

Lindsey de la Torre
Executive Director – Manufacturers' Accountability Project (MAP)

March 27, 2018

LeeAnn Ghazil Gaunt
Chief, Public Finance Abuse Unit
Securities and Exchange Commission
100 F St., NE
Washington, DC 20549

Dear Ms. Gaunt:

The National Association of Manufacturers (NAM), the largest manufacturing association in the United States, writes today with concern of potential municipal bond fraud under 15 U.S.C. § 77q(a)(2).

As you may be aware, several California municipalities (City of San Francisco, City of Oakland, City of Imperial Beach, City of Richmond, City and County of Santa Cruz, Marin County, and San Mateo County), along with New York City, have filed lawsuits against manufacturers in the energy sector related to climate change.¹

Separately, these same cities and counties have issued municipal bonds in which the respective prospectuses omit the same climate-related liabilities detailed in their civil suits or state their inability to predict such future damage. In many instances, the same municipal officials authorized the lawsuits and verified their filings with the SEC.² We believe the discrepancy in risk disclosures between the lawsuits and bond offerings should be addressed.

Over the course of our work advocating for manufacturers in America, we have seen several examples of municipalities asserting specific impacts of climate change. Conversely, bonds offered by these same municipalities state that such predictions are impossible to measure.

As an example, in its 2017 bond offering, the City of Oakland stated that:

"The City is unable to predict when seismic events, fires or other natural events, such as sea rise or other impacts of climate change or flooding from a major storm, could occur, when they may occur, and, if any such events occur, whether they will have a material adverse effect on the business operations or financial condition of the City or the local economy."

Compare this to the City's declarations in its lawsuit against energy manufacturers³:

"[B]y 2050 a '100-year flood' in the Oakland vicinity is expected to occur...once every 2.3 years...by 2100...almost once per week."

¹ <https://www.reuters.com/article/us-usa-climatechange-lawsuit/ninth-u-s-city-sues-big-oil-firms-over-climate-change-idUSKBN1FC2RR>

² <https://www.courthousenews.com/wp-content/uploads/2018/01/ExxonDepositions.pdf>

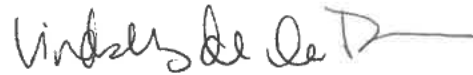
³ http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/case-documents/2017/20170919_docket-RG17875889_complaint.pdf

By 2100, Oakland will have up to "66 inches of sea level rise," which, along with flooding, will imminently threaten Oakland's sewer system and threaten property with a "total replacement cost of between \$22 and \$38 billion."

The NAM believes that inconsistency in disclosures presume the possibility that these municipal bond offerings contained misleading statements in violation of 15 U.S.C. § 77q(a)(2), which states that it is unlawful "to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading."

Investors rely upon accurate and truthful information in public disclosure documents, such as prospectuses, when making decisions that affect their livelihoods and retirements. The NAM is increasingly concerned by the municipalities assertions in their legal filings and the approach used to attract investors to its bond offerings.⁴ The NAM has full confidence that your office will take these allegations seriously and investigate the bond disclosures made by these municipalities. Please do not hesitate to contact us for further information.

Sincerely,



Lindsey de la Torre
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National Association of Manufacturers

⁴ <http://mfgaccountabilityproject.org/2018/01/09/energy-manufacturers-find-evidence-bad-faith-california-lawsuits/>