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MONDAY

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THE MARKETS

MUNICIPALS ENDED 2021 LITTLE changed and lightly traded. U.S. Treasuries pared back losses and equities saw modest gains. Municipal bond mutual fund inflows hit \$1.2 billion in the last reporting week of the year. 2

WEB EXCLUSIVES

AN ARIZONA-BASED ONLINE BUSINESS

filed a lawsuit in the Eastern District of Louisiana, challenging the Supreme Court's high-profile 2018 South Dakota v. Wayfair ruling, by claiming that Louisiana's parish-by-parish sales and use tax system creates a "compliance nightmare."

NEVADA WILL LIKELY SEE RECORD

gaming revenues this year, despite expectations that COVID would hinder its recovery. Through November, state gaming revenues totaled \$12.3 billion, just shy of the \$12.8 billion record set in 2007. More than \$1 billion a month has come in for nine consecutive months through November, also a record.

THE U.S. TREASURY AGREED TO

provide support for Puerto Rico's Act 154 tax for an additional year. Act 154 is a 4% excise tax on the revenues of foreign corporate subsidiaries based in Puerto Rico. Act 154 revenues go to Puerto Rico's general fund, which will be used to pay general obligation and some other central government bonds once the current stay on payments is lifted.

Disclosure, Misconduct Eyed by SEC

By KELLEY R. TAYLOR

Following a year of robust enforcement in the public finance sector, the Securities and Exchange Commission will focus on municipal issuer disclosure and municipal advisor misconduct in 2022.

LeeAnn Gaunt, chief of the SEC Enforcement Division's Public Finance Abuse Unit, said that includes breaches of fiduciary duty and unregistered municipal advisor activity.

"We continue to pursue misconduct by broker-dealers, including underwriting abuses, due diligence failures, and mispricing," Gaunt noted, adding, "we are also continuing to focus on public corruption and pay-to-play abuses that implicate the federal securities laws."



"Public finance professionals should take a close look at the Commission enforcement actions that were filed during 2021," said LeeAnn Gaunt.

In terms of gauging SEC enforcement trends for the coming year, Gaunt said that it's important for public finance professionals to look closely at enforcement actions that were filed during 2021.

"What you will see is that we are pursuing misconduct across all major areas of the public finance market and that our cases involve a wide variety of market participants including issuers, issuer officials, outside auditors, municipal advisors, broker-dealers and their registered representatives," Gaunt said.

For example, in 2021, in the public finance abuse category,

the SEC brought its first-ever enforcement actions of Municipal Securities Rulemaking Board Rule G-42 regarding duties of municipal advisors.

The agency alleged that Choice Advisors LLC and two of its principals, Matthias, O'Meara, and Paula Permenter violated their fiduciary duties by entering into a prohibited fee-splitting arrangement without disclosing either the arrangement or their relationship with the underwriting firm, to their clients. The SEC further alleged that Choice, O'Meara, and Permenter unlawfully engaged in municipal

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Issuance Falls Short Of Record

By LYNNE FUNK AND JESSICA LERNER

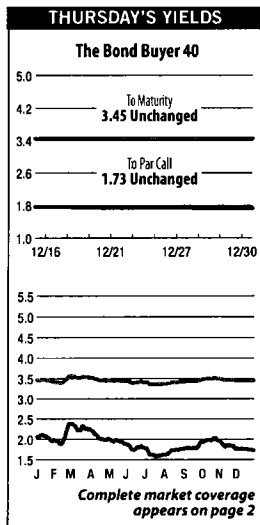
December municipal bond issuance was up nearly 10% year-over-year at \$38.2 billion, but total volume in 2021 fell just shy of last year's record.

The muni market saw \$475.3 billion of debt in 2021, down 1.9% from \$484.6 billion in 2020. Despite this, the total issuance for 2021 still bested the previous record of \$448.6 billion hit in 2017.

While supply did not meet some market participants' expectations, many in the industry still consider the figure a remarkable feat for state and local governments as the COVID-19 pandemic continued to disrupt economies, supply chains, healthcare systems, travel and entertainment industries — life — around the world for a second year.

