



# Private Equity Alert

## Developments in private equity law

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### California acts to regulate placement agent influence

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Under a new California law, effective October 11, 2009, new restrictions and placement agent disclosure rules apply to investments made by all public pension funds in California. While the California Teachers' Retirement System (CalSTRS) has had policies in place since 2006 and the California Public Employees' Retirement System (CalPERS) adopted a policy in May 2009, other California public retirement systems have been working on implementing their own regulations. This law imposes new requirements on all state and local retirement systems.

Under the new law, no later than June 30, 2010, the board of each public pension system must adopt a policy requiring any investment manager that makes payments to a placement agent in connection with the system's investments to provide detailed information about the placement agent and their relationship. The law applies to any "external manager," which is defined as any asset management firm that is retained or seeking to be retained by a public retirement system in California to manage a portfolio of assets, including securities, for a fee. The California pension systems will not be permitted to enter into any agreement with an investment manager that does not agree in writing to comply with this policy, and any violation of the policy will result in a prohibition against soliciting new investments from the public pension system for five years, although the prohibition may be waived under certain circumstances.

Information that will have to be disclosed under the new policies includes:

- Description of the placement agent's services.
- Description of the compensation of any kind provided to the placement agent.
- Résumé for each officer, partner or principal of the placement agent.
- Details of the placement agent's registration with the SEC, FINRA, or a similar non-U.S. entity, or an explanation as to why a registration is not required.
- Statement as to whether the placement agent or any of its affiliates is a registered lobbyist with any state or national government.

In addition, prior to soliciting any investment by a public pension system, a placement agent must disclose to the retirement board any gifts or campaign contributions made to a member of the board during the prior 24 months, and must disclose any subsequent gifts or campaign contributions while it continues to act as a placement agent in connection with the system investments. The law broadly defines “placement agent” as any person or entity acting on behalf of an external manager or another placement agent as a finder, solicitor, marketer, consultant, broker, or other intermediary to, directly or indirectly, raise money or investment from, or to obtain access to, a public retirement system in California.

The new law further prohibits officers or employees of all public retirement systems from being employed or receiving compensation, for the period of two years after leaving that position, for the purpose of influencing the retirement system’s investment decision. It expands an existing restriction that applied to certain designated officers and employees of CalSTRS and CalPERS to all county and local retirement systems and affects a broader range of officers and employees.

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