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S&P's Downgrade of Assured Guaranty Likely to Require Event Notice Filing Even Though New Rating Already Posted on EMMA

December 2011

On Wednesday, November 30, 2011, Standard & Poor's Financial Services LLC (S&P) downgraded the rating of the operating subsidiaries of Assured Guaranty Ltd. two notches to AA-minus. As a result of an arrangement the Municipal Securities Rulemaking Board worked out with both S&P and Fitch Ratings,^[1] this rating change was noted shortly thereafter on the Internet pages for municipal bonds insured by any of the Assured Guaranty's subsidiaries (either originally or as successor insurer^[2]) maintained on the Municipal Securities Rulemaking Board's (MSRB) EMMA internet disclosure platform. This "direct feed" of rating information provides immediate information to market participants and the MSRB deserves credit for successfully negotiating the terms of the use of this rating information.

Nonetheless, municipal issuers and/or obligated persons whose bonds (1) are insured by Assured Guaranty, (2) have been assigned an S&P rating based upon the credit strength of Assured Guaranty and (3) are subject to a contractual continuing disclosure undertaking pursuant to SEC Rule 15c2-12, will likely be required under the terms of those contractual undertakings to file an event notice for those bonds with the MSRB. Although the information is already on EMMA and accessible directly from the webpage describing the affected bonds, the continuing disclosure undertaking is a separate contractual obligation and is not satisfied by the direct feed of rating information by S&P to EMMA.

Squire Sanders continues to be one of the leading public finance firms in the nation, ranked 5th nationally as bond counsel for 2010 by Thomson Financial, with issues totaling more than \$13.5 billion.

News

[Robert J. Eidnier](#) will speak on "Private Activity Bond Tests" and [Sandy MacLennan](#) will speak on "Continuing Disclosure" at [NABL's 2012 Tax & Securities Law Institute](#) taking place March 8-9 in Savannah, GA.

Contacts

For more information contact your principal Squire Sanders lawyer or any of our US-based public finance lawyers listed under "Professionals" on the [Public & Infrastructure Finance Practice Group](#) page.

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For continuing disclosure undertakings entered into on or after December 1, 2010, notice of the rating change is required to be given within 10 business days of the occurrence of the event (or by December 14, 2011). For earlier continuing disclosure undertakings, the notice is required to be given in a "timely" manner.

If you have any questions regarding the information in this publication or for any additional assistance, please contact the Squire Sanders public finance lawyer with whom you usually work, or any of our public finance lawyers, who may be contacted via the link in the sidebar.

¹ No such arrangement has been worked out with Moody's Investors Services Inc.

² Assured Guaranty acquired Financial Security Assurance, Inc. (FSA) in late 2008 and also entered into a reinsurance agreement in 2009 with CIFG Assurance North America, Inc. (CIFG), as a result of which Assured Guaranty, or one of its subsidiaries, now insures bonds that were originally covered by policies issued by FSA or CIFG.

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