Issuing Private Activity Bonds

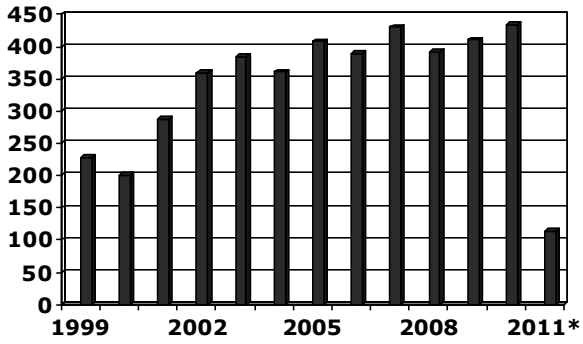
July/August, 2011

Presentation By:

Kutak Rock LLP

Tax Exempt Bond Market

Annual Bond Sales



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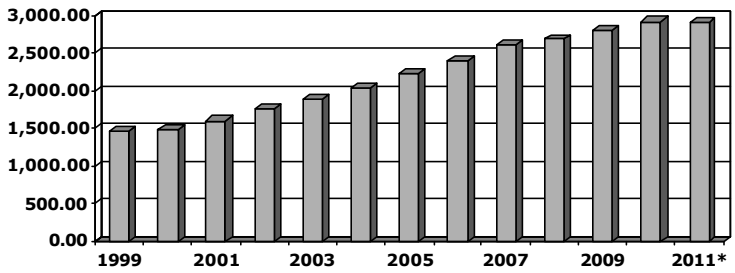
***January-June (down 44% from 2010)**

Tax Exempt Bond Market

Holders of Bonds



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*Through March 31, 2011

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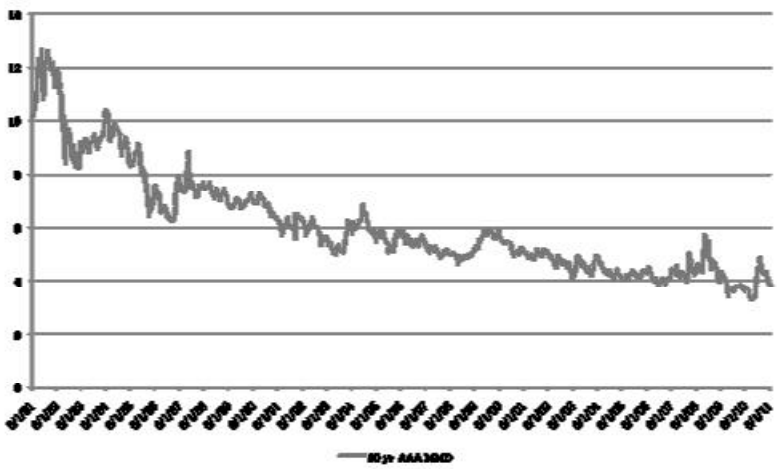
Tax-Exempt Market

20-Year AAA-MMD Historical Yields



Source: Municipal Market Data and The Bond Buyer/Pipel Jaffray

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Steps for a Typical Bond Issuance

Step 1 - Issuer analyzes proposed issue with Borrower, Financial Advisor, Bond Counsel and Underwriter.

Step 2 - Issuer adopts a resolution stating its intention to proceed with the financing and to formally engage members of the financing team. If required, Issuer applies for State Volume Cap Allocation.

Step 3 - Drafting is begun on the bond documents and offering documents (the Preliminary Official Statement). Cash flows and documents are sent to rating agencies. Rating agency discussions or investor meetings take place.

Step 4 - Financing structure and documents are finalized. State Volume Cap Allocation is received and TEFRA hearing is held by Issuer. Parameter Bond Resolution is adopted.

Step 5 - Preliminary Official Statement is mailed; Bond issue terms are discussed among the Issuer, Borrower, investors and the Underwriters.

Step 6 - Bonds are offered by the Underwriters to investors. Bonds are underwritten at interest rates and terms agreed to by the Issuer and Borrower. Bond Purchase Agreement is executed among the Issuer, Borrower and Underwriters.

Step 7 - Bond issue is closed. Underwriters wire bond purchase price to Trustee and take delivery of Bonds.

Step 8 - Bond proceeds are available to be spent by Borrower.

