

PART 204

ACCOUNTING AND REPORTING FOR PUBLIC AUTHORITIES THAT ISSUE STATE-SUPPORTED DEBT

(Statutory authority: Constitution, article X, § 5; State Finance Law, § 8[9], [14])

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§ 204.1 Purpose.

The purpose of this Part is to set forth requirements in connection with the preparation, submission, and formatting of data relating to the accounting and reporting of Debt (as defined below) for State financial reporting purposes.

§ 204.2 Applicability.

This Part shall apply to every issuer of Debt (as defined below) other than the State Comptroller. All requirements of this Part apply immediately upon the effective date of this Part, except as otherwise consented to by the State Comptroller upon timely request and for good cause shown. The requirements of this Part shall only be satisfied by a submission in accordance with Section 204.7 of this Part.

§ 204.3 Definitions.

(1) "Accretion" shall refer to the process by which a discount is earned over the life of a zero coupon or capital appreciation bond.

(2) "Accrued interest" shall mean the amount of interest earned by the bondholder since the last payment date.

(3) "Arbitrage rebate" shall mean a payment, including a late payment, to the United States Treasury for earnings from proceeds of tax-exempt bonds in excess of federally allowed limitations.

(4) "Date of issuance" shall mean the earliest date by which either securities were delivered to the purchaser or the issuer received payment of proceeds from the issuance of Debt.

(5) "Debt" shall mean all State-supported debt as defined in section 67-a of the State Finance Law.

(6) "Debt service account" shall mean an account or accounts used for the payment of principal and interest on securities and also payments made or received under swap agreements.

(7) "Debt service reserves" shall mean any cash and investments in a fund that has been established to pay future debt service.

(8) "Effective interest rate" shall mean the rate that, when used to discount the debt service requirements on new Debt, produces a present value equal to the proceeds of such new Debt (including accrued interest) net of any premiums or discounts and any underwriting spread and issuance costs that are not recoverable through escrow account earnings.

(9) "Fiscal year" shall mean the State fiscal year.

(10) "Issuance costs" include all costs incurred to issue Debt, including, but not limited to, underwriters' discount, insurance costs (net of rebates from refunded Debt, if any), financing costs (including, but not limited to, rating agency fees, financial advisor fees, swap advisor fees, and State bond issuance fees), and other related costs (including, but not limited to, printing, legal, accounting, administrative, and trustee expenses).

(11) "Market discount" shall mean the amount by which the gross proceeds received for securities issued was less than their par amount.

(12) "Market premium" shall mean the original issue premium received in excess of the par amount of securities.

(13) "Par amount" shall mean the face amount of a security at which it will be redeemed at maturity except in the case of zero coupon and capital appreciation bonds in which case it shall mean original issue value equal to the amount received at issuance.

(14) "Project proceeds account" shall mean the account or accounts related to a specific statutory debt authorization established to receive and hold proceeds from a Debt issue, exclusive of issuance costs and payments on refunded Debt, if any.

(15) "State bond issuance fee" shall mean any fee paid upon the issuance of Debt collected pursuant to section 2976 of the Public Authorities Law.

(16) "Statutory purpose" shall mean the purpose for which Debt may be issued as established in State statute.

(17) "State-reported debt" shall mean Debt excluding Debt issued by (a)an issuer (i) for the State University of New York (other than community colleges) or (ii) for the senior colleges of the City University of New York, or (b) by the State Comptroller.

(18) "Swap agreement" shall mean an interest rate exchange or similar agreement as defined by section 69(d) of the State Finance Law. Without limiting such definition, swap agreements shall include derivative and hedge transactions such as "swaps," "interest rate locks," "caps," "floors," "collars," and similar arrangements which affect, or have the potential of affecting, the issuer's cost of borrowing.

§ 204.4 Submission of documents and information after the issuance of Debt.

Within 15 days after the date of issuance, the issuer of Debt shall furnish to the State Comptroller the following information:

- (1) a copy of the official statement for the Debt issuance in electronic document form;
- (2) a schedule of sources and uses of proceeds associated with the Debt that clearly sets forth:
 - i. any market premium or market discount;
 - ii. the amount of Debt proceeds to be used to pay issuance costs excluding underwriters' discount and State bond issuance fees;
 - iii. the amount of proceeds to be used to pay State bond issuance fees;
 - iv. the amount of proceeds to be used to pay the underwriters' discount;
 - v. the amount of proceeds to be deposited to the project proceeds account;
 - vi. the amount of proceeds to be deposited to a reserve fund that could be used to pay debt service; and
 - vii. the amount of proceeds to be deposited to an account that will be used to make debt service payments;
- (3) a schedule of future debt service payments associated with the Debt, in electronic format, including:
 - i. future principal payments by payment date;
 - ii. future interest expected to be paid by payment date at rates in effect on the date of issuance;
 - iii. future swap agreement receipts expected to be received by anticipated receipt date based upon rates in effect on the date of issuance;
 - iv. future swap agreement payments expected to be paid by payment date based upon rates in effect on the date of issuance; and
 - v. an estimate of any future fees or expenses expected to be incurred in relation to the Debt issuance.

