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GFOA Alert Urges Issuers to Prepare for SEC MCDC Settlement Offers.

WASHINGTON - The Government Finance Officers Association has issued an alert urging municipal issuers to be prepared for settlement offers from the Securities Exchange Commission under its program for voluntary self-reporting of violations in connection with continuing disclosure obligations.

The SEC is turning to issuers following its Feb. 2 completion of settlements with underwriters under the Municipalities Continuing Disclosure Cooperation (MCDC) initiative, first announced in March 2014.

The MCDC program allows underwriters and issuers to receive lenient settlement terms if they self-report any instances during the past five years that issuers falsely claimed in official statements that they were in compliance with their self-imposed continuing disclosure agreements.

As of Feb. 2, the SEC completed its underwriter settlements, having ordered a total of 72 firms making up 96% of the market share for muni underwritings to pay a total of \$18 million for selling muni bonds using offering documents that stated issuers had filed timely disclosure in compliance with their continuing disclosure obligations, when they had not. The firms were hit with fines of up to \$500,000.

The commission is expected to soon start settling with issuers that falsely disclosed they had complied with their continuing disclosure agreements, such as by filing timely audited financial and operating information, when they had not. The SEC is not expected to impose fines on issuers but has reserved the right to pursue separate enforcement action against government officials found culpable for the material misstatements or omissions in offering documents, GFOA noted in its alert.

"We really put this piece together to try to help our members prepare for MCDC settlements with SEC," said Dustin McDonald, director of GFOA's federal liaison center here. "We want our members to know that the SEC will offer them flexibility in the turnaround time to agree to the settlements if additional time is requested."

The alert said that, while some underwriters were given as little as one week to agree to an SEC settlement offer, issuers should ask for additional time if they need it after being pressed for action.

"The SEC's Office of Municipal Securities has assured GFOA that issuers will be given greater flexibility in approving proposed settlements and that additional time will be provided," the alert said.

In any case, issuers should be prepared for tight settlement timeframes and should discuss the process for approving settlement offers with elected officials, governing boards and other decision-makers, the alert recommended.

GFOA also suggested issuers consult with legal counsel on proposed settlements and how best to

respond to the SEC's enforcement division. In addition, issuers should obtain advice from counsel about the appropriate disclosures that should be made about settlements, the alert said.

GFOA told issuers that the SEC may direct them, in settlements, to establish policies and procedures as well as training regarding continuing disclosure obligations within 180 days. The commission may also ask them to provide the staff with a certification within one year that their continuing disclosures comply with their self-imposed obligations, according to the alert.

The SEC has not provided any information on how many issuer settlements it is pursuing or whether there will be more than one round of such settlements, GFOA said.

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