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Shutdown Delays Advisor Rule Implementation.

The federal government shutdown will leave some agencies overseeing the bond market mostly operational in the near-term, but the municipal advisor rule's implementation will be delayed and Build America Bond subsidy payments might be temporarily halted.

The Securities and Exchange Commission and core Treasury Department offices will largely continue to function in the absence of congressionally-approved funding. The Municipal Securities Rulemaking Board, a self-regulator, is not covered by the shutdown. However, the Internal Revenue Service is operating on a skeleton crew focused mainly on upholding tax laws, with only 9.3% of the agency's roughly 94,500 employees exempt from furlough, according to agency documents. The tax-exempt bond office appears to be closed.

Most federal websites will not be updated until Congress passes a continuing appropriations bill, and the Federal Register will not be updated. Because publication in the Federal Register starts the 60-day countdown for effectiveness of the SEC's recently approved MA registration rule and the rule wasn't published before Tuesday, its implementation will be further delayed.

Congressional Republicans and Democrats are at a stalemate over funding, with conservatives insisting on defunding or delaying Obamacare. The last government shutdowns, which occurred in 1995 and 1996, totaled 28 days, sources said.

SEC spokesman John Nester said the commission has funds available to allow it to continue functioning for weeks, despite the absence of government spending. This means that personnel in the enforcement and muni offices will still be reporting for work as usual, he said.

"Unlike most other agencies, our appropriations language provides that our funds 'remain available until expended,' Nester said. "It is not uncommon for us to have carryover balances at the end of a fiscal year, and we have determined that our carryover balances are sufficient to allow us to remain open for a few weeks during the lapse of appropriations."

The MSRB, which reports to the SEC and has rules mandated by federal law, is funded by fees and portions of penalties from enforcement cases and will not be affected by the shutdown.

To the extent that Build America Bond subsidy payments are treated as tax refunds, they won't be paid during the shutdown. "Tax refunds will not be issued until normal government operations resume," the IRS said in an announcement about its operations during the shutdown.

The Treasury's published shutdown procedures note that the Office of Domestic Finance will "continue Treasury borrowing/debt programs to meet the government's financial obligations and avoid, or minimize, disruptions to Treasury's financing schedule." State and local groups are worried about what the shutdown could mean for federal payments and support they are accustomed to receiving.

"Besides shirking its responsibilities, Congress' failure to pass a budget has real economic

consequences for families and businesses in our communities,” said National League of Cities executive director Clarence Anthony. “The economic uncertainty this creates is quite frankly, frustrating, and we urge Congress to move forward in finding a way out of this mess.”

“Congress’ failure to reach agreement on even a short-term budget fix is disappointing and, if not resolved soon could impose harmful impacts on state and local governments,” said Dustin McDonald, director of the federal liaison center for the Government Finance Officers Association. If the shutdown is not ended, all non-mandatory discretionary government spending will cease in a few weeks, he said.

“State and local bond issuances could also be adversely affected by market uncertainty about the shutdown, delaying issuers from going to market for fear of higher borrowing costs,” McDonald continued. “Finally, it isn’t completely clear whether or not IRS subsidy payments to issuers of direct-pay bonds, such as the Build America Bonds program will go forward under a shutdown. Obviously that is a concern, especially in light of the 8.7% cut to the federal subsidy payments that issuers of these bonds have already been forced to endure through sequestration.”

Mesa, Ariz. Mayor Scott Smith, president of the U.S. Conference of Mayors, said municipal leaders will continue to work despite Congress’ impasse.

“It is unfortunate that Washington has chosen to go the route of a government shutdown instead of figuring out a way to move forward for the sake of all Americans, including the majority of people who live in cities,” Smith said. “Regardless of what happens in Washington, the nation’s mayors will continue to lead, balancing budgets and solving problems. We do not have the luxury of turning our backs on our residents. We are pragmatic doers who believe in rolling up our sleeves, finding common ground on even the most difficult of issues and getting things done for the good of the whole.”

National Association of State Treasurers senior vice president Richard Ellis, who is the state treasurer of Utah, said it is unclear when or if federal payments states expect, including infrastructure funding, will be made. “We’re all kind-of waiting to see what this means to us,” he said.

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