



# Political Law Alert

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## Contributions to Trump/Pence Campaign Are Subject to Pay-to-Play Rules

On July 15, 2016, Donald Trump announced that he selected Indiana Gov. Mike Pence as his vice presidential running mate. Contributions to the Trump/Pence campaign are now subject to prohibitions and restrictions under the federal pay-to-play rules below:

- SEC Rule 206(4)-5 for investment advisers;
- CFTC Rule 23.451 for swap dealers; and
- MSRB Rule G-37 for broker-dealers that underwrite municipal securities.

They also are subject to recent amendments to Rule G-37, which expand the rule to municipal advisors and go into effect on August 17, 2016.

The above rules apply because they cover sitting elected state officials, such as a governor, running for federal office. Indeed, in 2008 after presidential candidate John McCain selected Gov. Sarah Palin as his running mate, the MSRB sent a notice to the broker-dealer industry reminding them that contributions to the McCain/Palin campaign would trigger the ban under [Rule G-37](#). At that time, Rule G-37 was the only federal pay-to-play rule in existence.

As a result, a dealer/adviser covered under any of the above rules, its covered employees (*i.e.*, covered associates or municipal finance professionals) and their controlled PAC may not make a contribution to the Trump/Pence campaign without triggering the relevant two-year ban on business or compensated business with the affected Indiana government entities. Moreover, they are prohibited from soliciting or fundraising for the Trump/Pence campaign to the extent the dealer/adviser is engaging in, or seeking to engage in, covered business with an affected Indiana government entity. Please note there is no way to contribute to Trump's campaign without also giving to Pence as they will run as a joint ticket and be a single consolidated campaign.

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The above prohibitions also would apply to contributions made to Trump's joint fundraising committees (Trump Victory and Trump Make America Great Again), which raise money directly for Trump (and now Trump/Pence) and various political party committees. Moreover, even contributions to the Republican National Committee (RNC) could be affected under the "indirect provisions" of the rules depending on the circumstances under which the money is raised.

Finally, the rules have a *de minimis* exemption for a covered employee's contribution (\$350 under Rules 206(4)-5 and 23.451 and \$250 under Rule G-37), which turns on whether the employee is entitled to vote for the candidate. For purposes of this exemption, every U.S. citizen may be deemed to qualify under this exemption, not only those who reside in Indiana.

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