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Ms. Mai T. Dinh  
Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: FEC Notice 2002-14 - U.S. Subsidiaries of Foreign Companies

Dear Ms. Dinh:

I understand that the Federal Election Commission is conducting rulemaking as a result of the passage of the Bipartisan Campaign Reform Act of 2002 ("BCRA"). In particular, the Commission is asking whether the BCRA eliminates the current and longstanding ability of U.S. companies who are subsidiaries of foreign companies to sponsor a political action committee ("PAC") for their American employees. I am writing to advise the Commission of the legislative history on this issue.

As the Commission may be aware, I have a legislative interest in the issue of PACs sponsored by U.S. subsidiaries. I sponsored an amendment to the Congressional Campaign Spending Limit and Election Reform Act of 1992 (S.3). See, 137 Cong. Rec. S6184. The amendment, which was adopted by the United States Senate, I believe incorporated existing policy and FEC regulations. I have enclosed a copy of the amendment for your information. While my amendment prohibited foreign nationals from participating "directly or indirectly" in making campaign contributions, it preserved the right of U.S. employees of a subsidiary company to continue participating in a company sponsored PAC, even when the subsidiary is owned by a foreign company. This legislation, which ultimately passed both Houses of Congress, was vetoed. The Senate has not subsequently voted on this specific question, let alone expressed a desire to change it. I am not aware of any Senate debate regarding the BCRA that proposed changing this policy, which remains the same now as in 1992. I can assure the Commission that if there had been a proposal to eliminate U.S. subsidiary PACs, I would have been aware of it and opposed to it.

In light of the above-described legislative history on this issue, I request the FEC to continue its longstanding regulatory approach that permits U.S. subsidiary PACs.

Sincerely,

  
JOHN BREAUX  
United States Senator

Enclosure

**BREAUX (AND OTHERS) AMENDMENT NO. 251 (Senate - May 21, 1991)**

[Page: S6253]

Mr. BREAUX (for himself, Mr. Dole, and Mr. McConnell) proposed an amendment to amendment No. 250 proposed by Mr. Bentsen (and others) to amendment No. 242 proposed by Mr. Boren to the bill S. 3, surpa, as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. . PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.**

(a) **Findings and Declarations.**--The Congress finds and declares that--

- (1) the electoral process of the United States should be open to all American citizens;
- (2) foreign nationals should have no role in the American electoral process;
- (3) Congress does not intend and has never intended to permit foreign nationals to participate, directly or indirectly, in the decisionmaking of political committees established pursuant to the Federal Election Campaign Act of 1971;
- (4) it is the intent of Congress to prohibit any participation whatsoever by any foreign national in the activities of any political committee; and
- (5) while it is necessary to safeguard the political process from foreign influence, it is critical that any protections not discriminate against American citizens employed by foreign-owned companies and that Americans' constitutional rights of free association and speech be protected.

(b) **Prohibition of Certain Election-Related Activities of Foreign Nationals.**--Section 319 of the Federal Election Campaign Act of 1971 is amended by--

- (1) redesignating subsection (b) as subsection (e); and
- (2) inserting after subsection (a) the following new subsections:

'(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in any person's decisionmaking concerning the making of contributions or expenditures in connection with elections for any Federal, State, or local office or decisionmaking concerning the administration of a political committee.

'(c) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

'It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee.'

(d) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall certify in regular reports to the Commission, or in a manner prescribed by the Commission, that no foreign national has participated either directly or indirectly in the decisionmaking of the political committee or separate segregated fund, including the appointment of the administrators of the committee or fund.'

(c) **Penalty.**--Section 309(b)(1)(C) of FECA (2 U.S.C. 437g(d)(1)(C)) is amended by inserting 'section 319 or' before 'section 322'.

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*END*