

Leveraging Municipal Bond Markets to Disrupt Systemic Inequities

WHITE PAPER

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About the Author

Lourdes Germán, J.D., is Founder and Executive Director of the [Public Finance Initiative](#), a fiscally sponsored organization of TSNE, which specializes in developing public finance programs that center the values of equity, sustainability, and inclusive growth in fiscal decision-making. In addition, Lourdes also teaches public finance at the Harvard University Graduate School of Design. Lourdes began her career as a public finance attorney at the law firm Palmer & Dodge (now Locke Lord, LLP), then served as Vice President of Municipal Finance at Fidelity Investments, served as Vice President and General Counsel at Breckinridge Capital Advisors, and served as a Director at the Lincoln Institute of Land Policy where she helped launch and grow a global program of work on municipal fiscal health. At Lincoln, Lourdes served on the team of expert advisors on municipal finance to United Nations Habitat program, supporting the development of the municipal finance policy framework and paper to guide the Sustainable Development Goals process and was one of the co-authors of the book [Finance for City Leaders](#) (United Nations Press, 2017). Lourdes has also worked with Boston College, Boston University and several higher education institutions in the past and currently serves as Chair of the Massachusetts State Finance & Governance Board. To view a full bio or contact Lourdes, [visit this link](#).

In 2020, a renewed dialogue on race, equity, and equality emerged in the United States as dual crises unfolded across the country.¹ First, the COVID-19 pandemic laid bare the unequal access to health care that, when coupled with worsening socio-economic disparities among under-represented communities of color, exposed welfare gaps for some of the most vulnerable communities across America. Concurrently, several social justice movements and protests erupted across the country calling for change in law enforcement and the legal system which challenged civic leaders and the public-at-large to think differently and boldly about the interventions needed to address historic systemic inequities on a larger scale.²

The United States' \$3.8 trillion municipal bond market, which provides one of the largest and most consistent pools of private investor capital in America, has recently garnered attention from leading policy makers and practitioners who are exploring how, and whether, capital markets can promote meaningful ways to address racism, inequality, and inequities.³ Acknowledging the importance of capital as a galvanizing tool with which to address existing social and economic barriers, the Robert Wood Johnson Foundation (the "Foundation") commissioned this white paper and convened a working group of experts to examine how the U.S. municipal bond market can support meaningful systemic change with respect to racial and economic equity.

At present, the municipal bond market is host to a wide-ranging field of issuers and key stakeholders, reflecting immense variation that has resulted in a highly fragmented market.⁴ In recent years, a growing number of municipal bond market issuers and investors have started to emphasize equity, equality, and other social outcomes as important factors in the context of a bond issuance, particularly those who participate in sustainable and impact investment.⁵ Despite the sharp rise in the issuance of bonds that are meant to achieve positive social outcomes, many issuers that are newly attentive to addressing systemic inequities via fiscal policies within their jurisdiction remain uncertain as to how to properly leverage capital markets to ensure civic resiliency and equitable outcomes for their residents.⁶

In order to create a framework and tools that will support issuers and market stakeholders who wish to elevate equity or equality as central objectives in the municipal bond issuance process, it is important to perform a preliminary examination of market practices across issuers and other market stakeholders who are leveraging the power of bond markets to address systemic inequities. To that end, the paper proceeds as follows:

- Part I provides a summary of the size, scale, and composition of contemporary American municipal bond markets, as well as the emergence of issuer activity centering equity, equality, and related social outcomes in municipal bond issuances;
- Part II briefly summarizes emerging activity across key non-issuer municipal bond market stakeholders (i.e., investors, rating agencies, banking, insurance, financial advisors, regulators, and others), who are demonstrating expanded attention to equity, often in the context of evaluating environmental, social, and governance ("ESG") criteria in a bond issuance; and
- Part III delineates preliminary recommendations that serve as our guiding principles and considerations for the potential development of an equity framework and programmatic supports for municipal bond market stakeholders, in ways that are attentive to the challenges and limitations

inherent in the market.

Part I. Overview of the Contemporary U.S. Municipal Bond Market & The Emergence of Issuer Activity focused on Equality, Equity & Related Social Outcomes

When a municipality seeks to raise money for a capital project from external sources and decides to raise funds via a borrowing from private investors, it often issues municipal bonds. Municipal bonds fund important projects that promote the public good, including schools, hospitals, transportation systems, as well as essential water and sewer utilities, vital environmental projects critical to healthy ecosystems, among others. With nearly a total aggregate principal amount of \$3.8 trillion, resulting from over one million distinct outstanding municipal bonds, the current municipal bond market in the United States is lucrative and varied, providing the dominant mode of funding used by state and local governments.⁷

When a municipality issues bonds, the municipality promises investors that it will return their principal amount (the amount borrowed from the investor) plus potential interest, on specific dates in the future, subject to enumerated financial terms.⁸ Such an arrangement offers municipalities the flexibility to raise funds for a project via market mechanisms akin to those employed by private companies that sell securities to raise capital from the public and institutions. However, when a municipal bond is issued, it does not generate revenue, instead it generates funding for the issuer by creating a future liability to a universe of investors. The repayment of the debt to the investor(s) is secured by the issuer's pledge to repay the bonds.

