SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–6994; File No. S7–2026–31]

RIN 3235–AN65

Political Contributions by Certain Investment Advisers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; rescission.

SUMMARY: The Securities and Exchange Commission (the ''Commission'' or the ''SEC'') is proposing to rescind the political contribution rule under the Investment Advisers Act of 1940 (the ''Advisers Act''), which prohibits investment advisers from providing investment advisory services for compensation to a government client for two years after an adviser or any covered associate of the adviser makes a contribution to certain categories of elected officials or candidates, among other prohibitions. In the more than fifteen years since the rule was adopted, implementation challenges associated with the political contribution rule have resulted in a range of significant unintended consequences, including compliance practices among some investment advisers that may have had the effect of restricting all political contributions by the investment advisers and their employees. Market participants also have stated that the political contribution rule is burdensome, complex, and both lacks clarity and creates a *de facto* strict liability standard. The Commission is of the view that other existing requirements of the Advisers Act and its associated rules, including prohibitions on fraud, fiduciary duty requirements, the compliance rule, and the code of ethics rule (defined below), are likely sufficient to address pay-to-play practices while allowing an adviser the flexibility to implement an approach that is more appropriately tailored to its particular risks, rendering the political contribution rule unnecessary. The Commission also is proposing to amend the rule under the Advisers Act pertaining to books and records consistent with the proposed rescission.

DATES: This proposal was published in the **Federal Register** on September 10, 2026. Comments should be received on or before November 9, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/comments/s7-2026-31/political-contributions-certain-investment-advisers*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–2026–31 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–2026–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's website (*https://www.sec.gov/rules-regulations/public-comments/s7-2026-31*). Do not include personally identifiable information in submissions; you should submit only information that you wish to make available publicly. The Commission may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at www.*sec.gov* to receive notifications by email.

A summary of the proposal of not more than 100 words is posted on the Commission's website (*https://www.sec.gov/rules-regulations/2026/09/s7-2026-31*).

FOR FURTHER INFORMATION CONTACT: Janet Jun, Lawrence Pace, and Mark Stewart, Senior Counsels, Sirimal R. Mukerjee, Senior Special Counsel, or Robert Holowka, Assistant Director, Investment Adviser Regulation Office, at (202) 551–6787, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is proposing to rescind 17 CFR 275.206(4)–5 (''rule 206(4)–5'' or the ''political contribution rule'') and make related amendments to 17 CFR 275.204–2 (''rule 204–2'' or the ''recordkeeping rule'') under the Advisers Act.

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I. Introduction

Investment advisers play a vital role in helping governments responsibly manage public funds and honor commitments to their taxpayers, public-sector employees and retirees, and retirement benefit plan participants. In 2010, the Commission adopted the political contribution rule with respect to investment advisers, which was intended to reduce the possibility that campaign contributions and other support of elected officials and candidates for public office by investment advisers and covered associates would result in fraudulent activity.[1]

We propose to rescind the political contribution rule in its entirety based on our experience administering the rule since its adoption (informed by feedback from market participants), including our observations that the rule:

- Has led to significant unintended consequences, including prohibitions by some investment advisers on any and all political contributions made by the investment adviser and its employees at the State and local level, which affects core political speech protected by the First Amendment;[2]
- Is operationally challenging for investment advisers to implement;
- May impose significant burdens that may not be justified by its benefits; and
- Lacks clarity and creates a *de facto* strict liability standard, which can lead to situations where small donations or ''foot faults'' potentially trigger substantial prohibitions.

We are of the view that rescinding the current rule in its entirety and instead relying on other existing requirements of the Advisers Act and associated rules, including prohibitions on fraud, fiduciary duty requirements, 17 CFR 275.206(4)–7 (''rule 206(4)–7'' or the ''compliance rule''), and 17 CFR 275.204A–1 (''rule 204A–1'' or the ''code of ethics rule''), as well as other existing Federal, State and local requirements, could avoid many of the issues and unintended consequences associated with the political contribution rule and lead to more appropriate measures by investment advisers to address pay-to-play practices. In addition, our experience with the current rule has underscored the inherent difficulty of designing specific objective criteria for a rule expressly designed to address pay-to-play practices without unintended adverse effects on investment adviser contributions, employee hiring, investment advisory services, and political speech, as well as overall significant compliance burdens that may not be justified by the benefits.

We therefore are of the view that rescinding the political contribution rule and permitting investment advisers to address their pay-to-play risks in a principles-based manner consistent with other existing obligations under the Advisers Act would be appropriate. That is, other existing requirements of the Advisers Act and its associated rules operate to require investment advisers to address pay-to-play practices, but with the flexibility to design tailored compliance policies and procedures and codes of ethics in accordance with their own business models and risk profiles.[3] The rescission of the political contribution rule also may lead to government entities being able to select from a larger pool of investment advisers as well as lower prices for the provision of investment advisory services to public pension plans.

A rescission of the Commission's political contribution rule would not curtail any other existing criminal and civil laws against public sector corruption. Other Federal, State, and local laws and regulations regarding the public procurement process (including the awarding of investment advisory mandates) exist independently of the political contribution rule and would not be limited or otherwise impacted by its rescission.[4]

Similarly, the Commission's ability to bring cases against investment advisers for fraudulent practices and violations of fiduciary duty for engaging in pay-to-play practices would remain unchanged. Investment advisers' fiduciary duty obligations and the broad anti-fraud provisions under the Federal securities laws would continue to apply following the proposed rescission of the political contribution rule.

A. Background

State and local government assets, including nearly $6 trillion of public pension plan assets,[5] are administered by government employees and elected officials.[6] Some of these government employees and elected officials are directly or indirectly responsible for selecting the individual investment advisers entrusted with managing these assets on a discretionary basis, providing other investment advisory services, and allowing State and local government entities to invest in funds managed or advised by such advisers.

Contributions made to a candidate for political office are a form of speech that is protected by the First Amendment, and the prevention of quid pro quo corruption or its appearance is the only permissible ground for restricting or limiting such speech.[7] In the context of providing or seeking to provide investment advisory services to State and local governments, in some instances, investment advisers have engaged in pay-to-play practices that embody such quid pro quo corruption or highlight the risk of it.[8] These practices (''pay-to-play practices'') arise when:

- Political contributions influence the selection of an adviser to provide investment advisory services to State and local governments, including by constituting a prerequisite to competing for an advisory role; or
- Investment advisers seek to influence an elected official's award of advisory contracts by making or soliciting contributions to that official.

Contributions made pursuant to a pay-to-play arrangement may take a variety of forms, including an adviser's direct contributions to government officials, contributions to an election committee for government officials, solicitation of third parties to make contributions or payments to government officials or political parties in the State or locality where an adviser seeks to provide services, and payments to third parties to solicit government business.[9]

When contributions influence the award of these advisory roles, including by constituting a prerequisite to competing for an advisory role, the process by which government officials select investment advisers can be

[1] *See* Political Contributions by Certain Investment Advisers, Investment Advisers Act Release No. 3043 (July 1, 2010) [75 FR 41018 (July 14, 2010)] (the ''2010 Adopting Release'') (stating that the Commission believed ''rule 206(4)–5 is a necessary and appropriate measure to prevent fraudulent acts and practices in the market for the provision of investment advisory services to government entities by prohibiting investment advisers from engaging in pay to play practices'').

[2] *See* 2024 Investment Management Compliance Testing Survey (2024) (the ''2024 Investment Management Compliance Testing Survey''), *available at https://www.investmentadviser.org/wp-content/uploads/2024/07/2024_IMCT-Survey.pdf* (stating that 12.41 percent of investment advisers which responded to the survey prohibit all political contributions).

[3] *See infra* section I.A (describing what constitutes pay-to-play practices in more detail).

[4] *See infra* footnotes 48 through 51 and accompanying text for examples of such Federal, State and local laws and regulations designed to prevent pay-to-play practices.

[5] The term ''public pension plan'' is used interchangeably with ''government client'' and ''government entity'' in this proposing release. However, rule 206(4)–5 applies broadly to investment advisory activities for government clients, regardless of whether they are pension plans.

[6] *See* Census Bureau Releases 2024 Annual Survey of Public Pensions (May 29, 2025) (the ''2024 Annual Survey of Public Pensions''), *available at https://www.census.gov/newsroom/press-releases/2025/2024-annual-survey-public-pensions.html.*

[7] *See FEC* v. *Ted Cruz for Senate,* 596 U.S. 289, 305 (2022).

[8] *See* 2010 Adopting Release, *supra* footnote 1, at section I (discussing pay-to-play practices that the political contribution rule is designed to address). *See also N.Y. Republican State Comm.* v. *Sec. & Exch. Comm'n,* 927 F.3d 499, 500–02 (D.C. Cir. 2019).

[9] *Id.*

transformed into one in which contributions to a government entity official, rather than the competence and cost of investment advisers, drive the award of contracts.[10] Because such actions may result in public pension plans not being managed by the best available investment advisers or paying higher fees,[11] investment advisers engaging in pay-to-play practices have a conflict of interest with, and compromise their fiduciary duties to, the public pension plan clients they advise and can defraud those plans, other prospective pension plan clients, and public pension plan investors.[12] These practices can harm retirees that rely on these public pension plans and the taxpayers of the State and municipal governments that must honor these plan obligations.[13]

Pay-to-play practices therefore are inconsistent with an adviser's role as a fiduciary under the Advisers Act and constitute fraud under the Federal securities laws.[14] In this regard, while government corruption and procurement fraud matters generally come under the jurisdiction of Federal, State, and municipal authorities, investment advisers also are subject to the Advisers Act and other Federal securities laws and regulations, which further restrict pay-to-play practices and other fraudulent conduct and provide for penalties and bans relating to such conduct.

B. Existing Regulatory Framework

In 2010, the Commission adopted the political contribution rule.[15] The rule sets forth a detailed, prescriptive framework that generally provides for the following:

Prohibitions. The political contribution rule provides for certain express prohibitions:

• *Ban on compensation and two-year lookback.* The political contribution rule generally makes it unlawful for an adviser [16] to receive compensation for providing investment advisory services to a government entity for a two-year period after the adviser or any of its covered associates [17] (including a person who becomes a covered associate within two years after making a contribution) makes a contribution to an official [18] of a government entity or candidate for such office, whose office is in a position to influence the award of advisory business. The two-year time out was intended to discourage investment advisers from engaging in pay-to-play practices by requiring a ''cooling-off period'' during which the effects of a political contribution on the selection process can be expected to dissipate.[19]

• *Ban on solicitation.* The political contribution rule generally prohibits advisers from paying persons to solicit government entities for advisory business, unless such persons are (1) regulated persons or (2) an executive officer, general partner, managing member (or, in each case, a person with a similar status or function), or employee of the adviser.[20] The restriction on solicitors or ''placement agents'' was intended to prevent advisers from circumventing the political contribution rule.[21] The rule also prohibits indirect payments, because the rule includes a provision that makes it unlawful for an adviser or any of its covered associates to do anything indirectly which, if done directly, would result in a violation of the rule.[22] A regulated person under the rule is a registered investment adviser, a registered broker-dealer, or a registered municipal advisor, in each case itself subject to pay-to-play restrictions.[23]

• *Covered investment pools.* An investment adviser to a covered investment pool in which a government entity invests or is solicited to invest is treated as though the adviser is providing or seeking to provide investment advisory services directly to the government entity.[24]

• *Ban on coordination.* The political contribution rule makes it unlawful for an adviser or any of its covered associates to coordinate, or to solicit any person or political action committee to make, any (1) contributions to an official of a government entity to which the investment adviser is providing or seeking to provide investment advisory services; or (2) payments to a political party of a State or locality where the investment adviser is providing or seeking to provide investment advisory services to a government entity.[25]

Exceptions. The political contribution rule includes exceptions for *de minimis* contributions, new covered associates, and certain returned contributions: [26]

[10] *See New York Republican State Comm.,* 927 F.3d at 505, *supra* footnote 8.

[11] *See id.*

[12] *See* 2010 Adopting Release, *supra* footnote 1, at section II.A. *See also infra* section II.A (describing in more detail how pay-to-play practices constitute fraud).

[13] *See* 2024 Annual Survey of Public Pensions, *supra* footnote 6 (stating that ''36 million people (including inactive employees not currently contributing to pensions but eligible for future benefits) participated in state and local retirement plans in 2024'').

[14] *See* 2010 Adopting Release, *supra* footnote 1, at section II.A (stating that '' 'pay to play' arrangements are inconsistent with an adviser's fiduciary obligations'' and ''payments to state officials as a *quid pro quo* for obtaining advisory business as well as other forms of 'pay to play' violate the antifraud provisions of section 206 of the Advisers Act'').

[15] Several enforcement actions related to pay-to-play schemes were brought under sections 206(1) or (2) of the Advisers Act [15 U.S.C. 80b–6(1) and (2)] prior to the rule's adoption. *See, e.g., SEC* v. *Henry Morris, et al.,* Litigation Release No. 21036 (May 12, 2009); *SEC* v. *Paul J. Silvester, et al.,* Litigation Release No. 16759 (Oct. 10, 2000); Litigation Release No. 20027 (Mar. 2, 2007); Litigation Release No. 19583 (Mar. 1, 2006); Litigation Release No. 18461 (Nov. 17, 2003); Litigation Release No. 16834 (Dec. 19, 2000); *SEC* v. *DiBella,* 587 F.3d 553 (2nd Cir. 2009) (affirming liability for aiding and abetting violations of section 206(2)); *In the Matter of Thayer Capital Partners, TC Equity Partners IV, L.L.C., TC Management Partners IV, L.L.C., and Frederick V. Malek,* Investment Advisers Act Release No. 2276 (Aug. 12, 2004) (settled matter); *In the Matter of Frederick W. McCarthy,* Investment Advisers Act Release No. 2218 (Mar. 5, 2004) (settled matter). Certain of these enforcement actions were also brought under section 10(b) of the Securities Exchange Act of 1934 (the ''Exchange Act'') and section 17(a) of the Securities Act of 1933 [15 U.S.C. 78j(b) and 77q(a)].

[16] Rule 206(4)–5 applies to any investment adviser that is registered (or required to be registered) with the Commission, or that is (1) an adviser unregistered in reliance on the exemption available under section 203(b)(3) of the Advisers Act [15 U.S.C. 80b–3(b)(3)] (''foreign private advisers'') or (2) an exempt reporting adviser as defined in rule 204–4(a) under the Advisers Act. Rule 206(4)–5(a)(1). Section 203(b)(3) of the Advisers Act was amended in 2010 to remove the exemption for an adviser that does not hold itself out to the public as an investment adviser and that has fewer than 15 clients during the last 12 months, and in its place to insert the current exemption for foreign private advisers. *See* 15 U.S.C. 80b–3(b)(3).

[17] A ''covered associate'' of an investment adviser is defined as: (1) any general partner, managing member or executive officer, or other individual with a similar status or function; (2) any employee who solicits a government entity for the investment adviser and any person who supervises, directly or indirectly, such employee; and (3) any political action committee controlled by the investment adviser or by any of its covered associates. Rule 206(4)–5(f)(2). Under the rule, an ''executive officer'' of an adviser includes the president, any vice president in charge of a principal business unit, division or function, other officers with policy-making functions, and other persons who perform similar policy-making functions for the adviser. Rule 206(4)–5(f)(4).

[18] An ''official'' is any person (including any election committee for the person) who was, at the time of the contribution, an incumbent, candidate, or successful candidate for elective office of a government entity if the office is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity or has the authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity. *See* rule 206(4)–5(f)(6).

[19] *See* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(a).

[20] *See* rule 206(4)–5(a)(2).

[21] *See* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(b).

[22] *See* rule 206(4)–5(d).

[23] *See* rule 206(4)–5(f)(9) (describing the meaning of ''regulated person'' under the rule).

[24] *See* rule 206(4)–5(c); rule 206(4)–5(f)(3) (defining ''covered investment pool'').

[25] *See* rule 206(4)–5(a)(2)(ii).

[26] *See* rule 206(4)–5(b).

• *De minimis.* Under the *de minimis* exception, individuals are permitted to make aggregate contributions without triggering the two-year time out of up to $350, per election, to an elected official or candidate for whom the individual is entitled to vote, and up to $150, per election, to an elected official or candidate for whom the individual is not entitled to vote.[27] The *de minimis* exception is available only for contributions by individual covered associates, not the investment adviser itself.

• *New covered associates.* Under the exception for a new covered associate, the two-year time out is not triggered by a contribution made by a natural person more than six months prior to becoming a covered associate, unless he or she solicits clients after becoming a covered associate.[28] As a result, the two-year look back only applies to covered associates who solicit for the investment adviser.

• *Returned contributions.* The exception for certain returned contributions provides an adviser with a limited ability to cure the consequences of an inadvertent contribution to an official for whom the covered associate was not entitled to vote.[29] This exception is for contributions that in the aggregate do not exceed $350 to any one official per election, and the adviser must have discovered the contribution within four months of the date of such contribution.[30] Additionally, within 60 days of learning of the triggering contribution, the contributor must obtain the return of the contribution.

Exemptions. An investment adviser may apply to the Commission for an order exempting it from the two-year compensation ban.[31] The rule sets forth certain factors the Commission will consider in determining whether to grant such an exemption. The Commission takes into account the relevant facts and circumstances of each application in determining whether to grant an exemption.[32]

In addition to the political contribution rule, the recordkeeping rule includes several provisions that require registered investment advisers to make and keep certain books and records relating to compliance with the political contribution rule in order to aid the Commission in examining for compliance with it.[33]

C. The Political Contribution Rule Since Adoption

Since the Commission adopted the political contribution rule in 2010, we have observed numerous challenges associated with the rule's complexity and how broadly investment advisers have applied the rule. Market participants [34] also have stated, among other issues, that the rule is burdensome, complex, and both lacks clarity and creates a *de facto* strict liability standard.[35] Based on these observations and feedback from market participants, the Commission understands that the political contribution rule has resulted in the following outcomes, which, in certain instances, were not intended or anticipated: [36]

• The monetary losses associated with the two-year ban on receiving compensation for providing investment advisory services to a government client seem excessive, particularly given that the ban can be triggered by contributions of as little as $150.[37]

• The two-year ban on compensation (which is automatically triggered by the underlying contribution) creates a *de facto* strict liability standard that does not permit consideration of the complexities of the case outside of the exemptive process or the rule's limited remedial provisions. This can lead to situations where small donations or ''foot faults'' potentially trigger substantial prohibitions under the rule.

• Advisers may be prevented from hiring or promoting qualified individuals into roles where they would be considered a ''covered associate'' for either six months or two years following an individual's contribution, despite the contribution potentially having an attenuated relationship or no relationship to pay-to-play practices. Whether the time period is two years or six months depends on whether the person who becomes a covered associate solicits clients on behalf of the investment adviser; if the employee does not solicit clients, the shorter six-month time period applies.[38] This means that if an existing employee is promoted or transferred into a covered associate role, under the rule the firm must review the employee's political contributions from the previous six months or two years, as applicable. A contribution during that time exceeding the *de minimis* threshold made to an official of a government entity could lead to a two-year ban on receiving compensation from that government entity, even though the individual was not a covered associate at the time of the contribution. A similar result can occur in situations where a person makes a contribution while employed by a different adviser or company but subsequently applies to a covered associate role at an adviser within six months or two years (as applicable) following the contribution. This could prevent an adviser from hiring a top candidate if the person's past political

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[27] *See* rule 206(4)–5(b)(1).

[28] *See* rule 206(4)–5(b)(2).

[29] *See* rule 206(4)–5(b)(3). This exception also includes limitations on the number of times an adviser can rely on the exception. *See* rule 206(4)–5(b)(3)(ii) and (iii).

[30] *See* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(a)(7).

[31] *See* rule 206(4)–5(e).

[32] *See* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(f); *see, e.g.,* True Venture Mgmt., L.L.C., Investment Advisers Act Release Nos. 6932 (Dec. 11, 2025) (notice) and 6937 (Jan. 8, 2026) (order) and related application; J.P. Morgan Investment Mgmt. Inc., Investment Advisers Act Release Nos. 6244 (Feb. 16, 2023) (notice) and 6261 (Mar. 14, 2023) (order) and related application; AEW Capital Mgmt., L.P., Investment Advisers Act Release Nos. 6224 (Jan. 24, 2023) (notice) and 6245 (Feb. 22, 2023) (order) and related application; Davidson Kempner Capital Mgmt. LLC, Investment Advisers Act Release Nos. 3693 (Oct. 17, 2013) (notice) and 3715 (Nov. 13, 2013) (order) and related application.

[33] *See* rule 204–2(a)(18) (describing the books and records that advisers must retain).

