

Bond Case Briefs

Municipal Finance Law Since 1971

Choice of Clayton for SEC Fits With Deregulation.

WASHINGTON - President-elect Donald Trump's pick of New York lawyer Jay Clayton to lead the Securities and Exchange Commission is in line with his focus on deregulation, but municipal participants will have to wait and see what impact he may have on the municipal securities market, individuals and groups said.

While several lawyers praised his broad experience on Wall Street, consumer advocates and some Democrats worried whether he will be a strong investor advocate.

Trump announced his intention to nominate Clayton, a partner with Sullivan & Cromwell who has worked extensively with Wall Street but seems to lack muni experience, on Wednesday. The lawyer, who has primarily worked with mergers and acquisitions as well as initial public offerings, would fill the role left open after current chair Mary Jo White steps down after President Obama's departure later this month. He would have to be confirmed by Congress. In addition, there are still two open commissioner positions at the SEC.

Paul Maco, a partner with Bracewell here, said Clayton appears to be "a very well-rounded lawyer" and someone whose background "is one that easily lends itself to the full plate of challenges an SEC chair is presented with." Clayton's background of dealing with M&A and IPOs as well as regulated entities in regulatory and enforcement matters is suitable for an environment where a key focus would be on what level of regulation is appropriate and what deregulation may be appropriate, he said.

Trump has made clear he plans to focus on deregulation during his tenure.

"We need to undo many regulations which have stifled investment in American businesses, and restore oversight of the financial industry in a way that does not harm American workers," Trump said in his statement announcing his choice of Clayton. The president-elect called Clayton a "highly talented expert on many aspects of financial and regulatory law."

Trump's choice of Clayton comes after he had considered Debra Wong Yang, a partner with Gibson, Dunn & Crutcher and a former U.S. attorney under George W. Bush, for the post.

The shift away from Wong, who has a similar background to chair White, is an indication that regulatory issues, and particularly deregulation, will play more of a role for the SEC under Trump, according to market participants. Elaine Greenberg, a partner with Greenberg Traurig here, said Clayton's background may mean he will give equal weight to the SEC's mandates of facilitating capital formation and maintaining fair, orderly, and efficient markets, as well as providing investor protection. White, with her background as a federal prosecutor, was believed to have focused more on investor protection.

But participants are less sure of what Clayton's nomination would mean specifically for munis. They generally agree that his background with IPOs and regulated entities will allow him to understand and work with the muni market, but they add it will be important to wait for him to make more

public statements about his intended agenda.

Maco said he “certainly doesn’t see anything that stands in the way” of Clayton working on muni issues but added that “the real signals will come in the confirmation hearing” he would have in the Senate.

“You usually get a fairly good preview of the agenda that the SEC chair nominee intends to pursue” during the hearing, Maco said.

Emily Brock, director of the Government Finance Officers Association’s federal liaison center, said GFOA intends to continue having meetings with the SEC and maintaining its relationships during any transition so it can stay up to speed on what may be expected.

Bond Dealers of America similarly said it is ready to engage with the next SEC chair about the future regulatory environment.

Trump’s plans to nominate Clayton received some criticism from legislators and observers who are concerned about his ties to Wall Street.

“This nomination of a Wall Street insider to regulate Wall Street proves that Donald Trump has no intention of getting tough on Wall Street,” said Maxine Waters, the top Democrat on the House Financial Services Committee.

Dennis Kelleher, president and chief executive of Better Markets, said that “while Mr. Clayton may be an excellent lawyer representing Goldman Sachs and Wall Street’s too-big-to-fail banks, America’s families need to know that he will represent them as zealously and as effectively.”

The Bond Buyer

By Jack Casey

January 4, 2017