Municipal securities became a predominant and widely used mechanism for infrastructure funding in the United States since the early 1900s, when a number of legislative changes were enacted to the United States Internal Revenue Code (IRC), that established tax preferences for certain municipal securities and enabled a wide range of governmental entities to issue bonds on a tax-exempt basis.⁹ Over time, capital markets emerged as a vital source of funding that allowed state and local governments to meet immediate and significant infrastructure needs, with the field gradually expanding to include over 50,000 issuers of municipal bonds, ranging from states, localities, school districts, and public authorities throughout the United States.¹⁰

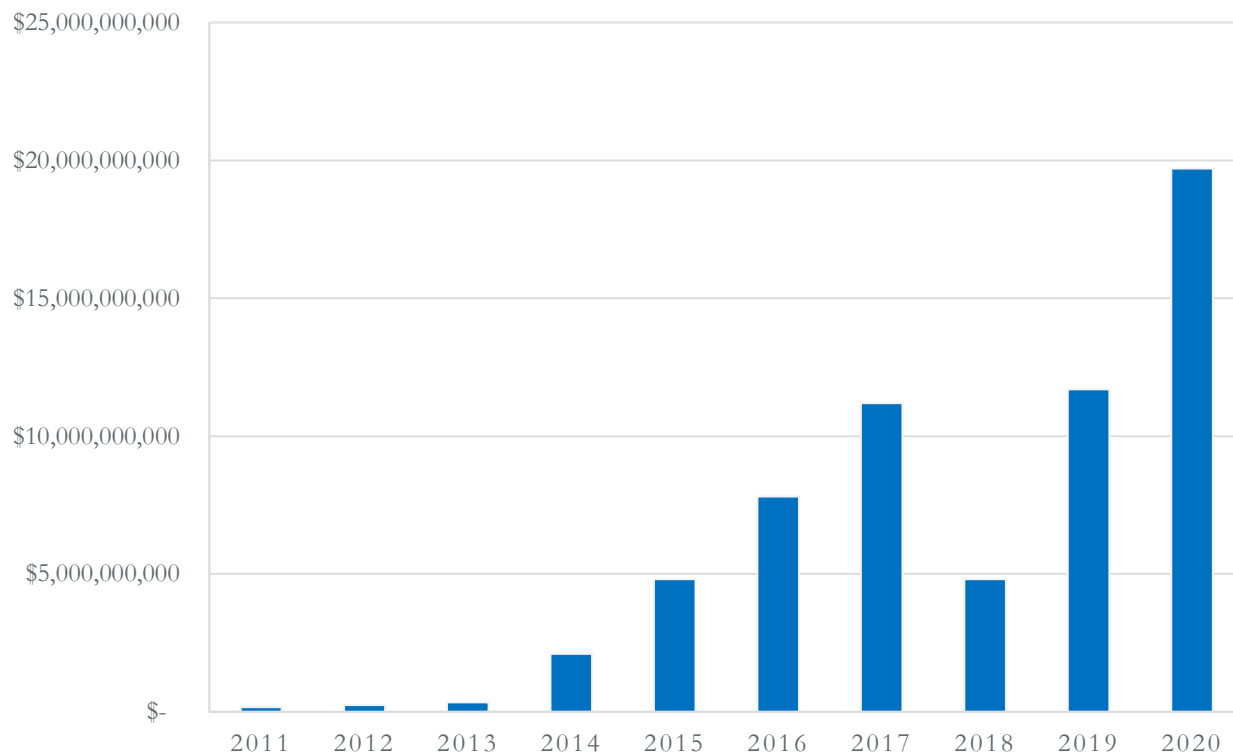
There is great diversity across the state laws governing the issuance of municipal bonds across the United States, which has resulted in highly varied ways that bonds are authorized, structured, secured, and issued, as well as a large range of public purposes that can be funded with bond proceeds. These factors, together with the favorable tax preference introduced via the IRC, has entrusted the vast network of U.S. issuers with the authority to issue bonds and structure repayment in a myriad of ways. Municipal issuers, in many cases, can utilize either fixed or variable rates, derivative products, or tax credits when structuring bonds, and often have broad latitude to set prices, the duration of the issuance, determine the method of sale, and other terms to investors. These factors have contributed to the complexity and variation in the bond market.

