

## Corporate & Financial Weekly Digest

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### **New California Law Requires Lobbyist Registration for "Placement Agents" Soliciting California State Pension Plans**

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Effective January 1, new legislation in California (Act) will prohibit an individual or entity from acting as a “placement agent” in connection with any potential investment made by a California state public retirement system unless that person is registered as a lobbyist with the California Secretary of State and is in compliance with the California Political Reform Act of 1974 (PRA). The Act is aimed at ensuring that investment decisions of any California state public pension or retirement system are made in an impartial manner, free from any potential bias caused by gifts, campaign contributions or the financial interests of placement agents, retirement system officials and third parties who have supported these officials.

Under the Act, the definition of placement agent includes any person hired, engaged, retained by or serving on behalf of an external manager (for example, a hedge fund manager) who acts for compensation as a finder, solicitor, marketer, consultant, broker or other intermediary in connection with the offer or sale of the securities, assets or services of an external manager to a California state public pension or retirement system (or an investment vehicle in which a California public pension or retirement system is the majority investor). The placement agent definition covers broker-dealers or finders retained by an external manager and also extends to individuals employed by an external manager performing marketing functions or otherwise acting as an intermediary in connection with the offer or sale of securities, assets or services of an external manager to a California state public retirement system, unless an exemption would apply. The Act also prohibits the payment to registered broker-dealers of compensation that is contingent upon an investment being made by a California state public or pension retirement system.

Notably, the Act excludes from the placement agent definition certain individuals associated with an external manager who spend a third or more of their time, during a calendar year, managing the securities or assets owned, controlled, invested or held by an external manager. The Act also excludes from the definition of placement agent an employee, officer or director acting on behalf of an external manager (or its affiliate) that (1) is registered as an investment adviser or broker-dealer with the Securities and Exchange Commission or, if exempt or not subject to such registration, any appropriate state securities regulator, (2) was selected by and contracted with the California state public pension or retirement plan through a “competitive

bidding process” (which is not specifically defined in the Act), and (3) agrees to a fiduciary standard of care defined by the standards of conduct applicable to the board of a California state public pension or retirement system.

By requiring placement agents to register as lobbyists, the Act subjects placement agents to the reporting and ethics rules that govern lobbyists under the PRA. The California Fair Political Practices Commission (FPPC), the agency tasked with adopting regulations and interpreting and enforcing the PRA, has not yet implemented rules for compliance with the Act. It is unknown when and to what extent the FPPC will be adopting more substantive rules regarding the Act before it becomes effective.

Click [here](#) for the text of the Act.

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