

# Muni groups produce 15c2-12 alert as effective date looms

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WASHINGTON - The Government Finance Officers Association has teamed up with other market groups to issue an alert to its members about new continuing disclosure obligations that take effect Feb. 27, while the Securities and Exchange Commission remains mostly closed and unable to field questions.

GFOA worked with the National Association of Bond Lawyers and the Securities Industry and Financial Markets Association to produce the member alert about the amendments to the SEC's Rule 15c2-12. The amendments will expand continuing disclosure requirements, and the partial government shutdown has limited the ability of the SEC to answer questions issuers may have.

The SEC lacks the authority to directly regulate issuers except through the antifraud provisions in the securities laws, so 15c2-12 requires underwriters of new issues of \$1 million or more to "reasonably determine" that the issuer has entered into a written agreement to provide certain disclosures to bondholders. The SEC [announced](#) last year that it was amending the rule to require those agreements to include disclosure of material financial obligations, as well as events that "reflect financial difficulty" related to such obligations.

In its release adopting the amendments, the SEC specified that the amendments intended to capture "debt-like" obligations such as bank loans. Regulators had been concerned for several years that an opaque market for muni bank loans might threaten the ability of bond investors to fully understand the financial situations of issuers.

The new GFOA alert, sent out Wednesday, explains the amendments and why complying with them is important. The new disclosures will need to be a part of new continuing disclosure agreements beginning Feb. 27, barring any official delay.



Emily Brock, director of GFOA's federal liaison center

"It is critical for state and local governments to be aware of these changes to SEC Rule 15c2-12, and all other continuing disclosure obligations that issuers assume when issuing bonds subject to the rule," according to the alert. "While outside professionals, including bond and/or disclosure counsel, will provide advice regarding CDAs so that they are in line with the new requirements, governments will continue to be responsible for their own disclosure documents and compliance with the contractual undertakings, including ensuring that event notices are filed on EMMA within 10 business days of the occurrence of the reportable event."

Failure to comply could delay future financings while past non-compliance is corrected, the alert warned, and in some cases past non-compliance could cause underwriters to decline to participate in a deal.

"The most important first step governments should take is to talk with your bond and/or disclosure counsel to understand how these changes specifically relate to your debt program, future bond issuances and other financial transactions," the alert said.

Emily Brock, director of the GFOAs federal liaison center, said that the alert was not triggered by the government shutdown but became more important in light of it. While some SEC staff are working and able to respond to "emergency" situations, issuers don't have the same access to SEC staff that they would with the government open.

"It certainly wasn't brought about by the shutdown, but the urgency is there because we need to make sure that issuers are prepared," she said. "Together these three organizations in Washington were able to pull together these considerations for issuers."

The alert included links to resources for issuers, including information from both the SEC and NABL about Rule 15c2-12, and GFOA best practices about disclosure and bank loans.

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