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Bank, Trust Officers Warned Of Dodd-Frank Surprises.

Banks and trust officers could get tripped up over several pending regulatory developments as Dodd-Frank Act rule-making winds down, Phoebe Papageorgiou, senior counsel of the American Bankers Association, said today.

New requirements to register as municipal advisors, money market reform, and concerns from the Consumer Financial Protection Bureau over senior designations might catch the banking industry by surprise, Papageorgiou said at the ABA's Wealth Management and Trust Conference in San Diego.

Banks may have to register as municipal advisors if they advise municipal entities on the issuance of securities or "municipal financial products," she said.

A municipal advisor is a new registration category arising from Dodd-Frank, Papageorgiou said.

Municipal entities could be local governments, school boards, as well as universities and hospitals that receive bond proceeds, she said. "Thousands of entities could be municipal entities" under the law.

Banks need to be careful managing proceeds of municipal bond offerings, Papageorgiou said, including proceeds of pension obligation bonds if a bank advises a municipal plan.

"The act of managing those proceeds could capture you" under municipal advisor rules and subject banks to additional SEC and MSRB oversight, she said.

The ABA is asking the SEC to carve out an exception for pension obligation bonds. "We say, once [the money] is in a pension plan, it's no longer a proceed, and you no longer have to register," Papageorgiou said.

Banks already get exemptions from the municipal advisor rules for deposit accounts, extensions of credit, or bond indenture trustee services provided to municipal entities.

Trust departments could also be impacted by the SEC's pending money market reform, Papageorgiou said.

Bank trust departments use money market funds for pooled trust accounts and want to continue offering the funds for cash balances, Papageorgiou said. But banks may not be able to use the SEC's proposed retail money funds in trust accounts unless they could track individual withdrawals to ensure compliance with the $1 million limit on daily redemptions. Banks anticipate that the accounting would be too complex to accomplish that oversight, she said, so may have to use government money market funds, which would have no withdrawal limits under the SEC plan.

"The question is, are there enough of those [government funds] out there," Papageorgiou said. "We have a lot of concerns here."

Separately, a CFPB report on senior designations recommended that the SEC establish some standards for certifications aimed at older investors and add some enforcement capability for their misuse.

“It’s interesting that [the CFPB] put out a number of recommendations to the SEC, but not to banking agencies,” Papageorgiou said, even though people in the banking industry are using senior designations.

The CFPB has an office focused on vulnerable populations—students, retirees and military personnel, she added.

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