The legal enabling frameworks for municipal bonds often encourage a significant degree of local autonomy over capital projects and the development of a plan of finance for a borrowing, enabling municipal governments to set highly individualized priorities when bearing the cost of infrastructure and economic development.¹¹ As a result, there is immense variation in how bonds are issued by thousands of issuers of municipal securities in the United States, including states and political subdivisions (cities, towns, school districts), as well as state public authorities with mandates for funding infrastructure with a sector

focus (airport, housing, water, sewer, economic development authorities and others), and not for profit entities, like hospitals, senior living, retirement communities, and museums, as well as private entities which access the market through conduit financings to issue private activity bonds.¹² The payment of principal and interest on municipal bonds also comes from a variety of sources, including general revenues, specific tax receipts, non-tax revenues from a particular project, the fines, fees, charges, or intergovernmental revenues of a jurisdiction, which are further described in Table I of the *Appendix*.

As the municipal market has grown, several notable trends have emerged. First, the municipal bond market is highly fragmented when compared to other fixed income markets, due in large part to its breadth and diversity. A contributing factor to the variation and fragmentation in the market is the rapid growth of socially responsible investing strategies driven, in part, by municipal issuer sales of “ESG labeled bonds” - a designation made by an issuer to connote that bonds prioritize environmental, social, and/or governance outcomes.¹³ ESG labeled bonds are predominantly arising in three forms (Green Bonds; Social Bonds, and Sustainability Bonds) and have exhibited a compound annual growth rate of approximately 70% from 2011 to 2020.¹⁴ The sharp rise has been fueled, in part, by growing investor demand for ESG municipal securities investment products.¹⁵ Experts also predict that social bonds are likely to continue to experience rapid growth in the municipal market, propelled by persistent wealth and income inequality gaps and the “natural overlap between social purposes and the operations and purpose of many municipal entities”.¹⁶

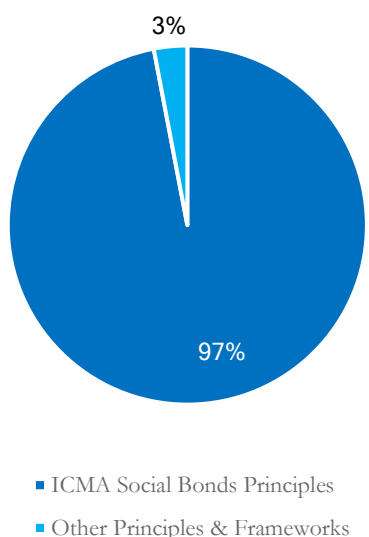
Chart I: Annual ESG Municipal Bond Issuance Volume, 2011-2020



Source: Morgan Stanley Research, Bloomberg; May 26, 2021

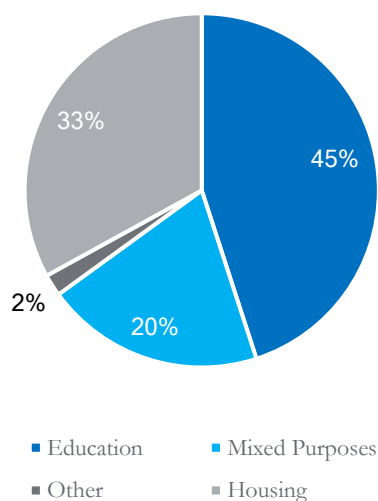
Issuers seeking to proactively center equity, equality, or other related social outcomes in a municipal bond issue often designate the issuance as an ESG labeled “social bond”. At present, approximately 97% of social bonds issuances explicitly adhere to the Social Bond Principles (SBP) developed by the International Capital Markets Association (ICMA), as illustrated in Chart II below, making it one of the most widely adopted voluntary principles social bonds issuers look to for guidance.¹⁷ Additionally, the predominant infrastructure sectors financed with social bonds from 2018 to 2020 are education, affordable housing, and mixed purposes, as illustrated in Chart III below.¹⁸

Chart II: Percentage of ESG Labeled Social Municipal Bonds Adopting the ICMA SBPs



Source: ICMA

Chart III: Infrastructure Sectors funded with ESG Labeled Social Bonds



Source: Standard & Poor's

ICMA's SBPs define social bonds as an issuance that “raise[s] funds for new and existing projects with positive social outcomes”.¹⁹ Issuers who adopt the ICMA SBPs must align to the following four core components: 1. use of proceeds to achieve a social benefit; 2. a process for project evaluation and selection; 3. management of proceeds to allocate proceeds to eligible social projects; and 4. annual reporting with respect to the projects funded with social bond proceeds, and other criteria.²⁰ However, the ICMA SBPs do not set performance standards that enable issuers to measure and track how and whether a social bond issue is changing place-based social outcomes within a jurisdiction. Issuers seeking heightened reporting and transparency are encouraged by ICMA to consider developing their own expanded frameworks in tandem with the ICMA SBPs or to engage independent external verification services to review and evaluate the presence of ESG factors in the bond issuance.²¹

The flexibility to engage in the practice of self-designation of social bonds provides issuers with significant autonomy, but creates a risk that an issue could potentially reflect inadequate or insufficient attention to the measurement of quantitative and qualitative indicators of equity, equality or other related social outcomes and still label a bond as “social”.²² For example, if a bond issuance results in de minimis impacts on social factors in a jurisdiction, but reflects procedural alignment to the core components of the

