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Lawmakers Threaten SEC with Ultimatum on MCDC.

WASHINGTON — A bipartisan House duo is threatening the Securities and Exchange Commission, warning it must further ease the Municipalities Continuing Disclosure Cooperation initiative for dealers before the Sept. 10 deadline for participation or they will step in with legislative action.

Reps. Steve Stivers, R-Ohio, and Kyrsten Sinema, D-Ariz., delivered the ultimatum to SEC chairman Mary Jo White in an Aug. 28 letter obtained by The Bond Buyer.

The pair of lawmakers told White that the MCDC, which allows both issuers and underwriters to get favorable settlements by voluntarily reporting instances in the past five years in which they sold or underwrote bonds with materially misleading official statements, is causing confusion and needs to have its deadlines and financial penalty structure changed again before the dealer self-reporting deadline just after midnight Sept. 9.

The SEC announced the MCDC in March and amended it July 31 after weeks of near constant requests from various muni market groups and Stivers to do so. The changes included pushing the issuer and borrower reporting deadline back to Dec. 1, and introducing a tiered approach to financial penalty caps for dealers based on the gross revenues of the firms.

Those changes mostly drew approval from the issuers, but dealer groups and some issuers said having different reporting deadlines would only increase tension between an underwriter and an issuer, who effectively report on each other under the MCDC initiative, if one reports a transaction and the other does not.

Stivers and Sinema told White that extending the deadline for dealers would improve the program. "There is simply no justification for separate reporting deadlines," the lawmakers wrote. "Giving dealers additional time to communicate with their issuer clients before self-reporting violations would promote cooperation and help ensure consistency in self-reports."

The legislators are also pushing the SEC to adopt a civil penalty structure based on the revenues of either a firm's muni bond underwriting business or its muni business in general, rather than its overall size. The high-level cap of \$500,000 should remain in place, Stivers and Sinema wrote.

"Penalties based on the sizes of firms' municipal securities business would help ensure that fines are proportional to firms' footprints in the municipal market," they told the SEC.

The lawmakers closed their letter with the threat of action if the SEC does not address their concerns soon, and requested a response by Sept. 5.

Michael Decker, co-head of municipal securities at the Securities Industry and Financial Markets Association, said that SIFMA is glad to see Stivers and Sinema getting involved. Decker echoed the concerns in the Stivers/Sinema letter, saying that some firms want to participate but might not beat the clock. "Some firms are concerned they're not going to be able to review all their transactions by the reporting deadline," he said.

Stivers has been very active on muni issues and has benefited from \$10,000 of SIFMA campaign contributions during the 2014 election cycle, records show.

It is unlikely that Congress would be able to act prior to the MCDC underwriter deadline. Though Decker said there is interest among lawmakers, legislation would have to be introduced and passed by both the Republican-controlled House and Democrat-controlled Senate before also getting a prompt signature from President Obama.

THE BOND BUYER

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