

ALERT

Pay-to-Play Rules Enter the 2024 Presidential Campaign

August 6, 2024

On August 6, Vice President Kamala Harris selected Governor Tim Walz of Minnesota as her Vice-Presidential running mate for the 2024 general election. Since Governor Walz is a state official, his selection for the ticket means that contributions from many individuals in the financial services industry to the Harris-Walz campaign will now be subject to the federal investment adviser pay-to-play rule of the U.S. Securities and Exchange Commission (SEC). Also, applicable to Harris-Walz campaign contributions are the related rules of the Municipal Securities Rulemaking Board (MSRB) (broker, dealers, municipal advisors), Financial Industry Regulatory Authority (FINRA) (broker, dealers), and U.S. Commodity Futures Trading Commission (CFTC) (swap dealers).

Under these federal pay-to-play rules, contributions from covered associates and other covered persons of more than a de minimis amount to the campaign of a covered government official, such as Governor Walz, can cause the loss of an investment from a pension fund or other government fund connected to the covered government official and preclude such business for two years from the date of the contribution. Since this is a Presidential campaign, the de minimis amount for the Harris-Walz committee for most individuals covered by these rules will be \$350 per election, although, for those natural persons covered by MSRB Rule G-37, the de minimis amount will be \$250 per election.

There are decades of precedent with these rules being applied in federal campaigns, even Presidential campaigns, when the pertinent federal candidate is a state or local officeholder. Under Minnesota law, Governor Walz has appointment power with respect to members of the board of, among other government entities, the Minnesota

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Practice Areas

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Public Employees Retirement Association (PERA) and the Minnesota State Retirement System (MSRS).

The federal pay-to-play rules do not affect or limit contributions to the Trump-Vance presidential ticket since neither candidate is a current state or local government officeholder.

Those outside the financial services industry are not covered by these federal rules.

For more information about these federal pay-to-play rules or about the state and local pay-to-play rules that apply to government contractors, please contact Mark Renaud at mrenaud@wiley.com.