

MEMO# 30701

May 15, 2017

ICI Comment Letter on SEC's Proposal to Enhance Disclosure Regarding Municipal Securities

[30701]

May 15, 2017 TO: ICI Members

Municipal Securities Advisory Committee SUBJECTS: Municipal Securities RE: ICI Comment Letter on SEC's Proposal to Enhance Disclosure Regarding Municipal Securities

As you know, the Securities and Exchange Commission has proposed amendments relating to municipal securities disclosure that would add two additional events to the continuing disclosure requirements of Rule 15c2-12 under the Securities Exchange Act of 1934.[\[1\]](#) ICI has filed a comment letter, which is attached and briefly summarized below.

Proposal

The SEC is proposing to amend the list of events for which notice must be provided under Rule 15c2-12 to include: (i) incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material; and (ii) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties. Under the proposal, a financial obligation is defined as a debt obligation, lease, guarantee, derivative instrument, or monetary obligation resulting from a judicial, administrative, or arbitration proceeding.

Summary of Recommendations

ICI's comment letter expresses strong support for these amendments. In summary, our recommendations are as follows:

- We support the proposal to add a new event to Rule 15c2-12's disclosure requirements that would require an obligated person to disclose the incurrence of a material financial obligation of the obligated person. We recommend the SEC broaden the proposal to require mandatory disclosure of any terms in connection with a financial obligation that *affect security holders*. We also encourage the SEC to make the terms of all financial obligations, including the governing documents, part of the required disclosure under the new amendments.
- We support the proposal to add a new event under Rule 15c2-12 that would require

an obligated person to disclose the occurrence of a default or similar events under the terms of an obligated person's financial obligation; however, we strongly encourage the SEC to broaden the concept of an "event" in this context to include all defaults, accelerations, terminations, modifications, and not solely those that "reflect financial difficulties," as proposed.

- We recommend the SEC add three additional event notices to the disclosure requirements of Rule 15c2-12. First, we recommend the SEC adopt a "catch-all" notice requirement for any event materially impacting the value of a bond. Second, we recommend that the SEC adopt an event notice to disclose modifications to escrow agreements or escrows, or to any other agreement governing security pledged to bondholders. Finally, we recommend that the SEC adopt an event notice that would require an issuer or obligated person to disclose covenant compliance reports and periodic financial information disclosed to other creditors.
- We recommend the SEC eliminate the current "materiality" threshold for determining whether submission of certain Rule 15c2-12 event notices is required, including (b)(5)(i)(C)(2) (non-payment related defaults), (7) (modifications to security holder rights), (8) (bond calls), (10) (security changes), (13) (corporate changes), and (14) (trustee changes).
- We recommend the SEC expand the scope of Rule 15c2-12 event notice (b)(5)(i)(C)(5) (substitution of credit or liquidity providers) and substantially revise event notice (6) (events affecting the tax status of the security).

Jane G. Heinrichs
Associate General Counsel>

[Attachment](#)

endnotes

[1] Proposed Amendments to Exchange Act Rule 15c2-12, SEC Release No. 34-80130 (March 1, 2017), available at <https://www.sec.gov/rules/proposed/2017/34-80130.pdf>.