

AGENDA DOCUMENT NO. 15-31A



FEDERAL ELECTION COMMISSION
Washington, DC 20463

2015 JUN 11 P 4:11

June 11, 2015

AGENDA ITEM

For Meeting of 6-18-15

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS by AN*
Deputy General Counsel

Adav Noti *AN*
Acting Associate General Counsel

Amy L. Rothstein *ALR*
Assistant General Counsel

Esther D. Gyory *EDG*
Attorney

SUBJECT: Notice of Availability and Petition for Rulemaking on Independent Spending by Corporations, Labor Organizations, Foreign Nationals, and Certain Political Committees (Citizens United) filed by Ann M. Ravel and Ellen L. Weintraub

On June 8, 2015, the Commission received a Petition for Rulemaking ("Petition") from Ann M. Ravel and Ellen L. Weintraub. The Petition asks the Commission to issue new rules and revise existing rules concerning (1) the disclosure of certain financing information regarding independent expenditures and electioneering communications; (2) election-related spending by foreign nationals; (3) solicitations of corporate and labor organization employees and members; and (4) the independence of expenditures made by independent-expenditure-only political committees and accounts.

The Office of General Counsel has examined the Petition and determined that it meets the requirements of 11 C.F.R. § 200.2(b). Therefore, we have drafted the attached Notice of Availability ("Notice") seeking comment on whether the Commission should initiate a rulemaking on the proposal in the Petition. The Notice will be published in the *Federal Register* pursuant to 11 C.F.R. § 200.3(a)(1).

In keeping with the Commission's regulations, the Notice does not address the merits of the Petition. Instead, it states that consideration of the merits will be deferred until the close of the comment period.

We request that this draft Notice be placed on the agenda for the June 18, 2015
Open Meeting.

Attachment

FEDERAL ELECTION COMMISSION**11 CFR Parts 104, 109, 110, 114****[NOTICE 2015-XX]****Rulemaking Petition: Independent Spending by Corporations, Labor Organizations,
Foreign Nationals, and Certain Political Committees (Citizens United)**

AGENCY: Federal Election Commission.

ACTION: Rulemaking Petition: Notice of Availability.

SUMMARY: On June 8, 2015, the Federal Election Commission received a Petition for Rulemaking that asks the Commission to issue new rules and revise existing rules concerning (1) the disclosure of certain financing information regarding independent expenditures and electioneering communications; (2) election-related spending by foreign nationals; (3) solicitations of corporate and labor organization employees and members; and (4) the independence of expenditures made by independent-expenditure-only political committees and accounts. The Commission seeks comments on this petition.

DATES: Comments must be submitted on or before [insert date 60 days after the date of publication in the Federal Register].

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at <http://www.fec.gov/fosers>, reference REG 2015-02, or by email to [address]@fec.gov. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Amy L. Rothstein, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, state, and zip code. All properly submitted comments, including attachments, will become part of the

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1 public record, and the Commission will make comments available for public viewing on the
2 Commission's website and in the Commission's Public Records Office. Accordingly,
3 commenters should not provide in their comments any information that they do not wish to make
4 public, such as a home street address, personal email address, date of birth, phone number, social
5 security number, or driver's license number, or any information that is restricted from disclosure,
6 such as trade secrets or commercial or financial information that is privileged or confidential.
7 **FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Rothstein, Assistant General
8 Counsel, or Ms. Esther D. Gyory, Attorney, Office of General Counsel, 999 E Street, NW.,
9 Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

10 **SUPPLEMENTARY INFORMATION:** On June 8, 2015, the Federal Election Commission
11 received a Petition for Rulemaking from two members of the Commission, Ann M. Ravel and
12 Ellen L. Weintraub. The petition, citing Citizens United v. FEC, 558 U.S. 310 (2010), asks the
13 Commission to modify its regulations in four respects.

14 First, the Federal Election Campaign Act, 52 U.S.C. 30101-46 (the "Act"), and
15 Commission regulations require every person who makes an electioneering communication
16 aggregating in excess of \$10,000 in a calendar year and every person (other than a political
17 committee) that makes independent expenditures in excess of \$250 with respect to a given
18 election in a calendar year to report certain information to the Commission. 11 CFR 104.20(b)-
19 (c), 109.10(b), (e); 52 U.S.C. 30104(c)(1)-(2), (f). The petition asks the Commission to "[e]nsure
20 full public disclosure of corporate and labor organization independent spending" by "requir[ing] that
21 outside spending groups disclose their donors."

22 Second, the Act and Commission regulations prohibit foreign nationals from "directly or
23 indirectly" making contributions, expenditures, and electioneering communications. 11 CFR
24 110.20; 52 U.S.C. 30121(a). The petition asks the Commission to "[c]larify that th[is] prohibition

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1 on foreign national campaign-related spending restricts such spending by U.S. corporations owned or
2 controlled by a foreign national.”

3 Third, Commission regulations prohibit corporations and labor organizations from “using
4 coercion . . . to urge any individual to make a contribution or engage in fundraising activities on
5 behalf of a candidate or political committee,” 11 CFR 114.2(f)(2)(iv), and restrict how
6 corporations and labor organizations may solicit contributions to their separate segregated funds
7 from employees and members. 11 CFR 114.5(a)(2)-(5); see also 52 U.S.C. 30118(b)(3). The
8 petition asks the Commission to “[c]larify that corporations and labor organizations are prohibited
9 from coercing their employees and members into providing financial or other support for the
10 corporation’s or labor organization’s independent political activities.”

11 Finally, the petition asks the Commission to “[e]nsure that the expenditures made by”
12 independent-expenditure-only political committees and accounts, see, e.g., SpeechNow.org v.
13 FEC, 599 F.3d. 686 (D.C. Cir. 2010), “are truly independent of federal candidates.”

14 The Commission seeks comments on the petition. The public may inspect the petition on
15 the Commission’s website at <http://www.fec.gov/fosers>, or in the Commission’s Public Records
16 Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday, from 9 a.m. to 5
17 p.m. Interested persons may also obtain a copy of the petition by dialing the Commission’s
18 Faxline service at (202) 501-3413 and following its instructions. Request document #278.

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1 The Commission will not consider the petition’s merits until after the comment period
2 closes. If the Commission decides that the petition has merit, it may begin a rulemaking
3 proceeding. The Commission will announce any action that it takes in the Federal Register.

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On behalf of the Commission,

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Ann M. Ravel,

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Chair,

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Federal Election Commission.

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DATED: _____

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BILLING CODE: 6715-01-P

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