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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 18-39-A**  
**AGENDA ITEM**  
**For meeting of September 6, 2018**

August 30, 2018

**MEMORANDUM**

TO: The Commission

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

Neven F. Stipanovic *NFS*  
Acting Associate General Counsel

Robert M. Knop *RMK*  
Assistant General Counsel

Joseph P. Wenzinger *JPW*  
Attorney

SUBJECT: Notification of Availability for REG 2018-02 (Leadership PACs' Personal Use)

On July 24, 2018, the Federal Election Commission received a Petition for Rulemaking ("Petition") from Campaign Legal Center, Issue One, and former U.S. Representatives Rod Chandler, Larry LaRocco, Peter Smith, Claudine Schneider, and John Tanner. The Petition asks the Commission to revise and amend the existing regulation concerning the personal use of campaign funds by federal candidates and officeholders, specifically to clarify the application of that regulation to leadership PACs.

The Office of General Counsel has examined the Petition and determined that it meets the requirements of 11 C.F.R. § 200.2(b). Therefore, we have drafted the attached Notification of Availability ("Notification") seeking comment on whether the Commission should initiate a full rulemaking on the proposal in the Petition. The Notification will be published in the *Federal Register* pursuant to 11 C.F.R. § 200.3(a)(1).

In keeping with the Commission's usual procedure, the Notification does not address the merits of the Petition. Instead, it states that consideration of the merits will be deferred until the close of the comment period.

The Office of General Counsel requests that this draft be placed on the agenda for the Open Meeting on September 6, 2018.

Attachment

**FEDERAL ELECTION COMMISSION**

**11 CFR Part 113**

**[NOTICE 2018-XX]**

**Rulemaking Petition: Personal Use of Leadership PAC Funds**

**AGENCY:** Federal Election Commission

**ACTION:** Rulemaking Petition: Notification of Availability

**SUMMARY:** On July 24, 2018, the Federal Election Commission received a Petition for Rulemaking, which asks the Commission to revise and amend the existing regulation concerning the personal use of campaign funds, to specify that that regulation applies to leadership PAC funds. The Commission seeks comments on the petition.

**DATES:** Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission’s website at [INSERT SPECIFIC LINK WHEN AVAILABLE], reference REG 2018-02. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Mr. Robert M. Knop, Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission’s website and in the Commission’s Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social

1 security number, or driver’s license number, or any information that is restricted from disclosure,  
2 such as trade secrets or commercial or financial information that is privileged or confidential.

3 **FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant General  
4 Counsel, or Mr. Joseph P. Wenzinger, Attorney, Office of General Counsel, 1050 First Street  
5 NE, Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

6 **SUPPLEMENTARY INFORMATION:** On July 24, 2018, the Commission received a  
7 Petition for Rulemaking from Campaign Legal Center, Issue One, and five former United States  
8 Representatives, asking the Commission to revise and amend 11 CFR 113.1(g) — which  
9 regulates the personal use of campaign funds — to specify that that regulation applies to  
10 leadership PAC funds.

11 The Federal Election Campaign Act, 52 U.S.C. 30101-45 (the “Act”), identifies six  
12 categories of permissible uses of contributions accepted by a federal candidate, and any other  
13 donations received by an individual as support for activities of the individual as a federal  
14 officeholder. 52 U.S.C. 30114(a). These permissible uses include “any . . . lawful purpose” that  
15 does not convert campaign funds to “personal use.” 52 U.S.C. 30114(a)(6), (b)(1). Commission  
16 regulations define “personal use” as “any use of funds in a campaign account of a present or  
17 former candidate to fulfill a commitment, obligation or expense of any person that would exist  
18 irrespective of the candidate’s campaign or duties as a Federal officeholder.” 11 CFR  
19 113.1(g); see also 52 U.S.C. 30114(b)(2).

20 As defined by the Act and Commission regulations, leadership PACs are political  
21 committees directly or indirectly established, financed, maintained, or controlled by federal  
22 candidates or officeholders that are neither authorized committees of a federal candidate or  
23 officeholder nor affiliated with an authorized committee of a federal candidate or

1 officeholder. See 52 U.S.C. 30104(i)(8)(B); 11 CFR 100.5(e)(6). The term “leadership PAC”  
2 does not include a political committee of a political party. 52 U.S.C. 30104(i)(8)(B); 11 CFR  
3 100.5(e)(6).

4 The petition asks the Commission to open a rulemaking to “clarify that the statutory  
5 prohibition” on personal use of campaign funds applies to leadership PACs. The statutory  
6 prohibition applies, the petition argues, because a contribution to a leadership PAC qualifies  
7 under 52 U.S.C. 30114(a) as both a “contribution accepted by a candidate,” and a “donation  
8 received by an individual as support for activities of the individual as a holder of Federal office.”  
9 The petition suggests that the Commission revise 11 CFR 113.1(g) to include leadership PACs.

10 The Commission seeks comments on the petition. The public may inspect the petition on  
11 the Commission’s website at [INSERT SPECIFIC LINK WHEN AVAILABLE], or in the  
12 Commission’s Public Records Office, 1050 First Street NE, 12<sup>th</sup> Floor, Washington, DC 20463,  
13 Monday through Friday, from 9 a.m. to 5 p.m.

14 The Commission will not consider the petition’s merits until after the comment period  
15 closes. If the Commission decides that the petition has merit, it may begin a rulemaking  
16 proceeding. The Commission will announce any action that it takes in the Federal Register.

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18 On behalf of the Commission,

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Caroline C. Hunter,  
Chair,  
Federal Election Commission.

DATED: \_\_\_\_\_