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GFOA, SIFMA to Push for MA Rule Tweak.

MINNEAPOLIS – The Securities Industry and Financial Markets Association will help large issuers of municipal bonds pressure the Securities and Exchange Commission for a sophisticated issuer exemption from its municipal advisor rule, and will also request another delay in the rule’s effective date if more guidance is not available soon.

SIFMA’s Leslie Norwood and Michael Decker, co-heads of municipal securities at the group, told members of the Government Finance Officers Association’s debt committee during GFOA’s annual conference here Saturday that SEC muni chief John Cross is unable to make substantive changes to the MA rule through additional guidance, but that the commissioners could grant the so-called “sophisticated issuer” exemption. Many large, frequent issuers have said they would support such a change, which would exempt investment bankers and other professionals from having to register as MAs when giving advice to issuers who do not feel they need the rule’s protection.

The MA rule, a part of the Dodd-Frank Act, aims to shield municipalities from receiving bad financial advice by regulating anyone who gives a state or local government advice on issuing muni bonds or investing muni bond proceeds. By law, MAs owe their muni clients a fiduciary duty to put the issuer’s interests ahead of their own and the SEC has made clear that dealers who become MAs will not be able to underwrite a transaction for which they provide advice.

Dealers who wish to offer advice to issuer officials must now rely on an exemption from the rule. Exemptions exist for firms engaged to underwrite a specific bond transaction, firms responding to a competitive request for proposals, and firms giving advice to an issuer who retains and says it will rely on its own municipal advisor. Ben Watkins, who chairs the GFOA debt committee and also serves as Florida’s bond finance director, has supported the idea of also offering an exemption to firms who give advice to issuers with the expertise to parse the good ideas from the bad.

The debt committee floated the idea to Cross at its winter meeting in Washington, which Decker also attended. One committee member here Saturday said she had gotten the impression that Cross was dismissive of the idea of a sophisticated issuer exemption, but Decker said Cross seemed “amenable to it” and simply could not do it unilaterally through the muni office. Watkins said the GFOA meets with SEC commissioners “from time to time,” and that now is probably a good time to have a sit down.

Norwood said SIFMA would support the GFOA’s efforts.

“We support anything that makes the rule more workable,” she said.

Cross told those at the GFOA meeting that more guidance on the MA rule will be released Monday. The rule’s effective date was moved back to July from January after a previous round of written SEC guidance did not come out until very near that first scheduled effective date.

BY KYLE GLAZIER

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