

Federal & State Pay-to-Play

“Pay-to-play” laws regulate political contributions made by persons seeking or holding government contracts. In many cases, these laws also cover contributions made by individuals and entities who are affiliated with government contractors, such as officers, directors, salespersons, and family members. The number of jurisdictions and public entities that have adopted “pay-to-play” laws or policies is ever-growing. Wiley advises clients regarding compliance with these complex pay-to-play laws at the federal, state, local, and agency levels. Failure to comply with these laws can result in violations that are potentially severe and may result in the loss of valuable business with public entities.

At the federal level, we routinely counsel companies in the financial services industry, trade associations, and their political action committees (PACs) regarding Municipal Securities Rulemaking Board (MSRB) Rules G-37 and G-38, Securities and Exchange Commission (SEC) Rules 206(4)-5 and 15Fh-6, Financial Industry Regulatory Authority (FINRA) Rules 2030 and 4580, and Commodity Futures Trading Commission (CFTC) Rule 23.451.

We also assist financial services and other companies and organizations in complying with the pay-to-play laws that have proliferated at the state and local levels. These laws, which impact all types of government contractors, often reach beyond corporate and PAC contributions and apply to contributions by directors, officers, and sales employees, and even their spouses. Many companies that may not think of themselves as government contractors, but that do business of even a relatively modest amount with public entities, may be subject to pay-to-play laws without realizing it. Compliance requirements include pre-contract certifications and contribution reports – as well as periodic contribution reports, such as in New Jersey and Maryland.

We have helped numerous clients develop and implement pay-to-play compliance programs, which often involve political contribution pre-clearance processes. Our semiannual *State and Municipal Pay-to-Play Survey* provides a comprehensive overview of the pay-to-play laws in states and major municipalities, as well as the pay-to-play policies that many public entities and retirement funds have adopted.

Contact Us

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