[34] For purposes of this Release, unless otherwise noted, we refer to market participants, industry interest groups, and others who have discussed with us or submitted comments to us as ''market participants.''

[35] *See, e.g.,* Benjamin Neaderland & Thomas Bredar, *It's Time To Fix The SEC's Pay-To-Play Rule,* Law360 (Mar. 17, 2025), *available at https://www.law360.com/articles/2310410;* Benjamin Neaderland & Thomas Bredar, *Recent Exemptions From Rule 206(4)–5 Demonstrate the Importance of Strong Compliance Policies and Quick Corrective Action,* WilmerHale (Mar. 16, 2025), *available at https://www.wilmerhale.com/en/insights/client-alerts/20230316-recent-exemptions-from-rule-20645-demonstrate-the-importance-of-strong-compliance-policies-and-quick-corrective-action;* Investment Adviser Association Letter to Chairman Atkins Re: Regulation of Registered Investment Advisers (May 1, 2025), *available at https://www.investmentadviser.org/resources/iaa-letter-to-sec-chairman-atkins/;* Investment Adviser Association Letter to Chairman Clayton Re: Regulation of Registered Investment Advisers (May 10, 2017), *available at https://higherlogicdownload.s3.amazonaws.com/INVESTMENTADVISER/aa03843e-7981-46b2-aa49-c572f2ddb7e8/UploadedImages/publications/170510cmnt.pdf;* Investment Adviser Association Letter to Secretary Countryman Re: List of Rules to be Reviewed Pursuant to the Regulatory Flexibility Act (Aug. 9, 2019), *available at https://www.sec.gov/comments/s7-10-19/s71019-5947271-189129.pdf;* Managed Funds Association Letter to Chairman Clayton Re: Managed Funds Association Regulatory Priorities (May 18, 2017), *available at https://www.mfaalts.org/wp-content/uploads/2017/05/MFA-Regulatory-Priorities-Letter-to-SEC-Chairman-Clayton.pdf; Private Fund Sponsor Pay-to-Play Restrictions for Upcoming U.S. Election Cycle,* Kirkland & Ellis, Kirkland AIM (Aug. 7, 2024), *available at https://www.kirkland.com/publications/kirkland-aim/2024/08/private-fund-sponsor-pay-to-play-restrictions-for-upcoming-us-election-cycle.*

[36] *See also infra* section III.B.1 for a discussion of practices that investment advisers have adopted to address pay-to-play risks.

[37] *See* rule 206(4)–5(b)(1).

[38] *See* rule 206(4)–5(a)(1); rule 206(4)–5(b)(2).

contributions could trigger the rule's two-year time out period on receiving compensation from an existing government client of the adviser even if such past contributions do not present a material risk of engaging in a pay-to-play practice.

• Public pension plans may be unable to hire the most qualified or cost-effective advisers or may ultimately lose the services of an existing adviser with institutional knowledge of the public pension plan's investment strategy and composition because of contributions by the adviser's covered associates during the two-year lookback period that do not present a material risk of engaging in a pay-to-play practice.

• It can be difficult for an adviser to identify which persons fall within the definition of an "official" who is "indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity." [39] Making the determination could require analysis of government entity oversight structures, an official's appointment authority, or the scope of duties of a State government employee, for which in each case there may be little publicly available information. The "indirect" element of the definition may also encompass a chain of influence among government officials that might be attenuated from pay-to-play practices, potentially capturing contributions to officials who may have no practical involvement in or knowledge of specific investment contracts. As a result, advisers may be unable to determine conclusively who is an official under the rule or an adviser's employees may be deterred from making contributions that pose little or no pay-to-play risks. If an adviser is unable to make a conclusive determination, the rule may encourage the adviser to implement blanket contribution bans. In that situation, the rule may unintentionally result in a greater restriction on political speech by advisers than is necessary to serve the objectives of the rule.

• The definition of "covered associate" can be difficult to interpret and may have been applied more broadly than intended, with employees whose contributions are unlikely to be related to pay-to-play practices being subjected to restrictive policies. For example, the definition of covered associate can equate to a significant number of employees and be difficult to apply because the definition's supervisory prong picks up adviser personnel that "supervises, directly or indirectly," an employee who solicits a government entity for an investment adviser and it can be difficult to determine whether an individual "indirectly" supervises an employee who solicits government entities.[40] Additionally, employees that are not covered associates but are supervised by one could also trigger a prohibition due to rule 206(4)–5(d). Any contributions by such employees could be attributed to the covered associate supervisor as an indirect contribution and would make such employees subject to the rule's prohibitions. The definition also could be considered overly expansive when applied because the definition of "executive officer" of the investment adviser [41] includes, among other persons, any vice president in charge of a principal business unit, division or function,[42] irrespective of whether such person's role involves soliciting government entities for the investment adviser or if the employee has a direct economic stake in the firm's business relationship with a government client which could implicate pay-to-play concerns. The "covered associate" definition also could be construed to inappropriately capture independent contractors with whom the adviser has only an attenuated connection because the definition of employee in the rule could include consultants and advisors.[43]

• The dollar amounts in the *de minimis* exceptions have not been updated for inflation since the adoption of the rule 16 years ago. Some contributions above the $150 (for officials for whom the covered associate is not entitled to vote at the time of the contribution) and $350 (for officials for whom the covered associate was entitled to vote at the time of the contribution) contribution ceilings are likely small enough that they would not meaningfully influence the adviser selection process but still trigger the prohibitions of the rule.[44] Indeed, these limits are significantly lower than the contribution limits imposed under federal campaign finance laws.[45]

• The exception for returned contributions requires that the contributor obtain the return of a contribution within 60 calendar days of the date of discovery of such contribution by the investment adviser, which means that advisers must rely on the third party that received the contribution to satisfy the exception; this may not be feasible if the funds have been spent.[46] Consequently, an adviser may not be able to satisfy the exception despite robust efforts to obtain the contribution's return.

• The exemptive process through which the Commission may, upon application, conditionally or unconditionally exempt an investment adviser from the prohibitions of the rule may be costly and time-consuming to pursue.

Due to such interpretive difficulties and related operational and implementation challenges, the political contribution rule has resulted in significant unintended consequences. For example, the rule's substantial consequence for a contribution (a two-year ban on compensation) and its potential to scope in activities that carry a relatively low risk of leading to pay-to-play practices may result—and often has resulted—in an adviser prohibiting contributions outright, which may chill political speech protected by the First Amendment that does not lead even to the appearance of corruption. As another example, and as discussed above, we have observed that advisers have been prevented from hiring or promoting qualified managers because of past contributions by such individuals that may in fact pose little if any risk of constituting pay-to-play practices.

Additionally, because the specific objective criteria of the rule apply to an adviser regardless of its pay-to-play risk profile—including conditions whose application may prove onerous or inappropriate for a low risk adviser—and pay-to-play considerations can be unique to each adviser, an adviser with a lower pay-to-play risk profile may nonetheless be required to design and implement compliance policies and procedures which result in unintended adverse effects that may not be justified by its risk of engaging in pay-to-play practices.

More than fifteen years of complying with the political contribution rule have provided existing investment advisers with experience in understanding a complicated political contribution landscape, assessing whether and how contributions have the potential to

[39] *See* rule 206(4)–5(f)(6).

[40] *See* rule 206(4)–5(f)(2)(ii).

[41] *See* rule 206(4)–5(f)(2)(i).

[42] *See* rule 206(4)–5(f)(4).

[43] The term "employee" is not defined in the Advisers Act.

[44] *See* rule 206(4)–5(b)(1).

[45] *See, e.g.,* 2 U.S.C. 441a(a) (establishing contribution limits under the Federal Election Campaign Act, which increase based on price index); *Contribution limits for 2025–2026 federal elections,* Federal Elections Commission of the United States (Aug. 31, 2026), available at *https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/* (setting an individual contribution limit of $3,500 per election to candidates).

[46] *See* rule 206(4)–5(b)(3).

influence the award of advisory contracts, formulating tailored policies, and developing tracking and attestation systems. Separately, investment advisers have developed experience complying with a variety of State and local laws, as well as other Federal laws, that may subject them to restrictions designed to prevent pay-to-play practices.[47]

For example, a Rhode Island law requires a State vendor that has entered into a contract costing $5,000 or more with a State agency to execute and file an affidavit if it has also contributed over $250 in a calendar year to any general officer, candidate for general office, general assembly member, general assembly candidate, or political party within the 24 months preceding the date of the contract.[48] As another example, South Carolina law prevents any person who has been awarded a contract with the State or local government through non-competitive bidding practices from making a contribution after the awarding of the contract or investing in a financial venture in which a public official has an interest if that official was in a position to act on the contract's award.[49] At the local level, the city of Philadelphia requires that the contractor for every non-competitively bid contract disclose (during the term of such contract and for one year thereafter) any contribution of money or in-kind assistance the contractor has made during such time period to certain city officeholders and candidates for city office, as well as associations organized in support of such persons.[50] Though the burdens of accommodating these various and diverse State and local restrictions may result in some advisers implementing blanket contribution bans, other advisers may utilize a fact-and-circumstances based analysis to determine when and how such statutes apply.

Furthermore, investment advisers and their employees in certain cases also must comply with other Federal laws that establish criminal or civil penalties for bribery or fraudulent *quid pro quo* schemes.[51] As with State and local laws, though the variability of other Federal laws may result in some advisers implementing an outright ban on contributions, it may result in advisers utilizing a fact-and-circumstances-based analysis to determine when and how such statutes apply. To the extent that State, local, and other Federal laws apply, such statutes, in addition to the regulatory framework under the Advisers Act discussed below, likely address some pay-to-play practices notwithstanding a rescission of the political contribution rule.[52]

II. Discussion

A. Proposed Rescission of Rule 206(4)–5 Under the Advisers Act

We propose to rescind rule 206(4)–5 in its entirety. The political contribution rule takes a prescriptive approach to deterring pay-to-play practices that, based on our experience administering the rule and feedback from market participants:

- Creates operational challenges for investment advisers to implement due to the rule's complexity and the breadth of its application;
- Captures activity that may not warrant a two-year compensation ban;
- Imposes significant burdens that may not be justified in connection with what the rule is designed to prevent (including preventing advisers from hiring or promoting qualified personnel due to past contributions that do not present a material risk of engaging in a pay-to-play practice); and
- Results in advisers prohibiting contributions outright, which affects core political speech protected by the First Amendment.[53]

In view of the challenges we have observed that have resulted from the political contribution rule, we are of the view that its goals may be better achieved through a principles-based approach to prevent fraud and that other existing laws and regulations (including the compliance rule and the code of ethics rule) provide a sufficient framework to support such an approach. Accordingly, we propose to rescind the political contribution rule in its entirety.

1. Basis for the Rescission of the Political Contribution Rule

As a fundamental matter (and separate and apart from the political contribution rule), investment advisers engaging in pay-to-play practices violate the U.S. securities laws, including the antifraud provisions of the Advisers Act. In upholding this long-established principle, the Commission has brought numerous enforcement actions under the antifraud provisions of the Advisers Act, as well as other Federal securities laws, involving pay-to-play practices.[54]

Specifically, section 206 of the Advisers Act establishes Federal fiduciary standards that govern the conduct of investment advisers.[55] Sections 206(1), (2), and (4) of the Advisers Act make it unlawful for any investment adviser to employ any ''device, scheme, or artifice to defraud any client or prospective client,'' ''to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client,'' or ''to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative,'' respectively.

Pay-to-play practices are prohibited by the Advisers Act and may violate other Federal securities laws (for example, certain enforcement actions have also been brought under section 10(b) of the Exchange Act and section 17(a) of the Securities Act of 1933).[56] The Commission has specifically stated that payments to State officials as a *quid pro quo* for obtaining advisory business, as well as other forms of ''pay-to-play,'' violate the antifraud provisions of section 206 of the Advisers Act.[57] As an example, with respect to pooled investment vehicles, the Commission has previously stated that an adviser that makes contributions to an official of a government entity to steer assets to a pooled investment vehicle it manages facilitates fraud by implementing a government official's *quid pro quo* scheme.[58] Furthermore, under section

[47] *See also infra* section III.C.2 for discussion of how improvements in data dissemination and new requirements in some jurisdictions for increased transparency regarding, among other things, advisory fees and plan investments, have made it easier to identify anomalous investment patterns that may reflect improper influence.

[48] *See* R.I. Gen. Laws § 17–27–2 (2026).

[49] *See* S.C. Code § 8–13–1342 (2026).

[50] *See* Phila., Pa., Code § 17–1402 (2026).

[51] *See, e.g.,* 18 U.S.C. 201 and 18 U.S.C. 666; *see also* Adam Wright, *Corruption as Contract: Taking Quid Pro Quo Seriously,* 77 Baylor L. Rev. 1 (2025), *available at* https://law.baylor.edu/sites/g/files/ecbvkj1546/files/2025-04/07%20Wright.pdf; Lauren Garcia, *Curbing Corruption or Campaign Contributions? The Ambiguous Prosecution Of ''Implicit'' Quid Pro Quos Under the Federal Funds Bribery Statute,* 65 Rutgers L. Rev. 1 (2012), *available at* https://www.rutgerslawreview.com/wp-content/uploads/archive/vol65/issue1/Garcia.pdf.

[52] *See infra* section II.A.3 for request for comment on whether State and local pay-to-play requirements as well as any antibribery and other applicable Federal laws and regulations address pay-to-play practices.

[53] For a more detailed discussion of the operational and scoping challenges of the political contribution rule, *see supra* section I.C.

[54] *See supra* footnote 15.

[55] *See* Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Investment Advisers Act Release No. 5248 (June 5, 2019), [84 FR 33669 (July 12, 2019)]; *Transamerica Mortgage Advisors, Inc.* v. *Lewis,* 444 U.S. 11, 17 (1979).

[56] *See supra* footnotes 8 through 9 and accompanying text describing what we refer to as ''pay-to-play practices'' in this release. *See also supra* footnote 15 for reference to certain enforcement actions of the Commission for pay-to-play practices.

[57] *See* 2010 Adopting Release, *supra* footnote 1, at section II.A.

[58] *See* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(e); *SEC* v. *DiBella,* 587 F.3d 553, 568 (2d Cir. 2009).

203 of the Advisers Act [15 U.S.C. 80b–3], if advisory personnel engage in pay-to-play practices, the Commission may charge the adviser and its individual supervisors for failure to reasonably supervise.[59]

Pay-to-play practices also involve conflicts of interest. Public pension plan beneficiaries are harmed when a government official violates the public trust, for example, by failing to disclose that the government official has directed the investment of the plan's assets into a pooled investment vehicle not because of the adviser's qualifications or competency or the vehicle's financial merits but rather because the official has received a contribution. By engaging in such conduct with the government official, the adviser creates a conflict of interest with the plan and engages in a scheme to defraud the government plan or program. Additionally, an adviser to a pooled investment vehicle that is an investment option in a government plan or program may prepare information about the pooled investment vehicle that may be used by plan officials to evaluate the vehicle and by pension plan beneficiaries to decide whether to allocate assets to the vehicle. Such an adviser engages in or facilitates an act, practice, or course of business which is fraudulent, deceptive, or manipulative when the adviser does not disclose that it made a contribution that induces government officials to make an investment and that the government officials sponsoring the plan chose the vehicle as an investment option for beneficiaries not solely on the basis of its merits, but rather as the consequence of improper *quid pro quo* payments. Further, as discussed above, when government officials select investment advisers based on their contributions rather than the competence of and fees charged by the adviser, public pension plans are more likely to be managed by less qualified investment advisers and to pay higher fees, to the detriment of the plan, and potentially, the plan's beneficiaries and taxpayers.[60]

In addition to substantive securities law provisions that prohibit pay-to-play practices, a registered investment adviser already is subject to other existing Advisers Act requirements that, in our view and given the experiences described above with the political contribution rule, establish a sufficient principles-based framework through which advisers commonly prophylactically address its risk of engaging in pay-to-play practices. For example, the compliance rule requires investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violation, by the adviser and its supervised persons, of the Advisers Act and the rules thereunder, and to review, no less frequently than annually, the adequacy of those policies and procedures and the effectiveness of their implementation.[61] Further, the compliance rule requires an adviser to consider its fiduciary and regulatory obligations under the Advisers Act and to formalize policies and procedures to address them.[62] The compliance rule is designed to permit the Commission to address the failure of an adviser to have in place adequate compliance controls, *before* that failure has a chance to harm clients or investors.[63] Accordingly, upon any rescission of the political contribution rule, a registered investment adviser would still be required to have policies and procedures reasonably designed to prevent fraudulent practices, including pay-to-play practices, though the adviser would have the flexibility to either tailor those policies in a manner that differs from the specific prescriptive requirements of the political contribution rule or maintain those polices consistent with the compliance rule.

Advisers have for over twenty years implemented systems of controls to comply with rule 206(4)–7 that help protect the interests of clients while being tailored to advisers' particular businesses. The compliance rule relates to a variety of investment adviser compliance activities because it requires written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules thereunder. For example, the Commission has stated that it expects that an adviser's compliance rule policies and procedures, at a minimum, should address certain areas to the extent that they are relevant to that adviser.[64] Based on our experience with the political contribution rule, an adviser's risk of engaging in pay-to-play practices would be mitigated by the adviser assessing its particular pay-to-play risks, taking into account its particular business, and developing policies and procedures addressing those risks under the more principles-based and time-tested framework of the compliance rule.

In addition to the Advisers Act prohibitions on fraud, fiduciary duty requirements, and the compliance rule, a registered investment adviser is also required to adopt a code of ethics under the code of ethics rule. The rule requires that the code of ethics, in part, set forth the standard of business conduct that the adviser requires of all of its supervised persons, and the standard chosen must reflect the adviser's fiduciary obligations and those of its supervised persons, and must require compliance with Federal securities laws.[65] Thus, an adviser, in addition to assessing whether its compliance policies and procedures address its particular pay-to-play risks, generally should assess its code of ethics to ''reinforc[e] fiduciary principles that must govern the conduct of [the adviser and its] personnel'' in the context of its pay-to-play risks.[66] Advisers, for example, could scope out of their code of ethics low risk behaviors in accordance with their own business models and structure.

Providing an adviser additional flexibility to adapt its policies and procedures and code of ethics to its specific business and risks instead of basing them on the specific prescriptive requirements of the political contribution rule would permit the adviser to address its pay-to-play risks more holistically consistent with its obligations under the Advisers Act. It would, at the same time, allow the adviser to better balance its individual pay-to-play risk and the burden associated with mitigating such risk relative to what we have observed under the political contribution rule. Furthermore, to the extent that the compliance costs of mitigating risk under the political contribution rule exceed the compliance costs an adviser would bear if it determines to adjust its code of ethics and compliance policies and procedures to address its particular pay-to-play risks, these cost savings may ultimately benefit the adviser's public pension plan clients and potentially other clients as well (*e.g.,* by allowing the adviser to allocate more money to portfolio research or more resources to

[59] *See* section 203(e)(6) of the Advisers Act; section 203(f) of the Advisers Act.

[60] *See supra* section I.A; *New York Republican State Committee,* 927 F.3d at 505.

[61] *See* rule 206(4)–7. *See also* Compliance Programs of Investment Companies and Investment Advisers, Investment Advisers Act Release No. 2204 (Dec. 17, 2003) [68 FR 74714 (Dec. 24, 2003)] (the ''Compliance Rule Adopting Release'').

[62] *See* Compliance Rule Adopting Release, *supra* footnote 61, at section II.A.1.

[63] *Id.*

[64] *See id* (for example, trading practices, personal trading activities of supervised persons, custody, and marketing and solicitation activities).

[65] *See* rule 204A–1(a)(1) through (2); Investment Adviser Codes of Ethics, Investment Advisers Act Release No. 2256 (July 2, 2004) [69 FR 41696 (July 9, 2004)] (the ''Code of Ethics Adopting Release'').

[66] *See* Investment Adviser Codes of Ethics, Investment Advisers Act Release No. 2209 (Jan. 20, 2004) [69 FR 4040 (Jan. 27, 2004)].

provide investment advice). In addition, the proposal could help an adviser fulfill its fiduciary duty. For example, when an adviser to a closed-end fund is subject to a two-year fee timeout for a political contribution violation involving a pension plan investor in the fund, all investors in the fund may be negatively impacted if the resulting loss of fee revenue reduces the adviser's operational resources and impairs its ability to execute the fund's strategy and fulfill its fiduciary duties. Rescinding the political contribution rule, as proposed, could conversely increase the resources available to the adviser and help the adviser better exercise its fiduciary duty to the benefit of the fund's investors.

