

RE: Call re Delivery of Reference Documentation to Province

From: "Hanslep, Malle (MOF)" <malle.hanslep@ontario.ca>
To: "ASHBOURNE, STEPHEN (STEPHEN.ASHBOURNE@blakes.com)" <stephen.ashbourne@blakes.com>, "VINER, JON (JON.VINER@blakes.com)" <jon.viner@blakes.com>
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Date: Wed, 10 Jan 2018 09:43:12 -0500

Hi,

Here are a few minor comments from MOF LSB on the sections that reference the protection agreement.

p. 1 – We reviewed a couple of precedents that used the wording “obligations” of Province in these sorts of provisions so the wording looks fine. E.g. UOIT and 55 School Board Trust
p. 7 - Please check over the wording describing contracts of \$5 million – think the correct wording “is in excess of”, not “equal to or greater than” based on wording of protection agreement definition – compare it to p. 29 of the OM which contains that the longer description which appears to be correct.
p. 8 – Please check description of paragraph (iii) of definition of protection event. Should it say “Act or any portion”, not in whole or in part?
p. 8, 10, 27, 28 29, 30, 31, 47, 52, – no comments
p. 70 – “materially” should be deleted from description of protection event
p. 70 - Could mention that s. 21 of PACA prohibits execution, attachment and process in the nature of against the Province and also s. 22 which includes provision that Minister of Finance shall pay out of the Consolidated Revenue Fund the amount payable by the Crown under any order of a court that is final and not subject to appeal or under a settlement of a proceeding of a court...

.....

Also perhaps we should generally review the use of “the Province of Ontario” and the “Crown” to see if we are using interchangeably or why we are using 2 different terms, possibly to mean the same thing in each case. If you have any questions about our comments, we could discuss them tomorrow morning..

Thanks,

Malle

From: ASHBOURNE, STEPHEN [<mailto:STEPHEN.ASHBOURNE@blakes.com>]
Sent: January-09-18 9:26 AM
To: Kandeepan, Ken (OFA); Thouin, Alena (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Hanslep, Malle (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Christie, Tim (ENERGY); Veinot, Cindy (TBS); Donaldson, Mark (TBS)
Cc: Sawwaf, Khareem (ENERGY); Huang, Jackson (MEDG/MRIS); Cayley, Daniel (ENERGY); Lightbody, Ava (ENERGY); Rehob, James (ENERGY); VINER, JON
Subject: RE: Call re Delivery of Reference Documentation to Province

Hi. Here is a list of items that could be discussed at 9:30, in order to settle on the scope and nature of

commenting on the OM:

MOE – Alignment Considerations

- 1. Simplified references to the OFHPA (general caveat)
 2. Scope of descriptions (generally, should be ...subject to the OFHPA and the Regulations)
 3. “purposes” of the OFHPA (e.g., implies that is rate reduction)
 4. Nature and duration of the “moratorium period” (non-legislative)
 5. Trust vs. “financing entity” (permit multiple FEs and co-ownership arrangements – minimally described)
 6. “Fair Allocation Amount” – amount vs. effect of calculation (imprecise); concept of “Readjustments” missing
 7. Financing Plan – refinements (e.g., references to Refinancings)
 8. Expectations re FAA – negative until 2024
 9. “Ontario’s Fair Allocation Plan” – styling
 10. OPG appointment as FSM (initial only – ability for Minister to replace)
 11. Inclusions into IESO deferrals (precision)
 12. Carrying costs vs funding rebates (impact on nature of Investment Asset)???
 13. No reference to pre-OFHPA adjustments (piggy bank)
 14. Risk Factors – approach to describing legal risks and Protection Agreement as mitigation
 15. Technical definitions and descriptions (e.g., carrying costs; forecasts from IESO rather than forecast information; invoicing mechanics; simplifications of definitions; etc.)
 16. Limited discussion re contents of “Financing Plan”
 17. No real recognition of tail risk and duration mismatch considerations and mitigants/strategies
 18. No discussion re OFHPA rights of action, etc.
 19. “non-bypassable” (meaning)

OFA - Change of Law Protection Agreement

1. Narrative (e.g., “in favour of the Issuer”)
2. Notes do not constitute debt of Province, etc. (confirm description) – additional considerations?
3. Scope of “Approved Obligations” (overbroad)
4. Positive obligations in favour of Province (e.g., apply amounts; credit for applied amounts)
5. Definition of “Protection Events” (align)
6. Rights of Subrogation (needs to be more detailed)

7. Mechanics of Protection Account
8. Limited direct rights of Noteholders (through indenture trustee)
9. Limitations on damages
10. Only passing reference to the "Process Agreement" in OM (but referred to in more detail in the Investor Presentation)

Other

1. Confidentiality (deemed vs. confirmed in writing)
2. Liability for Taxes (priority claim in waterfall; impact on triggers)
3. IESO - descriptions
4. Electricity Market; OEB; OPG
5. Platform (e.g., very broad cross default – beyond generic risk factors?)
6. Interplay between Warehouse and Term issuances
7. Description of 2018 Notes
8. Optional Redemption of Notes (confirm if applicable/acceptable)

FYI, attached is our internal (preliminary) mark-up of the OM. It should not be on-circulated at this stage. We are providing it now in case you would find it useful to have specified illustrations of the foregoing items.

Regards, Steve

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