

AGENDA DOCUMENT NO. 16-14-A



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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AGENDA ITEM

March 24, 2016

For Meeting of 3-31-16

MEMORANDUM

TO: The Commission

FROM: Ellen L. Weintraub *DL*
Commissioner

SUBJECT: Motion To Open A Rulemaking To Assist Those Accepting Corporate Contributions Or Making Corporate Expenditures In Complying With Existing Campaign Finance Law

Attached is a motion to open a rulemaking to assist those accepting corporate contributions or making corporate expenditures in complying with existing campaign finance law. I request that this memorandum and the motion be made public and placed on the Commission's Open Meeting Agenda for March 31, 2016.

Attachment

Whereas it is unlawful under the Act and Commission regulations for a foreign national to make, either directly or indirectly, contributions, expenditures, independent expenditures, and disbursements for electioneering communications (52 USC §30121, 11 CFR §110.20); and

Whereas it is unlawful under the Act and Commission regulations for a federal contractor to make, either directly or indirectly, any contribution or expenditure of money to any political party, committee, or candidate for Federal office (52 USC §30119, 11 CFR §115.2); and

Whereas the Supreme Court in *Citizens United*, 558 U.S. 310 (2010), allowed associations of United States citizens organized in corporate form to make unlimited independent expenditures, and subsequent decisions allowed these associations of citizens to make unlimited contributions to super PACs; and

Whereas the Supreme Court in *Citizens United* and subsequent decisions has not disturbed the statutory and regulatory bans on foreign-national and federal-contractor contributions and expenditures; and

Whereas under existing law, entities accepting political contributions from corporations may accordingly only accept contributions from those corporations that are associations of United States citizens who are eligible to contribute; and

Whereas under existing law, entities making independent expenditures and electioneering communications may use only individual and corporate resources not owned or controlled by foreign nationals; but

Whereas there is currently no framework in place to assist entities accepting political contributions or making independent expenditures and electioneering communications in complying with existing law;

Therefore, I move that the Commission open a rulemaking and direct the Office of General Counsel to draft for Commission consideration an appropriate rulemaking document that would require every entity accepting political contributions from corporations to verify that those corporations are associations of United States citizens who are eligible to contribute.

I further move that the Commission direct the Office of General Counsel to draft for Commission consideration an appropriate rulemaking document that would require those making independent expenditures and electioneering communications to certify that any individual or corporate resources used are not owned or controlled by foreign nationals.