

SEC Proposes Rescission of Investment Adviser Pay-to-Play Rule

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On September 3, 2026, the Securities and Exchange Commission (the “SEC”) proposed to rescind (the “Rescission”)¹ Rule 206(4)-5, commonly known as the “Pay-to-Play Rule” (the “Rule”), under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), along with related recordkeeping requirements.

Adopted in 2010, the Rule generally prohibits an investment adviser from receiving compensation for providing advisory services to a state or local government entity for a period of two years after the adviser, or certain of its “covered associates,” makes a political contribution to any person (including any election committee for the person) who is an incumbent, candidate, or successful candidate for state or local office, including any such person who is running for federal office. The Rule also imposes restrictions relating to the solicitation of government clients and the use of third parties to solicit government business.

Reasons for the Proposed Rescission

In proposing the Rescission, the SEC cited its experience administering the Rule over the past 15 years and concerns regarding the Rule’s complexity, compliance burdens, and unintended consequences. The SEC noted that even relatively small political contributions can result in significant consequences for advisers, including where a contribution was made by an individual before joining an advisory firm. It also expressed concern that the Rule’s complexity has led some advisers to adopt blanket prohibitions on employee political contributions, potentially restricting political speech beyond what the Rule requires.

The SEC noted in the Rescission that a prescriptive Advisers Act political contributions regulation may no longer be necessary given other existing safeguards against misconduct by investment advisers, including (i) applicable federal election regulations and state and local laws, (ii) the fiduciary duties imposed on investment advisers under the Advisers Act, and (iii) the Advisers Act’s antifraud provisions. The SEC further noted

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that registered investment advisers would continue to be subject to the requirement to have written compliance policies and procedures and a code of ethics reasonably designed to identify and mitigate material conflicts of interest, which could be tailored by investment advisers that provide advisory services to government entities.

If adopted as proposed, the Rescission would eliminate the Rule in its entirety and rescind related recordkeeping requirements under the Advisers Act.

Dorsey Observations and Next Steps

Unless and until the Rule is rescinded, investment advisers remain subject to the existing requirements of the Rule and should continue to apply their current compliance policies and procedures with respect to political contributions. Even if the Rescission is ultimately adopted, investment advisers would continue to be subject to any applicable state and local laws and regulations governing political contributions, as well as any requirements regarding political contributions that a government entity client or investor (e.g., a state or local public pension fund) may impose as a condition of awarding an investment management contract to an adviser.

If the Rule is ultimately rescinded, investment advisers that provide or seek to provide advisory services to state or local government entities will need to assess their material compliance risks and analyze how to tailor their compliance policies and procedures in the absence of the Rule's express prohibitions.²

Comments on the proposal will be due 60 days after its publication in the Federal Register.

¹ Political Contributions by Certain Investment Advisers, Investment Advisers Act Release No. IA-6994 (Sept. 3, 2026), available at <https://www.sec.gov/files/rules/proposed/2026/ia-6994.pdf>.

² See *Id.* at 36–39.