

# **Bond Case Briefs**

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## **GFOA Survey May Provide MCDC Information.**

WASHINGTON — The muni market may learn more about how issuers fared under the Securities and Exchange Commission's Municipalities Continuing Disclosure Cooperation initiative after they respond next month to a survey from the Government Finance Officers Association.

The GFOA launched the survey last month in an effort to find out how issuers responded to the MCDC, which allowed both them and underwriters to report to the SEC any instances in the last five years in which they sold bonds and were not truthful in official statements about whether they were in compliance with their continuing disclosure agreements. The MCDC reporting deadline was Sept. 10 last year for underwriters, but issuers had until Dec. 1.

Bond lawyers and other market watchers have been clamoring for months for the SEC to release data about the MCDC submissions, but commission officials have played it close to the vest and declined to give any details. The GFOA survey, which first went live on the group's website late last month, could provide some information straight from issuer officials.

The survey features 19 questions, some of which are multiple choice and others in a short answer format. It asks issuers not only whether they participated in the MCDC, but also for information about their size, the frequency with which they issue debt, and how much time and money they put into deciding whether or not to take part in the initiative.

Issuer officials were also asked how they interacted with their underwriters under the program. The MCDC placed issuers and underwriters into what SEC enforcement division officials repeatedly called a "modified prisoner's dilemma" because they effectively report each other when self-reporting. The survey asks, for example "Were you contacted by an underwriter regarding your continuing disclosure compliance?" and "If an underwriter contacted you indicating you failed to comply with continuing disclosure obligations, were you able to resolve all alleged instances of non-compliance without either your entity or underwriter reporting under the MCDC initiative?"

The survey also asks issuers whether the program was truly "voluntary." SEC officials have repeatedly said that participation in the MCDC was completely voluntary, though some issuer officials have said they felt forced to at least conduct a thorough review of their compliance histories.

About 200 GFOA members have responded to the survey so far, a GFOA official. The SEC said earlier this month that it will release settlements with dealer firms first because they were the first to report, but that enforcement attorneys are still working on verifying many of the self-reports that the commission received. The GFOA survey closes April 3.

THE BOND BUYER

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