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Investment Funds Update May 11, 2026

Regulatory Compliance Reminders for Investment Advisers

Three key issues for investment advisers in the coming months: the Regulation S-P compliance deadline, new qualified client thresholds, and renewed pay-to-play scrutiny during the 2026 election cycle.

Investment advisers are reminded of several regulatory matters that may require their attention over the next several months. These include (i) an upcoming compliance deadline of **June 3, 2026** for certain significant amendments to Regulation S-P, and (ii) changes in the financial thresholds applicable to "qualified client" status under the Investment Advisers Act of 1940 (the "Advisers Act") that become effective on **June 29, 2026**. Further, in light of the upcoming midterm elections this fall, investment advisers should consider paying special attention to their firm's compliance practices with respect to the so-called "pay-to-play" rule on political contributions under the Advisers Act.

We discuss each of these matters below.

I. Regulation S-P Amendments: Compliance Deadline of June 3, 2026

Effective August 2, 2024, the SEC adopted significant amendments to Regulation S-P, which governs privacy of consumer financial information and safeguarding of customer records.[1] Registered investment advisers ("RIAs"; each, an "RIA") with regulatory assets under management of $1.5 billion or more were required to comply with the amendments by December 3, 2025. All other RIAs are required to comply with the new rules by **June 3, 2026**,

now less than 30 days away.[2]

What the Amendments Require. The amendments to Regulation S-P significantly expand the obligations of "covered institutions" (including RIAs) with respect to protecting the security of their "customer information" and responding to any unauthorized access to such information. Among other things, RIAs are required to:

- maintain policies and procedures to monitor their information technology systems and to protect them against unauthorized cybersecurity intrusions;[3] ;
- maintain incident response plans, including a requirement to notify clients and private fund investors of any cybersecurity incident that impacts such clients or investors within 30 days;[4]
- monitor its vendors to ensure that they are maintaining secure information security procedures (including requiring vendors to give RIAs notice of any cybersecurity incident within 72 hours);[5]
- adhere to certain disposal requirements to ensure that confidential customer information is disposed of in a secure manner;[6] and
- comply with certain enhanced record-keeping requirements with respect to their cybersecurity programs.[7]

The requirement to deliver privacy notices to customers under Regulation S-P remains largely unchanged. However, the SEC did adopt a new exemption from the requirement to deliver privacy notices on an annual basis if (i) the RIA only provides non-public personal information to non-affiliated third parties when an exception to third-party opt-out applies, and (ii) the RIA has not changed its policies and practices with regard to disclosing non-public personal information from its most recent disclosure sent to customers.[8]

Practical Considerations. In practice, the amendments to Regulation S-P codify best practices that have already been adopted in substance by many RIAs. Nevertheless, the amendments are detailed and will require meaningful updates to existing policies and procedures for most RIAs. At a minimum, RIAs should be reviewing their cybersecurity policies (including their incident response procedures and customer notification obligations), reviewing service provider contracts to confirm they contain appropriate safeguarding provisions, and updating their information disposal and recordkeeping practices to satisfy the amended requirements.

II. Inflation-Adjusted "Qualified Client" Thresholds Take Effect June 29

On April 28, 2026, the SEC issued an order[9] adjusting the financial threshold tests used to determine "qualified client" status under Rule 205-3 under the Advisers Act in accordance with the inflation adjustment requirements under the rule. The revised thresholds take effect on **June 29, 2026**:

Test	Current Threshold	New Threshold (Effective June 29, 2026)
Assets Under Management with the RIA	$1,100,000	$1,400,000
Net Worth	$2,200,000	$2,700,000

Transition Considerations. The new thresholds generally do not apply retroactively to contractual relationships entered into prior to the effective date, subject to the transition rules in Rule 205-3. However, if a natural person or company that was not a party to the advisory contract becomes a party on or after June 29, 2026 (including becoming a new investor in a private fund) the new thresholds will apply with respect to that person or company.[10]

Firms charging performance-based fees should update onboarding and subscription documentation so that qualification determinations on or after June 29, 2026 use the new thresholds. In addition, advisers should review their existing fund governing documents for hard-coded dollar figures, provisions that incorporate Rule 205-3 by reference will adjust automatically, but those reciting specific amounts will not. Advisers conducting closings or admitting new investors between now and June 29 may also wish to include both the current ($1,100,000/$2,200,000) and new ($1,400,000/$2,700,000) thresholds in subscription documents, so that qualification determinations can be made under whichever set applies based on the timing of the relevant closing or subscription.