"It's not as high as last year. I know everybody wants more, and it to be higher, but this is very impressive," said Erin Ortiz, managing director of municipal research at Janney Montgomery Scott LLC. "It's the second-highest year on record.

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Liquidity, Equity Top High-Yield Sector Concerns

By JESSICA LERNER

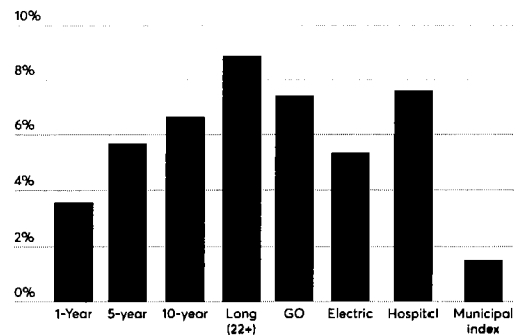
A majority of municipal market participants say liquidity and equity are a top concern on a high-yield deal.

Nearly 69% of respondents to a HilltopSecurities high-yield team survey ranked liquidity and equity as their first or second level of concern for 2022.

"Our biggest takeaway from the survey is that there is ample appetite for well-structured high-yield transactions," said Yaffa Rattner, head of municipal credit and senior managing director at HilltopSecurities and lead author of the report. "However, market participants believe that liquidity, management, and an appropriate covenant package are critical."

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High-yield YTD returns outperform



Source: Bloomberg Municipal Indices

SEC Will Focus on Disclosure

Continued from page 1

advisory activities when they were not registered with the SEC or the Municipal Securities Rulemaking Board.

Permenter agreed to settle with the SEC without admitting or denying any findings. However, Choice and O'Meara recently asked a California district court to dismiss the SEC's charges. They contend that the allegations are without merit in part because "fee splitting" is not clearly defined in the MSRB rule.

GREATER SCRUTINY

Securities lawyer Michael Botelho, partner with Updike, Kelly & Spellacy, said he sees the Rule G-42 charges as a signal that municipal advisors can expect to see greater scrutiny. This is especially true, Botelho said, where advisors breach the trust and confidence of their municipal issuer clients.

"The SEC will pursue and punish MAs when advisors act in a way that serves their financial interests and not the interests of their municipal issuer clients," Botelho explained, adding that "conflicts of interest will [also] be a target of the SEC in this area."

Beyond Rule G-42, the SEC brought several other public finance abuse enforcement actions in 2021.

For example, the Commission charged RBC Capital Markets and two individuals with unfair dealing in municipal bond offerings. According to the SEC, RBC allegedly improperly allocated bonds for institutional customers and dealers, who then resold or "flipped" the bonds to other broker-dealers at a profit. RBC agreed to pay more than \$800,000 to resolve the charges without admitting or denying the SEC's findings.

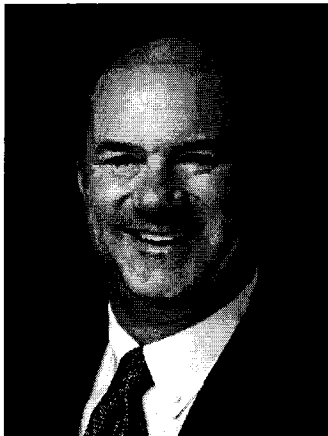
Botelho pointed out that a key takeaway from this case is that open and fair access to the municipal marketplace will continue to be a priority for the SEC in 2022.

"The SEC will go after actors who provide unfair advantage to certain parties or undermine priority rules and crowd out legitimate retail or institutional customers from getting access to newly issued municipal bonds," Botelho explained.

Another action brought by the SEC in 2021 that Botelho pointed to as important, was the suspension of two former KPMG auditors from practicing before the SEC. They were charged with improper conduct in the preparation of a clean audit report for the now defunct College of New Rochelle. That audit ultimately overstated the net assets of the college by almost \$34 million.

