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Bachus's SRO Bill ‘Dead' for 112th Congress, But Issue Will Be Revived, Industry Rep Says

By Maria Lokshin | September 26, 2012

Sept. 27 (BNA - Daily Report for Executives) -- A House bill that would bring investment advisers under self-regulatory oversight is likely “dead” for the 112th Congress, but the issue is sure to come up again in the next session, David Tittsworth, executive director of the Investment Adviser Association, said Sept. 25.

The bill (H.R. 4624), introduced by House Financial Services Chairman Spencer Bachus (R-Ala.) in April, would shift investment adviser examinations from the Securities and Exchange Commission to one or more self-regulatory organizations (80 DER EE-12, 4/26/12). The legislation was expected to advance quickly through the committee process, but in July, Bachus announced he was stalling the bill until members reached a consensus on the issue (145 DER EE-10, 7/30/12).

“It does appear that we dodged that bullet for now,” said Tittsworth, whose group has lobbied against an SRO model for advisers. “I think it is probable that H.R. 4624 … is dead.”

However, Tittsworth said, the issue of self-regulation will continue into the next congressional session. “I do expect the issue to go forward again,” he said at an event at the Cato Institute.

Ongoing Debate

While there is general agreement that the SEC is ill-equipped to provide meaningful investment adviser (IA) oversight, a multifaceted debate has been brewing for some time over the appropriate way to regulate advisers.

The prospect of a self-regulatory model for advisers was one of three options advanced by the SEC in a staff study released in 2011 pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act. In it, staff recommended two routes for self-regulatory oversight—either pitching the task to the Financial Industry Regulatory Authority or creating a new SRO to take on the job. Alternatively, the study suggested an enhanced SEC program funded by user fees to oversee the industry.

“The interest in [the SRO] idea will continue because the SEC is clearly so overwhelmed,” said Hester Peirce, a research fellow at the Mercatus Center at George Mason University who previously served as counsel to former SEC Commissioner Paul Atkins.

While the SEC now oversees fewer investment advisers because some IA oversight shifted to the states under Dodd-Frank, it also has a new class of registrants—private fund advisers. Peirce said “the complexity of some of the advisers that it's now overseeing will maybe pose some challenges” to the agency.