
The **FISCAL REPORT** an
informational
update

**School Districts May Be Eligible for Funds
from Bank of America Settlement**

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In the past few months, many school business officials have received information regarding the settlement of the State of California's lawsuit against Bank of America. And, if you're like most who received that information, you probably found it to be a difficult read to say the least. We did, too. So, we took it upon ourselves to try to simplify things and provide an easier to understand explanation of the settlement, the eligibility requirements to participate, and how to file a timely claim.

Overview of the Case Settled with Bank of America

On November 10, 1998, Bank of America and the State of California agreed to settle the case of State of California, et al., ex. rel. Stull v. Bank of California, in which Bank of America, in their role as trustee and paying agent on bond issues, was accused of failing to return unclaimed debt service monies and over charging for investment services to California municipal debt issuers during the period from January 1, 1945, to November 10, 1995.

The settlement was for \$187.5 million. Out of this amount, the State Attorney General will receive a hefty \$61.9 million. And, the former Bank of America employee who brought the case to the attention of the State, otherwise known as the whistleblower, stands to gain \$22 million. By my math, that leaves \$103.6 million remaining for claimants. However, we know there are other amounts that will be channeled to the State for various purposes, and thus what appears to be left over for claims by all local government agencies in California is approximately \$60 million.

Of the \$60 million, \$40 million is for claims that Bank of America failed to return unclaimed debt service monies (call this Pot A). The other \$20 million is intended to compensate local agencies for overcharges on fees and investment services (call this Pot B). The eligibility requirements for Pot A and Pot B are slightly different, as noted below.

These monies will be distributed among the claimants pursuant to a rather complex formula that essentially attempts to distribute the monies on a pro rata basis according to the amount of debt service paid. Therefore, at this point, it is impossible to know exactly what the amount of any claimant's recovery may be.

Is Your District Eligible to File a Claim?

Your district may be eligible to file a claim for any municipal debt obligation that meets the following requirements:

1. The obligations were issued between January 1, 1945, and November 10, 1995,
2. Bank of America, or any one of thirty other trustee banks acquired by Bank of America (a list is attached), provided paying agent or trustee services during this period. Of the other trustee banks, one in particular, Security Pacific National Bank, was an active provider of trustee and paying agent services to California school districts,
3. Finally, and importantly, the following “types” of obligations are not eligible for Pot A (the \$40 million),
 - a. “pay as you go” bonds,
 - b. conduit bonds—in most cases,
 - c. obligations registered in “book-entry” form, (Almost all local government obligations issued since about 1993 were registered in a “book-entry” form. Therefore, it is unlikely that any school district obligations issued after 1993 are eligible for the \$40 million in Pot A.)

How Your District Can File a Claim

In order to file a claim, your district must complete and submit a claim form by July 21, 1999. The form may be obtained from the State Department of Finance (or may be downloaded from the following web site: <http://stull.doj.ca.gov/>). The form asks for the following evidence, which can typically be found in the official statement, the transcript or the legal documents for the issue.

1. the title of the issue,
2. the date of the issue,
3. the principal amount of the issue,
4. the type of issue,
5. the actual debt service paid on the issue in each fiscal year (And, if this is not available, the amount of debt service paid each year will be estimated for you.),
6. Bank of America (again, or one of the banks acquired by Bank of America) provided trustee and/or paying agent services sometime between January 1, 1945, and November 10, 1995,

Conclusion

Clearly, a very significant issue facing school districts with respect to claiming a portion of the settlement will be producing sufficient documentation of eligibility. If you have the necessary documentation, the claim form itself is not particularly complex, and thus it will be relatively straightforward to submit a claim. However, as a matter of practicality, the older the obligation the more difficult it will be to uncover the necessary documentation, and therefore it is my guess that a number of claims will not be submitted for obligations that were otherwise eligible. So with that, I wish you the best of luck in your district's investigation.

Note: If you have any further questions, please feel free to call Jonathan Edwards of Government Financial Strategies in Sacramento at (916) 444-5100.