SBPs set forth by ICMA, it would still likely be eligible for a social bond designation.²³ This can give rise to concerns around “social washing” – “that is, when an issuer overstates or misrepresents the impact of social projects.”²⁴

It is important to acknowledge that many municipal securities can be found to reflect a focus on equity, equality, and social justice even if they are not explicitly designated with an ESG label. Such financings are often under examined in the context of ESG discussions but can offer valuable lessons that are instructive when developing strategies, frameworks, or evaluation tools in the market. Consider, for example, Qualified Zone Academy Bonds (QZABs) - one of the earliest examples of municipal bonds that reflected an explicit commitment to economic equity and advancing education outcomes which highlight unique challenges that can arise with respect to data and evaluation when measuring complex social outcomes resulting from an investment.

Initially created in 1997 pursuant to the *Taxpayer Relief Act*, and later revised via *Tax Extenders and Alternative Minimum Tax Relief Act* of 2008, QZABs were designed as tax credit bonds to allow school districts and charter schools to borrow money at a nominal to zero interest cost.²⁵ Internal Revenue Service regulations explicitly stipulated that the proceeds of a QZAB bond issuance could only fund specific capital and operations needs in schools located within an area known as an Empowerment Zone or Enterprise Community, which are economically distressed communities designated by the federal government for aid, or a school where at least 35 percent of the students are eligible for free or reduced-price lunch. Pursuant to the *National School Lunch Act*, free meals are provided for students from families whose income is below 130 percent of the federal poverty level.²⁶ Reduced price lunches are provided if the family's income is between 130 and 180 percent of the federal poverty level.²⁷ The enabling legislation for QZABs, thus, required a specific use of proceeds to fund educational facilities and programs for the noted target populations to provide students with resources they need to graduate and achieve strong educational outcomes, and further other community development objectives.²⁸

The *Community Renewal Tax Relief Act of 2000* required that the Government Accountability Office (GAO) audit and examine the effectiveness of programs in federally designated geographic areas characterized by high levels of poverty and economic distress such as empowerment zones and enterprise communities (where QZABs investments were made) and renewal communities to study the effect of the programs on social outcomes including poverty, unemployment, and economic growth. While researchers found evidence of progress in some jurisdictions, they were unable to conclude that targeted investment and incentive programs led to improved community outcomes at a large scale.²⁹ Researchers specifically found it difficult to identify a causal link between the empowerment zones, enterprise communities, and renewal communities' programs and economic development outcomes due to data limitations, and other factors, which inhibited large-scale econometric evaluation.³⁰ The lessons learned in the context of the GAO's evaluation of QZABs in the noted federally designated areas highlights challenges, limitations, and factors that can become important to consider when developing evaluation frameworks to measure whether place-based equity outcomes are changing over time in the jurisdiction as a result of a municipal bond investment.³¹

As an additional example, consider the history of the Property Assessed Clean Energy (PACE) bonds program. PACE bonds are issued by municipalities to generate funding for loans to residents and businesses who want to implement energy efficiency improvements and encourage affordable environmentally conscientious behavior among all home and small business owners, including those in low-income communities.³² PACE bonds were designed with a use of proceeds strategy that was widely considered to promote environmental justice outcomes.³³ However, an examination of the outcomes related to certain properties financed by PACE bonds using a holistic lens suggests troubling trends.

Numerous PACE bonds that were secured by a lien over the house or building on which the improvements were made contained terms that stipulated that the lien transferred upon the sale of the property. In such cases, local homeowners and business owners were obligated to repay the amounts borrowed via property tax payments or special assessments on the property over time.³⁴ In several jurisdictions where PACE bonds were issued, a disproportionate number of homeowners of color found themselves with unaffordable loans and facing foreclosure when they were unable to pay the special assessments that secured PACE bonds.³⁵

Such foreclosures have had particularly dire outcomes on communities of color, which face a greater loss of wealth when compared to predominately white populations.³⁶ Moreover, studies by the National Low Income Housing Coalition have suggested that the average loss of wealth in a household of color facing foreclosures is approximately double that of a Caucasian household.³⁷ For these reasons, the loss of wealth in the form of home equity arising from PACE bond related foreclosures in the residential home sector is in actuality particularly devastating for communities of color because black and Latino communities traditionally hold between 49 and 52 percent of total assets in home equity, compared with just 28 percent for white families.³⁸ The noted data trends across PACE bond issuances were reported by concerned advocacy groups, residents, and elevated to general audiences by media outlets.