GATEKEEPERS

"The key takeaway [here is that] the SEC will look to professionals, such as auditors, to serve as [so-called] gatekeepers to safeguard and uphold the reliability and integrity of financial information provided to investors in the marketplace," Botelho said. "This case is a warning to advisors to exercise the requisite level of 'professional care and skepticism'" and not be pushed



Municipal advisors can expect to see greater scrutiny, said Michael Botelho.

or coerced by municipal clients to take shortcuts in performing tasks," he added.

In 2021, the SEC also brought a number of high profile actions against municipal issuers and their key officials for providing materially misleading and inaccurate information in disclosure documents.

As a result, Botelho said that in the new year, he "expects the SEC to continue its focus on the need for current financial information, data and projections related to issuers—especially in light of the COVID-19 pandemic. "The SEC will scrutinize disclosure and require that issuers update such information," Botelho said.

Lily Becker, partner at Orrick, similarly anticipates a continued focus on both annual and periodic disclosures.

"Because the SEC looks at both omissions and misstatements, entities should be thinking carefully about both including all material information and making sure information disclosed is accurate at the time of the disclosure," Becker said in response to the SEC's 2021 enforcement actions.

In addition to some of the matters that the SEC filed in 2021, which Gaunt noted revealed misconduct in the public finance market that had not previously been addressed in enforcement actions, the public finance abuse unit will be vigilant in 2022.

"Public finance professionals can expect that the unit will use the high degree of expertise we have developed in the municipal market to scrutinize industry practices that may be problematic," Gaunt said.

And, Gaunt added, "to the extent those practices cross the line into violations of the securities laws, we will vigorously pursue enforcement actions." □

RELATED CONTENT

Other recent coverage of this topic is available with this article at BondBuyer.com

