



MassPRIM Defends Marketers as Others Ban Them

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Public pensions across the country are responding to the ongoing New York pension investigation with manager terminations, calls for increased disclosures, and in some cases, the outright banning of placement agents and third-party marketers. At least one large public pension is defending the use of such middlemen, saying they play a useful part in the investment process, especially with asset classes like private equity.

Mike Travaglini, executive director of the Massachusetts Pension Reserves Investment Management Board, also says banning placement agents misses the bigger problem of slipshod due diligence, which he believes is what really leaves pensions vulnerable to pay-to-play scandals.

"If you're trying to get at making objective decisions, the existence or not of placement agents has nothing to do with it," Travaglini says. "A multi-layered due diligence process, with many sets of eyes: That's how you avoid pay-to-play."

Placement agents and third-party marketers act as intermediaries between asset managers and pensions, collecting a fee when mandates are awarded. Pay-to-play concerns come up when some of the fees are kicked back to decision makers, as prosecutors allege happened with the New York state pension fund.

Many pensions are reviewing their policies regarding how to handle placement agents, which comes in the midst of New York Attorney General Andrew Cuomo and the Securities and Exchange Commission's investigation into pay-to-play allegations involving the state's \$122 billion Common Retirement Fund.

The investigation has led to securities fraud charges against Saul Meyer and the company he founded, Dallas-based Aldus Equity. He allegedly paid about \$300,000 in kickbacks to a shell company owned by Henry Morris, a top fundraiser for former New York state comptroller Alan Hevesi, the pension fund's sole trustee. In exchange for the kickbacks, Cuomo charges, former New York state deputy comptroller David Loglisci invested \$175 million with Aldus between 2004 and 2006.

Loglisci and Morris have also been charged. All three have denied wrongdoing.

Cuomo is now working with law enforcement agents in California, Connecticut, Illinois, Louisiana and New Mexico, as part of a 36-state task force investigating pay-to-play arrangements at state pensions nationwide.

Pension plans have had a range of reactions to the investigation. New York State Comptroller Thomas DiNapoli has banned placement agents, registered lobbyists and paid intermediaries from the New York Common Fund. The New York City Employees' Retirement System and the city's Police Pension Fund have since followed suit.

Others have taken a less extreme view, saying they will allow the use of placement agents, but are strengthening their disclosure requirements regarding them.

On Monday, Connecticut Treasurer Denise Nappier said she is requiring all fund-of-funds managers to provide additional disclosures, making clear any third-party payments made by sub-fund managers in connection to business with the Connecticut Retirement Plans and Trust Funds. Also, managers that are disclosing payments to placement agents must disclose whether the placement agent paid any sub-agents in connection to their business with Connecticut.

Nappier announced that the retirement plans and trust funds are firing Aldus Capital from a \$65 million commitment, "out of an abundance of caution."

The New Mexico State Investment Council has taken similar action. It fired Aldus last week, at the order of Gov. Bill Richardson, and is now in the process of deciding how to bolster its disclosure policies. A spokesman for the \$11.8 billion fund says that all new alternative investments will be put on hold until the new rules are settled. That means that four private equity funds that made it through the council's preliminary approval process - Landmark Equity Partners XIV, Newstone Capital Partners II, Ares Corporate Opportunity Fund III and VSS Structured Capital Partners II - now have to start over.

"We're going to make changes that will require funds disclose any payments they make in relation to any investment New Mexico makes with them. Administrators, lawyers, third-party marketers, P.R. specialists," the spokesman says.

Some pensions have not yet decided how to proceed. The \$10.7 billion Los Angeles Fire and Police Pensions fund is set to vote tomorrow on whether to fire Aldus; the Maryland State Retirement and Pension System will address the issue at its own meeting on Friday.

Maryland's executive director, Dean Kenderdine, declines to comment on what he expects the outcome might be.

"It's going to be thoroughly discussed, and our investment committee will have at it," he says.

MassPRIM's Travaglini says that banning placement agents or requiring greater disclosure misses the point. He thinks a better approach is to have proper due diligence that includes an outside auditing firm to conduct annual audits of every manager the system has hired and the process used to hire them.

He also says there's "no question" that having a sole trustee, as New York's pension does, weakens a pension's ability to avoid pay-to-play.

