the municipal securities matters under consideration today, the Commission will consider proposed amendments to the Commission's existing confirmation rule, Rule 10b-10, which will require similar disclosure in connection with other debt securities transactions. We will consider other proposals to Rule 10b-10 to reflect the evolution of securities products and markets since the Commission's confirmation rule was last amended in 1989.

The proposed amendments are intended to improve the availability and accessibility of ongoing information in the secondary market -- thereby improving knowledge and pricing, preventing fraud, and leading to improved allocation of capital resources. Taken together with

the companion interpretive release, the proposed amendments are intended to be a significant step toward the goal of comprehensive disclosure in the municipal securities market.

To a significant degree the debt markets operate based upon traditions; many will view these proposals as disruptive since they call for a change in certain traditional practices. I intend to pay close attention to the comments. But, over time, I believe that these innovations will be viewed as anything but disruptive. The additional disclosure will bring more openness to the market, therefore more liquidity and more volume in both the primary and secondary markets.

The staff of the Division of Corporation Finance will now describe the interpretive release and the Division of Market Regulation will describe the details of the proposed rule amendments. I'd like to ask Elisse Walter to introduce the discussion of the interpretive release.

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The Staff of the Division of Market Regulation will now describe the details of the proposed amendments to Rule 10b-10.