(4) additionally, for refunded Debt, a schedule of future cash flows associated with the Debt, in electronic format, including:

i. the source and amount of funds (other than proceeds of the refunding Debt issue) to be used in the refunding;

ii. the par amount of bonds refunded, by payment date;

iii. the refunded debt service, by payment date;

iv. the amount of the deposit to the escrow agent for payment of the refunded Debt;

v. the refunding debt service, by payment date;

vi. the annual gross cash flow savings or dis-savings as the difference between the refunding and refunded debt service; and

vii. the present value savings of the cash flow savings discounted at the effective interest rate and adjusted by deducting any funds used in the refunding that were not obtained from proceeds of the refunding Debt issue.

§ 204.5 Submission of required information after the end of each State fiscal year quarter.

Within 25 days after the completion of each State fiscal year quarter, each issuer of Debt will submit to the State Comptroller, in electronic format, the following information for all Debt the issuer is statutorily authorized to issue as of the end of that State fiscal year quarter, in each case, discretely presented for each separate statutory authorization:

(1) the amount of Debt authorized to be issued;

(2) the cumulative amount of Debt that has been issued;

(3) the total par amount of bonds outstanding;

(4) the balance of unspent State-reported debt proceeds retained;

(5) the amount of State-reported debt proceeds disbursed during the calendar quarter;

(6) the balance of each State-reported debt service account.

§ 204.6 Submission of required information after the end of each State fiscal year.

Each issuer of Debt shall within 45 days of the end of the State fiscal year submit to the State Comptroller, in electronic format, the following additional information for each of its outstanding Debt issues

(as of and for the State fiscal year just ended), in each case, discretely presented for each separate statutory authorization:

(1) the amount of accrued interest on each State-reported debt issue;

(2) all changes occurring during the past twelve months to the balance of unearned debt accretion for State-reported debt;

(3) the amount of debt service paid during the prior 12 months from investment earnings administered by the issuer of State-reported debt;

(4) a schedule of future minimum debt service based upon rates in effect at the end of the State fiscal year, discretely presenting the principal, interest, swap agreement receipts and swap agreement payments by payment date;

(5) a schedule of future minimum debt service based upon rates in effect at the end of the State fiscal year, discretely presenting the principal, interest, swap agreement receipts and swap agreement payments by payment date for Debt related to the State University of New York (other than community colleges);

(6) a schedule of future minimum debt service based upon rates in effect at the end of the State fiscal year, discretely presenting the principal, interest, swap agreement receipts and swap agreement payments by payment for Debt related to senior colleges of the City University of New York;

(7) the highest and lowest fixed rate of interest applicable to all State-reported debt outstanding;

(8) information relating to any arbitrage rebate liability applicable to all State-reported debt:

i. the actual amount of arbitrage rebate liability paid during the year;

ii. the actual or estimated amount of arbitrage rebate liability due within one year;

iii. the actual or estimated amount of arbitrage rebate liability due beyond one year;

iv. any changes in estimated rebate liabilities during the year;

v. the amount of any arbitrage rebate refunded during the year; and

vi. the amount of any arbitrage rebate refund anticipated.

(9) The following information related to investments held at the end of the State's fiscal year related to debt service reserve accounts, debt service accounts, and debt proceeds accounts for State-reported debt, in each case, discretely presented for each separate statutory authorization and account type:

i. a copy of the investment policies that have been formally adopted for investments related to Debt;

ii. a description of the type of investment;

iii. the credit rating on investments, excluding investments in obligations of the U.S. Government or guaranteed by the U.S. Government;

iv. the unamortized purchase cost of the investment;

v. the purchase date of the investment;

vi. the maturity date of the investment;

vii. the market value of the investment;

viii. the name in which the investment is held;

ix. an indication if the investment is held by a custodial agent.

(10) The following information related to investments liquidated during the State's fiscal year related to debt service reserve accounts, debt service accounts, and debt proceeds accounts for State-reported debt, in each case, discretely presented for each separate statutory authorization and account type:

i. a description of the type of investment that matured, was sold or liquidated;

ii. the original unamortized purchase cost of the investment;

iii. the purchase date of the investment;

iv. the date the investment was sold, matured or was otherwise liquidated;

v. the proceeds received for the investment.

(11) A schedule of all Debt that has been defeased by depositing securities issued by the U.S. Government or guaranteed by the U.S. Government in an irrevocable trust but which remained legally outstanding.

§ 204.7 Requirements applicable to submission of all information and other general provisions.

The following provisions are applicable to all documents, data, and information required to be submitted to the State Comptroller pursuant to this Part:

(1) All required information must be submitted in an electronic format prescribed by the Bureau of Financial Reporting, Office of the State Comptroller, to an internet or e-mail address specified by the Bureau of Financial Reporting.

(2) A public authority may apply for a waiver of any requirement set forth in this Part. A request submitted in an electronic format shall be submitted to an internet or e-mail address specified by the Bureau of

Financial Reporting of the Office of the State Comptroller. A request submitted in a non-electronic format should be addressed to the Bureau of Financial Reporting, Office of the State Comptroller, 110 State Street, Albany, NY 12236-0001. A request from a reporting requirement should be submitted not later than the date on which the report is due. No waiver from a requirement established by law shall be granted. A waiver from a requirement established solely by this Part may be granted for reasonable cause unless such a waiver would interfere with the fulfillment of a duty of the State Comptroller. The Bureau of Financial Reporting shall transmit a written determination, in electronic format, of a waiver request to the public authority requesting the waiver. A determination approving a waiver shall specify (i) the scope of the waiver, (ii) the reason therefor, and (iii) the new reporting date, if the waiver involved the postponement of a reporting date otherwise required by this Part.

(3) All references to number of days in these requirements shall be interpreted to mean calendar days.