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Pay-to-Play Considerations in the 2024 Presidential Race

U.S. Vice President Kamala Harris announced Governor Tim Walz of Minnesota as her running mate in the upcoming presidential election. Walz is a state-elected official, and in his role as Governor, he serves as the chair of the Minnesota State Board of Investment that presides over three Minnesota retirement programs; this has several implications for employees of investment advisers (registered or exempt) looking to donate to the Harris-Walz campaign.

Under Rule 206(4)-5 of the Investment Advisers Act of 1940 (the “Pay-to-Play Rule”), any contributions by an investment adviser or its covered associates to the Harris-Walz campaign above \$350 will preclude the investment adviser from providing advisory services for compensation to those relevant government entities in Minnesota for two years. It is worth noting, the Pay-to-Play Rule’s de minimis contribution limits applies not only to direct monetary donations but also to, among others, hosting fundraisers or even donating to political action committees (PACs) that may, in turn, donate to the Harris-Walz campaign.

As a reminder, the two-year lookback provision for political contributions also applies to new hires of an investment adviser (in other words, a new employee’s political contributions within the last two years, even if such person was not employed by the investment adviser at the time of such contribution, will trigger the Pay-to-Play Rule for the investment adviser). Earlier this week, an adviser, Obra Capital Management, LLC (“Obra Capital”), [settled with the SEC](#) for Pay-to-Play Rule violations. In December 2019, an individual made a campaign contribution to an incumbent for elected office in the State of Michigan, whose office had influence over the hiring of investment advisers for a state public pension fund in Michigan. Six months after that contribution, the individual was hired into a position in which the individual was a covered associate of Obra Capital and subsequently solicited investment advisory services from government entities for Obra Capital. Within two years after this contribution and after the individual became a covered associate of Obra Capital, it provided investment advisory services for compensation to the state public pension fund.

Accordingly, investment advisers should remind their employees of the breadth and implications of the Pay-to-Play Rule, including concerning donations to the Harris-Walz campaign this election cycle to the extent they manage, or wish to manage, money for certain Minnesota-affiliated entities. If you have any questions, as always, feel free to contact a member of the Orical team!

Please contact Orical to discuss any of your regulatory, operational, or compliance concerns, at info@orical.org or (212) 257-5790.