Similar to QZABs, the case study of PACE bonds highlights several important considerations one should be attentive to when focusing on equity, equality, or other related social outcomes in municipal bond financings. First, it is important to have a robust plan for structured, timely, and consistent longitudinal data measurement that examines how place-based outcomes are changing in a jurisdiction served by the bond issue. Such analysis should not only be confined to the use of bond proceeds but should consider holistically the features of the entire plan of finance for the bonds and baseline conditions of equity in a jurisdiction. In a highly varied and fragmented municipal market, access to such data is challenging, but important, for investors and issuers who are prioritizing social outcomes in concert with financial or economic outcomes of a financing. PACE bonds further demonstrate the essential role that community engagement can play in raising awareness of emerging outcomes of a financing. Engaging resident perspectives meaningfully regarding their lived experience is crucial, particularly as social factors change in the jurisdiction and projects financed with bonds are placed in service.

Part II. Municipal Bond Market Stakeholder Activity on Equality, Equity & Social Justice

Many investors have long recognized the power of capital markets to advance social change and have been adopting a socially responsible lens in creating investment portfolios that consider racial inclusion and diversity as target outcomes of their investments.³⁹ Investors seeking to be proactive in their

role as asset owners are recognizing that investment decisions that prioritize equity can result in the creation of more secure, healthy, and just communities, while also promoting equitable models throughout the United States.⁴⁰ This is particularly evident in municipal bond financings designed to fuel more inclusive growth, healthier communities, reduce poverty, discrimination, and achieve other place-based outcomes.⁴¹

The growing investor demand for ESG municipal investment products has led to the proliferation of ESG municipal funds, including bond funds, ESG 529 savings, ESG focused “separately managed accounts” strategies, equity focused municipal bond exchange traded funds, and other managed municipal investment products for retail and institutional investors who want to adopt an ESG lens in their portfolio.⁴² Across the noted products, ESG strategies in the municipal bond market often reflect one of two prevailing approaches. The first is a practice known as “negative screening” that excludes investments whose primary activities would undermine the designated social function. For example, some investors in the corporate sector may avoid companies that produce firearms or municipal securities deals that depend upon tobacco revenues. Another strategy is one in which investors proactively invest in a financing that reflects a commitment to social responsibility around a range of issues, including climate change, education, equality, among others. Although the two strategies differ, they reflect a common objective: to motivate companies or governments to operate more equitably or in ways that are aligned with larger social values.

ESG strategies are often operationalized via proprietary tools, frameworks, and policies developed by specific private sector actors, or in partnership with other stakeholders.⁴³ For example, recently several leading investment firms (BlackRock Inc., Goldman Sachs Asset Management, Lord, Abbett & Co., Morgan Stanley Investment Management and Vanguard Group Inc.) partnered with two minority-owned underwriters (Loop Capital Markets and Siebert Williams Shank & Co.), to develop a survey for governments to gather data and information regarding markers of race-based inequality, among other inequities.⁴⁴

The wide spectrum of investors and market stakeholders uniformly rely on private sector rating agencies, such as Moody’s Investor Service, Standard & Poor’s, Fitch Ratings, and Kroll to perform an assessment of credit worthiness of bonds and assign a public rating informed by the agency’s perception of risk as part of the process of purchasing bonds in the primary or secondary market. As investors have started to place greater attention on equity and equality, some credit rating agencies are gradually devoting more attention to reexamining whether indicators of equity and equality potentially should inform a traditional credit risk analysis and many are also examining equity, equality, and other social factors as part of a separate stand-alone ESG analysis.

In the Fall 2020, for example, the rating agency S&P Global revised its credit rating outlook on Minneapolis’ outstanding general obligation bonds to “negative” from “stable”, citing higher social risks following George Floyd’s murder, civil unrest, and calls for police reform that created an “elevated likelihood” of large legal settlements that could “pressure the city’s budget for a prolonged period.”⁴⁵ In addition, a recent report by S&P articulates that “racial injustice is becoming a material issue that has the potential to change our ESG evaluations and credit perspectives.”⁴⁶ This aligns with many industry expert perspectives who find that indicators of racial segregation, injustice, or inequities can serve as reliable predictors for resiliency and can inform an investor analysis when maximizing risk-adjusted returns tied to

municipal investments in a credit analysis process.⁴⁷

Recent Moody's rating agency research reports, for example, have also found that long-term economic growth is significantly enhanced in jurisdictions with strong commitments to racial integration, and has the potential to increase gross domestic product growth from 2.4% to 2.7% per annum in the U.S.⁴⁸ Moody's also observed that inequality can exacerbate credit-related social risks when assessing the sovereign credit profile of U.S. bonds.⁴⁹ The rating agency Kroll has put forward an ESG Management analysis, and is integrating relevant ESG issues into its credit analysis "without having to veer into subjective selection, scoring, and weighting of ESG factors that are not meaningfully credit-relevant."⁵⁰ Fitch evaluates ESG risks as an integrated part of the credit rating process, signaling the risks and opportunities presented by ESG factors via ESG Relevance Scores ("ESG.RS") developed in 2019.⁵¹ ESG.RS are assigned by the credit rating committee and they are observations on how ESG issues have impacted the rating that is being assigned.⁵²