Finally, the rescission of the political contribution rule will allow advisers and their personnel greater freedom to make political contributions and to exercise their constitutional right to political speech. The First Amendment's protection of free speech has its ‘‘ ‘fullest and most urgent application precisely to the conduct of campaigns for political office.' ''[67] ‘‘[T]he First Amendment safeguards an individual's right to participate in the public debate through political expression and political association,'' and when an ‘‘individual contributes money to a candidate, he exercises both of those rights.'' [68] While ‘‘Congress may regulate campaign contributions to protect against corruption or the appearance of corruption,'' [69] some advisers have chosen to go beyond the rule and preclude all employees from contribution to all candidates, including those with no authority to award advisory contracts. Rescission of the rule would reopen these avenues for political speech and fulfillment of First Amendment rights without additional limitation (beyond those that already exist under federal and state law).

The proposal to rescind the political contribution rule could also lead to increased competition for public pension plan investment mandates.[70] For example, investment advisers who would have been prohibited from receiving compensation for investment advisory services under the political contribution rule may be able to compete for public pension plan clients after the proposed rescission without being subject to any additional requirements beyond complying with the various applicable principles-based rules discussed below. This increased competition may lead to more favorable investment terms. Further, this increased competition also could ultimately benefit the retirees that rely on these plans and the taxpayers of the State and municipal governments that must honor these plans' obligations.[71] Additionally, public pension plans with a greater number of advisers to choose from may be able to select advisers that can provide advice better tailored to the needs of the particular public pension plan and potentially at a lower cost to the plan.

While the compliance rule and the code of ethics rule apply only to investment advisers registered or required to be registered under section 203 of the Advisers Act (unlike the political contribution rule, which applies to exempt reporting advisers and foreign private advisers as well as registered investment advisers), we understand that registered investment advisers manage a significant amount of public pension plan assets or other public funds and, therefore, represent the highest risk of engaging in pay-to-play practices.[72] We also note that *all* investment advisers (including exempt reporting advisers and foreign private advisers) are subject to section 206 of the Advisers Act, and all investment advisers subject to section 204 of the Advisers Act (including exempt reporting advisers) are subject to section 204A of the Advisers Act.[73] Further, an adviser registered or required to be registered must provide each of its supervised persons with a copy of its code of ethics and any amendments, and its supervised persons must provide the adviser with a written acknowledgement of their receipt of the code and any amendments.[74]

We acknowledge that, before adopting the political contribution rule, the Commission previously discussed policies and procedures as being insufficient for preventing pay-to-play practices. In adopting the political contribution rule, the Commission stated that (1) codes of ethics or compliance procedures alone may not be adequate to stop pay-to-play practices; [75] (2) ‘‘policies and procedures alone, without critical objective criteria, such as obtaining a return of the contribution, are insufficient in our view to justify an exception to our prophylactic rule''; and (3) ‘‘voluntary actions are insufficient to deter pay to play, which may yield lucrative management contracts.'' [76] The Commission in 2010, however, apparently did not anticipate the unintended consequences of the political contribution rule. Our experience administering the political contribution rule for over a decade and the difficulty in designing specific objective criteria for such a rule without unintended adverse effects on adviser contributions, employee hiring, and investment advisory services as well as significant compliance burdens that may not be justified by the benefits (as discussed above), has caused us to reconsider those previously-stated views.[77] Given that experience, we now believe that rescinding the political contribution rule and taking a more principles-based approach, permitting advisers to tailor their compliance policies and procedures and codes of ethics in accordance with their own business models and risk profiles to address their pay-to-play risks, would be appropriate. As indicated above, we are of the view that the existing Advisers Act framework, including prohibitions on fraud and fiduciary duty requirements along with the compliance

[67] *See Nat'l Republican Senatorial Comm.* v. *FEC,* 146 S. Ct. 2404, 2415 (2026), quoting *Cruz,* 596 U.S. at 302.

[68] *See McCutcheon* v. *FEC,* 572 U.S. 185, 203 (2014); s*ee also Buckley* v. *Valeo,* 424 U.S. 1, 15–22 (1976).

[69] *See McCutcheon,* 572 U.S. at 191.

[70] *See infra* section III.D.2 for further discussion of how the rescission of the political contribution rule could affect competition in the investment adviser market for State and local government clients.

[71] *See* 2024 Annual Survey of Public Pensions, *supra* footnote 6 (stating that ‘‘36 million people (including inactive employees not currently contributing to pensions but eligible for future benefits) participated in state and local retirement plans in 2024'').

[72] *See* rule 206(4)–5(a)(1) and rule 206(4)–5(a)(2); *supra* footnote 16.

[73] An investment adviser to a pooled investment vehicle is also subject to rule 206(4)–8, which prohibits the making of false or misleading statements of material fact to current or prospective investors in the pooled investment vehicle, or otherwise engaging in any fraudulent, deceptive, or manipulative conduct with respect to those investors.

[74] *See* rule 204A–1(a)(5).

[75] *See also* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(a) (noting that violations of codes of ethics or compliance procedures do not themselves establish violations of the Federal securities laws, and senior officers of an adviser that have the greatest incentives to engage in pay-to-play and therefore are most likely to make contributions, would themselves ultimately be responsible for enforcing their own compliance with the adviser's code of ethics or compliance procedures).

[76] *See, e.g.,* 2010 Adopting Release, *supra* footnote 1, at section II.B.2(b). Further, the Commission also articulated in the 2010 Adopting Release that disclosure of political contributions would be insufficient to address the concerns the political contribution rule is designed to address.

[77] In addition, our experience has emphasized the challenge in designing a rule that is not also operationally complex, which in turn could result in significant compliance burdens that may not be justified by the benefits. For example, a rule that cross references State and local contribution limits or is premised on constituting a *de minimis* portion of total campaign spending could be challenging to develop and implement given widely varying State and local laws and continuously evolving campaign spending.

rule and code of ethics rule, is likely sufficient to avoid many of the issues discussed above regarding the political contribution rule and would lead to appropriate measures to address pay-to-play practices.[78] Additionally, the Commission brought enforcement actions involving pay-to-play practices prior to the adoption of the political contribution rule; any withdrawal of the rule would accordingly not prevent the Commission from continuing to pursue fraudulent cases involving pay-to-play practices.[79]

The rescission of the political contribution rule in its entirety would also result in the rescission of the prohibition under the current rule on an adviser from paying a third party that is not a ''regulated person'' (*i.e.,* a registered investment adviser, registered broker-dealer, or registered municipal advisor) to solicit government entities for investment advisory services.[80] For the reasons discussed in this proposal with respect to the political contribution rule more broadly, we believe that it would be more appropriate to address the risk of fraud arising from the use of persons for solicitation activities through a principles-based approach that would allow an adviser to tailor its policies and procedures to the specific pay-to-play risks faced by the adviser.[81] However, advisers may still face restrictions on using certain persons for purposes of soliciting government entities to the extent that other rules and regulations that govern the use of solicitors, including the MSRB Political Contribution Rule, FINRA Rule 2030, and Exchange Act rule 15Fh–6 (because, for example, those advisers are dually registered as investment advisers and broker-dealers, or as investment advisers and municipal advisors), or State and local laws regulating the use of placement agents, apply to advisers.[82]

2. Compliance Policies and Procedures and Codes of Ethics

By rescinding the political contribution rule, we would better enable advisers who provide or seek to provide investment advisory services to State or local governments to tailor their compliance policies and procedures and the standard of business conduct contained in their code of ethics to address their particular pay-to-play risks. The compliance rule does not enumerate specific elements that an adviser must include in its policies and procedures.[83] Rather, it provides an adviser with flexibility to apply the rule in a manner best suited to its organization. The Commission has stated, however, that ''in designing its policies and procedures, [an adviser] should first identify conflicts and other compliance factors creating risk exposure for the firm and its clients in light of the firm's particular operations, and then design policies and procedures that address those risks.'' [84]

If the political contribution rule is ultimately rescinded, some investment advisers who provide or seek to provide investment advisory services to State or local governments may determine, after assessing their pay-to-play risks, to update their compliance policies and procedures to replace policies and procedures that were established pursuant to the prescriptive nature of the political contribution rule with policies and procedures that are tailored to address the risks of pay-to-play practices to their organization. Other investment advisers, however, may determine, after assessing their pay-to-play risks, to maintain policies and procedures established pursuant to the political contribution rule as a component of their compliance policies and procedures addressing the risks of pay-to-play practices to their organization.

Following any rescission of the political contribution rule, to the extent an adviser provides or seeks to provide investment advisory services to State or local governments and determines to update its compliance policies and procedures, identifying factors creating pay-to-play risk exposure particular to the adviser and its clients in light of its particular business needs, organizational structure, and the exact nature of its business, would be relevant to making this update. Leveraging the compliance framework that it already has in place, such adviser would then design and implement policies and procedures that address those risks and tailor them as appropriate to reflect the adviser's unique characteristics that are relevant to preventing pay-to-play practices.

Below are several factors to consider in completing this assessment, and the extent to which any of these considerations apply would depend on the individual facts and circumstances and pay-to-play risks of each adviser:

- *Compliance with applicable law.* The adviser's policies and procedures would need to address pay-to-play practices that violate the Advisers Act and the rules thereunder. For purposes of efficiency and cohesiveness of internal policies, the adviser could leverage these policies and procedures to also consider addressing its compliance with political donation and other relevant anti-corruption laws and regulations (including any State or local laws and regulations or other applicable Federal laws and regulations) governing the adviser's existing and/or prospective public pension plan clients.
- *Risk identification.* The adviser's policies and procedures would need to identify and assess the risk of the adviser or its personnel engaging in pay-to-play practices (including by making contributions to government officials, political parties and political action committees) that violate the Advisers Act and the rules thereunder, and may consider identifying and assessing those risks that violate other applicable laws in connection with an award or retention of investment advisory services (including through an investment in the adviser's advised funds). Pay-to-play risks may vary substantially across different types of advisers and across the industry generally and the adviser's policies and procedures would need to take into account these risks (*e.g.,* organization

[78] In addition, technological advancements and increased data dissemination could facilitate the detection of pay-to-play practices. *See infra* section III.C.2 (discussing improvements in data dissemination and increased transparency in certain jurisdictions related to advisory fees, plan investments, and information related to other relevant concerns that may have made it easier to identify anomalous investment patterns that may reflect improper influence).

[79] *See supra* footnote 15 for Commission enforcement actions addressing pay-to-play schemes. In addition, since the political contribution rule was adopted in 2010, the Commission has established the SEC Whistleblower Program, including a system and form regarding tips, complaints, and referrals. *See* SEC Whistleblower Program, *available at https://www.sec.gov/enforcement-litigation/whistleblower-program*; Form TCR, *available at https://www.sec.gov/files/formtcr.pdf.* The SEC Whistleblower Program was established to incentivize whistleblowers to report specific, timely, and credible information about possible federal securities laws violations and, accordingly, may provide the Commission with information regarding fraud, including pay-to-play practices.

[80] *See* current rule 206(4)–5(a)(2)(i). *See also supra* section I.B.

[81] Rule 204–2 under the Advisers Act would also continue to require an investment adviser to maintain all written agreements entered into by the investment adviser with government entity clients, third-party solicitors and placement agents, which would be available for the Commission to review upon examination. *See* current rule 204–2(a)(10); *infra* section II.B for discussion of the proposed amendments to rule 204–2.

[82] *See, e.g.,* Section 424–A of the New York Retirement & Social Security Law (prohibiting the New York State Common Retirement Fund (''CRF'') from investing with an outside investment manager that is using the services of a placement agent or other intermediary to assist the investment manager in obtaining investments by the CRF).

[83] *But see* Compliance Rule Adopting Release, *supra* footnote 61, at section II.A.1 (stating that the Commission expects that an adviser's policies and procedures, at a minimum, should address certain issues to the extent that they are relevant to that adviser).

[84] *See id.*

specific factors such as the size of the adviser's investment and business development teams; indirect conduct such as structuring transactions in a manner intended to hide the true purpose of a contribution or payment using third-parties, such as consultants, attorneys, family members, friends or companies affiliated with the adviser, to hide the true source of the donation). Factors that might affect the adviser's risk assessment include:

• *Governmental relationships.* Whether the adviser has an existing relationship with one or more government entities or government entity officials or whether the adviser is seeking to, or has begun the process of, providing investment advisory services to such government entities or officials and, if so, whether any contributions or related activities should be analyzed to assess the adviser's risk.

• *Personnel.* The nature of the position of any personnel making a contribution (*e.g.,* advisory, senior level decision makers, or business development personnel, on the one hand, or back-office, administrative, or clerical employees, on the other hand) and the associated risk (*e.g.,* contributions by personnel in positions involving client solicitation may carry heightened pay-to-play risks) and whether any personnel carry heightened pay-to-play risks for other reasons (*e.g.,* some personnel may carry heightened pay-to-play risks due to their history of contributions).

• *Pre-clearance.* The adviser could consider incorporating into its policies and procedures a process of pre-clearance of contributions by the adviser or its personnel to officials of government entities depending on its risk assessment, the nature of its business, and its particular facts and circumstances. As part of any such process, the adviser could consider whether to maintain reports documenting contributions by personnel to help better identify pay-to-play risk depending on its risk assessment, the nature of its business, and its particular facts and circumstances, which could also aid the adviser in performing the required annual review of its overall compliance program (including any policies and procedures specific to pay to play). An adviser with a small number of employees could determine that it does not need a formalized pre-clearance program. Alternatively, a large adviser with multiple advisory contracts with several public pension plans could determine that it is appropriate to have an electronic pre-clearance system for contributions similar to what typically is used for pre-clearing personal securities transactions.

• *Risk mitigators.* After identifying conflicts and other compliance factors creating pay-to-play risk, the adviser would need to design policies and procedures to address those risks. Those policies and procedures would vary by adviser depending on the nature of the adviser's business and its particular facts and circumstances. For example, an adviser's policies and procedures could provide that the adviser or its personnel be able to make contributions during a particular window that the adviser determines to have low pay-to-play risk. As another example, the policies and procedures could set forth contribution thresholds, including where contributions falling under such a threshold would not be subject to all or certain elements of the adviser's policies and procedures pertaining to pay-to-play (*e.g.,* not subject to pre-clearance, if such a protocol were to be adopted).

• *Third-party solicitors.* To the extent an adviser uses third-party solicitors, the adviser would need to address in its policies and procedures the unique pay-to-play risks associated with such practices. For example, the adviser could consider limitations such as requiring engagements to be approved by the adviser's Chief Compliance Officer or requiring any third-party solicitating government business on behalf of the adviser to be a registered investment adviser, registered broker-dealer, security-based swap dealer, or registered municipal adviser who has not made a political contribution to the government entity it is soliciting.

• *Periodic monitoring.* The adviser's policies and procedures could incorporate a process for more frequent periodic monitoring of compliance with and the effectiveness of any elements it has included with respect to pay-to-play conduct, as part of its overall review of the effectiveness of the implementation of its policies and procedures under the compliance rule.[85] Periodic monitoring could include periodic audits of pre-clearance requests against a report documenting contributions by personnel to ensure compliance with its pre-clearance process, and/or other required protocols the adviser has adopted as part of its policies and procedures.

• *Remedial steps.* The adviser would need to include in its policies and procedures steps or a framework to address contributions that are inconsistent with the policies and procedures. For example, the policies could require seeking the return of contributions within a specific timeframe or potential disciplinary or other appropriate actions against employees that violate the policies and procedures.

Likewise, the code of ethics rule does not require an adviser to adopt a particular standard of business conduct. Instead, it requires that the standard an adviser chooses reflect its fiduciary obligations and those of its supervised persons and require compliance with the Federal securities laws.[86] Accordingly, in choosing a standard of business conduct, an adviser who provides or seeks to provide investment advisory services to State or local governments would need to review and, if necessary, adjust its code of ethics to include a standard of business conduct that aligns with any policies and procedures the adviser adopts under the compliance rule in the context of its pay-to-play risks. For example, if the adviser restricts certain types of contributions as part of its policies and procedures, the adviser should consider amending its code of ethics to reference that restriction. Further, an adviser is required in its Form ADV Part 2A (Item 11) to briefly describe its code of ethics and to explain that it will provide a copy of the code of ethics to any client or prospective client upon request.[87]

3. Request for Comment

We request comment on all aspects of the proposal to rescind the political contribution rule, including the following:

1. Should the Commission rescind rule 206(4)–5 in its entirety, as proposed? Why or why not?

2. Do commenters agree with our observation that the political contribution rule has generally resulted in unintended consequences and a broader application of the rule than intended such as some advisers' policies and procedures outright prohibiting political contributions altogether? Do commenters believe that the proposed rescission of the political contribution rule would encourage more political speech by way of increased political contributions in circumstances that do not generate pay-to-play risk?

3. Does the political contribution rule raise significant questions under the First Amendment?

[85] *See* rule 206(4)–7(b) (requiring a registered investment adviser to review, no less frequently than annually, the adequacy of the policies and procedures and the effectiveness of their implementation).

[86] *See* Code of Ethics Adopting Release, *supra* footnote 65.

[87] *See* Part 2A of Form ADV: Firm Brochure, Item 11.

4. Would an adviser's policies and procedures adopted under the compliance rule be a more appropriate means of addressing the risks associated with pay-to-play practices? Would such an approach reduce burdens for the adviser relative to the burdens incurred with compliance with rule 206(4)–5 or otherwise avoid the challenges associated with the current rule? Would an adviser's adoption of a standard of business conduct under the code of ethics rule that addresses an adviser's particular pay-to-play risks help prevent fraudulent pay-to-play conduct?

5. If the political contribution rule is rescinded, would other existing requirements under the Advisers Act and the rules thereunder sufficiently address pay-to-play practices? Would rescinding the political contribution rule increase the likelihood of pay-to-play practices? Why or why not? If so, would keeping the rule or adopting some other alternative be preferable?

6. Should the Commission amend the political contribution rule to provide for some specific standards within a more principles-based framework? If so, describe what framework should be provided. For example, would an amended, more principles-based rule under the Advisers Act specific to pay-to-play practices help an adviser develop policies and procedures and codes of ethics sufficiently robust to prevent pay-to-play practices (*e.g.,* addressing pay-to-play practices that may arise from the use of political action committees (''PACs'') or third-party solicitors)?

7. Should the Commission amend the rule to require an adviser to adopt and implement policies and procedures tailored to its pay-to-play risks taking into account its particular business, but also prescribe certain elements in the policies and procedures? If so, what elements and why? For instance, should any such policies and procedures be required to expressly include (1) a risk identification and assessment element that would require an adviser to identify and assess the adviser's or its covered personnel's risk of making contributions to officials of government entities that could result in the award or retention of investment advisory services or the decision to invest or maintain an investment in an investment pool advised by the investment adviser; (2) a political contributions guidelines element that would require an adviser to establish firm-wide guidelines that would identify covered personnel and certain prohibited conduct and establish contribution limits and protocols with respect to contributions (*e.g.,* pre-clearance, periodic monitoring, and a report documenting contributions made); or (3) an annual review and report element that would require an adviser to review at least annually the adequacy of the policies and procedures and the effectiveness of their implementation and prepare a written report describing the review, its results, and any material changes made to the policies and procedures resulting from any deficiencies identified and any actions taken in response to any violations of the policies and procedures or guidelines? Would such a rule lead to different results than what an adviser would institute under the compliance rule and the code of ethics rule, and if so how?

8. As an alternative to the proposed rescission, should the Commission instead modify specific provisions of the political contribution rule? If so, which provisions and why? For example, should the Commission modify (1) the *de minimis* exception to increase the dollar amounts to $3,500 or another amount; (2) the two-year timeout and the lookback provisions to eliminate, or reduce the time periods (*e.g.,* one calendar year, one fiscal quarter) contained in, the provisions; (3) certain definitions to simplify compliance by eliminating the ''indirect'' concept in the definitions of ''official'' and ''covered associate''; and/or (4) the exemptive process set forth in rule 206(4)–5(e) to expand the bases for relief? If a partial rescission of the rule or targeted modifications is a preferable approach, how specifically should the Commission amend the rule to address market participants' concerns about complexity, breadth, and burden?

9. Should the Commission further clarify application of the compliance rule with respect to pay-to-pay practices, or otherwise provide additional guidance to assist advisers in updating and tailoring their policies and procedures and codes of ethics if the political contribution rule is rescinded as proposed? If so, what clarification or guidance would be helpful?

10. Should the Commission adopt enhanced disclosure obligations (*e.g.,* Form ADV disclosures to provide an alternative means of transparency) if the rule is rescinded as proposed? If so, what should the disclosures be and why? For example, should the Commission require advisers to briefly disclose how their policies and procedures address pay-to-play risk? Would such a requirement result in different disclosure than advisers would provide under Item 11 of Form ADV Part 2 in describing their code of ethics if the political contribution rule were rescinded? Would enhanced disclosure regarding an adviser's policies and procedures addressing pay-to-play risk help to reduce instances of pay-to-play practices? Why or why not?