Long-Term Bond Sales: January - December

	2021		2020		Change from prev period
	Volume In millions	Number of Issues	Volume In millions	Number of Issues	
TOTAL	\$475,334.7	12,707	\$484,600.9	13,327	-1.9%
January	28,280.4	801	32,792.7	839	-13.8
February	36,868.7	975	42,229.0	921	-12.7
March	47,678.8	1,214	20,261.5	651	+135.3
April	37,004.2	1,120	31,649.7	921	+16.9
May	35,135.8	1,286	30,990.9	1,071	+13.4
June	50,073.3	1,358	52,390.0	1,501	-4.4
July	37,474.5	1,006	47,781.8	1,157	-21.6
August	43,730.6	1,153	43,362.2	1,193	+0.8
September	44,699.6	1,008	53,513.4	1,395	-16.5
October	40,302.3	1,024	73,448.0	1,851	-45.1
November	35,899.8	1,005	21,359.3	895	+68.1
December	38,186.7	757	34,822.3	932	+9.7
First Quarter	112,827.9	2,990	95,283.6	2,411	+18.4
Second Quarter	122,213.3	3,764	115,030.5	3,493	+6.2
Third Quarter	125,904.7	3,167	144,657.4	3,745	-13.0
Fourth Quarter	114,388.8	2,786	129,629.5	3,678	-11.8
Development	15,665.6	521	14,992.3	456	+4.5
Education	114,564.3	4,299	137,518.8	4,927	-16.7
Electric Power	12,609.9	134	10,410.3	140	+21.1
Environmental Facilities	3,898.0	58	2,769.7	52	+40.7
Health Care	31,705.0	458	33,540.9	455	-5.5
Housing	37,749.2	796	29,669.7	766	+27.2
Public Facilities	12,375.5	448	8,747.8	476	+41.5
Transportation	69,124.1	578	63,748.3	570	+8.4
Utilities	50,187.0	1,629	54,202.9	1,796	-7.4
General Purpose	127,456.3	3,786	129,000.3	3,687	-1.2
Tax-Exempt	342,641.2	10,222	328,914.2	10,553	+4.2
Taxable	118,754.3	2,366	146,346.9	2,677	-18.9
Minimum Tax	13,939.1	119	9,339.9	97	+49.2
New-Money	315,073.8	8,137	275,393.4	7,868	+14.4
Refunding	110,289.0	3,865	149,952.1	4,639	-26.5
Combined	49,971.9	705	59,255.5	820	-15.7
Negotiated	356,850.4	7,522	358,285.2	7,487	-0.4
Competitive	99,505.8	4,278	92,950.0	4,362	+7.1
Private Placements	18,978.5	907	33,365.8	1,478	-43.1
Revenue	296,673.2	5,168	284,948.2	5,031	+4.1
General Obligation	178,661.6	7,539	199,652.8	8,296	-10.5
Fixed-Rate	448,435.2	12,264	459,983.9	12,687	-2.5
Variable-Rate (Short Put)	7,515.9	104	10,732.2	203	-30.0
Variable-Rate (Long/No Put)	12,688.4	189	9,702.5	190	+30.8
Zero-Coupon	3,421.3	126	2,872.1	222	+19.1
Linked-Rate	3,208.2	23	1,285.6	23	+149.5
Auction Rate	0.0	0	0.0	0	n.m.
Convertible	65.7	1	24.7	2	+166.0
Bond Insurance	37,096.0	2,188	34,428.2	2,153	+7.7
Letters of Credit	468.5	10	1,580.3	27	-70.4
Standby Purchase Agreements	291.0	5	950.6	17	-69.4
Insured Mortgages	1,439.8	57	1,046.3	32	+37.6
Guaranties	11,079.7	584	22,862.1	1,174	-51.5
Other Enhancements	0.0	0	0.0	0	n.m.
State Governments	38,825.8	202	44,215.0	192	-12.2
State Agencies	139,979.7	1,597	132,562.5	1,500	+5.6
Counties & Parishes	27,072.1	754	28,943.7	861	-6.5
Cities & Towns	66,618.7	3,514	70,245.2	3,568	-5.2
Districts	91,478.4	4,821	102,328.2	5,431	-10.6
Local Authorities	92,482.1	1,588	82,468.5	1,515	+12.1
Colleges & Universities	15,025.0	186	22,504.0	226	-33.2
Direct Issuers	3,052.7	39	1,254.4	30	+143.4
Tribal Governments	67.2	2	43.2	2	+55.6
Cooperative Utilities	733.1	4	36.2	2	+1925.1
Bank-Qualified	15,364.0	3,834	16,504.9	4,163	-6.9
Build America Bonds	0.0	0	0.0	0	n.m.
Qualified Sch Construction	0.0	0	0.0	0	n.m.
Other Stimulus	1,239.2	3	257.6	3	+381.1

NOTES: Private placements and municipal forwards are included, but short-term notes and remarketings are excluded. n.m. - not meaningful. Source: Refinitiv (12/30/2021)

New-Issue Volume Notes

The new-issue volume tables are based on information compiled by The Bond Buyer from Refinitiv's database on Thursday, December 30, 2021. All figures are preliminary and subject to revision.

Long-term bonds have final stated maturities of 13 months or longer, while short-term notes mature in less than 13 months. Private placements and municipal bond sales are included in the figures, but remarketings of variable-rate bonds are excluded.

The purpose categories are defined as follows:

Development: industrial development, economic development, nongovernment office buildings.

Education: primary and secondary education, higher education, student loans.

Electric power: public power utilities.

Environmental facilities: solid waste disposal, resource recovery, pollution control, recycling.

Health care: hospitals, nursing homes, continuing-care communities, assisted living, general medical.

Housing: single-family housing, multifamily housing.

Public facilities: government buildings, fire and police stations, jails and prisons, civic and convention centers, museums and libraries, stadium and sports complexes, theaters, parks, zoos and beaches, other recreation.

Transportation: airports, seaports and marine terminals, toll roads, highways and streets, bridges, tunnels, parking facilities, mass transit.

Utilities: water and sewer, gas, flood control, sanitation, combined utilities, miscellaneous utilities.

General Purpose: general purpose, veterans (other than housing), agriculture, churches, temples, and mosques, unknown.