

# Chapman Client Alert

February 12, 2016

Current Issues Relevant to Our Clients

## GFOA Alerts Issuers to SEC Activity on MCDC Initiative

On February 10, 2016, the Government Finance Officers Association (GFOA) alerted its members that the Enforcement Division of the Securities and Exchange Commission (SEC) has begun contacting issuers<sup>1</sup> in connection with its Municipalities Continuing Disclosure Cooperation (MCDC) initiative. The SEC will offer settlement terms for potential misrepresentations in municipal bond offering documents regarding compliance with prior continuing disclosure obligations. According to the GFOA Alert, which can be found [here](#), the SEC is contacting not only issuers who voluntarily self-reported, but issuers who may not have self-reported but were reported by underwriters.

The MCDC initiative, announced by the SEC in March 2014, offered underwriters and issuers the opportunity to self-report potential violations during the past five years in exchange for more lenient settlements than would otherwise be available for violations which were not self-reported. Under the MCDC initiative, the self-reporting deadline for underwriters was September 10, 2014, and for issuers, December 1, 2014. Our original Client Alert on the MCDC initiative can be found [here](#). Our Client Alerts on the SEC's first, second and final rounds of settlements with underwriters can be found [here](#), [here](#) and [here](#).

The GFOA reported that the SEC gave underwriters very short time frames to respond to proposed settlements. Short time frames could be difficult for many issuers who may need additional time to review the proposed settlements and receive approvals from their governing bodies or officers. The GFOA reported that the SEC's Office of Municipal Securities has assured the GFOA that issuers will be given additional time if requested.

The GFOA Alert advised its members to be aware of timeframes for internal approvals by their governing bodies and to initiate conversations with the appropriate officials in order to be prepared to respond promptly to the SEC's proposed settlement offers. The GFOA also recommended that issuers consult with legal counsel to review any proposed settlement offers and advise on how to respond to the SEC.

Issuers participating in the MCDC settlements will be required to establish policies and procedures regarding training on the continuing disclosure requirements, and to correct any existing violations. In addition, an issuer's final official statements will need to disclose the MCDC settlement terms for the next five years. Finally, issuers will need to certify compliance with the settlement terms with the SEC after one year.

Unlike the MCDC settlements with underwriters, settlements with issuers will not require payment of civil penalties for violations. However, the SEC has reserved the right to recommend enforcement actions against individuals associated with issuers, such as municipal officials, if those individuals engaged in violations of the federal securities laws.

### For More Information

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If you would like further information concerning the matters discussed in this article, please contact a member of our Public Finance Group or visit us online at [chapman.com](http://chapman.com).

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1 "Issuer" also refers to an "obligated person" under the MCDC initiative, but the GFOA Alert does not reference obligated persons.

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