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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

AGENDA DOCUMENT NO. 24-05-A
AGENDA ITEM
For meeting of Feb. 8, 2024

February 1, 2024

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*
Acting General Counsel

Neven F. Stipanovic *NFS*
Associate General Counsel

Amy L. Rothstein *NFS for ALR*
Assistant General Counsel

Scarlett Rufener *SR*
Attorney

Tony Buckley *TB*
Attorney

SUBJECT: REG 2014-10 and REG 2019-04 - Draft Notice of Inquiry for Segregated Party Accounts

Attached is a draft Notice of Inquiry for Segregated Party Accounts. We request that this draft be placed on the agenda for February 8, 2024.

Attachment

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FEDERAL ELECTION COMMISSION

11 CFR Parts 102, 104, 106, 109, 110, 9008, and 9012

[NOTICE 2024-x]

Party Segregated Accounts

AGENCY: Federal Election Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Commission is considering whether to initiate a rulemaking in response to two petitions that asked the Commission to issue new rules and to revise its existing rules regarding the segregated accounts of national party committees. To assist in its consideration, the Commission invites comments on the issues raised in the petitions and this Notice. The Commission particularly requests comments from national party committees with experience administering party segregated accounts. The Commission has made no final decisions regarding the issues discussed in this notice and may ultimately decide not to initiate a rulemaking in response to either petition. Further information is provided in the supplementary information that follows.

DATES: Comments must be submitted on or before [insert date 30 days after the date of publication in the Federal Register].

ADDRESSES: All comments should be addressed to Ms. Amy L. Rothstein, Assistant General Counsel, and must be submitted in either written or electronic form. Commenters are encouraged to submit comments electronically via the Commission’s website at <http://sers.fec.gov/fosers>, reference REG 2014-10 and REG 2019-04. Alternatively, comments may be

1 submitted in paper form addressed to the Federal Election Commission, Attn.: Ms. Amy L.
2 Rothstein, Assistant General Counsel, 1050 First Street NE, Washington, DC.

3 Each commenter must provide, at a minimum, the commenter’s first name, last name,
4 city, and state. All properly submitted comments, including attachments, will become part of the
5 public record, and the Commission will make comments available for public viewing on the
6 Commission’s website and in the Commission’s Public Records Office. Accordingly,
7 commenters should not provide in their comments any information that they do not wish to make
8 public, such as a home street address, personal email address, date of birth, phone number, social
9 security number, or driver’s license number, or any information that is restricted from disclosure,
10 such as trade secrets or commercial or financial information that is privileged or confidential.

11 **FOR FURTHER INFORMATION CONTACT:** Amy L. Rothstein, Assistant General
12 Counsel; Tony Buckley, Attorney; or Scarlett Rufener, Attorney; 1050 First Street NE,
13 Washington, DC, (202) 694–1650 or (800) 424–9530.

14 **SUPPLEMENTARY INFORMATION:**

15 The Consolidated and Further Continuing Appropriations Act of 2015 (the
16 “Appropriations Act”)¹ amended the Federal Election Campaign Act, 52 U.S.C. 30101-45
17 (“FECA”), by authorizing separate limits on contributions to three types of segregated accounts
18 established by national party committees (collectively, “party segregated accounts”). Under the
19 Appropriations Act, national party committees may receive up to three times the usual amount of
20 contributions into segregated accounts to defray expenses incurred with respect to

¹ 2015, Pub. L. 113–235, 128 Stat. 2130, 2772 (2014).

1 (1) presidential nominating conventions;² (2) party headquarters buildings;³ and (3) election
2 recounts or contests and other legal proceedings.⁴ These party segregated accounts are in
3 addition to any other federal accounts that the committees may lawfully maintain.⁵

4 REG 2014-10 (Party Contribution Limits)

5 On January 8, 2016, the Commission received a Petition for Rulemaking from the
6 Perkins Coie LLP Political Law Group (“Perkins Coie Petition”).⁶ The Perkins Coie Petition
7 asked the Commission to adopt new regulations and to revise its existing regulations to
8 implement the Appropriations Act’s amendments to FECA. The Perkins Coie Petition asked the
9 Commission to adopt a “new regulatory framework” for each type of party segregated account
10 and to amend current regulations or adopt new regulations for all such accounts.