Expanded investor activity, coupled with increased attention from rating agencies focused on the evaluation of racial equity, equality and other related social outcomes suggests that data based on both off-balance sheet financials and non-financial factors can be important material indicators in the context of evaluating a municipal bond for purchase. An awareness of this has led many bond market stakeholders to demand greater transparency and spawned the creation of an emerging novel rating agency model by the organization Activest, for example, with a stated singular focus on the evaluation of racial justice for bonds.⁵³

As momentum builds across some classes of investors and other municipal bond market stakeholders who seek expanded access to analysis and data regarding environmental, social and governance factors, the role of regulators is vital. Despite its size, growth, complexity, and importance, the municipal bond market has not been subject to the same level of regulation as other sectors in the U.S. capital markets. This is primarily due to the core body of law that governs municipal securities regulation and disclosure. The Securities Act of 1933 and the Securities Exchange Act of 1934 include broad exemptions for municipal securities from all their provisions, except for the antifraud provisions of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5.⁵⁴ The Securities Acts Amendments of 1975 (also known as the "Tower Amendment"), expressly limited the Securities Exchange Commission and the Municipal Securities Rulemaking Board's authority to require municipal securities issuers, either directly or indirectly, to file any application, report, or document with the noted regulators prior to any sale of municipal securities.⁵⁵

In the absence of a direct statutory framework that mandates and governs municipal securities registration and reporting, disclosure efforts in the municipal bond market have been accomplished primarily through the regulation of broker-dealers and municipal securities dealers pursuant to Exchange Act Rule 15c212, Securities Exchange Commission interpretations, enforcement of the antifraud provisions of federal securities laws, and Municipal Securities Board Oversight.⁵⁶ A core part of the current municipal disclosure framework is grounded in Exchange Act Rule 15c212, which was adopted in 1989 and amended most recently in 2018.⁵⁷ The noted rule establishes standards for the procurement and dissemination of disclosure documents for municipal bonds by underwriters as a means of enhancing the accuracy and timeliness of disclosure to municipal securities investors, particularly when bonds are sold via public underwriting.

The historical evolution of core legislation governing municipal market regulation has created a limited framework of disclosure where issuers have not been required to track, measure, and report non-financial ESG factors, including equity, equality, and other social indicators associated with a bond issuance. However, leaders at the SEC have remarked that 2020 provided “a real-time case study” for considering the need for expanded disclosures to investors interested in racial justice and equality oriented securities who are demanding additional information in this area prior to investing.⁵⁸ In December 2021, the Municipal Securities Rulemaking Board issued a request for information to solicit public perspectives on ESG practices in the municipal bond market, as part of its efforts to engage stakeholders to help inform its mandate of protecting investors, municipal issuers, and the public interest by promoting a fair, efficient and transparent municipal market.⁵⁹

Part III. Exploring the Development of a New Framework & Program to Support Issuers and Market Stakeholders Seeking to Leverage Capital Markets to Address Inequity & Inequality

As noted throughout this paper, issuers are pursuing a range of approaches to incorporate equity, equality, and other social considerations into their municipal bond issuance strategies. When considering the challenge and opportunity of developing a framework and new resources to support issuers and market stakeholders, the following principles and considerations will serve as a starting point for the next phase of our work:

- **It is important to examine whether there is a clear definition of equity or equality guiding the issuer’s municipal bond investment strategy.** Throughout this paper, the terms “equity” and “equality” are used because issuers of municipal bonds reflect immense variation and experiences in their adoption of definitions, plans, and strategies in this complex area. It is important that our exploration of the development of a framework and related programming is adaptable to a wide range of government issuer experiences who may ascribe to a wide range of definitions of equity and equality. In that process, it will be important to acknowledge that equity and equality often convey significantly different ideas: equity is about fairness, while equality is about sameness.⁶⁰ A strategy centered in the notion of equality seeks to provide all individual the same resources or opportunities. An equity-centric strategy recognizes that each person has different circumstances and endeavors to allocate the exact resources and opportunities needed to enable each person to reach an equal outcome.⁶¹ It will be important to examine whether issuers and market stakeholder need capacity-building with respect to these, and other, important foundational concepts.
- **Examining whether there is an understanding of the historical root causes of inequity and inequality in an issuer’s jurisdiction is vital. It is also important to design a municipal bond investment strategy with awareness of that history and the awareness of a broader taxonomy of the interventions that can impact the social determinants of equity and equality in the jurisdiction.** Equity and inequality are incredibly complex issues. Achieving systemic change in the pursuit of stronger social outcomes in the notes areas requires a sustained commitment that must begin with an awareness of historical factors and government’s role in addressing past and current policies and actions that have shaped inequity, resulted in unfair or unjust social and economic outcomes, or produced complex and complicated disparities.⁶² In addition, it is important to ask whether the investment strategy is designed with the right intervention, in view of the full range of interventions that can impact social determinants of equity in a jurisdiction.

