

National Federation of Municipal Analysts

March 27, 2000

By Overnight Mail and Electronically

Mr. Jonathan G. Katz, Secretary
Securities and Exchange Commission
450 5th Street, N.W.
Washington, DC 20549-0609

Re: Comments on Proposed Rule: Selective Disclosure and Insider
Trading (File No. S7-31-99)

Dear Mr. Katz:

We welcome this opportunity to comment on Proposed Regulation FD. As you may know, the National Federation of Municipal Analysts ("NFMA") is an organization composed primarily of research analysts who evaluate credit and other associated risks of securities in the municipal market. Established in 1983, the NFMA has roughly 1000 members who represent, among others, broker/dealers, mutual funds, rating agencies and insurance companies.

We understand that Proposed Regulation FD is an issuer disclosure rule which, by its terms, applies only to issuers with securities registered pursuant to Section 12 of the Exchange Act and that, therefore, it would not apply directly to issuers of municipal securities. Our concern, however, is that issuers in the municipal market and/or their advisors will invoke Regulation FD as a reason to avoid openly discussing their operations and finances with municipal analysts. The NFMA would welcome the SEC's continued support in encouraging more rather than less disclosure in the municipal market.

Regulation FD evidently grows out of the SEC's concern about the practice of selective disclosure by issuers who are seeking to protect their share prices. There is no evidence that this type of selective disclosure is occurring in the municipal market. Indeed, by and large, issuers in the municipal market do not have the same motivation to curry favor with analysts or to protect the prices of their bonds.

The problem plaguing the municipal market has been the *lack of disclosure* rather than *selective disclosure*. In fact, upon the adoption of its amendments to Rule 15c2-12 in 1994 (the "Amendments"), the SEC specifically cited its concerns about the lack of "current and reliable information" in the municipal market and stated that the Amendments were designed to enhance market liquidity and facilitate more timely dissemination of secondary market disclosure.

Ironically, however, the Amendments have resulted in some issuers ceasing all direct communication with the municipal market, citing their need only to comply with the annual



filing requirements in accordance with the Amendments. As a result, investors and potential investors in the municipal market often only have access to annual audited financial statements many months after the end of a fiscal year, without an opportunity to receive explanations or up-dates with respect to this stale information. It is our concern that Regulation FD will become another shield used by issuers and their advisors in the municipal market to avoid providing timely information.

In the equities market, Regulation FD may serve to curtail inappropriate practices but it would not have the effect of shutting off market access to timely information. This is because issuers in that market are otherwise required to provide disclosure no less than on a quarterly basis and because issuers will continue to be motivated to provide disclosure to investors and potential investors. In the municipal market, however, disclosure requirements are (at best) annual and the same motivation to provide access to information generally does not exist. Therefore, through its unintended application to the municipal market, there is a strong risk that Regulation FD inadvertently will serve to exacerbate the problems of disclosure in our market.

The NFMA applauded the efforts of Chairman Arthur Levitt Jr. and the SEC staff in working to enhance access to secondary market information in the municipal market by adopting the Amendments. Their efforts have had a marked positive effect but further improvement is needed. The NFMA urges the SEC to make it clear that Regulation FD should not have the unintended consequence of chilling disclosure in any market, and urges the SEC to strongly encourage municipal issuers to take appropriate steps to provide fair and timely disclosure to all investors and potential investors in the municipal market, including, for example:

- Designate a person to be available to handle inquiries from all investors and potential investors in a uniform and centralized fashion. Investor relations programs have become standard for public companies and should become standard in the municipal market as well.
- Make themselves available by dial-in, open-access conference call or otherwise on a periodic basis, but at least upon the release of their annual audited financial information, so that the market has an opportunity to ask follow-up questions.
- Adopt the NFMA's Recommended Best Practices for Disclosure in their appropriate sector. (See www.nfma.org.) This will ensure that issuers are providing material operating and financial information to the market on a timely basis.



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- Provide their secondary disclosure information on the Internet and free of charge. This would provide a level playing field for all investors regardless of whether they had access to the fee-based system of National Repositories.

The NFMA looks forward to continuing to work with the SEC to promote an open, efficient and liquid municipal market.

Very truly yours,

Dina Kennedy
Chairman of NFMA

Mary Metastasio
Chairman of NFMA's Industry and
Practices Procedures Committee

cc: Chairman Arthur Levitt Jr.
Paul Maco, Esquire

