

# Muni Provisions in Regulatory Reform Legislation Pending in the House and Senate

PROVISIONS	CURRENT LAW	SENATE BANKING COMMITTEE BILL*	HOUSE FINANCIAL SERVICES COMMITTEE LEGISLATION**
<b>Muni Financial Advisers</b>	Only broker-dealer and bank financial advisers are subject to federal regulation.	Requires non-broker-dealer financial advisers, guaranteed investment contract brokers, solicitors, finders, third party marketers and placement agents to register with the SEC. Subjects them and dealers providing advice on muni financial products, including muni derivatives, to MSRB rules. SEC would enforce the rules.	Requires muni financial advisers for bond issuance, investments of proceeds and swaps or other products to hedge risks, to be registered with, and regulated by the SEC. Would exclude broker-dealers acting as underwriters. SEC would enforce its rules.
<b>Federal Fiduciary Duty Standard</b>	Muni financial advisers are not subject to a federal fiduciary duty standard.	No provision.	Would subject muni financial advisers to a federal fiduciary duty standard.
<b>Municipal Securities Rulemaking Board Members</b>	MSRB must have 15 members: five from securities firms, five from banks and, five from the public, including at least one representative of an issuer and one of an investor.	At least eight of the MSRB's 15 members must be public, including at least one institutional or retail investor, one issuer and one muni expert. The remaining seven must include at least one representative from a securities firm, one from a bank and one from a non-dealer adviser.	A majority of the MSRB's 15 members must be public, with at least one representative of an issuer and one representative of an investor. The remaining members must include one representative of a securities firm and one from a bank.
<b>Enforcement of Muni Rules</b>	The SEC and Financial Industry Regulatory Authority enforce MSRB rules.	Authorizes the MSRB to assist the SEC and FINRA in examinations and enforcement of its rules, permits the MSRB to obtain a portion of any penalties collected in such actions. Authorizes the MSRB to impose fees for violations of its rules. MSRB can also assist bank regulators in enforcing rules for munis but cannot share the related fines.	No provision.
<b>Muni Information Systems</b>	The MSRB operates muni disclosure, trade reporting and other information systems.	Allows MSRB to develop additional information systems, not limited to munis, and impose fees for submissions.	No provision.
<b>SEC Study on GASB</b>		Within 180 days, the SEC must submit a study that evaluates the role and importance of the Governmental Accounting Standards Board, its funding and whether legislative or other changes are needed.	No provision.
<b>GAO Study on Muni Disclosure</b>		Within one year, the Comptroller General must submit a report that compares muni and corporate disclosure requirements and evaluates the costs and benefits to issuers of requiring them to improve disclosure. The report also must recommend whether the Tower Amendment should be repealed.	No provision.
<b>GAO Study of the Transparency of Trading in the Muni Market</b>		Within one year, the Comptroller General must submit a report that provides a history of trade reporting, the impact of recent innovations, and recommendations for improving price transparency.	No provision.
<b>Muni-Related Derivatives</b>	Unregulated.	State and local governments that have discretionary investments of less than \$50 million, excluding bond proceeds, could not be eligible contract participants in derivatives transactions. Transactions involving a non-ECP must be exchange-traded.	State and local governments would not be eligible contract participants if they have less than \$50 million of discretionary investments or if their counterparty is not a broker-dealer or bank. Transactions involving a non-ECP must be exchange-traded.
<b>Independent Adviser for Muni Issuers Involved in Derivatives Transactions</b>	There are no regulations for muni-related derivatives transactions.	Commission must write business conduct standards for swap dealers requiring them to have a reasonable basis for believing that a muni issuer has an independent swap adviser with sufficient expertise that provides the issuer with representations about fair pricing and the appropriateness of the transaction.	No provision.

\*Provisions from "print" of revised Restoring American Financial Stability Act of 2009 that is pending before the Senate Banking Committee. It had not been given a number as of Friday.

\*\*Provisions from the Investor Protection Act of 2009, HR 3817, that was approved by the House Financial Services Committee by a vote of 41 to 28 on Nov. 4 and from the Over-The-Counter Derivatives Markets Act of 2009, HR 3795, that was approved by the House Financial Services Committee by voice vote on Oct. 21