- **Examining baseline conditions and characteristics in an issuer’s jurisdiction are important to understand the factors and contexts that can impact progress on equity and equality.** It can be critically important to consider the issuer’s jurisdictional boundaries, its autonomy, resource base, resident composition, framework for governance, relationship to higher levels of government, and experience developing equity strategies to govern capital investment and infrastructure funding.⁶³ This will reveal any limiting or enabling factors that may be beyond the control of an individual issuer and could impact their capacity to successfully yield desired social outcomes. To that end, it is important to also account for the presence of shared funding and expenditure mandates, which may shed light on important limitations, opportunities, and outside factors that impact how municipal bonds funds and other revenues of the jurisdictions are being allocated to fund interventions and to change equity and equality outcomes. For example, the current environment for federal aid to fund infrastructure has undergone dramatic shifts via the passage of the \$1.85 trillion *American Rescue Plan Act* and \$1.2 trillion *Infrastructure Investment and Jobs Act* and is changing the intergovernmental resource base available for capital (and other) investment in many communities, with funding streams that in many instances explicitly encourage equitable investment across many functional areas such as broadband, water, sewer, and others. It is important to be attentive to such trends, recognizing that such federal aid might serve as important co-investment avenues for infrastructure funding and impact how issuers rely on municipal bonds as part of the wider capital funding strategy for the jurisdiction.
- **Examining how and whether equity or equality criteria are present in all stages of a bond issuance and are accompanied by a rigorous plan and tools to enable data-driven evaluation and measurement, is vital.** The development of a plan of finance, the sale, the closing, allocation of bond proceeds and other aspects of the post-issuance compliance period for municipal bonds are distinct and important stages of a municipal bond issuance. It is important to examine whether the issuer has a clear vision for desired target outcomes and metrics to measure and evaluate progress and changes to place-based outcomes in a jurisdiction. Measurement and data tools should also be developed in view of challenges and limitations of data availability under the current municipal market regulatory framework, and in ways that recognize the many valuable data sets created by a range of actors outside the municipal market that could inform the measurement of equity, equality, and other social factors. Issuers who voluntarily commit to adopting and disclosing strong rigorous data and evaluation frameworks should consider the important role they can potentially play in sharing such learnings to inform market regulators who are considering changes to the disclosure standards governing ESG labeled municipal bonds. It is also important to examine how and whether voluntary disclosure can position issuers to achieve stronger pricing outcomes, and whether such lessons, and others, can become important for issuers to share as a network of peers when working on equity and equality.

Conclusion

Addressing systemic and deeply rooted disparities and inequities is the one of the most significant challenges facing the United States today and requires a range of legislative and market-based interventions that can meaningfully address and change social, economic, and other conditions that influence equity outcomes in communities across the nation.⁶⁴ The considerations outlined in this paper present a starting point for a body of work exploring the creation of new frameworks and a program intended to support issuers that seek to leverage the power of bond markets to address complex systemic injustice with new efficacy and greater commitment. To that end, our next steps will begin by convening national focus

groups of issuers and market stakeholders to engage their voice, perspective, and insights as a vital step to test the assumptions, questions, and preliminary considerations summarized in this paper and to identify what is needed in order to develop tools and programs that enable issuers and other stakeholders to fully leverage the power of municipal bond markets as an engine of systemic change towards greater equity and equality.

Appendix

Table: Select Municipal Bond Sectors & Security⁶⁵

Sector	Security
General Obligation Bonds	Bonds that are secured by a pledge of the issuer's full faith and credit (i.e., gross tax revenues, etc.)
Water & Sewer Revenue Bonds	Bond that are secured by revenues obtained through local water and/or sewer assessments, or other discrete revenues derived from the water and/or sewer utility systems. In some instances, water and sewer infrastructure can also be secured by a general obligation pledge of the issuer, depending on the context of the project and nature of the financing.
Housing Revenue Bonds	Bonds that are secured by specific revenues from mortgage loans, reserves, or other specific project revenues or assets pledged by the issuer in alignment with the project(s) or program financed with the bond proceeds. Housing bonds can also be secured by a general obligation pledge of the issuer, depending on the context of the project and nature of the financing.
Industrial Development Revenue Bonds	Bonds that are secured by revenues related to a particular economic development project or a combination of dedicated municipal revenues (taxes, charges, fees, etc.) related to the jurisdiction served by the project.
Education Revenue Bonds	Bonds that are secured by student tuition payments or other revenues of the educational institution (i.e., private college, etc.) that serves as the issuer of the debt.
Transportation Revenue Bonds	Bonds that are secured by the revenue earned from a transportation system, or through municipal revenues (i.e., taxes, etc.) generated in the service area or jurisdiction that the transportation system serves. Depending on the context of the financing, transportation revenue bonds can also be secured by other funding sources.

