

Securities and Exchange Commission

§ 240.3b-6

ownership provided to you or filed publicly and based on information otherwise provided to you.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565-574; secs. 1, 2, 82 Stat. 454; sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78o(d), 78w(a))

[32 FR 7848, May 30, 1967, as amended at 48 FR 46739, Oct. 14, 1983; 64 FR 53912, Oct. 5, 1999]

§ 240.3b-5 Non-exempt securities issued under governmental obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in section 3(a)(12) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) of this section if, (1) the obligation is payable from the general revenues of a governmental unit, specified in section 3(a)(12) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

(c) This rule shall apply to transactions of the character described in paragraph (a) of this section only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

(Sec. 3, 48 Stat. 882; 15 U.S.C. 78c, 77s)

[33 FR 12648, Sept. 6, 1968, as amended at 35 FR 6000, Apr. 11, 1970]

§ 240.3b-6 Liability for certain statements by issuers.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to the following statements:

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10-Q and Form 10-QSB, § 249.308a of this chapter, or in an annual report to share-holders meeting the requirements of Rules 14a-3(b) and (c) or 14c-3(a) and (b) under the Securities Exchange Act of 1934, a statement reaffirming such forward-looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document, in Part I of a quarterly report on Form 10-Q and Form 10-QSB, or in an annual report made publicly available within a reasonable time after the making of such forward-looking statement; *Provided, That:*

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a-1 or 15d-1 thereunder, if applicable, to file its most recent annual report on Form 10-K and Form 10-KSB or Form