11. Do State and local pay-to-play requirements as well as any anti-bribery and other applicable laws and regulations including Federal laws and regulations regarding the procurement process (while not all targeted at investment advisers specifically and not consistent across or present in all jurisdictions) diminish the need for rule 206(4)–5? Why or why not? Alternatively, is having a Federal rule addressing pay-to-play practices necessary given the variability among State and local pay-to-play laws and the complex analyses required to determine whether these regulations are applicable? Why or why not?

12. Would the proposed rescission of the political contribution rule affect the application of other rules or regulations (including, but not limited to, the MSRB Political Contribution Rule, FINRA Rule 2030, and Exchange Act rule 15Fh–6) applicable to pay-to-play conduct by registered broker-dealers, registered municipal advisers, security-based swap dealers, or any other registered firms? Why or why not? If so, which rules and how? For example, if the political contribution rule were rescinded as proposed, would limitations on the use of solicitors under other rules and regulations continue to apply to advisers? Why or why not? Additionally, what impact (*e.g.,* compliance burdens or otherwise) would the proposed rescission have on dually registered investment advisers and broker-dealers? Is our understanding accurate that most advisers that provide investment advisory services to government clients (or seek to do so) and, therefore, that present the greatest pay-to-play risk, are investment advisers registered with the Commission?

13. Do commenters believe that the proposed rescission of the political contribution rule would increase pay-to-play risk for exempt reporting advisers and foreign private advisers given that these advisers are not subject to the code of ethics rule or the compliance rule? Why or why not?

B. Proposed Amendments to Rule 204–2 Under the Advisers Act

The proposal would amend the recordkeeping rule to eliminate the provisions requiring a registered investment adviser to make and keep certain records in connection with the political contribution rule.[88] Paragraph (a)(18) of rule 204–2 requires an adviser to make and keep records containing a list or record of its covered associates, government entity clients, contributions to officials, State political parties and PACs, and payments to regulated persons soliciting government business on the adviser's behalf. Because the proposal would rescind rule 206(4)–5 in its entirety, we propose to eliminate paragraph (a)(18) of rule 204–2.

As discussed above, however, an adviser must manage the risk of engaging in pay-to-play practices, including by adopting policies and procedures under the compliance rule and a code of ethics under rule 204A–1 as appropriate.[89] Rule 204–2 requires an adviser to maintain a copy of its policies and procedures and records documenting the adviser's annual review of those policies and procedures.[90] Further, the rule requires an adviser to maintain a copy of its code of ethics and a record of any violation of that code along with actions taken as a result of the violation, and copies of its supervised persons' written acknowledgment of receipt of the code.[91] An adviser must also maintain records of all written agreements with any client or otherwise relating to the business of the adviser, which would include written agreements with its government entity clients.[92] Thus, notwithstanding any rescission of the political contribution rule as proposed, rule 204–2 would continue to require an adviser to maintain these records, including any portion relating to preventing pay-to-play practices. These records would be available for the Commission to review upon examination.

We request comment on all aspects of the proposed amendments relating to the recordkeeping rule, including the following:

14. Should the recordkeeping rule be amended to eliminate all the current political contribution recordkeeping requirements, as proposed?

15. Alternatively, should we retain certain recordkeeping requirements within rule 204–2(a)(18)? If so, which requirements and why? Are there any additional recordkeeping requirements related to pay-to-play practices that we should require? If so, what requirements and why? For example, are there specific records that we should require an adviser to maintain that would assist the Commission in identifying fraudulent pay-to-play practices?

III. Economic Analysis

A. Introduction

We are mindful of the costs imposed by, and the benefits obtained from, our rules. Section 202(c) of the Advisers Act [93] provides that when the Commission is engaging in rulemaking under the Advisers Act and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. The following analysis considers, in detail, the likely significant economic effects that may result from the rescission of rule 206(4)–5, including the benefits and costs to investors and other market participants as well as the broader implications of the proposed rule amendments for efficiency, competition, and capital formation.

Pay-to-play practices in investment adviser markets, when they occur, can impose significant losses on public investment systems and, historically, have not been fully corrected by market forces.[94] Government officials have legal obligations to government fund beneficiaries. However, such officials can receive private benefits that incentivize them to diverge from their obligations to government fund beneficiaries. This behavior can be checked by law enforcement or by public scrutiny. However, pay-to-play practices are rarely explicit; it may be difficult to prove that an adviser (or one of its executives or employees) made political contributions for the purpose of obtaining the government business, or that it engaged a solicitor for his or her political influence rather than substantive expertise.[95] Further, the public often lacks insight into the adviser selection process.

These problems can persist as a type of collective action problem.[96] Investment advisers may be locked out from the market for government contracts if they do not make contributions, and the expected financial return on contributions can make participation individually rational despite its collective cost. Meanwhile, government officials benefit from the arrangement so long as they retain authority to decide which investment advisers are granted government contracts, and candidates that wish to campaign against pay-to-pay practices could see their campaigns financially handicapped by the loss of contributions from advisers and officials who benefit from pay-to-play.

Pay-to-play practices transfer wealth from taxpayers and fund beneficiaries to investment advisers and government officials responsible for selecting them. For example, they undermine the fair competition for government contracts and can result in higher fees and lower performance for pension funds and other government investments. They could also force investment advisers to dedicate resources to unproductive activity (*i.e.,* spending time and money maintaining political connections) and away from productive activity. Finally, they could also result in the erosion of public trust in government officials and the distortion of capital markets.

The political contribution rule, rule 206(4)–5, was designed as a prophylactic measure to address pay-to-play practices before they occur. In practice, however, this rule has imposed unintended costs on investment advisers, their employees, their State and local government clients, and indirectly on other market participants.[97] Although the rule was not intended to discourage lawful political donations, some investment advisers have, possibly in response to the rule, enacted policies prohibiting their employees from making any political donations. Nor was the rule intended to affect investment adviser labor markets or disincentivize investment advisers from competing for government contracts. However, discussions with market participants lead us to believe that the rule may have distorted both markets.

The proposal would rescind the political contribution rule and thereby eliminate the compliance costs and unintended consequences associated with the rule. While rescinding the rule could increase the risk of pay-to-play practices in investment adviser markets, we believe that this risk would be mitigated by several regulatory

[88] Staff in the Division of Investment Management is reviewing certain of our staff's no action letters addressing the application of the recordkeeping rule to determine whether any such letters would need to be withdrawn in connection with a rescission of the political contribution rule. One letter being reviewed is the letter from the Investment Company Institute. *See* Investment Company Institute, SEC Staff No-Action Letter (Sept. 12, 2011).

[89] *See supra* section II.A.

[90] *See* rule 204–2(a)(17)(i) through (ii).

[91] *See* rule 204–2(a)(12)(i) through (iii).

[92] *See* rule 204–2(a)(10).

[93] *See* 15 U.S.C. 80b–2(c).

[94] *See supra* the history of enforcement actions taken by the Commission at footnote 15 and accompanying text.

[95] *See* 2010 Adopting Release, part II.

[96] *See Blount* v. *SEC,* 61 F.3d 938 (D.C. Cir. 1995), *cert. denied*, 517 U.S. 1119 (1996).

[97] The rule creates a *de facto* strict liability standard that can lead to situations where small donations or ''foot faults'' potentially trigger substantial prohibitions under the rule. *See supra* section I.C.

frameworks. Pay-to-play practices were unlawful under various anti-bribery laws and the Advisers Act before the political contribution rule was promulgated and would continue to be unlawful if the rule is rescinded. The compliance rule would continue to require registered investment advisers to adopt and implement policies and procedures that are reasonably designed to prevent violation of the Advisers Act and the rules thereunder, including by tailoring their compliance policies and procedures in accordance with their own business models and risk profiles to address their pay-to-play risks. Advisers' fiduciary duties will continue to require them to assess and mitigate pay-to-play risks. The code of ethics rule will continue to require registered investment advisers to adopt a code of ethics that sets forth a standard of business conduct reflecting this fiduciary obligation.

B. Economic Baseline

The baseline against which the costs, benefits, and the effects on efficiency, competition, and capital formation of the proposed rule are measured consists of the current state of the investment adviser market, current practice as it relates to pay-to-play policies and procedures, and the current regulatory framework.[98]

1. Current Regulatory Framework and Market Practice

a. Regulatory Baseline

The antifraud provisions of the Advisers Act make it unlawful for an adviser to employ any device, scheme, or artifice to defraud any client or prospective client, to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client, or to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative.[99] Therefore, pay-to-play practices are prohibited by the Advisers Act and also may violate other provisions of the Federal securities laws.[100] In certain circumstances, pay-to-play schemes may also violate laws expressly prohibiting quid pro quo bribery schemes.

Further, the compliance rule under the Advisers Act requires an adviser that is registered, or required to be registered, to adopt and implement written policies and procedures reasonably designed to prevent violations, by the adviser and its supervised persons, of the Advisers Act and the rules that the Commission has adopted under the Advisers Act, which include requirements to prevent certain pay-to-play practices. The adviser must review these policies' adequacy and effectiveness on at least an annual basis.[101]

The political contribution rule acts as a prophylactic rule to prevent pay-to-play activity. The rule generally prohibits an investment adviser from providing investment advisory services for compensation to a government client for two years after the adviser or any of its covered associates makes a contribution to an elected official of a government entity, or candidate for such office, whose office is in a position to influence the selection of the adviser.[102] The rule provides for situations in which the Commission can provide exemptions from this prohibition. The rule also prohibits advisers from paying or agreeing to pay persons to solicit government entities on their behalf unless the persons are the advisers' own executive officers, general partners, managing members, or employees, or are certain regulated persons who are themselves subject to pay-to-play restrictions.[103] Under the rule, an adviser and its covered associates are further restricted from soliciting or coordinating contributions or payments to certain government officials or political parties related to the adviser's business and may also not do indirectly anything which, if done directly, would violate the rule.[104] Covered investment pools in which a government entity invests or is solicited to invest are treated as if they were the government entity for the purposes of the rule.[105] The political contribution rule includes *de minimis* exceptions (*i.e.,* contribution dollar thresholds below which the ban on contributions does not apply), an exception for new covered associates, and an exception for certain returned contributions.[106] The recordkeeping rule requires a registered investment adviser to make and keep certain records in connection with the political contribution rule.[107]

Exchange Act rule 15Fh–6 imposes political contribution restrictions on security-based swap dealers and their covered associates that are parallel to the political contribution rule's restrictions on investment advisers and their covered associates.[108] Rule 15Fh–6 might apply to investment advisers to the extent that they are dually registered as investment advisers and security-based swap dealers. Under the MSRB Political Contribution Rule (rule G–37), brokers, dealers, municipal securities dealers, and municipal advisors are subject to a two-year prohibition on engaging in municipal securities business or municipal advisory business, as applicable, if they made certain contributions to officials of municipal entities within the preceding two-year period, with a shorter six-month lookback period for certain personnel, and an exception for de minimis contributions. MSRB rule G–38 prohibits brokers, dealers, and municipal securities dealers from paying persons who are not affiliated persons for solicitation of municipal securities business on their behalf. The comparable requirements of rule 206(4)–5 were closely modeled on MSRB rules G–37 and G–38.[109] A registered municipal advisor subject to MSRB rule G–37 is a ''regulated person'' under rule 206(4)–5(f)(9) and as such, an investment adviser may pay the registered municipal advisor to solicit a government entity for investment advisory services.[110]

[98] *See, e.g., Nasdaq* v. *SEC*, 34 F.4th 1105, 1111–14 (D.C. Cir. 2022). This baseline approach also follows Commission staff guidance on economic analysis for rulemaking. *See* Current Guidance on Economic Analysis in SEC Rulemaking (Mar. 16, 2012), *available at https://www.sec.gov/divisions/riskfin/rsfi_guidance_econ_analy_secrulemaking.pdf* (''The economic consequences of proposed rules (potential costs and benefits including effects on efficiency, competition, and capital formation) should be measured against a baseline, which is the best assessment of how the world would look in the absence of the proposed action''); *Id.* at 7 (''The baseline includes both the economic attributes of the relevant market and the existing regulatory structure.''). Any staff statements cited herein represent the views of the staff. They are not a rule, regulation, or statement of the Commission. Furthermore, the Commission has neither approved nor disapproved their content. Any staff statements cited herein, like all staff statements, have no legal force or effect; they do not alter or amend applicable law; and they create no new or additional obligations for any person.

[99] *See* Advisers Act sections 206(1), (2), and (4).

[100] *See supra* section II.A.

[101] *See* rule 206(4)–7.

[102] *See* rule 206(4)–5(a)(1) and 206(4)–5(f)(6) (defining ''official''); *see also supra* section I.B. The investment advisers covered by the political contribution rule include advisers who are registered or required to be registered; advisers who are unregistered in reliance on the exemption available under section 203(b)(3) of the Advisers Act (for foreign private advisers); and exempt reporting advisers as defined in rule 204–4(a) (*i.e.,* certain venture capital fund advisers and private fund advisers). *See* rule 206(4)–5(a) and (d).

[103] *See* rule 206(4)–5(a)(2)(i).

[104] *See* rules 206(4)–5(a)(2)(ii), 206(4)–5(d).

[105] *See* rule 206(4)–5(c).

[106] *See* rule 206(4)–5(b).

[107] *See* rule 204–2(a)(18).

[108] *See* rules 15Fh–6(b)(1) (ban on compensation and two-year lookback); 15Fh–6(b)(3)(i) (ban on solicitation by other than regulated persons); 15Fh–6(b)(3)(ii) (ban on coordination); 15Fh–6(b)(2), (d), (e) (exceptions and exemptions).

[109] *See* 2010 Adopting Release, *supra* footnote 1, at sections I, II.B.2(a), IV.A.

[110] *See* rule 206(4)–5(a)(2)(i)(A); *see also* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act

FINRA adopted rule 2030 and a related recordkeeping rule, rule 4580, to enable its member firms to continue to engage in distribution and solicitation activities for compensation with government entities on behalf of investment advisers following the adoption of rule 206(4)–5. The elements and terms used in rule 2030 are ''substantially equivalent'' to those in rule 206(4)–5, because one of the objectives of FINRA's proposal is to satisfy the ''regulated person'' definition in rule 206(4)–5(f)(9) so that an investment adviser may pay a FINRA member firm to solicit a government entity for investment advisory services.[111]

Some States and municipalities place similar restrictions on investment advisers subject to their jurisdiction or government entities that can contract with investment advisers, though there is significant variation in the individuals, firms, or entities to which these rules apply and how they are restricted. State and local restrictions vary considerably in their scope and approach. Some jurisdictions prohibit principals of investment advisory firms from contributing to campaigns or other organizations related to offices with discretion in the selection or compensation of an investment adviser.[112] Some jurisdictions require public disclosures of contributions for firms with procurement contracts with the State or its subdivisions.[113] Some jurisdictions disallow government entities in the State from contracting with investment advisers who have made contributions to campaigns for—or holders of—certain government offices, and restrict government contractors from making, soliciting, or pledging political campaign contributions.[114] Some jurisdictions prohibit the use of placement agents.[115] Some jurisdictions have no restrictions resembling those in the political contribution rule.

Pay-to-play practices are inconsistent with an adviser's role as a fiduciary under the Advisers Act and constitute fraud under the Federal securities laws.[116] In addition, the code of ethics rule requires an adviser that is registered, or required to be registered, to have a code of ethics that sets forth standards of business conduct for its supervised persons, which reflect the adviser's fiduciary obligations and those of its supervised persons, and, among other things, provisions requiring the adviser's supervised persons to comply with applicable Federal securities laws.[117] The Commission may also penalize an adviser for failing to reasonably supervise persons under its supervision who commit Federal securities law violations, including pay-to-play practices.[118] Rule 204–3 and Form ADV require a registered adviser to deliver a firm brochure to each client or prospective client describing, among other things, its code of ethics and explaining that the adviser will provide a copy of the code of ethics to any client or prospective client upon request.[119] The provisions collectively constitute a regulatory framework that governs pay-to-play risk in investment advisory markets independent from the political contribution rule.

b. Current Market Practice

To comply with rule 206(4)–5 and to otherwise ensure that an adviser is complying with the Advisers Act, we understand that advisers have enacted compliance frameworks to identify sources of pay-to-play risk, manage their covered associates, and document the activities of the advisers and their covered associates. Activities within this framework include: establishing pre-clearance procedures and/or annual certifications for political contributions; developing training programs to educate employees about the rule and its implications; maintaining records of employee contributions and other relevant activities; reviewing public contribution databases; and creating disciplinary protocols for associates who violate the adviser's policies.

According to an industry survey of investment advisers,[120] approximately 40 percent of advisers conduct periodic training of relevant personnel on pay-to-play issues, 31 percent require periodic reporting of all political contributions by covered associates, 31 percent require new personnel to be vetted for political contributions before being hired as a covered associate, 12 percent prohibit all political contributions, 9 percent review expense reports of relevant personnel for pay-to-play red flags, and 4 percent require periodic reporting of political contributions over $150. Some advisers also require associates to pre-clear contributions, with 27 percent reporting to require this for contributions over $150 and 13 percent reporting to require this for contributions over $350.[121]

According to the same survey, approximately 16 percent of investment advisers increased the type, scope, and/or frequency of pay-to-play-related compliance testing compared to the previous year. Additionally, 11 percent of surveyed advisers cited pay-to-play as an area of focus during their most recent SEC examination.

2. Affected Parties

As of December 2025, and incorporating filings received through April 30, 2026, there were 16,434 registered investment advisers, with roughly $166.0 trillion in total regulatory assets under management and approximately 1,110,000 employees. There were also 6,463 exempt reporting advisers with additional assets of approximately $7.5 trillion.[122] We do not currently have

Release No. 3221 (June 22, 2011) [76 FR 42950 (July 19, 2011)], at section II.D.1; Political Contributions by Certain Investment Advisers: Ban on Third-Party Solicitation; Order With Respect to MSRB Rule G–37, Investment Advisers Act Release No. 4531 (Sept. 20, 2016) [(81 FR 66526 (Sept. 28, 2016)].

[111] *See* Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change to Adopt FINRA Rule 2030 and FINRA Rule 4580 to Establish ''Pay-To-Play'' and Related Rules, Securities Exchange Act Release No. 78683 (Aug. 25, 2016) [81 FR 60051 (Aug. 31, 2016)]. The Commission subsequently determined that that FINRA Rule 2030 imposes substantially equivalent or more stringent restrictions on broker-dealers than the Commission's political contribution rule imposes on investment advisers and is consistent with the objectives of the political contribution rule. *See* Political Contributions by Certain Investment Advisers: Ban on Third-Party Solicitation; Order with Respect to FINRA Rule 2030, Investment Advisers Act Release No. 4532 (Sept. 20, 2016) [(81 FR 66526 (Sept. 28, 2016)].

[112] *See, e.g.,* Conn. Gen. Stat. § 9–612 (2026).

[113] *See, e.g.,* Md. Code Regs. 21.07.01.20 (2026).

[114] *See, e.g.,* N.J. Stat. Ann. § 19:44A–20.13 *et seq.* (2026).

[115] *See, e.g.,* Press Release, New York City Pension Funds Enact Placement Agent Ban (June 9, 2014), https://comptroller.nyc.gov/newsroom/new-york-city-pension-funds-enact-placement-agent-ban/(announcing joint resolution by the New York City Employees' Retirement System, Teachers' Retirement System, New York City Police Pension Fund, New York City Fire Department Pension Fund, and Board of Education Retirement System).

[116] *See supra* section I.A.

[117] *See* rule 204A–1.

[118] *See* Advisers Act section 203(e)(6).

[119] *See* rule 204–3(a) and (b); Part 2A of Form ADV: Firm Brochure, Item 11.

[120] *See* 2024 Investment Management Compliance Testing Survey, *supra* footnote2.

[121] Advisers completing the survey were allowed to select multiple possible answers for the question ''Which of the following policies have you adopted with regard to political contributions by 'Covered Associates' as defined within the Pay-to-Play Rule? *(Check all that apply).*'' While an adviser that has a policy requiring pre-clearance for contributions over $150 necessarily also has a policy requiring pre-clearance for contributions over $350, it is unclear how many of the 13 percent of advisers that selected that they require pre-clearance for contributions above $350 did so because they have this policy and not one for a $150 (or lower) threshold or because they have this policy by virtue of having a policy with a threshold of $150 (or lower).

[122] Exempt reporting advisers are not required to report their regulatory assets under management on Form ADV. Here we cite the total gross assets of these advisers' private funds.

data on the extent to which advisers use third parties to solicit government entities.

