

SEC Approves Rule Changes to Enhance Municipal Securities

Washington, D.C., May 26, 2010 — The Securities and Exchange Commission today voted unanimously to approve rule changes improving the quality and timeliness of municipal securities disclosure.

Municipal securities, such as municipal bonds, are exempt from the disclosure requirements of the federal securities laws. As such, the SEC's statutory authority is limited. The SEC's rule amendments approved today are designed to provide enhanced information to municipal securities investors by further regulating those who underwrite or sell such municipal securities.

The measures will strengthen existing requirements for the scope of securities covered, the nature of the events that issuers must disclose, and the time period in which disclosure must be made.

"These rule changes will enable investors to make more knowledgeable decisions about municipal securities by requiring more timely and relevant information on an ongoing basis," said SEC Chairman Mary L. Schapiro. "Although I believe that the SEC's regulatory authority over the municipal securities market should be expanded in order to better protect investors and issuers alike, these measures represent an important improvement within our present statutory authority."

The compliance date of the new rules is Dec. 1, 2010.

<http://www.sec.gov/news/press/2010/2010-85.htm>

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FACT SHEET

Background

Every year, states and local governments raise funds for schools, roads, hospitals and other needs by issuing municipal bonds. In turn, investors receive principal and interest payments, which are often exempt from federal and state income taxes. Maintaining the health of this key component of the capital markets is important to every resident of the United States in addition to the millions of investors in municipal bonds.

Municipal securities, such as municipal bonds, are exempt from the disclosure requirements of the federal securities laws. The SEC adopted Rule 15c2-12 in 1989, which was designed to foster greater transparency in the municipal securities market, by regulating those who underwrite, or sell, municipal securities.

Rule 15c2-12 prohibits brokers, dealers, and municipal securities dealers from purchasing or selling municipal securities unless they reasonably believe that the state or local government issuing the securities has agreed to disclose such things as annual financial statements and notices of certain events, such as payment defaults, rating changes and prepayments.

The Amended Rule will ...

Expand the Rule to Cover Additional Municipal Securities — When it was first adopted, Rule 15c2-12 specifically did not apply to certain securities commonly known as variable rate demand obligations or VRDOs. Under the amendment, the rule will apply to new issuances of such securities. VRDOs bear interest at a rate that is reset periodically and investors are able to sell them back to the issuer at certain times for their full value.

Improve Disclosure of Tax Risk — The amended rule will specifically include disclosure of events that may adversely affect a bond's tax exemption, including issuance by the IRS of proposed and final decisions about whether the bond can be taxed.

Strengthen and Expand Disclosure of Important Events — Under the existing rule, an underwriter must have a reasonable belief that the state or local government that issued municipal bonds has agreed to provide ongoing, continuing disclosure of certain important events.

The existing rule presently provides that notice of all of the listed events need be made only "if material." The amended rule will eliminate the need for a materiality determination for the following events: (1) failure to pay principal and interest; (2) unscheduled payments out of debt service reserves reflecting financial difficulties; (3) unscheduled payments by parties backing the bonds, reflecting financial difficulties, or a change in the identity of parties backing the bonds or their failure to perform; (4) defeasances, including situations where the issuer has provided for future payment of all obligations under a bond; and (5) rating changes. A materiality determination would be retained for some events, including, for example, bond calls.

The amendments also increase the number of events to include: (1) tender offers; (2) bankruptcy, insolvency, receivership or similar proceeding; (3) mergers, consolidations, acquisitions, the sale of all or substantially all of the assets of the obligated person or their termination, if material; and (4) appointment of a successor or additional trustee or the change of the name of a trustee, if material.

Establish a More Specific Filing Deadline — The amended rule will provide that notices of the events listed in the rule be disclosed in a timely manner not more than 10 business days after the event.

Currently, the rule simply provides for disclosure "in a timely manner."

Additional Guidance — Over the years, the Commission has set forth interpretations under the antifraud provisions of the federal securities laws to require municipal securities underwriters to have a reasonable basis for recommending any municipal securities. The adopting release reaffirms that, to have a reasonable basis to recommend a security, a municipal underwriter must carefully evaluate the likelihood that a municipality will make the ongoing disclosure called for by the amended rule. The adopting release further states that it is doubtful that an underwriter could form a reasonable basis to recommend a security if the municipality had a history of persistent and material non-disclosure.

