
IRB Disclosure Could Take Hit If Public Cos. Permitted to Report Semiannually.

Amendments proposed by the Securities and Exchange Commission to permit semiannual reporting by public companies could, if adopted, reduce transparency in at least one area of the municipal securities market: Tax-exempt industrial revenue bonds.

On May 5, the SEC proposed amendments that would give public companies the option of filing semiannual reports instead of quarterly reports to meet their interim reporting obligations under the federal securities laws.

Though it's unclear at this stage the degree to which public companies might avail themselves of such an option, Mary Francoeur, the National Federation of Municipal Analysts' industry and media liaison, cited tax-exempt industrial development bonds, a type of private activity bond also known as industrial revenue bonds, as an area of the muni market that could be impacted.

IRB deals are conduit financings, where, though the bonds are issued by a governmental entity, the ultimate responsibility for making principal and interest payments rests with the private sector entity.

"While the corporate obligors in those instances are usually only required to file annually on EMMA under their continuing disclosure agreements, the publicly traded companies presently make quarterly filings on EDGAR," said Francoeur, who brought nearly four decades of public finance industry experience with her when she assumed her NFMA role in January.

"Analysts rely on those filings," she said. "I think any effort to make reporting less frequent is a step backwards in transparency."

The Municipal Securities Rulemaking Board's Electronic Municipal Market Access website – or EMMA – provides free public access to municipal market information and is designated by the SEC as the official source for municipal securities data and disclosure documents.

Similarly, the SEC's EDGAR database provides free public access to corporate information, allowing users to research a public company by reviewing its filings with the SEC. Francoeur cited Waste Management, Inc. (WM) and United Airlines, Inc., whose parent company is United Airlines Holdings, Inc. (UAL), as examples of corporate entities linked to currently outstanding IRBs.

Pat Luby, head of municipal strategy at CreditSights, said a shift to semiannual reporting by public companies, as would be their option under the SEC's proposed amendments, "would have a negative effect on the quality of disclosure" relating to IRBs associated with public companies.

"There's generally no backstop from a municipal entity, so the bondholders are looking strictly to the ability to pay of these public companies," Luby said. "And so if they have to go six months before they get a disclosure, that's a major degradation in transparency."

Comments on the SEC's proposal are due by July 6.

"Public companies have an obligation under the federal securities laws to provide information that is material to investors," SEC Chairman Paul Atkins said in a May 5 statement regarding the proposed amendments. "Yet, the rigidity of the SEC's rules has prevented companies and their investors from determining for themselves the interim reporting frequency that best serves their business needs and investors."

The proposed amendments, if adopted, "would provide companies with increased regulatory flexibility in this regard," Atkins said.

By Kathie O'Donnell

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