The rule also affects government entities that may use investment advisory services. In particular, State and local government retirement funds currently have $9.6 trillion in assets, representing 33 percent of all U.S. pension assets, and State-run qualified tuition plans currently manage $603 billion in assets.[123]

C. Benefits and Costs

1. Benefits of Rescinding the Political Contribution Rule

Rescinding the political contribution rule would likely lower the ongoing direct compliance costs for advisers to comply with the Advisers Act. The extent of the cost savings would vary with many factors. Notably, cost savings would vary with the extent to which an adviser would choose to modify its policies and procedures related to identifying pay-to-play risks and eliminating pay-to-play practices.

In particular, removing the prescriptive requirements of rule 206(4)–5 would allow investment advisers to tailor their policies and procedures to their specific pay-to-play risks, resulting in lower compliance costs for most advisers. For example, some advisers that currently vet the past political contributions of prospective employees or employees being considered for a transfer or a promotion may no longer do so or do so in fewer situations. These savings could free adviser employees for other tasks or reduce the need for dedicated compliance staff, or both. Advisers may pass these cost savings on to their government clients through lower fees or improved service quality.

Some advisers might change their policies and procedures to remove specific requirements designed to comply with rule 206(4)–5, while retaining the same or similar obligations as a matter of practice. An adviser might choose to retain a particular policy either because its State's regulations are already more stringent than an analogous policy imposed by the political contribution rule,[124] because the adviser is a dual-registered entity subject to rule 15Fh–6, or because the adviser has an affiliated broker or dealer that is required to comply with the MSRB Political Contribution Rule (rule G–37), MSRB Rule G–38, or FINRA Rule 2030. These rules have substantially similar prohibitions to those in the political contribution rule, and to the extent that compliance resources are shared between affiliated entities, it may not be cost effective for an adviser to tailor its specific advisory practices in response to a rescission of the political contribution rule. Likewise, an adviser might choose to retain some elements because after conducting its risk assessment, it may decide that such elements are appropriate to address its particular pay-to-play risks.[125]

Some advisers may choose not to change a policy, other than by removing specific requirements for complying with rule 206(4)–5 and related recordkeeping requirements, because the initial cost of changing policies is larger than the ongoing savings that would accrue from switching to a different policy.[126] Still other advisers would not be affected because they neither currently have nor intend to seek government entity clients.

The 2010 Adopting Release estimated the ongoing compliance costs related to the political contribution rule. These costs include ongoing monitoring of employee contributions, compliance training, recordkeeping, and related expenses.[127] Rescinding the rule would eliminate these costs. In aggregate, we expect that rescinding the political contribution rule would save annual, ongoing compliance expenses of approximately $3,750 per smaller firm,[128] $161,500 per medium firm,[129] and $323,000 per larger firm,[130] resulting in annual aggregate cost savings of approximately $416 million.[131]

Advisers that currently apply or consider applying for an exemption under the political contribution rule would also see reduced costs because they would no longer spend time and resources deliberating, preparing, or submitting applications for an exemption. We estimate that the reduction in costs related to advisers that would otherwise file for an exemption would result in $68,916.49 in savings in aggregate per year,[132] with potentially some additional savings in deliberative time for advisers that

[123] Pension plan data are as the end of the second quarter of 2025 and come from tables in *Financial Accounts of the United States—Z.1,* Bd. Of Governors of the Fed. Rsrv. Sy*https://www.federalreserve.gov/releases/z1/20250911/html/default.htm* (last updated Sept. 11, 2025). State and local government employee retirement funds have $9.6 trillion in total financial assets (Table L.120), while Federal government employee retirement funds have $4.9 trillion (Table L.119) and private pension funds have $14.2 trillion (Table L.118). 9.6/(9.6 + 4.9 + 14.2) = 33%. State-run qualified tuition plan data are as of December 31, 2025, as reported by the College Savings Plan Network. *See* Coll. Sav. Plan Network, 529 Plan Data (2025), *available at https://www.529network.org/wp-content/uploads/2026/06/CSPN-data-for-12.31.25.pdf.*

[124] For example, N.J. Admin. Code § 17:16–4.3 prohibits the engagement of, and requires the termination of, an investment management firm, if an investment management professional associated with the firm makes certain political contributions greater than $250 within the two-year period prior to and during the engagement.

[125] Some advisers already have policies in place (such as complete prohibitions on political donations) that are more stringent than those required by the political contribution rule, and may choose to retain these policies for the same reasons that they originally implemented these policies.

[126] We do not anticipate any substantive or material change in an adviser's code of ethics. *See infra* note 166.

[127] *See* 2010 Adopting Release, *supra* footnote 1, at section IV.B.1.

[128] The 2010 Adopting Release estimated ongoing costs of 10 hours of compliance manager time (this title was replaced by the term financial examiner—*see* infra footnote 240). 10 hours × $375 per hour = $3,750. Smaller firms are defined as those with fewer than five employees who perform investment advisory functions.

[129] The 2010 Adopting Release estimated ongoing costs of 375 hours of compliance manager time (this title was replaced by the term financial examiner—*see* infra footnote 240) and 125 hours of clerical time. 375 hours × $375 per hour + 125 hours × $167 per hour = $161,500. Medium firms are defined as those with between five and 15 employees who perform investment advisory functions.

[130] The 2010 Adopting Release estimated ongoing costs of 750 hours of compliance manager time (this title was replaced by the term financial examiner—*see* infra footnote 240) and 250 hours of clerical time. 750 hours × $375 per hour + 250 hours × $167 per hour = $323,000. Larger firms are defined as those with more than 15 employees who perform investment advisory functions.

[131] *See infra* footnote 183 for an explanation of how we estimated the total number of advisers affected by the rule (2,091). Of the 1,518 advisers who report having direct government clients on Form ADV, 358 (23.6%) are smaller firms, 460 (30.3%) are medium firms, and 700 (46.1%) are larger firms. Assuming that advisers who do not have direct government clients but do advise pools with government entity investors have the same size distribution, we estimate that there are 2,091 × 23.6% = 493 smaller firms affected by the rule, 2,091 × 30.3% = 634 medium firms affected by the rule, and 2,091 × 46.1% = 964 larger firms affected by the rule. $3,750 × 493 smaller firms + $161,500 × 634 medium firms + $323,000 × 964 larger firms = $415,611,750. Note that this estimate is for the savings accruing only to registered investment advisers because for other types of advisers we do not generally have data on their number of employees or whether they have government clients. Note also that, as described earlier in this section, some advisers may choose to retain some policies developed in response to the political contribution rule, and so may not fully realize these cost savings.

[132] According to the PRA analysis in Table 2, we estimate one fewer well-precedented application with an average external cost of $15,259.94, and one fewer medium complexity application with an average external cost of $51,948.56, for a total cost savings of $15,259.94 + $51,948.56 = $67,208.50. Additionally, each filing would save an hour of internal paralegal or legal assistant time, at a cost of $281/hour. $67,208.50 + $281/hour × 2 hours = $67,770.50.

considered but ultimately declined to file for exemptive applications.

Market participants have claimed that the political contribution rule has distorted investment adviser labor markets by causing advisers to screen candidates based on prior political contributions rather than professional qualifications. When these screenings remove personnel from consideration whose contributions pose no appreciable pay-to-play risk, they reduce the quality of advisory teams without providing any corresponding benefit. The rule may have further distorted labor markets if qualified individuals chose not to seek employment at certain investment advisers because of those firms' policies on political contributions. To the extent that rescission of the rule would result in advisers hiring employees with prior contributions that the adviser previously would have rejected despite posing no appreciable pay-to-play risks or qualified applicants becoming more likely to apply for these positions, the quality of investment management available to public pension plans may improve, which would directly benefit plan beneficiaries. The Commission does not have data on measures indicating the extent of adviser competition that would allow us to quantify the magnitude of any such distortions.

The political contribution rule may also have made government contracts less appealing, and so the rule may have disincentivized investment advisers from seeking such contracts: Some advisers might be reluctant to limit their employees' political contributions while others might fear the risks associated with unintended minor infractions of the political contribution rule by their covered associates, as this could lead to the loss of profits from a client over a two-year period. The compliance costs that advisers incur under the political contribution rule in order to compete for government contracts might also deter some advisers, particularly smaller advisers, from competing for government contracts. Similarly, some advisers may not compete for government contracts because of a prior contribution, despite a lack of any associated pay-to-play risk. To the extent that rescission expands the pool of advisers competing for government contracts, government clients may benefit from lower advisory fees or improved investment performance. State and local government retirement funds currently hold $9.6 trillion in assets.[133] Even modest improvements in net-of-fee returns resulting from increased competition could generate substantial benefits for the 36 million plan participants who depend on these funds.[134]

In some circumstances, the two-year compensation ban may have harmed the government clients and beneficiaries the rule was designed to protect. When an adviser loses the right to receive compensation from a government client, the loss of compensation could cause an adviser to reduce the resources available to service that client (*e.g.,* reducing research capacity, staffing, or execution quality), although many factors could affect the degree to which this occurs. In the case of non-listed closed-end funds or other structures where investors cannot redeem or trade their positions on a secondary market, beneficiaries cannot exit in response to deteriorating service quality, making them particularly vulnerable to this harm. The proposed rescission would ameliorate this outcome for government clients and their beneficiaries.

Market participants have also suggested that rule 206(4)–5 has made advisers to government clients and covered associates of these advisers less likely to make contributions to government officials. This is supported by survey data in which 12 percent of investment adviser respondents indicated that they have some type of blanket prohibition on political contributions for their employees.[135] The rule was not intended to discourage lawful political donations. To the extent that rescission leads advisers to modify their policies in ways that permit employees to make or increase the size of lawful political contributions, adviser personnel would benefit by regaining the ability to make lawful donations (*i.e.,* more political speech) that the rule may have discouraged.[136]

To the extent that the rule has reduced competition in the market for third-party solicitors by limiting such solicitors to certain regulated persons, and thus increased the price for such solicitation, rescinding the rule may also allow more advisers to use a greater variety of placement agents to solicit government clients. This could allow smaller advisers who do not have the internal resources to solicit government clients to compete for such contracts, which may increase competition in that market. However, this effect could be mitigated by applicable rules and regulations that govern the use of solicitors, including the applicable MSRB and FINRA rules, as well as other applicable State and local rules prohibiting third-party solicitation, to the extent they are relevant to the adviser and would still be in effect.[137]

2. Costs of Rescinding the Political Contribution Rule

All advisers would face a one-time cost in determining whether to modify their policies and procedures and code of ethics in response to a rescission of the political contribution rule. Advisers that choose to modify their practices would incur additional costs as a result. We estimate that this cost will be approximately $51 million in aggregate.[138] Transition costs are likely to be larger for advisers operating in States and municipalities that have their own pay-to-play restrictions. To the extent that specific requirements of the political contribution rule are currently more stringent than similar rules in other jurisdictions, these advisers would need to re-evaluate local rules when designing their policies and procedures. However, for many advisers, we expect that these costs would be small relative to the ongoing cost savings that they would achieve from tailoring their policies to their particular circumstances. In addition, for the reasons discussed above, some advisers might change their policies and

[133] *See supra* footnote 123.

[134] *See supra* footnote 13.

[135] *See* 2024 Investment Management Compliance Testing Survey, *supra* footnote 2; *see also supra* section III.B.1.b.

[136] *See supra* footnote 67 and accompanying text.

[137] *See supra* section III.B.1.a; *see also supra* footnote 82 and accompanying text.

[138] According to the PRA analysis (*see infra* footnote 235 and associated text) we estimate that, on average, smaller firms would spend 1.5 hours, medium firms would spend 50 hours, and larger firms would spend 125 hours modifying their policies and procedures in response to the proposed rescission. We estimate that the 1.5 hours by smaller firms would generally be from financial examiners (who have an average wage of $375/hour, *see infra* footnote 230 and associated text). For medium firms, we estimate that 37.5 hours would be from financial examiners with the remaining 12.5 hours from bookkeeping, accounting, and auditing clerks (who have an average wage of $167/hour, *see infra* footnote 241 and associated text). For larger firms, we estimate that 93.75 hours would be from a financial examiner with the remaining 31.25 hours from bookkeeping, accounting, and auditing clerks. The aggregate cost is therefore 493 smaller firms x 1.5 hours x $375/hour + 634 medium firms x (37.5 hours x $375/hour + 12.5 hours x $167/hour) + 964 larger firms x (93.75 hours x $375/hour + 31.25 hours x $167/hour) = $49,437,912.50. *See supra* footnote 131 for an explanation of the estimate of the number of firms. The PRA additionally estimates that all affected firms would spend, on average, two hours of financial examiner time updating their compliance policies and procedures. 2,091 x 2 hours x $375/hour = $1,568,250. In total, $49,437,912.50 + $1,568,250 = $51,006,162.50. Note that this estimate only accounts for costs accruing to registered investment advisers because for other types of advisers we do not generally have data on their number of employees or whether they have government clients.

procedures to remove requirements to comply with rule 206(4)–5, while retaining substantially similar obligations as a matter of practice. For example, some advisers are unlikely to make substantive modifications to their policies and procedures if doing so would ultimately lead to higher costs for the adviser or if an adviser's operations in a particular jurisdiction require them to adopt similar policies.

Rescinding the political contribution rule may increase the risk of pay-to-play practices by investment advisers. While we believe that this risk can be mitigated, as discussed in detail below, any pay-to-play activity that does occur comes with significant costs. Pay-to-play activities can result in the selection of one adviser over a more qualified adviser, potentially leading to diminished returns, higher costs, or other reductions in service quality (such as speed of execution or quality of communication and coordination) to pensions and other investments managed by governments. In addition, markets with pay-to-play dynamics create potentially large barriers to entry. If business contracts are preferentially awarded to providers who make political donations or pay third-party solicitors, then these costs become an expense to any adviser, or to the employees of that adviser, wishing to compete for these contracts. Either the provider bears these costs directly or the provider experiences a reduction in the likelihood of acquiring contracts, thereby decreasing the expected return from competing for that business. The increased cost or reduced gain of doing business in this market could lead to decreased competition in the market for investment advisory services and ultimately lower-quality services for government clients.

The academic literature provides evidence to suggest that campaign donations from financial institutions (*e.g.,* private equity funds) are associated with an increased likelihood of winning government contracts, including from government pensions and other government-run investment programs.[139] Similar academic research suggests that the financial rate of return on campaign contributions is quite large. One study estimated that, on average, each dollar contributed to a campaign was associated with a $400 increase in government contract revenue, although this analysis is based on aggregate evidence across all government contracts, of which advisory contracts are just one small part.[140] While these studies are not necessarily indicative of *quid pro quo* arrangements, they suggest that political contributions are correlated with the awarding of government contracts.

In support of the political contribution rule, the Commission cited a number of enforcement actions taken between 2000 and 2009 against investment advisers relating to alleged pay-to-play practices.[141] Since the rule's compliance date, no similar enforcement actions have been brought by the Commission. Although there are many possible explanations for the decline in enforcement actions relative to the pre-rule state, and it is unclear to what extent such decline in enforcement actions also reflects a decline in pay-to-play practices overall, it is possible that the political contributions rule has had some deterrent effect. However, it is also possible that the pre-rule enforcement actions, brought under the antifraud provisions of the Advisers Act, operated to deter pay-to-play practices. In that case, given that similar enforcement actions would continue to be possible after the political contributions rule is rescinded, any resulting change in deterrent effect from the rule's rescission may not be that significant.

Changes to the technological, political, and legal landscape since the political contribution rule was adopted in 2010 may also help explain the absence of SEC enforcement actions and suggest that the rule's rescission could have a more limited impact on the actual incidence of pay-to-play practices. For example, spending in political campaigns is significantly higher today than it was in 2010.[142] As a result, the value of each marginal dollar is likely smaller. Thus, there might be less incentive for candidates to reward investment advisers for the type of pay-to-play practices that would be enforced under the political contribution rule. In addition, there is evidence to suggest that public scrutiny of the relationship between government clients and investment advisers may have grown independent of Federal regulatory oversight.[143] Improvements in data dissemination and, in some jurisdictions, new requirements for increased transparency related to advisory fees, plan investments, and information related to other relevant concerns may have made it easier for beneficiaries, journalists, and oversight bodies to identify anomalous investment patterns that may reflect improper influence.[144] Increased transparency can deter pay-to-play practices by raising the likelihood that these practices would be detected and prosecuted. It can also create greater reputational costs, for both advisers and

[139] *See, e.g.,* Jaejin Lee, *How Political Connections Affect Public Pension Fund Investments? Evidence from Close State Elections* (Feb. 27, 2025), *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4668018* (retrieved from SSRN Elsevier database); Alexsandar Andonov et al., *Political Representation and Governance: Evidence from the Investment Decisions of Public Pension Funds,* 73 J. Fin. 2041 (2018).

[140] *See* Nicholas Stephanopoulos, *Campaign Finance and ''Real'' Corruption,* in Campaign Finance and the First Amendment: Fifty Years of Supreme Court Decisions and Campaign Finance Reforms (Lee C. Bollinger & Geoffrey R. Stone eds., 2026), *available at https://ssrn.com/abstract=4822687* (retrieved from SSRN Elsevier database). While we do not have readily available data on State or local government contracts, and the proportions are likely to differ significantly from Federal contracts, Federal government contracts to investment advisers in fiscal year 2025 were approximately $120 million, compared to nearly $780 billion for Federal government contracts. Data for these estimates come from *www.usaspending.gov* using NAICS code 5239 as an estimate of contracts for investment advisory services. *See* U.S. Dep't of Treasury, Bureau of the Fiscal Serv., USAspending, *https://www.usaspending.gov/* (last visited July 9, 2026).

[141] A staff analysis of cases involving investment advisers in alleged pay-to-play misconduct identified these same thirteen cases, as well as two additional cases that occurred contemporaneously with the 2010 Adopting Release. It found no additional cases before those cited. For comparison, the Commission took at least 107 enforcement actions against investment advisers in fiscal year 2010 alone (*see* Table 2 from Select SEC and Market Data, Fiscal 2010, *available at https://www.sec.gov/about/secstats2010.pdf).*

[142] *See, e.g.,* Douglas M. Spencer & Abby K. Wood, *Citizens United, States Divided: An Empirical Analysis of Independent Political Spending,* 89 Ind. L.J. 315 (2014) (finding that independent expenditures in State campaigns increased following *Citizens United* v. *FEC,* 558 U.S. 310 (2010), with a significantly greater increase in States that had previously banned independent expenditures).

[143] For example, some academic research suggests that increased transparency in public pensions has led to investment managers receiving below-average compensation from these funds, and the hiring of lower-skill managers. *See* Alexander Dyck et al., *Outraged by Compensation: Implications for Public Pension Performance,* 35 Rev. Fin. Stud. 2928 (2022). The authors argue that, because investment managers generally receive compensation higher than that of the general public, ''pension trustees fear the triggering of public outrage if they compensate their investment managers at a market rate level.'' This could suggest that the public scrutinizes pension investment practices.

[144] *See, e.g.,* Cal. Gov't Code § 7514.7, Tex. Gov't Code Ann. §§ 801 and 802, and S.C. Code Ann. § 9–16–90. *See also, e.g.,* Public Plans Data, *https://publicplansdata.org* (last updated Nov. 17, 2025) (website of the Center for Retirement Research which, with partner organizations, publishes public pension plan data dating back to 2001). In general, the more net-of-fee performance information is available and comparable for a range of government funds, the more evidence the public will have to determine whether funds could be using an adviser for reasons other than net-of-fee performance. Similarly, these data may reveal that government clients are invested in funds managed by advisers with a history of campaign contributions or some other connection to a government official, or that an adviser charges fees abnormally high for the types of assets in which the client invests.

government officials, from even the appearance of impropriety.

Importantly, pay-to-play practices were unlawful under the Advisers Act and other State and Federal laws before rule 206(4)–5 was adopted and would remain unlawful following its rescission.[145] Registered investment advisers would continue to be required to maintain policies and procedures reasonably designed to prevent fraudulent pay-to-play practices, to satisfy their fiduciary obligations to assess and mitigate pay-to-play risks, to adopt codes of ethics reflecting those obligations, and to reasonably supervise persons under their supervision with a view to preventing violations. Accordingly, the deterrence attributable to the political contribution rule is limited to conduct that the existing legal framework would not otherwise deter. The Commission believes that the breadth of the antifraud provisions and the mandatory compliance rule framework applicable to registered advisers appropriately deters pay-to-play practices.[146] For exempt reporting advisers and foreign private advisers, who are not subject to the compliance rule or the code of the ethics rule, the reduction in pay-to-play deterrence from rescission could be greater than for registered advisers.

