The House Cracks the Ice. Will the SEC Sail Through with Municipal Advisor Rules?

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Just who is and is not regulated under changes made to federal securities law by the **Dodd Frank Act** as a "municipal advisor" and consequently a fiduciary to their clients has concerned many since the **Securities and Exchange Commission** released proposed rules employing an aggressively broad interpretation in December 2010. For those frozen in this grey zone of regulatory ambiguity, the ice may finally be cracking. Last night the House of Representatives passed H.R. 2827, a bill amending provisions of the Securities Exchange Act of 1934 to clarify the regulation of municipal advisors. Earlier last week the House Committee on Financial Services passed the same bill with bi-partisan unanimity in a 60-0 vote. Likelihood that the bill will become law in the brief time before the current Congress ends is slim, but not out of the question. Much more likely, the bipartisan nature of the House vote may encourage the Securities and Exchange Commission to move forward with its long-delayed final rules on municipal advisors.

Key features of H.R. 2827:

- narrow the definition of municipal advisors to parties engaged for compensation;

- restrict application of the existing fiduciary duty to activities pursuant to the engagement; and

- clarify covered activity by exempting certain activities of nine different categories of professionals.

For a review of H.R. 2827, including a redline illustration of its statutory changes, click here.

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