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January 14, 2005

Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Federal Election Commission; Notice of Proposed Rulemaking: 11 CFR Part 114; Payroll Deductions by Member Corporations for Contributions to a Trade Association's Separate Segregated Fund ; 69 Federal Register 76628, December 22, 2004

Dear Mr. Deutsch:

The American Bankers Association ("ABA") appreciates the opportunity to comment in support of the Federal Election Commission's ("Commission") "proposed amendments to its rules regarding contributions to the separate segregated fund ('SSF') of a trade association by employee-stockholders and executive and administrative personnel (collectively, 'restricted class employees') of corporations that are members of trade associations." ABA brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership--which includes community, regional, and money center banks and holding companies, as well as savings associations, trust companies and savings banks--makes ABA the largest banking trade association in the country.

ABA applauds the Commission for issuing the proposed rulemaking and urges its quick adoption and implementation.

As the Commission stated at the beginning of the Analysis section of the Notice of Proposed Rulemaking, at 69 Federal Register 76631, the question is "...whether the regulatory prohibition against payroll deduction and check-off systems continues to make sense." In our view, the prohibition is an unnecessary restraint on participation in the political process and fails to reflect the use of technology in daily life. Payroll deduction is a common method widely used to make payments of many types. Contributions for charitable, savings, and other purposes are often made through payroll deductions and the mechanisms for recordkeeping and automation are well-tested and seasoned. Indeed, the Commission has historically permitted employee contributions to SSFs sponsored by corporations and labor organizations. There is no legal or logical reason for continuing the prohibition on payroll deductions from one segment of the populace while permitting it for another.

The proposal is well-grounded in the Commission's own regulations. As the Commission points out in the proposal, the Federal Election Campaign Act of 1971, as amended, at 2 U.S.C. 441b(b)(4)(D), allows trade associations to solicit contributions from restricted class employees of member corporations. 69 Federal Register 76629 December 22, 2004. In addition, the Commission's regulations provide that "(t)here is no limitation on the method of facilitating the making of voluntary contributions which a trade association may use." 11 CFR 114.8(e) (3).

The meaning and breadth of the above provisions were further explained in the Commission's Advisory Opinion 2003-22, wherein the Commission authorized the collecting of voluntary contributions by a corporate member of a trade association from the member's restricted class employees and forwarding the contributions to the trade association's SSF. In addition, the Commission's Advisory Opinion 1999-35 permits restricted class employees' contributions to a trade association's SSF to be deducted from the contributors' depository accounts.

These provisions and the Commission's own interpretations demonstrate that the proposed change to permit payroll deductions is well-grounded in statute and regulation. Extending this authority to payroll deductions for a trade association's SSF is a logical and fair regulatory change that permits corporate members of trade associations the same opportunities that labor organizations and corporations themselves enjoy. For all of those reasons, we support prompt adoption of the proposed rulemaking and urge its speedy implementation. The proposed changes to the Commission's regulations would be consistent with the regulatory and statutory provisions mentioned above and would allow trade associations access to a means of collecting contributions that is currently available to corporations and labor organizations.

Thank you for this opportunity to share our views. If you have any questions or need additional information regarding this letter, please do not hesitate to contact the undersigned at 202-663-5113 or Irv Warden at 202-663-5027.

Sincerely,

Gary W. Fields
Treasurer
ABA BankPac