3. Costs and Benefits of Amending Rule 204–2

The proposal would amend the recordkeeping rule to eliminate the provisions requiring a registered (or required to be registered) investment adviser to make and keep certain records in connection with the political contribution rule. This revision would result in lower costs to advisers since it would reduce the number of records that are required to be maintained. In aggregate, we estimate that this revision would result in a lower burden of approximately $646,000.[147]

Apart from these cost savings, there would be no independent effects associated with this amendment beyond those that would arise in conjunction with the rescission of the political contribution rule. Importantly, advisers would continue to be required to maintain certain records of their policies and procedures associated with managing their pay-to-play risk.[148]

4. Aggregate Monetized Benefits and Costs

Throughout this economic analysis, we have estimated, as applicable, monetized benefits and costs per affected entity or filing. In this section, we present aggregate measures of these monetized effects across entities and time. These totals include only benefits and costs, as applicable, that are monetized in the economic analysis and thus do not encompass all of the proposed rule's benefits and costs. In addition, these estimates assume each entity will realize the full extent of possible benefits and costs as a result of the proposed rescission; actual benefits or costs may vary across entities depending on their existing practices and whether those practices continue after the adopted rule.

a. Initial and Annual Aggregate Monetized Benefits and Costs

Tables 1 and 2 report the benefits and costs, respectively, that are monetized in this economic analysis, aggregated across all affected entities and instances of filings. To aggregate these monetized effects we use estimates of the number of affected parties and filings[149] and burdens under the Paperwork Reduction Act in Section IV.

We estimate that the total aggregate initial monetized benefit is $0 and the total aggregate annual monetized benefit is $416,325,639.50.

TABLE 1—AGGREGATE MONETIZED BENEFITS

[2026 Dollars]

	Aggregate initial benefit (A)	Aggregate annual benefit (B)
Ongoing compliance costs under Rule 206(4)–5	$0	[a] $415,611,750.00
Exemption filings under Rule 0–4	0	[b] 67,770.50
Recordkeeping under Rule 204–2	0	[c] 646,119.00
Total	0	416,325,639.50

Notes:
[a] *See supra* footnote 141.
[b] *See supra* footnote 142.
[c] *See supra* footnote 157.

We estimate that the total aggregate initial monetized cost is $51,006,162.50 and the total aggregate annual monetized cost is $0.

[145] *See supra* sections II.A.1, III.B.1 (describing other Federal and State laws prohibiting and imposing civil or criminal liability for pay-to-play schemes).

[146] *See supra* section II.A.1.

[147] According to the PRA analysis in section IV, we estimate that 2,091 advisory firms have government clients and that, for these firms, the average annual burden per advisory firm would be reduced by 2 hours. These hours are a blend of clerks with an average wage of $154.50/hour (*see infra* footnote 189 and accompanying text). The aggregate savings is 2,091 firms x 2 hours/firm x $154.50/hour = $646,119. Note that the estimate of 2 hours per firm with government clients is equivalent to the estimate in the PRA estimate of .2545 hours per total firm (*see infra* footnote 192 and accompanying text) as 2 x 2,091/16,434 = .2545.

[148] *See* section II.B.

[149] *See supra* sections III.B.2, III.C.1 through III.C.3.

TABLE 2—AGGREGATE MONETIZED COSTS

[2026 Dollars]

	Aggregate initial cost (A)	Aggregate annual cost (B)
Modifying Policies and Procedures	[a] $51,006,162.50	$0
Total	51,006,162.50	0

Notes:
[a] *See supra* footnote 148.

b. Present Values and Annualized Values of Aggregate Monetized Benefits and Costs

Consistent with the requirements of Executive Order 12866, the Commission reports estimated total monetized benefits and costs for all affected entities in two additional ways specified in OMB Circular A–4.[150] The two presentations are intended to address the fact that the various benefits and costs of the proposed rule would not accrue at the same point in time; rather, benefits and costs that accrue sooner are generally more valuable than those that occur later in time.[151]

We report (1) the present values of expected benefits and costs that are monetized in our Economic Analysis, aggregated across all affected entities, over a 10-year time horizon, starting in 2026, as well as (2) the annualized values over the same time horizon that are derived from the present values. This time horizon represents the period over which the principal benefits and costs that are monetized in the Economic Analysis are expected to accrue.[152] The present values and annualized values account for the timing of benefits through discounting, which is a procedure that accounts for the time value of money.[153]

Table 3 reports the present values of the aggregate monetized benefits and costs from Tables 1 and 2, combining initial and annual monetized benefits and costs. The analysis uses annual real discount rates of 3 percent and 7 percent over a 10-year time horizon, starting in 2026.[154] We estimate that the present value of total monetized benefits is $3,604,218,640 using a 3 percent discount rate and $3,024,709,535 using a 7 percent discount rate. We estimate that the present value of total monetized costs is $51,006,162.50 using a 3 percent or 7 percent discount rate.

TABLE 3—PRESENT VALUE OF AGGREGATE MONETIZED BENEFITS AND COSTS OVER 10 YEARS FROM 2026 TO 2035

[2026 Dollars]

Estimated effects [a]	3% real discount rate	7% real discount rate
Benefits	$3,604,218,640	$3,024,709,535
Costs	51,006,162.50	51,006,162.50

Notes:
[a] For each discount rate, the present value calculations are based on these assumptions: (i) all one-time monetized implementation costs are incurred immediately and not discounted; (ii) recurring annual monetized benefits begin to accrue in the year in which affected entities first comply. We assume that monetized benefits occur in a steady stream, and we use a mid-year discount rate.

Table 4 reports annualized aggregate monetized benefits using real discount rates of 3 percent and 7 percent over a 10-year horizon.[155] The lump sum present values of aggregate monetized benefits reported in Table 3 are converted in Table 4 into a constant stream of annualized benefits over a 10-year time horizon, starting in 2026.[156]

[150] *See* E.O. 12866 (Sept. 30, 1993) [58 FR 51735 (Oct. 4, 1993)], at 51741 (requiring agencies to provide an analysis of benefits, costs, and regulatory alternatives to OIRA for significant regulatory actions); OMB, Circular A–4, at 31–34, 45 (Sept. 17, 2003) (''Circular A–4'') (providing guidance to agencies regarding compliance with E.O. 12866); *see also* E.O. 14215 (Feb. 18, 2025) [90 FR 10447, 10448 (Feb. 24, 2025)] (requiring independent agencies to comply with E.O. 12866). In addition, E.O. 14192 requires agencies to provide their best approximation of the total costs or savings associated with each new regulation or repealed regulation consistent with the analyses required by E.O. 12866. *See* E.O. 14192 (Jan. 31, 2025) [90 FR 9065, 9066 (Feb. 6, 2025)]. For purposes of approximating the total cost savings and costs under E.O. 14192, the Commission uses the annualized monetized benefits and costs using a real discount rate of 7%. *See* Table 4 and accompanying discussion.

[151] *See* Circular A–4, at 32.

[152] *See id.* at 31 (''The ending point should be far enough in the future to encompass all the significant benefits and costs likely to result from the rule''). For the purposes of this analysis, we assume the effective date of the rule, as well as the start year for the analysis's time horizon, is the present year. The analysis uses calendar years and accounts for the compliance periods included in the release (*see* note a in Table 2).

[153] *See id.* at 32 (''The Rationale for Discounting'') and 45 (''Treatment of Benefits and Costs over Time''); *see also* OIRA, Regulatory Impact Analysis: A Primer, (Aug. 15, 2011), *available at https://www.reginfo.gov/public/jsp/Utilities/circular-a-4_regulatory-impact-analysis-a-primer.pdf* (''To provide an accurate assessment of benefits and costs that occur at different points in time or over different time horizons, an agency should use discounting. Agencies should provide benefit and cost estimates using both 3 percent and 7 percent annual discount rates expressed as a present value as well as annualized.''); Harvey S. Rosen & Ted Gayer, Public Finance 151 (8th ed. 2008) (defining present value as ''the value today of a given amount of money to be paid or received in the future'').

[154] This approach is consistent with OMB Circular A–4. *See* Circular A–4, *supra* footnote 150, at 31–34 (stating that, ''[f]or regulatory analysis, [agencies] should provide estimates of net benefits using both 3 percent and 7 percent'' discount rates and discussing why those rates are reasonable default rates). Also, we use a mid-year discount rate. *See* OMB, Circular A–94, at 21–22 (Oct. 19, 1992) (stating that, ''When costs and benefits occur in a steady stream, applying mid-year discount factors is more appropriate.'').

[155] This approach is consistent with the recommended treatment of benefits and costs over time in Circular A–4. *See* Circular A–4, *supra* footnote 150, at 45 (''You should present annualized benefits and costs using real discount rates of 3 and 7 percent'').

[156] For each discount rate, the annualized monetized benefits in Table 4 represent the constant annual stream of benefits whose present value over the time horizon equates the corresponding present value in Table 3. *See* note a, Table 4 for additional calculation details.

Annualized benefits and costs may differ from an aggregation of the recurring monetized annual benefits discussed earlier in the Economic Analysis because they incorporate the timing of benefits and costs, through discounting, and combine one-time and recurring benefits and costs.[157] We estimate that annualized total monetized benefits are $416,325,640 per year using a 3 percent or 7 percent discount rate.[158] We estimate that annualized total monetized costs are $5,891,755 per year using a 3 percent discount rate and $7,020,566 per year using a 7 percent discount rate. Because the annualized costs are discounted and include initial costs, they should not be compared directly to the aggregate annual monetized costs in Table 2.

TABLE 4—ANNUALIZED AGGREGATE MONETIZED BENEFITS AND COSTS OVER 10 YEARS FROM 2026 TO 2035

[2026 Dollars]

Estimated effects [a]	3% real discount rate	7% real discount rate
Benefits	$416,325,640	$416,325,640
Costs	5,891,755	7,020,566

Notes:

[a] For each discount rate, the annualized values are calculated by dividing the corresponding present values in Table 3 by the sum of discount factors over the time horizon. The discount factor in year *t* of the time horizon is equal to 1/(1 + *discount rate*)$^{(t-0.5)}$.

D. Effects on Efficiency, Competition, and Capital Formation

1. Efficiency

The Commission believes that rescinding the political contribution rule would allow advisers to enact policies and procedures tailored to their specific pay-to-play risks, reducing compliance costs and avoiding the unintended consequences associated with the current rule. Where advisers can tailor their policies and code of ethics to their specific pay-to-play risks and eliminate requirements that are not relevant to their business, the efficiency of their compliance programs would increase. To the extent that these resources are redeployed to investment management and client-facing activities, advisers' productive efficiency would increase, which could result in higher-quality services for advisers' government clients.

As described in the cost and benefits section above, rescinding the political contribution rule could change the quality, either positively or negatively, of investment advisers retained by government entities. This disparity in quality may be meaningful from the perspective of the State or local government client as discussed in the previous section. Further, to the extent that rescission systematically changes the types of advisers retained by government entities, the aggregate effect on public pension asset allocation could be meaningful. The direction and magnitude of this effect are uncertain and would depend on whether advisers newly able to compete for government mandates following rescission have systematically different investment approaches than current incumbent advisers. If such an effect were large enough, it could affect asset price efficiency in markets where public pension funds are significant investors.

2. Competition

The rescission of the political contribution rule could increase competition in the investment adviser market for State and local government clients. As described above, some advisers currently face barriers to competing for State and local government clients because of the existence of the political contribution rule, and the policies and procedures they have adopted to comply with it. To the extent that, as a result, advisers have not participated, or have been less likely to participate, in the solicitation of State and local government contracts, the rescission of the political contribution rule would remove this impediment to competition in the advisory market. Prospective government clients with a greater number of advisers to choose from may be better positioned to select an adviser that can provide advice better tailored to their specific investment needs. Additionally, increased competition could lead to better investment terms for government clients and could ultimately benefit plan beneficiaries as well as taxpayers.

Conversely, the rescission of the political contribution rule could decrease competition in those same markets if the rescission were to generate pay-to-play expectations in these markets, despite the associated activity remaining unlawful.[159] However, we believe that any such effect is likely to be small, as we believe that the risks of increased pay-to-play activity from rescinding the rule can be mitigated.[160]

The rescission of the rule may also increase labor market competition among investment adviser professionals by removing two distortions in those markets.[161] First, investment advisers may currently screen candidates based on prior political contributions, excluding qualified applicants for reasons unrelated to job performance. Second, some prospective applicants may currently choose not to work for an investment adviser because they value their ability to make political contributions and do not wish to have that ability restricted by their employer.

Finally, rescinding the rule could lead to increased competition in the market for government solicitations. Since the rule currently prohibits unregulated persons from soliciting government clients on behalf of an adviser (unless they have one of an enumerated list of relationships to that adviser), rescinding the rule could increase the types of parties able to act in that capacity, and thus increase competition in that market. However, this effect could be mitigated by applicable rules and regulations that govern the use of solicitors, including the MSRB Political Contribution Rule, FINRA Rule 2030, and Exchange Act rule 15Fh–6, as well as applicable State and local rules prohibiting third-party solicitation to the extent they are relevant to the adviser and would still be in effect.[162]

[157] The annualized benefits and costs present these values over the 10-year time horizon, starting in 2026.

[158] Because we do not estimate any initial benefits and estimate a constant annual benefit from the proposal, the annualized aggregate benefit is simply equal to this constant annual benefit, regardless of the discount rate.

[159] Markets with pay-to-play dynamics can create an expectation among advisers to provide donations in order to receive consideration for government business. These expectations generate barriers to competition, as some providers cannot, or will not, pay these costs and so would be functionally removed from consideration.

[160] *See supra* III.C.2.

[161] *See supra* III.C.1.

[162] *See supra* section III.B.1.a.

3. Capital Formation

The proposal is unlikely to significantly affect capital formation in aggregate. However, on the margin, rescission could increase capital managed by investment advisers if greater competition for government mandates expands adviser use by government entities. Conversely, if rescission leads to a perceived increase in pay-to-play risk, some investors (among both government clients and the broader market) may reduce allocations through investment advisers. This may indirectly lead to changes in capital formation for certain assets if investment advisers are more or less likely than are investors' alternatives to invest in a particular asset.

E. Reasonable Alternatives

1. Policies and Procedures Requirement

We considered combining the proposed rescission of the political contribution rule with a new, more particularized rule specifically requiring that investment advisers adopt and implement policies and procedures reasonably designed to detect and prevent pay-to-play activities. These policies and procedures could have been required to contain certain prescribed features, such as political contribution limits, annual review and written reports, risk assessments, and the types of employees that must be covered. The prescribed features would have been designed to be minimal, imposing requirements necessary to address the pay-to-play risks of any adviser seeking government clients while preserving flexibility for advisers to address their specific risks.

The benefits of this approach would be similar to those for the proposed rescission. Investment advisers are already required to adopt and implement policies and procedures reasonably designed to prevent violation of the Advisers Act; additionally, the Commission has stated that pay-to-play arrangements violate the antifraud provisions of section 206 of the Advisers Act. The additional deterrence this alternative would provide, relative to the proposed rescission, would be limited to situations in which an adviser's policies and procedures, under the proposed rescission, would not contain the features prescribed under the alternative and where these minimal requirements under the alternative would have better deterred pay-to-play practices.

However, a separate policies and procedures provision would risk advisers anchoring to the types of provisions required by this alternative rather than designing their own policies and procedures to be better tailored to the particular risks and business practices of the firm. It also could incentivize some advisers with no pay-to-play risk (for example, an adviser with no government clients and no intention of ever soliciting or accepting government clients) to enact policies at some cost to comply with the provision even in the absence of a substantive concern. Accordingly, the costs of this alternative would be greater than those of the proposed rescission.

2. Amending the Requirements of Rule 206(4)–5

Instead of rescinding the political contribution rule, we considered amending the rule to make it less costly to comply with. For example, we considered raising the *de minimis* threshold to $3,500 or another increased amount, reducing or eliminating the two-year timeout and the lookback provisions, narrowing the definitions of ''official'' and/or ''covered associate'', and/or expanding the bases for relief in the exemptive process set forth in rule 206(4)–5(e). In general, this alternative approach would have a lower cost reduction compared to the proposed rescission, because this approach would prescribe certain elements that, absent such a requirement, some advisers would choose not to implement. It also would not alleviate the challenges of applying a single set of definitions across a variety of State and local government structures. Conversely, to the extent that, under the alternative, these requirements would prevent pay-to-play activities at those advisers and would not have been deterred under the proposed rescission, this alternative would provide greater investor protection than the proposal.

Moreover, under this alternative, some advisers may treat the amended rule's requirements as sufficient to comply with their pay-to-play-related obligations under the Advisers Act, regardless of their actual pay-to-play risk, rather than designing their own policies and procedures to be better tailored to the particular risks and business practices of the firm. In this respect, the proposed rescission may, for some advisers, result in more effective pay-to-play compliance than targeted amendments to the existing rule.

3. Considering Adviser Size

We considered exempting smaller advisers, measured by total assets under management or government client assets under management, from the rule's requirements or subjecting them to less stringent requirements than larger firms.[163] To the extent that it would be easier for larger advisers with more government contracts and possibly more political connections to engage in pay-to-play practices, this approach might more closely align compliance costs with an adviser's pay-to-play risk than the current rule does. However, the opposite may also be true: Smaller advisers might have a more difficult time being considered by prospective government clients and so may have greater incentives to engage in pay-to-play practices. Further, this approach would not have retained the cost savings for larger firms that we foresee arising from the proposed rescission. Additionally, it could incentivize firms to engage in regulatory arbitrage, forming smaller adviser firms to circumvent the rule's requirements. For example, advisers near the threshold might restructure their business (*e.g.,* by spinning off government-focused advisory activities into separate entities or by managing their assets under management to remain below the threshold) to avoid the more stringent requirements applicable to larger advisers. Such regulatory arbitrage would undermine the investor protection objectives of this alternative while imposing restructuring costs on the industry.

F. Request for Comment

We seek comment on all aspects of the economic analysis of the proposed rescission, including whether the analysis accurately characterizes the costs and benefits. To the extent possible, we request that commenters provide supporting data and analysis. In particular, we ask commenters to consider the following questions:

16. We state that we do not have data to estimate the effect of the political contribution rule on competition in either the investment adviser market for government clients or the investment adviser labor market. Are there sources of data and/or estimation methods that would allow us to make these estimates?

17. We state that we do not currently have data on the extent to which advisers use third parties to solicit government entities. Are there sources of data and/or estimation methods that would allow us to make these estimates?

[163] There are approximately 460 small SEC-registered investment advisers, 34 of which have indicated on Form ADV that they have State or local government clients. In addition, smaller exempt reporting advisers and foreign private advisers are subject to the political contribution rule, although we do not have data on the number of such advisers that have State or local government clients. *See infra* section V.C.

18. In section III.C.2, we discuss ways that the world has changed since 2010 that could impact the prevalence of pay-to-play practices independent from the political contribution rule. Is this discussion accurate? Are there other ways in which the world has changed that could deter or encourage pay-to-play practices that are deterred by the political contribution rule?

19. In section III.C.2, we characterize ways in which advisers may be more or less likely to make significant changes to their policies and procedures in response to a rescission of the rule. Are these characterizations accurate? Are there other important determinants of the extent to which advisers would modify their policies and procedures? Is the magnitude of the response reasonably estimated?

20. Would the proposed rescission impose any costs on State and local governments that we do not consider here? For example, do they rely on the political contribution rule for some aspect(s) of their internal vetting process when selecting investment advisers or as a means of verifying compliance with their own requirements?

IV. Paperwork Reduction Act

A. Introduction

The proposal would revise an existing ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (the ''PRA'').[164] The titles for the collections of information are: ''Rule 204–2 under the Investment Advisers Act of 1940'' (Office of Management and Budget (the ''OMB'') control number 3235–0278), ''Rule 0–4: General Requirements of Papers and Applications'' (OMB control number 3235–0633), and ''Investment Advisers Act rule 206(4)–7, 17 CFR Sec. 275.206(4)–7, Compliance procedures and practices'' (OMB control number 3235–0585). The Commission is submitting this collection of information to the OMB for review and approval in accordance with the PRA.[165] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

We discuss below the collection of information burdens associated with the proposed rescission of rule 206(4)–5, which would impact the PRA burden calculations for rule 204–2, rule 0–4, and rule 206(4)–7.[166] Exempt reporting advisers and advisers that are exempt from Commission registration under section 203(b) (including foreign private advisers) are not subject to rules 204–2 and 206(4)–7.

B. Rule 204–2

Section 204 of the Advisers Act provides that investment advisers registered or required to be registered with the Commission must make and keep certain records for prescribed periods, furnish such copies thereof, and make and disseminate certain reports. Rule 204–2 sets forth the requirements for maintaining and preserving specified books and records. This collection of information is mandatory. The collection of information under rule 204–2 is necessary for the Commission staff to use in its examination and oversight program, and the information generally is kept confidential subject to the provisions of applicable law.[167] The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995 and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. The respondents to this collection of information are investment advisers registered or required to be registered with the Commission.