11 The Perkins Coie Petition also addressed convention committees. In 2014, Congress had
12 passed legislation to terminate the public funding of presidential nominating conventions.⁷
13 Previously, national party committees could receive public funds to defray the costs of their

² Under the Appropriations Act, a national party committee may use its presidential nominating convention account “solely to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) or to repay loans the proceeds of which were used to defray such expenses, except that the aggregate amount of expenditures the national committee of a political party may make from such account may not exceed \$20,000,000 with respect to any single convention.” 52 U.S.C. 30116(a)(9)(A).

³ A national party committee may use its party headquarters building account “solely to defray expenses incurred with respect to the construction, purchase, renovation, operation, and furnishing of one or more headquarters buildings of the party or to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds used to defray such expenses.” *Id.* 30116(a)(9)(B).

⁴ A national party committee may use its election recounts or contests and other legal proceedings account to “defray expenses incurred with respect to the preparation for and the conduct of election recounts and contests and other legal proceedings.” *Id.* 30116(a)(9)(C).

⁵ *Id.* 30116(a)(9).

⁶ *See* Petition for Rulemaking (Nov. 8, 2016) (“Perkins Coie Petition”), REG 2014-10 (Party Contribution Limits).

⁷ *See* Gabriella Miller Kids First Research Act, Pub. L. 113–94, 128 Stat. 1085 (2014).

1 presidential nominating conventions,⁸ and Commission regulations had established convention
2 committees “as a necessary requirement in order to enable the Commission to know who has
3 initial responsibility for handling public funds and incurring expenditures.”⁹ The Perkins Coie
4 Petition asked the Commission, in part, to remove regulations that had been rendered obsolete by
5 the termination of public funds.

6 The Commission published a Notice of Availability for the Perkins Coie Petition on
7 October 27, 2016.¹⁰ The Commission received four timely, substantive comments in response:
8 two comments from national party committees opposed initiating a rulemaking with respect to
9 party segregated accounts, while supporting the removal of regulations rendered obsolete by
10 Congress’s termination of public funding for national party committees’ presidential nominating
11 conventions;¹¹ and two comments from advocacy organizations supported initiating a
12 rulemaking on party segregated accounts, without separately addressing the termination of public
13 funds for presidential nominating conventions.¹²

14 REG 2019-04 (Reporting Party Segregated Accounts)

15 On August 5, 2019, the Commission received a Petition for Rulemaking from Campaign
16 Legal Center and Center for Responsive Politics (“CLC/CRP Petition”).¹³ The CLC/CRP

⁸ See 26 U.S.C. 9001–9013 (2012); 11 CFR part 9008.

⁹ Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 44 FR 63036, 63038 (Nov. 1, 1979).

¹⁰ Implementing the Consolidated and Further Continuing Appropriations Act, 2015, 81 FR 69722 (Oct. 7, 2016).

¹¹ Comment by Republican National Committee; Comment by NRSC and NRCC.

¹² Comment by Center for Competitive Politics; Comment by Campaign Legal Center and Democracy 21.

¹³ See [Petition to Promulgate Rules on Reporting of “Cromnibus” Accounts](#) (Aug. 5, 2019), (“CLC/CRP Petition”), REG 2019-04 (Reporting Party Segregated Accounts), <https://sers.fec.gov/fosers/showpdf.htm?docid=408347>.