III. Pay-to-Play Rule: Election Season Requires Enhanced Surveillance

The 2026 midterm election cycle is now in full swing, and with it comes renewed exposure under Rule 206(4)-5 of the Advisers Act (the "Pay-to-Play Rule").[11]

The Core Prohibition. Rule 206(4)-(5) makes it unlawful for an investment adviser to provide advisory services for compensation to a state or local government entity within two years after the adviser or any "covered associate" has made a political contribution above a *de minimis* amount to an "official" of the applicable state or local jurisdiction. The *de minimis* thresholds are low: $350 per campaign for officials for whom the covered associate is entitled to vote, and $150 per campaign for all others.

A foot fault under the Pay-to-Play Rule can have significant, commercial consequences for advisers. As an example, a political contribution made directly or through a political action committee by an adviser's covered associate to an incumbent governor running for reelection could prohibit that adviser from collecting management fees or carried interest from a state pension plan investor for two years.

In general, Rule 206(4)-5 imposes strict liability (meaning that no negligence or intent need be shown to prove a violation of the Rule) and the ability to cure an inadvertent violation is limited. In addition, Rule 206(4)-5 contains an anti-evasion clause, which prohibits RIAs and their covered associates from doing indirectly that which would be prohibited under Rule 206(4)-5 if done directly.

Note that Rule 206(4)-5 applies not only to RIAs but also to exempt reporting advisers ("ERAs") relying on the venture capital fund or private fund adviser exemptions as well as foreign private advisers. Accordingly, advisers that do not have full SEC registration should confirm whether the Rule applies to their activities.

Common Foot Faults. Several features of Rule 206(4)-5 continue to trip up even sophisticated compliance programs:

- Rule 206(4)-5 reaches contributions to *unsuccessful* candidates and to *incumbent* state or local officials who are running for *federal* Because the Rule only prohibits contributions to state or local government officials, many advisers assume that the Rule does not apply to campaigns for federal office. While this is usually the case, Rule 206(4)-5 applies to candidates for federal office if they are state or local government officials at the time they are running for federal office.
- Rule 206(4)-5 includes a "look-back" provision that applies to contributions made by an individual *before* becoming a covered associate—up to two years prior for those involved in soliciting government entities and six months for others.
- Rule 206(4)-5 also "looks forward," meaning that an RIA remains subject to the two-year compensation prohibition even after the contributing individual departs the firm or otherwise ceases to be a covered associate.

Advisers should consider re-circulating contribution-restriction reminders or their Pay-to-Play Rule policies to all supervised persons, confirm that pre-clearance systems are functioning, and consider requiring fresh attestations before the November midterm elections.

Advisers should also be aware that the Rule provides a limited cure for inadvertent contributions: the two-year bar does not apply if (i) the adviser discovers the contribution within four months of the date it was made, (ii) the contribution did not exceed $350, and (iii) the contributor obtains a full return within 60 calendar days of discovery.[12] This exception is available only once per covered associate and at most two to three times per calendar year per adviser, depending on the adviser's size. Given these tight constraints, pre-clearance and periodic attestations remain the more reliable compliance tools.

Advisers should also note that the Rule may be subject to reform. At the SIFMA Compliance and Legal conference in March 2026, SEC Chairman Paul Atkins described the Rule as a "trap for the unwary" and indicated the SEC intends to address it.[13] No formal proposal has been issued, and full compliance remains required in the interim.

[1] Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Customer Information, SEC Release Nos. 34-100155, IA_35193, File No. S7-05-23 (May 16, 2024) ("Reg S-P Release").

[2] See Reg S-P Release at Section II.F.

[3] 17 CFR §§248.30(a)(1) & (2).

[4] 17 CFR §§248.30(a)(3) & (4).

[5] 17 CFR Part 248, Subpart A, §248.30(a)(5).

[6] 17 CFR §248.30(b).

[7] 17 CFR §248.30(c).

[8] 17 CFR §248.5(e).

[9] Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205-3 under the Investment Advisers Act of 1940, SEC Advisers Act Release No. IA-6961 (Apr. 28, 2026).

[10] 17 CFR §275.204-3(c).

[11] 17 CFR §275.206(4)-5.

[12] 17 CFR §275.206(4)-5(b)(3).

[13] See Jessica Corso, *SEC's Atkins Promises Changes to Adviser Pay-To-Play Rule*, Law360 (Mar. 23, 2026).

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