The proposed amendments to rule 204–2 would eliminate paragraph (a)(18) of the rule, which provides for the requirement that a registered adviser that provides investment advisory services to a government entity, or to a covered investment pool in which a government entity is an investor, must make and keep certain records relating to its covered associates; government entities to which the adviser provides or has provided investment advisory services (or which are or were investors in any covered investment pool to which the adviser provides or has provided investment advisory services); contributions made by the adviser and its covered associates to government entity officials, or payments to State political parties or PACs; and regulated persons soliciting government entities on behalf of the adviser. Advisers are currently required to maintain such records for five years.[168] We propose to amend the PRA burden related to rule 204–2 to reflect the removal of this recordkeeping requirement and to reflect updated data, including the implementation of a new wage calculation methodology.[169]

When rule 206(4)–5 was adopted, the Commission estimated that 1,697 registered advisers provided investment advisory services to government clients and to certain pooled investment vehicles in which government entities invest, and thus would be affected by the rule 204–2(a)(18) recordkeeping requirements.[170] The Commission estimated that the requirements would increase the recordkeeping burden of each impacted adviser by two hours, with the total burden among impacted advisers estimated to be 3,394 hours.[171] This resulted in an estimated annual aggregate burden for all advisers under rule 204–2 of approximately 2,106,046 hours, with an estimated average total burden per adviser of 181.45 hours.[172] This average total burden per adviser represented an approximately 0.30 hour per adviser increase from the previously approved burden calculation.[173]

[164] *See* 44 U.S.C. 3501 *et seq.*

[165] *See* 44 U.S.C. 3507(d); 5 CFR 1320.11.

[166] We are not submitting a revised collection of information regarding rule 204A–1 because we do not believe that the proposed rescission of rule 206(4)–5 would result in a substantive or material change in an adviser's code of ethics as to warrant a burden adjustment for PRA purposes.

[167] *See* section 210(b) of the Advisers Act [15 U.S.C. 80b–10(b)].

[168] *See* rule 204–2(e)(1).

[169] To calculate the occupational hourly rates used in this release, the Commission uses occupational mean hourly wage data from the Occupational Employment and Wage Statistics (OEWS) program of the Bureau of Labor Statistics (BLS) for ''Securities, Commodity Contracts, and Other Financial Investments and Related Activities'' (NAICS 523). *See* Occupational Employment and Wage Statistics, U.S. Bureau of Labor Statistics, *available at https://www.bls.gov/oes/; see also* Standard Occupational Classification, U.S. Bureau of Labor Statistics, *available at https://www.bls.gov/soc/* (describing occupational classification system used by BLS); Exec. Off. of The President, Off. of Mgmt. & Budget, North American Industry Classification System (2022), *available at https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf* (describing the industry classification system used by BLS and other agencies). The mean hourly wage for each occupation is adjusted for changes in the seasonally adjusted employment cost index for private wages and salaries between the data reference period and when the data are released by BLS. *See* Employment Cost Index, U.S. Bureau of Labor Statistics, *available at https://www.bls.gov/eci/.* The adjusted mean hourly wage is then multiplied by a factor that accounts for nonwage costs borne by employers, such as bonuses, benefits, and overhead. This factor is calculated as an average over the 10 most recently available years of data of the ratio of the Bureau of Economic Analysis's annual gross output data for NAICS 523 to total annual wages across all occupations for NAICS 523 in the OEWS data. *See* Gross Output by Industry, U.S. Bureau of Economic Analysis, *available at https://www.bea.gov/data/industries/gross-output-by-industry;* Occupational Employment and Wage Statistics, U.S. Bureau of Labor Statistics, *available at https://www.bls.gov/oes/.* The final product is the occupational hourly rate. *See generally* Updated Methodology for Calculating Occupational Hourly Rates (Dec. 19, 2025), *available at https://www.sec.gov/files/method-occupational-hourly-rates.pdf.*

[170] *See* 2010 Adopting Release, *supra* footnote 1 at section V.A.

[171] *See id.*

[172] *See id.*

[173] *See id.*

The total annual collection of information burden currently approved by OMB for rule 204–2 is 2,941,494 hours, with total internal monetized costs of $239,732,050.80.[174] This currently approved annual aggregate burden is based on an estimate of 15,906 total registered advisers, or approximately 184.9298 hours per registered adviser.[175] The estimated total annual aggregate external cost burden is $0. We determined that advisers would likely use a combination of compliance clerks and general clerks to make and keep the information required by the rule.[176] We estimated that the hourly wage for compliance clerks was $86 per hour, including benefits, and the hourly wage for general clerks was $77 per hour, including benefits.[177] We then calculated a blended hourly rate of $81.5 per hour.[178] For each adviser, 184.9298 burden hours would be required to make and keep the information and records required under the rule. The total cost per respondent therefore was an estimated $15,071.80,[179] for an estimated total burden cost of $239,732,050.80.[180]

As of December 2025, and incorporating filings received through April 30, 2026, there were 16,434 SEC registered investment advisers. This represents an increase of 528 registered advisers from the previously approved burden. Therefore, we estimate that the total aggregate burden under rule 204–2 will increase by approximately 97,642.93 hours [181] for a total aggregate burden of approximately 3,039,136.33 hours,[182] or 184.9298 hours per adviser.

We estimate that approximately 2,091 advisers currently provide investment advisory services to government clients and to certain pooled investment vehicles in which government entities invest.[183] We continue to estimate that an adviser spends approximately two hours to comply with the rule 204–2(a)(18) recordkeeping requirement, with a total current estimated burden on impacted advisers of 4,182 hours.[184] The total annual estimated recordkeeping burden would be reduced by this amount to account for the impact of the proposal. Thus, the revised total aggregate burden for all respondents to the rule 204–2 recordkeeping requirements would be approximately 3,034,954.33 hours.[185] The revised total average burden per registered adviser would be approximately 184.6753 hours.[186]

As discussed above, we are revising the wage rate methodology used to calculate cost burdens.[187] As a result, we are also changing the titles of the professions we believe an adviser uses to comply with rule 204–2 to bookkeeping, accounting, and auditing clerks and general office clerks.[188] We estimate the hourly wage for bookkeeping, accounting, and auditing clerks to be $167 per hour and the hourly wage for general office clerks to be $142 per hour. The blended hourly wage is therefore $154.50 per hour.[189] For each adviser, 184.6753 burden hours will be required to make and keep the information and records required under the rule. The total cost per adviser therefore will be an estimated $28,532.33,[190] for an estimated total burden cost of $468,900,311.22.[191]

Although the estimated annual aggregate burden per adviser would decrease by approximately 0.2545 hours (or approximately 15 minutes) per adviser,[192] the estimated cost burden would increase by approximately $13,460.53 per adviser,[193] and the estimated total cost burden would increase by approximately $229,168,260.42.[194] This increase is due to the change in the occupational hourly rate methodology used to calculate the cost burden, which has increased the blended hourly wage from $81.50 per hour to $154.50 per hour.

[174] *See* Rule 204–2 under the Investment Advisers Act of 1940, Updated Supporting Statement for PRA Submission (June 8, 2026), (the ''2026 rule 204–2 PRA''), *available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202512-3235-015.*

[175] 2,941,494 hours/15,906 registered advisers = 184.9298 hours per registered adviser.

[176] *See* 2026 rule 204–2 PRA submission, *supra* footnote 174.

[177] The hourly wage rates used in our prior estimates were based on data from SIFMA's *Office Salaries in the Securities Industry 2013,* modified by SEC staff to account for an 1800-hour work-year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[178] ($86 + $77) ÷ 2 = $81.5 per hour.

[179] $81.5 per hour × 184.9298 hours per adviser = $15,071.8.

[180] $15,071.8 per adviser × 15,906 advisers = $239,732,050.8.

[181] 528 registered advisers × 184.9298 = 97,642.93 hours.

[182] 16,434 registered advisers × 184.9298 = 3,039,136.33 hours.

[183] This estimate is based on registration information from the Investment Adviser Registration Depository (''IARD system'') as of December 2025, incorporating filings received through April 30, 2026. We are applying the same methodology as in the 2009 Proposing Release and the 2010 Adopting Release. According to responses to Item 5.D(i) of Part 1 of Form ADV, 1,518 advisers have clients that are State or municipal government entities, which represents approximately 9.24% of all advisers registered with the Commission (16,434). 14,919 advisers have not responded that they have clients that are State or municipal government entities. Of those, however, responses to Item 5.D(f) of Part 1 of Form ADV indicate that 5,493 advisers have some clients that are other pooled investment vehicles. Estimating that the same percentage of these advisers advise pools with government entity investors as advisers that have direct government entity clients—*i.e.,* 9.24%. Approximately 508 of these advisers would be subject to the rule (5,493 × 9.24% = 508). Out of the 14,919 advisers that have not responded that they have clients that are State or municipal government entities, after backing out the 5,493 which have clients that are other pooled investment vehicles, responses to Item 5.D(d) of Part 1 of Form ADV indicate that 705 advisers have some clients that are registered investment companies. Estimating that approximately the same percentage of these advisers advise pools with government entity investors as advisers that have direct government entity clients—*i.e.,* 9.24%. Approximately 65 of these advisers would be subject to the rule (705 × 9.24% = 65). Although we limited the application of rule 206(4)–5 with respect to registered investment companies to those that are investment options of a plan or program of a government entity, we estimate that 65 advisers would have to comply with the recordkeeping provisions because of the difficulty in further delineating this estimated number. Therefore, we estimate that the total number of registered advisers subject to the rule would be: 1,518 advisers with State or municipal clients + 508 advisers with other pooled investment vehicle clients + 65 advisers with registered investment company clients = 2,091 advisers subject to rule. We expect certain additional advisers may incur compliance costs associated with rule 206(4)–5, but we do not have relevant data on these advisers. For example, we anticipate some advisers may be subject to the rule because they solicit government entities on behalf of other investment advisers.

[184] 2,091 advisers × 2 hours = 4,182 hours.

[185] 3,039,136.33 hours − 4,182 hours = 3,034,954.33 hours.

[186] 3,034,954.33/16,434 = 184.6753 hours.

[187] *See supra* footnote 169.

[188] As stated above, prior rule 204–2 PRA submissions utilized the terms compliance clerks and general clerks to illustrate the professions undertaking the work to make and keep information and records under the rule. Although the title of the underlying profession has changed, the underlying tasks being performed have not.

[189] ($167 + $142)/2 = $154.50.

[190] $154.50 × 184.6753 hours = $28,532.33.

[191] $28,532.33 per adviser × 16,434 advisers = $468,900,311.22.

[192] 184.9298 hours − 184.6753 hours = 0.2545 hours.

[193] $28,532.33 − $15,071.80 = $13,460.53.

[194] $468,900,311.22 − $239,732,050.80 = $229,168,260.42.

TABLE 1

Information collection	Annual number of responses			Annual time burden (hrs.)			Annual external cost burden ($)		
	Previously approved	*Requested*	*Change*	*Previously approved*	*Requested*	*Change*	*Previously approved*	*Requested*	*Change*
Rule 204–2	15,906	16,434	528	2,941,494	3,034,954.33	93,460.33	0	0	0

C. Rule 0–4

Rule 206(4)–5(e) provides that the Commission may, upon application, exempt an adviser from certain prohibitions of the rule concerning political contributions, and provides a non-exclusive list of factors the Commission will consider when evaluating these applications. 17 CFR 275.0–4 (''rule 0–4'') under the Advisers Act prescribes general instructions for filing an application seeking exemptive relief with the Commission.[195] Respondents to the collection of information are applying for Commission orders exempting them from one or more provisions of the Advisers Act. Applicants for such orders can include registered investment advisers, affiliated persons of registered investment advisers, and entities seeking to avoid investment adviser status, among others. The requirements of rule 0–4 are designed to provide Commission staff with the necessary information to assess whether granting the orders of exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the intended purposes of the Advisers Act. This collection of information is necessary in order to obtain or retain benefits. Responses will not be kept confidential.

When rule 206(4)–5 was adopted, the Commission estimated that approximately seven advisers annually would apply to the Commission for an exemption from the political contribution rule,[196] which is in addition to the estimation that advisers would submit approximately nine applications for exemption from other provisions of the Advisers Act.[197] The Commission revised its annual estimate in 2017 to approximately nine applications under rule 206(4)–5 and approximately three applications under other provisions of the Advisers Act.[198] Then in 2020, the Commission estimated that it receives approximately three applications annually under rule 206(4)-5 and four applications annually under other provisions of the Advisers Act.[199] Subsequent PRA submissions have maintained that the Commission receives approximately seven applications annually for exemptive relief under rule 0–4, but without distinguishing an estimation related specifically to exemptive applications under rule 206(4)–5.[200]

We currently estimate all, or substantially all, of the work performed in preparing a rule 0–4 application would be performed by outside counsel, but we have requested approval for a one-hour internal burden for administrative purposes. We do not have a corresponding cost figure because we have previously not provided an estimated internal cost associated with this burden.

Based on our collection of information burden currently approved by OMB, we currently estimate that the Commission annually receives approximately seven Advisers Act exemptive applications.[201] These applications are further broken down in our currently approved collection of information burden based on the level of complexity, with approximately three applications considered to be well-precedented (or routine) applications, three applications considered to be medium complexity applications, and one application considered to be a high complexity application that would generally involve a unique or novel issue under the Advisers Act. The cost that outside counsel charges applicants depends upon the complexity of the issues covered by the application and the time required. Based on conversations with applicants and attorneys, our current estimate of the cost for applications ranges from approximately $15,259.94 for preparing a well-precedented application; $51,948.56 for preparing medium complexity applications; and approximately $238,761.88 to prepare a highly complex application. We currently estimate that the total annual external cost related to well-precedented applications is $45,779.82,[202] medium complexity applications is $155,845.68,[203] and high complexity applications is $238,761.88.[204] The total annual external cost estimate is $440,387.38.[205]

We are amending the PRA burden calculation associated with rule 0–4 to account for the proposed rescission of rule 206(4)–5. The Commission receives approximately two requests annually for exemptive relief under rule 206(4)–5(e). As a result of the proposal, we are reducing the estimated number of exemptive applications received annually by two applications, reducing the estimated number of well-precedented and medium complexity applications by one application each. Applications for exemptive relief under rule 206(4)–5(e) generally do not qualify as a highly complex application. Thus, we now estimate that the Commission would annually receive approximately two well-precedented applications, two medium complexity applications, and one highly complex application.

We continue to believe that most of the work of preparing an application is

[195] *See* 17 CFR 275.0–4.

[196] *See* 2010 Adopting Release, *supra* footnote 1, at Section V.

[197] *See* Rule 0–4 under the Investment Advisers Act of 1940, General Requirements of Papers and Applications, Updated Supporting Statement for PRA Submission (Dec. 20, 2007), *available athttps://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200707-3235-011.*

[198] *See* Rule 0–4 under the Investment Advisers Act of 1940, General Requirements of Papers and Applications, Updated Supporting Statement for PRA Submission (Jan. 12, 2017), *available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201605-3235-013.*

[199] *See* Rule 0–4 under the Investment Advisers Act of 1940, General Requirements of Papers and Applications, Updated Supporting Statement for PRA Submission (Mar. 25, 2020), *available athttps://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201908-3235-002.*

[200] *See* Electronic Submission of Applications for Orders under the Advisers Act and the Investment Company Act, Confidential Treatment Requests for Filings on Form 13F, and Form ADV–NR; Amendments to Form 13F, Advisers Act Release No. 6056 (June 23, 2022) [87 FR 38943 (June 30, 2022)]; Rule 0–4 under the Investment Advisers Act of 1940, General Requirements of Papers and Applications, Updated Supporting Statement for PRA Submission (Jan. 13, 2026), (''2026 Rule 0–4 PRA''), *available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202501-3235-021.*

[201] *See* 2026 rule 0–4 PRA.

[202] $15,259.94 cost per filing × 3 applications = $45,779.82.

[203] $51,948.56 cost per filing × 3 applications = $155,845.68.

[204] $238,761.88 cost per filing × 1 application = $238,761.88.

[205] $45,779.82 + $155,845.68 + $238,761.88 = $440,387.38.

performed by outside counsel and, therefore, imposes no time burden on the respondents. However, we continue to believe it is appropriate to request approval for a one-hour internal burden for administrative purposes. We estimate that the Commission would receive approximately five applications annually for exemptive relief under rule 0–4 which would result in a total annual internal burden of approximately five hours.[206] We estimate the internal cost an adviser incurs for a paralegal or legal assistant to perform the administrative function associated with the application to be approximately $281 per hour,[207] with the total annual internal cost amounting to approximately $1,405.[208]

Further, we are revising the ranges for the cost of applications to approximately $15,520.14 for preparing a well-precedented application; $52,834.35 for preparing medium complexity applications; and approximately $242,833.09 to prepare a highly complex application. We have adjusted these numbers to reflect changes in prices from the previously approved estimates based on the U.S. Bureau of Labor Statistic's CPI Inflation calculator.[209] Accordingly, we are revising the total external cost per filing type to approximately $31,040.28 for preparing a well-precedented application;[210] approximately $105,668.70 for preparing a medium complex application;[211] and approximately $242,833.09 to prepare a complex or novel application.[212] We now estimate the cumulative total external cost to prepare and submit applications to be approximately $379,542.07.

The revisions made in response to the proposal result in a decrease of two rule 0–4 exemptive applications submitted annually. We estimate no changes in the annual internal time burden. Further, we estimate that the total annual external cost burden for preparing and submitting an application to decrease by approximately $60,845.31.[213]

TABLE 1—SUMMARY OF THE ANNUAL NUMBER OF RESPONSES, TIME BURDEN, AND EXTERNAL COST BURDEN

Description	Requested	Previously approved	Change
Responses	5	7	(2)
Time burden (Hours)	1	1	0
Internal Cost Burden (Dollars)	$1,405	N/A	$1,405

TABLE 2—ANNUAL EXTERNAL COST BURDEN ESTIMATES

Types of applications	Current external cost burden per filing	Current number of applications	Current total external cost burden per filing type	Requested external cost burden per filing	Requested number of applications	Requested total external cost per filing type
Well-Precedented Applications	$15,259.94	3	$45,779.82	$15,520.14	2	$31,040.28
Medium Complexity Applications	51,948.56	3	155,845.68	52,834.35	2	105,668.70
High Complexity Applications	238,761.88	1	238,761.88	242,833.09	1	242,833.09
Annual total external cost burden			440,387.38			379,542.07

D. Rule 206(4)–7

Rule 206(4)–7 requires investment advisers registered or required to be registered with the Commission to (1) adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules, (2) review those compliance policies and procedures annually, and (3) designate a chief compliance officer who is responsible for administering the compliance policies and procedures.[214] The rule is designed to protect investors by fostering better compliance with the Advisers Act. The Commission staff uses the collection of information in its examination and oversight program. Responses provided to the Commission in the context of its examination and oversight program generally are kept confidential subject to the provisions of applicable law. This collection of information is mandatory. The current approved average time burden is 90 hours per adviser to comply with the rule, with compliance managers performing 65.25 hours and compliance clerks performing 24.75 hours of the work.[215] Further, based on an estimated 15,441 registered advisers, the current approved estimate for the annual aggregate time burden is 1,389,690 hours, per year.[216] The current approved estimate is that the hourly wage rate for a compliance manager is $372, while the hourly wage rate for a compliance clerk is $84 an hour,[217] which results in the current approved estimate that the monetized time burden is $406,901,232,[218] or $26,352 per adviser.[219]

When the Commission adopted rule 206(4)–5 in 2010, there were 11,607 registered advisers subject to rule 206(4)–7, and the Commission estimated that the average burden per adviser to comply with rule 206(4)–7 was 80 hours for a total aggregate burden of 928,560 hours.[220] It estimated that firms with government clients

[206] 5 responses × 1 hour = 5 hours.

[207] The Commission has not previously calculated the internal cost burden in prior PRA submissions. Prior PRA submissions did account for an estimated one-hour internal hour burden, which has not changed since the initial PRA submission in 2007. *See supra* footnote 197.

[208] 5 responses × hour × $281 = $1,405.

[209] *See* U.S. Bureau of Labor Statistics, CPI Inflation Calculator, *available at https://www.bls.gov/data/inflation_calculator.htm.*

[210] $15,520.14 × 2 applications = $31,040.28.

[211] $52,834.35 × 2 applications = $105,668.70.

[212] $242,833.09 × 1 application = $242,833.09.

