

SEC Extends Compliance Date on Pay to Play Solicitor Ban

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On June 8, 2012, the Securities and Exchange Commission ("SEC") released amendments to Rule 206(4)-5 (the "Pay to Play Rule") under the Investment Advisers Act of 1940 (the "Advisers Act"), which extends the date on which covered advisers must comply with the ban on payment to certain third party solicitors.

The Pay to Play Rule prohibits covered advisers from engaging any third party to solicit government entities on behalf of the advisor, unless such third party is a "regulated person" and is subject to rules governing pay-to-play practices that are determined by the SEC to be at least as stringent as the Rule and consistent with the objectives of the Rule. "Regulated persons" include: (i) SEC registered investments advisers, (ii) SEC registered broker-dealers that are members of FINRA, and (iii) "municipal advisors," defined as a person registered as such pursuant to Section 15B of the Securities Exchange Act of 1934 and subject to the rules of the Municipal Securities Rulemaking Board. Registration as a municipal advisor is expected to be required of any person that either provides advisory services to any municipal entities, or that solicits municipal entities for advisory services offered by others (other than certain exempted solicitation activities by an SEC registered broker-dealer or investment adviser on behalf of an affiliated investment adviser).

The revised compliance date for the solicitor component of the Pay to Play Rule, originally set for June 13, 2012, will be nine months following the compliance date for the SEC's rule governing registration of municipal advisors under the Securities Exchange Act of 1934 (not as yet released).

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