



PLEvin@mortgagebankers.org on 11/20/2003 02:57:37 PM

To: payrollded03@fec.gov
cc:

Subject: Rulemaking Petition

Please see attached letter from Jonathan L. Kempner, President and Chief Executive Officer of the Mortgage Bankers Association, regarding Payroll Deduction Contributions to a Trade Association's Separate Segregated Fund, Notice 2003-18. A hard copy is being mailed also.

Investing in communities

Pat Levin

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November 24, 2003

By E-Mail: payrollded03@fec.gov

November 24, 2003

Mr. John C. Vergelli
Acting Assistant General Counsel
Federal Election Commission
999 E Street, NW.,
Washington, DC 20463

Re: Rulemaking Petition: Payroll Deduction Contributions to a Trade Association's
Separate Segregated Fund, Notice 2003-18, dated October 24, 2003

Dear Mr. Vergelli:

I am writing on behalf of the Mortgage Bankers Association ("MBA"). MBA is a not for profit trade association organized under the laws of Illinois. It is the national association representing the real estate finance industry. Its membership of approximately 2,700 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, life insurance companies and others in the mortgage lending field.

MBA maintains a separate segregated fund ("SSF"), MORPAC. We very much support a rulemaking by the FEC that would allow qualified employees of member companies to make voluntary contributions to MORPAC through a payroll deduction service.

It is clear that corporate trade association members may facilitate contributions to their trade association's SSF by their qualified employees so long as the solicitations meet all applicable regulations of the FEC. Given that MBA can solicit employees of members from which we receive authorization and that the employees can lawfully contribute to our SSF, we would like the employees to have the convenience of being able to contribute to MORPAC via payroll deduction.

We believe that the petition of America's Community Bankers ("ACB") urging the FEC to revise 11 CFR 114.8(e)(3) makes sense as more and more Americans receive and transmit funds electronically. Furthermore, ACB's petition represents a permissible interpretation of the Federal Campaign Act ("FECA"), specifically, 2 U.S.C. Sec. 441(b).

The FEC has long held that a trade association may accept donations of money, goods and services to support the administration of the association's SSF. FEC Advisory Opinions 1995-28, 1995-17, 1989-18 and 1980-59. Allowing trade association member companies to provide payroll deduction services to the trade association SSF would be fully consistent with this line of opinions.

In addition, the FEC recently opined that the FECA places no limits on the methods that a trade association may use to facilitate the making of contributions to its SSF. FEC Advisory Opinion 2003-22. Accordingly, the current restriction on payroll deduction contained in the FEC's regulations appears inconsistent with the FECA itself.

An increasing number of the workforce has grown up with computers and electronic payments. Many residential mortgage lenders currently allow, and even encourage, mortgagors to make their monthly mortgage payments electronically. At another level, MBA is developing standards for totally electronic mortgage transactions—in the not too distant future, consumers will be able to obtain a mortgage loan without touching a piece of paper. In this context, MBA believes it is inappropriate, absent a clearly compelling reason, for the FEC to continue to prohibit qualified employees of a member of a trade association from contributing to an SSF by way of a payroll deduction service, a payment mechanism that is now widely available, reliable and inexpensive.

MBA appreciates the opportunity to comment on this important issue.

Most sincerely,



Jonathan L. Kempner
President and Chief Executive Officer