[213] $440,387.38 − $379,542.07 = $60,845.31.

[214] *See* 17 CFR 275.206(4)–7(a) through (c).

[215] *See* Investment Advisers Act rule 206(4)–7, 17 CFR Sec. 275.206(4)–7, Compliance procedures and practices, Updated Supporting Statement for PRA Submission (Dec. 5, 2024), *available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202407-3235-017.*

[216] *See id.*

[217] These cost estimates were derived using our prior wage methodology which was based on SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[218] (15,441 registered investment advisers × 65.25 hours by compliance managers × $372 per hour) + (15,441 registered investment advisers × 24.75 hours by compliance clerical staff × $84 per hour) = $406,901,232.

[219] $406,901,232/15,441 advisers = $26,352.

[220] *See* 2010 Adopting Release, *supra* footnote 1, at section V.C.

would spend between 8 hours and 250 hours to implement policies and procedures to comply with the rule, depending on the firm's number of covered associates. Based on its estimate that 1,697 registered advisers would be affected by rule 206(4)–5,[221] the Commission estimated that approximately 1,271 smaller firms, 304 medium firms, and 122 larger firms would need to implement political contribution policies and procedures. We further estimated that smaller firms would spend 8 hours, medium firms would spend 125 hours, and larger firms would spend 250 hours, for a total of 78,668 hours,[222] to implement the requisite policies and procedures. This resulted in an estimated total annual aggregate burden for all registered advisers to comply with rule 206(4)–7 of approximately 1,007,228 hours[223] or 86.78 hours per adviser.[224] Further, the Commission estimated that rule 206(4)–7 would impose initial compliance costs of approximately $2,352 per smaller firm, approximately $29,407 per medium firm, and approximately $58,813 per larger firm, for a total annual aggregate cost of $19,104,306.[225] The Commission also stated that rule 206(4)–7 would not impose a material ongoing cost burden on advisers, apart from the cost of the burden hours.[226] The current approved average time burden per adviser is 90 hours.[227]

As a result of the proposal to rescind rule 206(4)–5, we believe an adviser would amend its policies and procedures to reflect the adviser's change in approach to addressing the risk of engaging in pay-to-play practices. We estimate that an adviser, regardless of size, would incur a one-time initial burden of 2 hours to revise its policies and procedures in response to the proposal. Based on our estimate that 2,091 registered advisers are affected by rule 206(4)–5,[228] we estimate advisers would incur total one-time initial burden of 4,182 hours to amend its requisite policies and procedures.[229] We believe advisers would utilize a financial examiner to perform the revisions at a cost of approximately $375 per hour,[230] which would result in an estimated one-time cost burden of $750 per adviser,[231] with an estimated total one-time cost burden of $1,568,250.[232]

We are amending the PRA burden as a result of the proposal and to reflect updated data. We estimate that as of December 2025 and incorporating filings received through April 30, 2026, there are 16,434 SEC registered investment advisers. Absent the proposed rescission of rule 206(4)–5, the updated annual aggregate time burden is 1,479,060 hours,[233] and we estimate the updated total hourly burden related to rule 206(4)–5 compliance is 324,194 hours.[234] We believe that the proposal would result in a reduction of the average time burden to comply with rule 206(4)–7. Although, an adviser would continue to utilize its policies and procedures to manage its exposure to the risk of pay-to-play practices, it would no longer need to account for the prescriptive requirements of rule 206(4)–5. We believe that approximately 493 smaller firms would spend approximately 1.5 hours, approximately 634 medium firms would spend approximately 50 hours, and approximately 964 larger firms would spend approximately 125 hours to implement policies and procedures to manage the risk of engaging in pay-to-play practices.[235] This would result in approximately 152,939.50 total hours spent implementing the requisite policies and procedures.[236] This would result in an estimated total annual aggregate burden for all registered advisers to comply with rule 206(4)–7 of approximately 1,307,805.50 hours[237] or 79.58 hours per adviser.[238] As discussed above, we are revising the wage methodology we use to calculate the cost burden.[239] Thus, we now estimate that an adviser would have a financial examiner perform 57.71 of its 79.58 burden hours and bookkeeping, accounting, and auditing clerks perform the remaining 21.87 hours of work.[240] Our updated data indicates that the hourly wage rate for a financial examiner is $375, while the hourly wage rate for a bookkeeping, accounting, and auditing clerk is $167.[241] Using the updated hourly wage rates and updated number of advisers, we estimate that rule 206(4)–7 results in a total monetized time burden of approximately $415,674,036.36,[242] or an estimated $25,293.54 per adviser.[243]

TABLE 1—SUMMARY OF THE ANNUAL NUMBER OF RESPONDENTS, NUMBER OF RESPONSES PER RESPONDENT, AND AVERAGE TIME BURDEN PER RESPONSE

Description	Requested	Previously approved	Change
Respondents	16,434	15,441	993.
Number of Responses per Respondent.	1	1	0.
Average Time Burden per Response (Hours).	79.58 hours	90 hours	(10.42) hours.

[221] *See id.*

[222] (1,271 × 8 = 10,168) + (304 × 125 = 38,000) + (122 × 250 = 30,500) = 78,668 hours.

[223] 928,560 hours + 78,668 (burden attributable to rule 206(4)–5) = 1,007,228 hours.

[224] 1,007,228 hours/11,607 registered advisers = 86.78 hours/adviser. (Note: this number was not included within the 2010 adopting release or subsequent PRA submission to OMB.)

[225] (1,271 × $2,352) + (304 × $29,407) + (122 × $58,813) = $19,104,306.

[226] *See* Investment Advisers Act rule 206(4)–7, 17 CFR Sec. 275.206(4)–7, Compliance procedures and practices under the Investment Advisers Act of 1940, Updated Supporting Statement for PRA Submission (Aug. 5, 2010), *available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201008-3235-007.*

[227] *See* rule 206(4)–7 under the Investment Advisers Act of 1940, General Requirements of Papers and Applications, Updated Supporting Statement for PRA Submission (Dec. 5, 2024), *available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202407-3235-017.*

[228] *See supra* footnote 183.

[229] 2,091 advisers × 2 hours = 4,182 hours.

[230] *See supra* footnote 169.

[231] 2 hours × $375 = $750.

[232] 2,091 advisers × $750 = $1,568,250.

[233] 16,434 advisers × 90 hours = 1,479,060 hours.

[234] (493 smaller advisers × 8 hours) + (634 medium firms × 125 hours) + (964 larger firms × 250 hours) = 324,194 hours.

[235] *See supra* footnote 131.

[236] (493 small advisers × 1.5 hours) + (634 medium advisers × 50 hours) + (964 large advisers × 125 hours) = 152,939.50 hours.

[237] 1,479,060 hours − 324,194 hours (total burden hours due to the rule 206(4)–5 requirements) = 1,154,866 hours. 1,154,866 hours + 152,939.50 (updated burden attributable to the proposal) = 1,307,805.50 hours.

[238] 1,307,805.50 hours/16,434 advisers = 79.58 hours per adviser.

[239] *See supra* section IV.B.

[240] We are revising the title of the profession included within the cost burden calculation. The term financial examiner is replacing the term compliance manager, and the term bookkeeping, accounting, and auditing clerk is replacing the term compliance clerk. Although the title of the profession is changing, the underlying work being performed has not.

[241] *See supra* footnote 169.

[242] (16,434 registered investment advisers × 57.71 hours by financial examiners × $375 per hour) + (16,434 registered investment advisers × 21.87 hours by bookkeeping, accounting, and auditing clerk × $167 per hour) = $415,674,036.36.

[243] $415,674,036.36/16,434 advisers = $25,293.54.

TABLE 2—SUMMARY OF THE ANNUAL NUMBER OF RESPONSES, AGGREGATE TIME BURDEN, AND AGGREGATE MONETIZED TIME BURDEN

Description	Requested	Previously approved	Change
Responses	16,434	15,441	993
Total Annual Aggregate Time Burden (Hours)	1,307,805.50	1,389,690	(81,884.50)
Monetized Time Burden (Dollars)	$415,674,036.36	$406,901,232	$8,772,804.36

E. Request for Comment

We request comment on whether these estimates are reasonable. We also request comment regarding whether the Commission should revise the existing collection of information for rule 204A–1 to account for an adviser revising its code of ethics in response to the proposed rescission of rule 206(4)–5. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) determine whether there are ways to minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing these burdens. Persons submitting comments on the collection of information requirements should direct their comments to the OMB Desk Officer for the Securities and Exchange Commission, *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov*, and should send a copy to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, using any of the methods in the **ADDRESSES** section, with reference to File No. S7–2026–31. Requests for materials submitted to OMB by the Commission with regard to the collections of information should be in writing, refer to File No. S7–2026–31, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release.

V. Initial Regulatory Flexibility Analysis

The Commission has prepared the following Initial Regulatory Flexibility Analysis (the "IRFA") in accordance with section 3(a) of the Regulatory Flexibility Act (the "RFA").[244] It relates to the proposed rescission of rule 206(4)–5 and the corresponding amendments to rule 204–2.

A. Reasons for and Objectives of Proposed Actions

Since the Commission adopted the political contribution rule in 2010, we have observed numerous challenges associated with the rule's complexity and how broadly investment advisers have applied the rule. Market participants also have stated, among other issues, that the rule is burdensome,[245] complex, and both lacks clarity and creates a *de facto* strict liability standard.[246] Based on these observations and feedback from market participants, the Commission understands that the political contribution rule has resulted in the following outcomes, which in certain instances, were not intended or anticipated, including (1) the monetary losses associated with the two-year ban on receiving compensation for providing investment advisory services to a government client seem excessive, particularly given that the ban can be triggered by contributions of as little as $150; (2) the two-year ban on compensation (which is automatically triggered by the underlying contribution) creates a *de facto* strict liability standard that does not permit consideration of the complexities of the case outside of the exemptive process or the rule's limited remedial provisions; (3) advisers may be prevented from hiring or promoting qualified individuals into roles where they would be considered a "covered associate" for either six months or two years following an individual's contribution, despite the contribution potentially having an attenuated relationship or no relationship to pay-to-play practices; (4) public pension plans may be unable to hire the most qualified or cost-effective advisers or may ultimately lose the services of an existing adviser with institutional knowledge of the public pension plan's investment strategy and composition because of contributions by the adviser's covered associates during the two-year lookback period that do not present a material risk of engaging in a pay-to-play practice; (5) it can be difficult for an adviser to identify which persons fall within the definition of an "official" who is "indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity;" (6) the definition of "covered associate" can be difficult to interpret and may have been applied more broadly than intended, with employees whose contributions are unlikely to be related to pay-to-play practices being subjected to restrictive policies; (7) the dollar amounts in the *de minimis* exception have not been updated for inflation and some contributions above the $150 (for officials for whom the covered associate is not entitled to vote at the time of the contribution) and $350 (for officials for whom the covered associate was entitled to vote at the time of the contribution) contribution ceilings are low enough as to be unlikely to meaningfully influence the adviser selection process, while still triggering the prohibitions of the rule; (8) the exception for returned contributions requires that the contributor obtain the return of the contribution within 60 calendar days of the date of discovery of such contribution by the investment adviser, which means that advisers must rely on the third party that received the contribution to satisfy the exception; this may not be feasible if the funds have been spent or if the recipient is not cooperative; and (9) the exemptive process through which the Commission may, upon application, conditionally or

[244] *See* 5 U.S.C. 603(a).

[245] We are also proposing to amend the recordkeeping rule to eliminate the provisions requiring a registered investment adviser to make and keep certain records in connection with the political contribution rule. *See supra* section II.B (discussing the proposed amendments to the recordkeeping rule).

[246] *See supra* section I.C.

unconditionally exempt an investment adviser from the prohibitions of the rule may be costly and time-consuming to pursue. Due to such interpretive difficulties and related operational and implementation challenges, the political contribution rule has resulted in significant unintended consequences. Additionally, because the specific objective criteria of the rule apply to an adviser regardless of its pay-to-play risk profile—including conditions whose application may prove onerous or inappropriate for a low risk adviser—and pay-to-play considerations can be unique to each adviser, an adviser with a lower pay-to-play profile may nonetheless be required to design and implement compliance policies and procedures which result in unintended adverse effects that may not be justified by their risk of engaging in pay-to-play practices.

We believe that rescinding the current rule in its entirety and relying on the existing requirements of the Advisers Act and associated rules, including prohibitions on fraud, fiduciary duty requirements, and the compliance rule, could avoid many of these issues and unintended consequences and lead to appropriate measures to address pay-to-play practices. The rescission of the political contribution rule would provide advisers with the flexibility to design tailored compliance policies and procedures and codes of ethics in accordance with their own business models and risk profiles to prevent pay-to-play practices.

B. Legal Basis

The Commission is proposing the rescission of rule 206(4)–5 and rule amendments to rule 204–2 contained in this document under the authority set forth in the Advisers Act, particularly section 204(a), 206(4), and 211(a) thereof [15 U.S.C. 80b–4(a), 80b–6(4), and 80b–11(a)].

C. Small Entities Subject to the Amendments

The RFA [247] requires the SEC to prepare and make available for public comment an initial regulatory flexibly analysis of the impact of the proposed rule amendments on small entities,[248] unless the SEC certifies that the rules, if adopted, would not have a significant economic impact on a substantial number of small entities.[249] For the purposes of the Advisers Act and the RFA, an investment adviser generally is a small entity if it: (1) has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[250]

The Commission estimates that as of December 2025, and incorporating filings received through April 30, 2026, there are approximately 460 small SEC-registered investment advisers.[251] Of these 460 advisers, 34 indicate on Form ADV that they have State or local government clients. The proposal would also impact an adviser that is an exempt reporting adviser,[252] as defined in rule 204–4(a).[253] Based on Form ADV data as of December 2025, we estimate that there are approximately 6,463 exempt reporting advisers, and 1,268 of these advisers managed less than $25 million in gross assets. We do not have data on how many exempt reporting advisers have State or local government clients. We also do not have data and are not aware of any databases that compile information regarding how many advisers are foreign private advisers and that have State or local government clients. It is unclear how many of these advisers that are exempt from registration that would be subject to the rule are small advisers for purposes of this analysis.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

If the political contribution rule is ultimately rescinded, investment advisers who provide or seek to provide investment advisory services to State or local governments may need to update their compliance policies and procedures to replace those policies and procedures that were established pursuant to the prescriptive nature of the political contribution rule with policies and procedures that are better tailored to address the risks of pay-to-play practices to their organization, as needed. In choosing a standard of business conduct for their code of ethics, an adviser who provides or seeks to provide investment advisory services to State or local governments would need to review and, if necessary, adjust its code of ethics to include a standard of business conduct that aligns with any policies and procedures the adviser adopts under the compliance rule in the context of its pay-to-play risks. Further, such an adviser would still be required to make and keep certain books and records under rule 204–2, including a copy of its policies and procedures and code of ethics that address the adviser's pay-to-play risks as well as records of all written agreements with government clients and solicitors or placement agents retained to solicit a government entity for investment advisory services on behalf of the adviser.

We estimate that approximately 34 small entity investment advisers would be impacted by the proposed rescission of the political contribution rule and rule 204–2(a)(18). The proposal is designed to provide advisers with additional flexibility to adapt their policies and procedures and code of ethics to their specific businesses and risks in a more holistic manner consistent with their obligations under the Advisers Act. Thus, the proposal would reduce the overall burden on small entity investment advisers by removing the prescriptive requirements of the current pay-to-play rule and its associated recordkeeping requirements and replacing them with a flexible approach to addressing pay-to-play risks that would allow an adviser to design a tailored compliance approach that better fits its business model.

E. Duplicative, Overlapping, or Conflicting Federal Rules

We do not believe that the proposed amendments would duplicate, overlap, or conflict with other existing Federal rules.

F. Significant Alternatives

The RFA directs the Commission to consider significant alternatives that would accomplish our stated objectives, while minimizing any significant economic impact on small entities. We considered the following alternatives for small entities in relation to the proposed rescission of rule 206(4)-5 and the amendments to rule 204–2 to enhance the benefits of the proposal for small entities: (1) establishing different

[247] *See* 5 U.S.C. 601 *et seq.*

[248] The Commission has a pending proposal addressing the definition under the Investment Advisers Act of ''small organization'' and ''small business'' for purposes of the Regulatory Flexibility Act. For purposes of this IRFA, we are not considering any of the proposed changes included within the proposal. The Commission encourages commenters to review the proposal to determine whether it might affect their comments on this IRFA. *See* Amendments to the ''Small Business'' and ''Small Organization'' Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act, Investment Company Act Release No. 35864 (Jan. 7, 2026) [91 FR 1107 (Jan. 12, 2026)].

[249] *See* 5 U.S.C. 603(a) and 605(b).

[250] *See* 17 CFR 275.0–7.

[251] This estimate is based on registration information from the IARD system.

[252] *See* rule 206(4)–5(a)(1) and rule 206(4)–5(a)(2); *supra* footnote 16.

[253] *See* 17 CFR 275.204–4(a).

requirements that take into account the resources available to small entities; (2) exempting small entities from all or part of the requirements; (3) clarifying, consolidating, or simplifying requirements under the rules for small entities; and (4) using performance rather than design standards.

Regarding the first and second alternative, the Commission is not exempting or proposing different compliance or recordkeeping requirements for small advisers since we are rescinding rule 206(4)–5, and its corresponding requirements, in its entirety. The proposal is designed to eliminate a rule that was operationally challenging and burdensome for advisers to comply with and instead permit an adviser to address its pay-to-play risks by leveraging the existing regulatory framework under the Advisers Act. To establish different requirements for small advisers could be more burdensome for these advisers as such an approach would diminish the flexibility the proposal would provide an adviser to tailor its policies and procedures and adjust its code of ethics in the context of the adviser's unique pay-to-play risks.

Regarding the third alternative, we believe the proposal is clear and that further clarification, consolidation, or simplification of the compliance requirements is not necessary. As discussed above, we propose to rescind rule 206(4)–5 and make corresponding amendments to rule 204–2, which would eliminate the prescriptive requirements under the current rules for all advisers. As a result, an adviser would be able to tailor its approach to mitigating pay-to-play risk by utilizing the tools available under the existing regulatory framework.

Regarding the fourth alternative, there are no standards to implement with regard to the proposed rescission of rule 206(4)–5 and the proposed amendments to rule 204–2. The proposal is designed to eliminate the requirements under these rules for all advisers, and no new requirements would be adopted.

G. General Request for Comment

The Commission requests comments regarding this IRFA. We request comments on the number of small entities that may be affected by our proposed amendments and whether the proposed amendments would have any effects not considered in this analysis. Further, we request comment regarding the number of advisers exempt from registration in reliance on section 203(b)(3) of the Advisers Act that have State or local government clients, the number of advisers that are exempt reporting advisers that have State or local government advisers, and the number of these advisers that would qualify as small entities. We request that commenters describe the nature of any effects on small entities subject to the rules and provide empirical data to support the nature and extent of such effects.

VI. Congressional Review Act

For purposes of Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act),[254] the Commission must seek OMB's determination as to whether a final regulation constitutes a ''major rule.'' Under the Congressional Review Act, a rule is considered ''major'' where, if adopted, it results in or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.[255]

To help inform OMB's determination as to whether any final rule that results from the proposal would be a ''major rule,'' the Commission solicits comment and data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VII. Other Matters

This action is an economically significant regulatory action under section 3(f)(1) of Executive Order 12866 and has been reviewed by OMB, consistent with Executive Order 14215. This action, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

[254] *See* 5 U.S.C. chapter 8.

[255] *See* 5 U.S.C. 804(2) (defining ''major rule'').

Statutory Authority

The Commission is proposing to rescind rule 206(4)–5 of the Advisers Act under the authority set forth in sections 206(4) and 211(a) of the Advisers Act [15 U.S.C. 80b–6(4) and 80b–11(a)].

The Commission is proposing corresponding amendments to rule 204–2 under the Advisers Act under the authority set forth in sections 204(a) and 211(a) of the Advisers Act [15 U.S.C. 80b–4(a) and 80b–11(a)].

List of Subjects in 17 CFR Part 275

Administrative practice and procedure, Investment advisers, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule and Form Amendments

For the reasons set out in the preamble, the SEC proposes to amend title 17, chapter II of the Code of Federal Regulations as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The authority citation for part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, 80b–11, 1681w(a)(1), 6801–6809, and 6825, unless otherwise noted.

* * * * *

■ 2. Remove and reserve § 275.204–2(a)(18).

§ 275.204–2(a)(18) [Reserved]

■ 3. Remove and reserve § 275.206(4)–5.

§ 275.206(4)–5 [Reserved]

By the Commission.

Dated: September 3, 2026.

Vanessa A. Countryman,

Secretary.

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