July 23, 2014

Chair and Commissioners
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chair White and Commissioners Aguilar, Gallagher, Piwowar and Stein:

We are writing to you concerning the Division of Enforcement's Municipal Continuing Disclosure Cooperation Initiative (MCDC). Our organizations have concerns about the current structure of MCDC and some suggestions that we believe will improve the program to benefit investors, municipal issuers and underwriters. We have shared theses concerns and suggestions with the Division of Enforcement.

Our organizations have worked collaboratively over the years to improve disclosure compliance. Through development and dissemination of best practices, guides and educational programs, we continue to educate our members about the need to have policies and procedures to ensure timely and accurate primary and continuing disclosure. We recognize and appreciate that MCDC is a departure from the usual practices of SEC's Enforcement Division, and view the initiative as an opportunity to work directly with the SEC to improve disclosure compliance. We believe that, given the significant expenditure of resources by issuers and underwriters participating in MCDC, the forward-looking goal of improving disclosure compliance should be MCDC's principal focus. In order to maximize MCDC's potential to improve disclosure compliance, to increase participation in the initiative, and to provide the most accurate set of responses to the SEC we believe certain modifications to the program should be made. These changes include:

- ***Adjusting MCDC's 5-10 year look-back period to determine whether or not issuers have made materially inaccurate statements in offering documents regarding prior continuing disclosure compliance.*** Investigating whether or not prior continuing disclosures were made in the time period before the establishment of the MSRB's EMMA database has proven to be very difficult and resource intensive. The previous repository system – the Nationally Recognized Municipal Securities Information Repositories (NRMSIR) – was flawed and records of filings may not be currently available. Regarding the reliability of the NRMSIR system, the SEC said in Release No. 34-59062:

  > *Under the current [NRMSIR] system, it is not possible to determine with certainty whether gaps in the continuing disclosure document collections of NRMSIRs are the result of failures by issuers to provide continuing disclosure documents as provided in their continuing disclosure agreements or failures of NRMSIRs to maintain accurate indices or adequate document retrieval systems.*

  Consequently, it is likely that any list of issuers with perceived non-compliance with a continuing disclosure agreement secured from this system will contain inaccuracies, making investigation into previous filings difficult and time-consuming, if not impossible, and, as a consequence, expensive.

  Limiting MCDC to annual filings after 2009, when EMMA came online, will give issuers and underwriters a reliable database to identify instances of potentially material inaccurate statements.

  Further, the SEC did not notify dealers that maintaining records of due diligence activities is a best practice until March 2012. After that date the due diligence practices of the industry changed substantially. The best way to assess how the industry is meeting its disclosure obligations to investors currently is to evaluate compliance since March 2012. Consequently, we ask the SEC to direct its enforcements efforts, including the scope of the MCDC Initiative, to transactions where official statements were published after March 2012.

- ***Extending the end date of MCDC from September 9, 2014 to March 10, 2015***. The current deadline does not provide sufficient time for issuers and underwriters to communicate, coordinate, and compare findings from their separate compliance investigations prior to the September 10 deadline. Although SEC staff has participated in some events and our organizations have publicized the initiative, we are concerned that many of the 50,000 issuers around the country are not aware of MCDC. It is unlikely that many issuers will even be able to conduct such an investigation in the current condensed time period, and most underwriters have indicated that they will not be able to produce any final list of potential violations until very close to September 9 deadline.

  Moreover, the current period to conduct reviews comes when many state and local budget staff is involved with preparing budgets and closing out fiscal years. Conducting reviews, even reviewing information prepared by underwriters, is resource intensive and the expense was not included in state and local budgets. In addition, some underwriters have turned to outside vendors to conduct reviews, but there are only three such vendors and we understand they are no longer accepting clients because they have reached their capacity. Further, it is highly unlikely that an issuer will participate except on advice of counsel, after fully investigating and considering the matter. Finally, because of the legal significance of a settlement agreement with the SEC, participation in MCDC will most likely require approval of elected officials or the issuer's governing board. These steps will take a significant amount of time to complete. Extending the deadline will produce better data on true instances of material noncompliance and provide issuers and underwriters with a meaningful opportunity to evaluate the merits of participating.

For all of these reasons, we propose working with you to not only modify the initiative as discussed in this letter, but also to help you to increase awareness of the initiative to encourage broader participation. Again, while we appreciate that MCDC differs from the Enforcement Division's regular method of operation, we believe that the program could be improved and provide an opportunity for the SEC and industry participants to work collaboratively to improve information available in the municipal market. Thank you for your consideration of these comments. If you have any questions or would like any additional information from our organizations, please do not hesitate to contact us.

Sincerely,

Government Finance Officers Association
National Association of Bond Lawyers
Securities Industry and Financial Markets Association
Bond Dealers of America

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