

# Political Law Update

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

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## Contributions to Florida Gov. Ron DeSantis' Presidential Campaign Are Subject to Federal Pay-to-Play Rules

Florida Gov. Ron DeSantis filed paperwork on May 24, 2023, to run for president in the 2024 election. In light of his announcement, it is important to keep in mind that contributions made to or solicited on behalf of Gov. DeSantis' campaign are subject to the prohibitions and restrictions under the federal pay-to-play rules below:

- SEC Rule 206(4)-5 for investment advisers;
- SEC Rule 15Fh-6 for security-based swap dealers;
- CFTC Rule 23.451 for swap dealers;
- FINRA Rule 2030 for broker-dealers that solicit investments on behalf of investment advisers or their managed funds; and
- MSRB Rule G-37 for broker-dealers that underwrite municipal securities and municipal advisors.

The above rules apply because they cover sitting elected state and local officials, such as a governor, running for federal office. Indeed, in prior presidential election cycles, a number of bans have been triggered by covered contributors unwittingly making contributions to presidential candidates who also held state or local office. As a result, a firm covered under any of the above rules, the firm's covered employees and their controlled PACs, may not make a contribution to the DeSantis campaign without triggering the relevant two-year ban on business or compensated business with the affected Florida government entities. Moreover, covered firms, covered employees and their controlled PACs are prohibited from soliciting or fundraising for the DeSantis campaign to the extent the firm is engaging in, or seeking to engage in, covered business with an affected Florida government entity.

Please note, the rules have a *de minimis* exemption for a covered employee's contribution, which is dependent on whether the employee is entitled to vote for the candidate. The limits are:

- \$350 under Rules 206(4)-5, 23.451, 15Fh-6 and 2030; and
- \$250 under Rule G-37.

For purposes of this exemption, all eligible U.S. citizens may be deemed to qualify as they are entitled to vote for a candidate for president.

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Additionally, there are state pay-to-play laws covering certain business with the Florida Housing Finance Corporation and the State Board of Administration of Florida. However, given that the plain language of these statutes applies to contributions to candidates for governor (among others), contributions to Gov. DeSantis' presidential campaign do not appear to be covered.

Finally, covered firms should be equally vigilant about other state and local officials who decide to run for president or any other federal office.

Please contact us with questions.

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