



Political Law Alert

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CFTC Issues Interpretation on Federal Transition and Inaugural Contributions

On December 23, 2016, the Commodity Futures Trading Commission's Division of Swap Dealer and Intermediary Oversight (DSIO) issued a [staff interpretation](#) saying that, in its view, contributions by swap dealers and their covered associates to a presidential inaugural or transition committee, such as the Trump/Pence Inaugural and Transition Committees, do not trigger a ban under the CFTC's pay-to-play rule, even if the president- or vice president-elect is still a state official. Unlike the other federal pay-to-play rules, CFTC Rule 23.451 expressly applies to payments made for the transition or inaugural expenses of successful candidates for federal office who are otherwise incumbent covered officials. This would include Vice President-elect Mike Pence, who is currently governor of Indiana.

However, in this new interpretation, DSIO indicates it would not consider a payment made for transition or inaugural expenses to be covered if provided for an incumbent state or local official who has been elected to a federal office without the necessary direct or indirect authority to influence the award of state or local swap business. Because no federal office has such authority, the interpretation would effectively eliminate the Rule's application to contributions to "federal" transition and inaugural committees.

Please note that, although the interpretation is not binding on the CFTC or its other divisions, we understand that historically other divisions, including enforcement, have generally been deferential to such staff interpretations.

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