

Muni Bond Newsletter

THE FUTURE OF MCDC

**February
2017**

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The Securities and Exchange Commission (“SEC”) has shifted its focus from issuers and underwriters who participated in the Municipalities Continuing Disclosure Cooperation (“MCDC”) initiative to issuers and underwriters who did not participate. The SEC does not plan to recommend further enforcement actions against additional parties, that participated, under the initiative. The SEC feels that the goals of MCDC were met. The purpose was to raise the level of awareness of continuing disclosure problems in the municipal market and to provide improvements in continuing disclosure for market participants. Instead, the SEC will now focus on those issuers and underwriters who have committed violations but did not voluntarily self-report under the initiative.

Issuers and underwriters who did not voluntarily self-report are seen as high risk for future violations. This includes those issuers or underwriters who were reported under the MCDC initiative but who did not self-report their violations.

Issuers who voluntarily self-reported their violations under the initiative did not have to pay fines. Those issuers agreed to establish written policies and procedures, to conduct periodic training to ensure compliance, to designate an individual to be responsible for ensuring that they are in compliance with their continuing disclosure policies and procedures, to designate an individual to implement and maintain records of the issuer’s disclosure training, and to disclose the settlement in future offering documents to market participants.

Underwriters that settled, paid penalties which were based on their size and the number of violations. The penalties did not exceed \$500,000. In the settlement, the underwriters agreed to hire an independent consultant responsible for analyzing the underwriters’ policies and procedures and for providing a detailed report with policy recommendations or changes to the underwriters.

Property Tax Freeze Legislation in the State of Illinois

Illinois Governor Bruce Rauner introduced the concept of a statewide property tax freeze as part of his initial turnaround agenda. Currently, 39 of the 102 counties in Illinois, representing are subject to the Property Tax Extension Limited Law (“PTELL”). PTELL limits the growth of property taxes by capping the total dollar amount that certain property taxes may increase from year to year to the lesser of 5% or the increase in the Consumer Price Index (“CPI”) plus any new property added to the tax rolls. PTELL also caps the amount of tax a district can levy for non-referendum bond debt service to the amount equal to the taxes extended for non-referendum bonds debt service on the 1994 levy or the year PTELL was voted in (known as the Debt Service Extension Base or “DSEB”). Beginning with levy year 2009, the DSEB grows each year by the lesser of 5% or the increase in the CPI. PTELL currently does not supersede home rule powers and thus only affects the non-home rule entities within the 39 counties.

Numerous bills have been introduced by the Illinois House and Senate which effectively extend PTELL to the remainder of the taxing districts throughout the State. Senate Bill 318, which was passed by the Illinois Senate in August of 2015, would have imposed PTELL statewide for two years, setting the extension limited rate to 0% and allowing certain exemptions for public safety purpose extension. House Bill 696 was passed by the Illinois House in April of 2016 and included a permanent freeze, but exempted home rule units of government. In November of 2016, House Bill 6630 included legislation that would expand PTELL to all counties statewide and permanently freeze property taxes by setting the extension limitation to 0%, similar to House Bill 696 except it included home rule units of government.

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