

## SEC to Implement Two Additional Material Event Disclosures

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Tuesday, February 19, 2019

Issuers and borrowers who enter into continuing disclosure undertakings on or after February 27, 2019 in connection with the offering of municipal securities will be required to report two new material events. The Securities and Exchange Commission (SEC) is implementing the amendment to Rule 15c2-12 of the Securities Exchange Act of 1934 (Rule 15c2-12) by virtue of Release No. 34-83885, which finalizes two previously proposed additions to the existing list of material events for which issuers and borrowers are required to provide public notice.

With the rise of private placements and direct purchases in recent years, the SEC's aim is to enhance transparency with respect to these obligations, which were not previously subject to Rule 15c2-12. "Disclosures required by these rule amendments will better equip investors and intermediaries to make informed investment decisions about municipal securities," said SEC Chairman Jay Clayton. According to the SEC, the amendment to Rule 15c2-12 "focus[es] on material financial obligations that could impact an issuer's liquidity, overall creditworthiness, or an existing security holder's rights."

Under Rule 15c2-12, issuers and borrowers with certain publicly offered debt must agree to (i) annually post selected financial and operating information on the Electronic Municipal Market Access system (EMMA) maintained by the Municipal Securities Rulemaking Board (MSRB) and (ii) provide timely notice of certain material events. With the amendment to Rule 15c2-12, two new events are being added to the list of existing material events, specifically:

- The incurrence of a financial obligation of the issuer or obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the issuer or obligated person, any of which affect security holders, if material; and
- A default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the issuer or obligated person, any of which reflect financial difficulties.

The amendment defines "financial obligation" as a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) a guarantee of (i) or (ii). However, the definition of financial obligation does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12, nor does such definition include ordinary financial and operating liabilities incurred in the normal course of business of an issuer or borrower. The amendment does not define "materiality" in the context of a financial obligation.

View the [SEC press release](#) and the [SEC adopting release \(final rule\)](#) here.

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