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Harris's Running Mate Announcement: Pay-to-Play Rule Implications for Investment Advisers

The Capital Commitment on **August 6, 2024**

As reported today, Vice President Harris has announced Tim Walz, the sitting governor of Minnesota, as her running mate. This announcement is particularly significant for investment advisers due to the Advisers Act Political Contributions Rule, otherwise known as the "pay-to-play" rule.

Contributions to the joint Harris-Walz campaign by investment advisers and certain personnel would likely be subject to the Pay-to-Play Rule, which applies to all investment advisers whether registered or exempt. The Rule applies to political contributions by investment advisers and investment adviser personnel who are "covered associates" under the Rule to sitting state or local officeholders or candidates for such offices if the powers of such office confer the ability to oversee state or local pension plans' selection of investment advisers. The Rule also applies to certain fundraising efforts by such persons in support of such officials or candidates, and can also apply to targeted contributions or fundraising through a PAC or political party. When such contributions or fundraising efforts occur, the Rule effectively imposes a two-year ban on receiving compensation for managing public pension plan assets from the relevant state or locality.

In Minnesota, the state investment board is responsible for managing various public funds in Minnesota and is overseen by a Board that includes the governor as Chair. Therefore, contributions to the Harris-Walz campaign will likely trigger the Rule as to state pension fund assets in Minnesota. Investment advisers that currently advise one or more Minnesota plans as clients or that advise private funds in which any such plans are investors should exercise caution and consult experienced counsel before approving contributions to the Harris-Walz campaign. In addition, care should be taken when hiring or appointing new covered associates, given the Rule's look-back provision.

For a more general overview of the Rule and a discussion of a recent enforcement action, please see our recent blog post on this topic.

Historical Context and Exemptions

A similar situation occurred in the 2016 presidential election when John Kasich, then Governor of Ohio, ran for the Republican nomination. A senior executive at a large investment adviser made a $2,700 contribution to Kasich’s campaign while the firm had investments by the Ohio pension plan. This triggered the Rule, leading to a lengthy process with the SEC to retain the compensation.

On the Republican side, neither Trump nor Vance would trigger the Rule since Trump is a private citizen running for federal office, and Vance is a federal officeholder running for another federal office.

The Rule includes a de minimis exemption for contributions up to $150 (if the person is not entitled to vote for the candidate) or $350 (if they are). For a presidential election, the threshold is $350 for eligible voters, covering most US personnel. Non-US personnel, who are not eligible to vote, would be subject to the $150 limit.

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