

Pence Brings Pay-to-Play into Presidential Race

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When Republican presidential nominee Donald Trump named Indiana Governor Mike Pence to his ticket in July, Pence brought the federal pay-to-play rules with him. Under the U.S. Securities and Exchange Commission's pay-to-play rule for investment advisers, the Municipal Securities Rulemaking Board's Rule G-37 for municipal advisors and broker dealers underwriting municipal bonds, and the U.S. Commodity Futures Trading Commission's swap dealer regulation, Governor Pence is a covered government official. This means that a non-de minimis contribution to him and the Trump/Pence ticket could cost an investment adviser, broker dealer, swap dealer, or other investment professional a current contract with certain Indiana agencies or preclude such persons from contracts for the next two years. All of the agencies have made clear over the years that the federal rules apply both in state and local elections, as well as in federal elections when covered state officeholders are running. As a result, all of these entities and their employees must be vigilant with respect to any such contributions. Depending on the rule involved, contributions from \$250 to \$350 may be made without negative effect since all citizens are eligible to vote for the Vice President.

Most persons outside the financial services industry are free to contribute what they want, but Indiana does have its own state pay-to-play rules applicable to certain vendors to the State Lottery Commission, and this prohibition has a lengthy look-back period for which contributions can affect procurements. The law may not be applicable here, but Indiana's law and other laws like it around the country must be kept in mind when developing compliance processes related to state and local contributions and engaging in state and

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