



Buckle Up!  
The Rocky Road for Munis in Washington  
NAHEFFA Advocacy Update  
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# Political Dynamics

- Continued partisan deadlock or lessons learned from debt ceiling debacle?
- Renewed White House activism – politics prevailing and White House staff control isolating more experienced, business-oriented Treasury view?
- Tea Party versus Old Guard Republicans
- Problems of advocating to Super Committee



## Super Committee and Tax Reform -- One or Two Stages?

- Bi-partisan 12 member panel tasked with finding \$1.2 trillion in deficit reductions
- Take on tax reform or create guideposts for after election?
- Failure is an option – Default spending cuts not triggered until 2013
- Interaction with Bush tax cuts 2012 expiration
- Will one Republican or Democrat break ranks?



# Members of Super Committee

- Senate:
  - Sen. John Kerry (D-MA)
  - Sen. Patty Murray (Co-Chair) (D-WA)
  - Sen. Max Baucus (D-MT)
  - Sen. Pat Toomey (R-PA)
  - Sen. Rob Portman (R-OH)
  - Sen. John Kyl (R-AZ)
  
- House of Representatives:
  - Rep. Chris Van Hollen (D-MD)
  - Rep. Jim Clyburn (D-SC)
  - Rep. Xavier Becerra (D-CA)
  - Rep. Jeb Hensarling (Co-Chair) ( R-TX)
  - Rep. Dave Camp (R-MI)
  - Rep. Fred Upton (R-MI)



# Tax Expenditures and Tax Exempt Bonds

- Tax Exempt Bonds on at least second tier of tax expenditures list
- Both left and right, many Democrats and Republicans, think municipal financing can be structured better but have different solutions
- Prediction – Over some period of time, munis will not escape untouched



# Justifications for “Reforming” Limiting Munis

- Republicans

Tax exempt bonds subsidize overspending, swollen public employee pensions, high tuitions and medical costs for gold plated facilities (taxable bonds)

- Democrats

Munis fulfill important function but are inefficient, tax shelters for rich and better mechanisms exist (direct-pay, tax credits)



# President Obama's Jobs Proposal and Deficit Reduction Plans

- Impose a 28% cap on value of deductions and exclusions for high income tax payers
- Effectively impose a partial tax on tax-exempt munis interest for couples with income above \$250,000 and singles above \$200,000 to extent their marginal rate exceeds 28 percent.
- Would not grandfather existing holdings



# Implications of Obama Proposal

- Impact on demand/cost of municipal debt
  - Estimated 50 basis points
  - \$10 billion additional interest costs yearly on \$300 billion
  - Will it affect the wealthy or issuers/borrowers?
  - Impact on confidence in municipal debt because of retroactivity
  - Modest chance of passage but aggressive opening proposal
  - Apply only to subsectors, like conduit debt?
  - Developed in White House, not Treasury



## Other Proposals Still Possible for Deficit Reduction or Tax Reform

- Repeal tax free munis; possible replacement with direct pay (Tierney, Mass.) or tax credit bonds (Wyden-Coats)
- Market interest in, workability, desirability of alternatives
- Bifurcated system?



## Other Alternatives

- Limit or exclude sectors – economic development; maybe 501(c)(3)'s; large endowment schools; big reserves  
“profitable” hospitals?
- Bring back non-profit cap?



# Muni Community Response

- Greatest activism since 1986
- Grass roots response to President's proposal
- Mixed priorities of traditional state/local government groups
- Wall Street hesitate to be out front
- Conduit issuers dual missions/dual message



# What Is Our 501(c)(3) Bond Community Doing?

- Developing good project case examples and narratives on value of tax exemption and impact of its loss or diminution for advocacy with Hill and Administration
- Working with analysts and muni groups to critique direct pay and tax credit bonds as complete substitutes
  - Cost and market implications
  - Purchase implications
  - Flexibility in administration in a huge decentralized market
  - New federal program, bureaucracy and changing conditions and requirements
  - Liaison with other muni and borrower groups
  - One-on-one contacts with Super Committee members




# Still Political Support for Bank Qualified Liberalization

- Temporary incentives doubled BQ issuance in 2009-2010
- Sen. Bingaman (D-NM) and Rep. Levin (D-MI.) bills




# SEC's Mission to Seek Greater Jurisdiction Over Munis

- Present System – Broker-dealer requirements; MSRB and EMMA
- SEC limited by securities laws (Tower Amendment); no direct regulatory authority over munis (but anti-fraud provisions apply)
- SEC hearing in Jefferson County, Alabama
- Examples of SEC regulatory touch
  - Scope of municipal advisor registration requirements
  - What constitutes asset backed securities




## SEC-MSRB Expansionism -- Possible Quigley (D. IL) - McHenry (R. NC) Legislation

- Authorize SEC to require issuers/borrowers to provide initial and ongoing disclosure documents to purchasers, establishing content and frequency of disclosure
- Not repeal of Tower (no registration) but circumvention. Expanded EMMA or new regulatory layers?



## SEC –MSRB Expansionism -- Possible Quigley (D. IL) - McHenry (R. NC) Legislation *Cont'd*

- Mandate conduit for – profit borrowers SEC registration and adherence to corporate securities disclosure standards
- Mandate use of bond trustee to receive disclosure materials
- Authorize SEC to halt trading of a security for up to 10 days



# MSRB – Issuer (Borrower)

## Penalties for Noncompliance with Continuing Disclosure Agreements

- MSRB – lack of penalties for noncompliance means limited accountability for issuers who do not comply with SEC Rule 15c2-12 (now, suits for specific performance)
- “Unwillingness” of issuers to provide audited financial statements within a reasonable time after their due date
- MSRB - SEC should amend guidance and Rule to impose consequences for non-compliance with CDA
- Issuer continuing disclosure “track record”?
- MSRB - SEC should require agreement to include enforceable remedial steps
- SEC authority to act?



**Thank you!**

**Questions?**

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