

**FEDERAL ELECTION COMMISSION**

(Notice 1983-26)

11 CFR Part 114

**Trade Association Solicitation  
Authorization****AGENCY:** Federal Election Commission.**ACTION:** Transmittal of regulations to Congress.

**SUMMARY:** The Commission's regulations at 11 CFR 114.8(c)(2), (d)(2) and (d)(4) have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). These regulations govern the request and receipt of solicitation authorizations that a trade association must obtain prior to soliciting its corporate members' stockholders and executive or administrative personnel. The revisions would permit trade associations to request and receive the authorizations prior to the calendar year in which the solicitation is to occur. Further information on the revised regulations is provided in the supplementary information which follows.

**EFFECTIVE DATE:** Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463. (202) 523-4143 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Commission published a Notice of Proposed Rulemaking on these regulations on November 26, 1982. (47 FR 53396) The revised regulations are based in part upon the comments received in response to that Notice.

2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate. The Commission may prescribe the regulations in question after they have been before both Houses of Congress for 30 legislative days. The following regulations were transmitted to Congress on October 17, 1983.

**Explanation and Justification**

The Commission's Notice of Proposed Rulemaking on these regulations posed the following question: does 2 U.S.C. 441b(b)(4)(D) require trade associations to obtain the requisite solicitation authorization from their corporate

members in the same year for which it is to be applicable, or may it be obtained prior to that calendar year?

Of the 80 comments received, all but one favored the Commission's proposal to permit trade associations to request and receive authorizations prior to the year for which they are designated.

Many of these favorable comments spoke of the difficulties trade associations encountered when trying to comply with the requirements of the current regulations. They complained of the months lost each year trying to get corporate members to return the solicitation approval before solicitation could begin. Since it is most economic for a trade association to solicit its members' employees at one time, some associations cited a loss of up to four months a year waiting for the approvals to come in. They also stated that corporate members were annoyed by the repeated requests for approvals and that these members would have preferred to submit more than one year's approval at a time.

The revisions to 11 CFR 114.8(c)(2) and (d)(4) should resolve many of the problems raised by the comments. The revised regulations permit trade associations to obtain solicitation approval from their members for several years at a time if they so choose. The approvals must still be obtained in accordance with 2 U.S.C. 441b(b)(4)(D), which requires that the solicitation be "separately and specifically approved" by the member corporation and that the member approve solicitations by no more than one trade association in any calendar year. This means that, for each year that a member corporation gives its approval to solicit, a separate authorization must be prepared even if several authorizations are prepared and transmitted to the trade association at one time. It should also be noted that the member corporation continues to have the right to withdraw its authorization at any time. If, however, any solicitation has been made for the trade association's separate segregated fund during that calendar year, the corporation may not approve solicitation by another trade association for that calendar year but it may give approval for future years.

Since these regulations allow corporate members to approve solicitation for several years at a time, the retention requirements of 11 CFR 114.8(d)(2) needed to be altered accordingly. Therefore, the Commission has also revised that section to require that each authorization be kept for three years from the year to which it applies rather than three years from the time it was approved. Otherwise,

authorizations might be discarded before they even went into effect.

The negative comment was submitted by the National Association of Casualty and Surety Agents, which was concerned that the proposed changes would result in increased competition among trade associations in the same industry to obtain corporate approval earlier. While this may be an unfortunate result in some cases, the benefits to be gained by relaxing the requirement to obtain approval in the same year that the solicitation occurs, as noted by the majority of the comments, would seem to outweigh any such adverse effects.