Works Cited

¹ Throughout this paper, the terms “equity” and “equality” are used, in recognition of the fact that issuers of municipal bonds reflect immense variation and experiences in their adoption of definitions, plans, and strategies in this complex area, and follow a wide range of approaches when integrating equity or equality principles in government wide strategies and/or bond issuances. However, the paper acknowledges that there are prevailing definitions of equity and equality put forward by leading experts in Part III and presents select approaches to defining equity and equality in such section. It also elevates the importance of defining equity and/or equality within the issuer’s jurisdiction as an important foundational step when any issuer is preparing to center equity in a bond issuance.

² Bradley Hardy and Trevon D. Logan, “Brookings Report: Racial economic inequality amid the COVID-19 Crisis” (August 13, 2020) available at <https://www.brookings.edu/research/racial-economic-inequality-amid-the-covid-19-crisis/>

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⁴ Simon Z. Wu, John Bagley & Marcelo Vieira, “Analysis of Municipal Securities Pre-Trade Data from Alternative Trading Systems”, Municipal Securities Rulemaking Board, (October 2018), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/msrb-staff-analysis-of-municipal-securities-pre-trade-data.pdf>

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⁶ Lourdes German & Anjali Chainani, “How City Budgets can Help Equity as well as Fiscal health, Bloomberg Cities, (December 2, 2021), available at <https://bloombergcities.jhu.edu/news/how-city-budgets-can-help-equity-well-fiscal-health>

⁷ Securities Industry & Financial Markets Association, (last visited December 30, 2021), <https://www.sifma.org/resources/archive/research/statistics/>

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¹³ Municipal Securities Rulemaking Board Request for Information on Environmental, Social & Governance Practices, (December 8, 2021) <https://www.msrb.org/-/media/Files/Regulatory-Notices/RFCs/2021-17.ashx?>

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¹⁵ Municipal Securities Rulemaking Board Request for Information on Environmental, Social & Governance Practices, (December 8, 2021) <https://www.msrb.org/-/media/Files/Regulatory-Notices/RFCs/2021-17.ashx?>

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²¹ Ibid.

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²⁸ Ibid.

²⁹ The U.S. Government Accountability Office, “Report: Limited Information on The Use and Effectiveness of Tax Expenditures Could be Mitigated Through Congressional Attention” (February 2012) <https://www.gao.gov/assets/gao-12-262.pdf>

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³³ Ibid.

³⁴ National Consumer Law Center, available at <https://www.nclc.org/media-center/los-angeles-county-ends-pace-program-marred-by-fraud-abuse-and-unaffordable-loans.html> (last visited December 30, 2021)

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³⁷ Ibid.

³⁸ Ibid.; See also The Heron Foundation, “PACE Bonds Mission Investments? Its Complicated” available at <https://www.heron.org/pace-bonds-mission-investment-its-complicated/> (last visited December 30, 2021)

³⁹ Breckinridge Capital Advisors, <https://www.breckinridge.com/insights/details/engaging-with-the-tech-sector-re-diversity-equity-and-inclusion> (last visited December 1, 2021).

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⁵² Ibid.

⁵³ Stephen Gandel, “Fiscal Justice Ratings Fight Police with Brutality & Finance” New York Times (October 16, 2021) <https://www.nytimes.com/2021/10/16/business/dealbook/fiscal-justice-ratings.html>

⁵⁴ Securities Exchange Commission, Report on the Municipal Securities Market (2012) <https://www.sec.gov/spotlight/municipalsecurities.shtml>

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Municipal Securities Rulemaking Board, “Request for Information on Environmental, Social & Governance Practices” (December 8, 2021) <https://www.msrb.org/-/media/Files/Regulatory-Notices/RFCs/2021-17.ashx?>

⁶⁰ There are many approaches to defining equity. The concepts and definitions included in this paper are drawn from the long-standing work on equity by the Government Alliance on Race & Equity, particularly the extensive and comprehensive library of resource guides and materials, available at <https://www.racialequityalliance.org/>. In addition, the research also reflects attention to approaches defining equity developed by the National League of Cities Race Equity & Leadership Program, and the author's review of the extensive database of equity and equality strategies for governments across America., available at, <https://www.nlc.org/program/race-equity-and-leadership-real/>. In addition, the research and perspectives reflected in Policy Link's Equity Manifesto, available at, <https://www.policylink.org/resources-tools/equity-manifesto>. The research also reflects consideration of the emerging and important body of work of the Bloomberg City Budgeting for Equity and Recovery Program, and research produced as part of that effort, available at, <https://medium.com/city-budgeting-for-equity-recovery/city-fiscal-health-and-equity-initiative-88563149f41>

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⁶³ The PFM Consulting Group, LLC, Equity in Capital Improvement Planning Processes, What Works Cities (August 2, 2021) <https://medium.com/city-budgeting-for-equity-recovery/report-equity-in-capital-improvement-planning-processes-216153395ac2>

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⁶⁵ For additional definitions related to municipal bond market sectors, review The Municipal Securities Rulemaking Board Glossary available at this link: <https://www.msrb.org/glossary>