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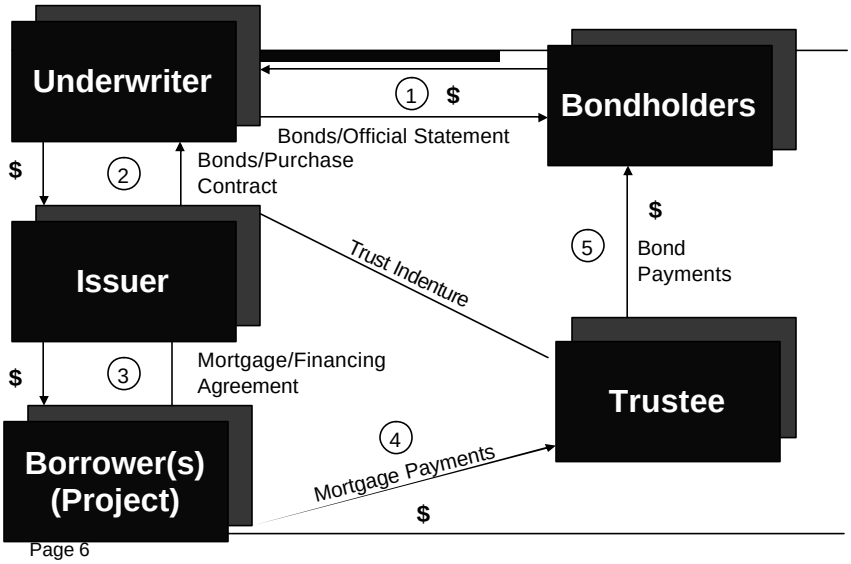
BOND ISSUE

(Simple fixed rate)



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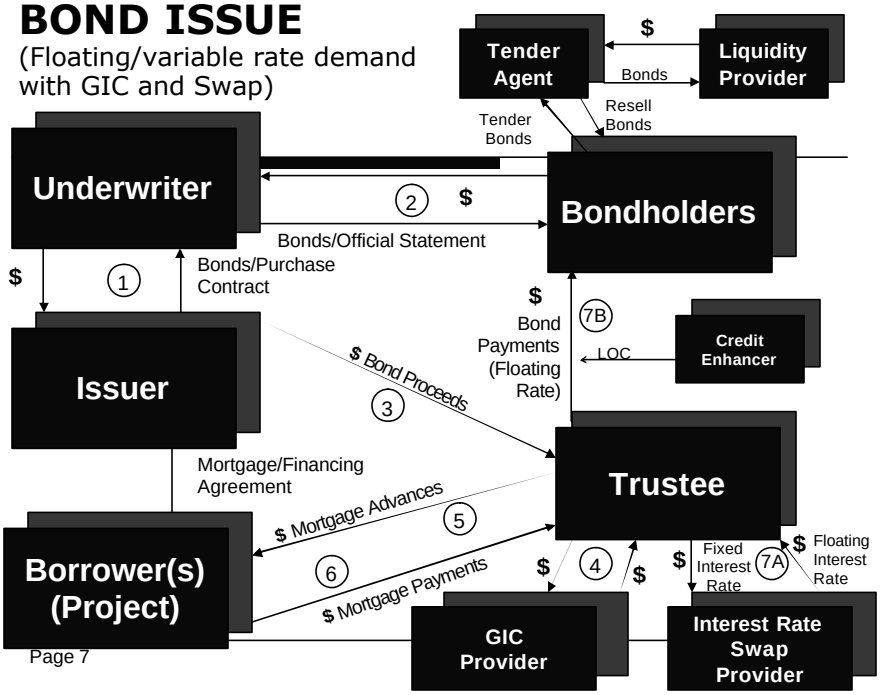
BOND ISSUE

(Floating/variable rate demand with GIC and Swap)



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Parties to Transaction

- Issuer
- Borrower
- Underwriters
  - Senior Manager
  - Co-Managers
  - Sales & Trading
- Financial Advisor
- Bond Counsel
- Disclosure Counsel
- Underwriters' Counsel
- Issuer's Counsel
- DTC
- Rating Agencies
- Trustee
  - Paying Agent/ Registrar
  - Authenticating Agent
- Bondholders
  - Retail
  - Bond Funds
  - Institutional Investors
- Credit Enhancer
- Liquidity Provider
- GIC Provider/Broker
- Swap Provider/Advisor
- CPAs

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Documents

- Loan Agreement
- Trust Indenture
- Resolution/Ordinance
- Tax Regulatory Agreement
- No Arbitrage Certificate
- IRS Form 8038
- Official Statement
- Bond Purchase Agreement
- Opinions
  - Bond Counsel
  - Disclosure Counsel
  - Issuer's Counsel
  - Borrower's Counsel
- Credit and Liquidity Agreements
- Continuing Disclosure Undertaking
- GICs and Swaps
- Collateral Security Documents
- Third Party Reports
  - Feasibility Report
  - Phase I Environmental Report
  - Title Insurance
  - Survey
  - Appraisal
  - Engineer's Report

Miscellaneous Stuff

- Tax Reform
- Derivatives
- Blue Sky
- Post Issuance Compliance
  - Rebate
  - Continuing Disclosure
  - Recordkeeping and Retention
- Lore vs. Law
- Bond Politics
- Things that go bump in the night
  - Defaults
  - IRS Audits
  - Change in Use
  - Post Issuance Modifications and Reissuance
  - "Market Dislocations"