1 Petition asked the Commission to “promulgate rules and forms requiring national party
2 committees to delineate within their reports the individual and aggregate transactions involving”
3 the accounts created by the Appropriations Act.¹⁴

4 FECA and Commission regulations require a political committee to report its receipts and
5 disbursements.¹⁵ On February 13, 2015, the Commission issued interim guidance on how
6 national party committees should report the activities of their party segregated accounts.¹⁶ The
7 Commission noted that “[a]lthough party committees normally disclose their contributions on
8 Form 3X, Line 11(a), the Commission[’s] forms currently do not provide a clear way to
9 distinguish between contributions deposited into the committees’ separate accounts.” The
10 Commission instructed committees to report contributions to their party segregated accounts on
11 Line 17 of Form 3X titled “Other Federal Receipts.” When itemizing contributions of \$200 or
12 more on Schedule A, the committees were instructed to enter “Convention Account”
13 “Headquarters Account,” or “Recount Account,” as appropriate, in the description field. The
14 Commission instructed committees to report administrative or operating expenses paid from the
15 accounts on Line 21(b) of Form 3X titled “Other Federal Operating Expenditures” (for
16 expenses paid from a convention or headquarters account) and Line 29 of Form 3X titled “Other
17 Disbursements” (for expenses paid from a recount account). When itemizing disbursements on
18 Schedule B, the committees were instructed to enter “Convention Account,” “Headquarters

¹⁴ *Id.* at 6.

¹⁵ 52 U.S.C. 30104(a); 11 CFR 104.3(a) (reporting of receipts), (b) (reporting of disbursements).

¹⁶ *See* <https://www.fec.gov/updates/fec-issues-interim-reporting-guidance-for-national-party-committee-accounts/>.

1 Account,” or “Recount Account,” as appropriate, in the Purpose of Disbursement field along
2 with the required purpose of the disbursement.

3 Notwithstanding this guidance, the CLC/CRP Petition asserted that “there is no
4 consistent location or terminology that committees use to denote transactions involving” party
5 segregated accounts.¹⁷ The CLC/CRP Petition claimed that “it is effectively impossible for the
6 public to track the large quantities of funds flowing into and out of the [party segregated]
7 accounts” under current Commission regulations.¹⁸

8 On August 28, 2019, the Commission published a Notice of Availability for the
9 CLC/CRP Petition.¹⁹ The Commission received six timely, substantive comments in response.
10 One comment opposed the petition;²⁰ three comments, including one from the petitioners,
11 supported the petition;²¹ and one comment, from the petitioner in REG 2014-10 (Party
12 Contribution Limits), urged the Commission to engage in a comprehensive rulemaking and not
13 to address the CLC/CRP Petition before acting on the Perkins Coie Petition.²² No national party
14 committees commented on the CLC/CRP Petition.

15 Request for Comments

16 The Commission is continuing to consider whether to initiate a rulemaking on the issues
17 raised in the Perkins Coie Petition and the CLC/CRP Petition (collectively, the “Petitions”).

¹⁷ CLC/CRP Petition at 2–3.

¹⁸ *Id.* at 2.

¹⁹ Requiring Reporting of Party Segregated Accounts, 84 FR 45117 (Aug. 28, 2019).

²⁰ Comment from David Himes.

²¹ Comment from Campaign Legal Center and Center for Responsive Politics; Comment from Democracy 21; Comment from Public Citizen.

²² Comment from Perkins Coie LLP Political Law Group.

1 Given the relatively small number of comments received and the party committees' and the
2 public's additional experience in administering and interpreting the information about party
3 segregated accounts, the Commission invites comments on the Petitions and any other issues
4 pertaining to party segregated accounts. Have commenters' or petitioners' additional
5 experiences with party segregated accounts resulted in further development of their positions?
6 Have the national party committees or the public encountered any further challenges during
7 election cycles that a rulemaking on party segregated accounts could help to resolve?

8 If the Commission decides to initiate a rulemaking, are there any issues not reflected in
9 the Petitions that the Commission should nonetheless address? Should the Commission consider
10 prioritizing certain issues over others and, if so, which ones? The Commission welcomes
11 comments on any other matter that could affect its consideration of whether to engage in a
12 rulemaking.

13 Dated: [XXXX, 2024].

14 On behalf of the Commission,

15 Sean J. Cooksey,

16 Chairman,

17 Federal Election Commission.