

**AGENDA DOCUMENT NO. 16-34-B**



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

2016 SEP 15 AM 9:36

September 15, 2016

**MEMORANDUM**

TO: The Commission

FROM: Lisa Stevenson *LS*  
Deputy General Counsel

Adav Noti *AN*  
Associate General Counsel

Neven F. Stipanovic *NFS*  
Acting Assistant General Counsel

Esther Gyory *EG*  
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Anthony Buckley *AB*  
Attorney

**AGENDA ITEM**

**For Meeting of 9-15-16**

**SUBMITTED LATE**

SUBJECT: Notice of Availability Draft B – Petition for Rulemaking on Implementing the Consolidated and Further Continuing Appropriations Act, 2015

On January 11, 2016, the Commission received a Petition for Rulemaking (“Petition”) from Perkins Coie LLP Political Law Group. The Petition asks the Commission to amend its regulations to implement amendments to the Federal Election Campaign Act made by the Consolidated and Further Continuing Appropriations Act, 2015, which established certain new accounts for national party committees. The Petition also asks the Commission to amend its regulations regarding convention committees.

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

In keeping with the Commission's usual procedure, the Notice 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 September 15, 2016, open meeting.

Attachment

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**FEDERAL ELECTION COMMISSION**  
**11 CFR Parts 102, 104, 106, 109, 110, 9008, 9012**

**[NOTICE 2016-XX]**

**Rulemaking Petition: Implementing the Consolidated and Further Continuing**  
**Appropriations Act, 2015**

**AGENCY:** Federal Election Commission.

**ACTION:** Rulemaking Petition: Notice of Availability.

**SUMMARY:** The Federal Election Commission has received a Petition for Rulemaking that asks the Commission to amend its regulations to implement amendments to the Federal Election Campaign Act made by the Consolidated and Further Continuing Appropriations Act, 2015, which established certain new accounts for national party committees. The petition also asks the Commission to amend its regulations regarding convention committees. The Commission seeks comments on this petition.

**DATES:** Comments must be submitted on or before January 30, 2017.

**ADDRESSES:** All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission’s website at <http://www.fec.gov/fosers>, reference REG 2014-10, or by email to [address]@fec.gov. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Neven F. Stipanovic, Acting Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, state, and zip code. 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

1 Commission’s website and in the Commission’s Public Records room. Accordingly,  
2 commenters should not provide in their comments any information that they do not wish to make  
3 public, such as a home street address, personal email address, date of birth, phone number, social  
4 security number, or driver’s license number, or any information that is restricted from disclosure,  
5 such as trade secrets or commercial or financial information that is privileged or confidential.

6 **FOR FURTHER INFORMATION CONTACT:** Mr. Neven F. Stipanovic, Acting Assistant  
7 General Counsel, or Mr. Tony Buckley or Ms. Esther D. Gyory, Attorneys, Office of General  
8 Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

9 **SUPPLEMENTARY INFORMATION:** On January 8, 2016, the Federal Election  
10 Commission received a Petition for Rulemaking from the Perkins Coie LLP Political Law  
11 Group. The petition asks the Commission to adopt new regulations, and to revise its current  
12 regulations, to implement amendments to the Federal Election Campaign Act, 52 U.S.C.  
13 30101-46 (“FECA”), made by the Consolidated and Further Continuing Appropriations Act,  
14 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2772 (2014) (the “Appropriations Act”). The  
15 petition also asks the Commission to adopt new regulations, and to amend its current regulations,  
16 regarding convention committees.

17 The Appropriations Act amended FECA by establishing separate limits on contributions  
18 to three types of segregated accounts of national party committees (collectively “party segregated  
19 accounts”). The party segregated accounts are for expenses incurred with respect to  
20 (1) presidential nominating conventions; (2) party headquarters buildings; and (3) election  
21 recounts or contests and other legal proceedings. 52 U.S.C. 30116(a)(9). The Appropriations  
22 Act permits a national party committee to maintain the party segregated accounts in addition to  
23 any other federal accounts that the committee may lawfully maintain.

1 Under the Appropriations Act, a national party committee may use its presidential  
2 nominating convention account “solely to defray expenses incurred with respect to a presidential  
3 nominating convention (including the payment of deposits) or to repay loans the proceeds of  
4 which were used to defray such expenses, except that the aggregate amount of expenditures the  
5 national committee of a political party may make from such account may not exceed  
6 \$20,000,000 with respect to any single convention.” 52 U.S.C. 30116(a)(9)(A). A committee  
7 may use its party headquarters building account “solely to defray expenses incurred with respect  
8 to the construction, purchase, renovation, operation, and furnishing of one or more headquarters  
9 buildings of the party or to repay loans the proceeds of which were used to defray such expenses,  
10 or otherwise to restore funds used to defray such expenses.” 52 U.S.C. 30116(a)(9)(B). Finally,  
11 a national party committee may use its election recounts or contests and other legal proceedings  
12 account to “defray expenses incurred with respect to the preparation for and the conduct of  
13 election recounts and contests and other legal proceedings.” 52 U.S.C. 30116(a)(9)(C). The  
14 petition asks the Commission to adopt a “new regulatory framework” for each type of party  
15 segregated account and to amend current regulations, or adopt new regulations, that would apply  
16 to all such accounts.

17 The petition also addresses convention committees. Until recently, national party  
18 committees were entitled to receive public funds to defray the costs of their presidential  
19 nominating conventions. See 26 U.S.C. 9001-9013 (2012); 11 CFR part 9008. Commission  
20 regulations therefore established convention committees “as a necessary requirement in order to  
21 enable the Commission to know who has initial responsibility for handling public funds and  
22 incurring expenditures.” Presidential Election Campaign Fund and Federal Financing of  
23 Presidential Nominating Conventions, 44 FR 63036, 63038 (Nov. 1, 1979). In 2014, however,

1 Congress terminated the public funding of presidential nominating conventions, while leaving in  
2 place most of the statutory framework that had implemented that funding system. See Gabriella  
3 Miller Kids First Research Act, Pub. L. No. 113-94, 128 Stat. 1085 (2014) (the “Research Act”).  
4 Shortly after the Research Act was passed, in response to a request filed by two national party  
5 committees, the Commission issued an advisory opinion concluding that the requestors could  
6 establish convention committees to “us[e] privately-raised funds solely to pay for the same types  
7 of convention expenses for which public funds were previously used.” Advisory Opinion 2014-  
8 12 (Democratic National Committee et al.) at 5 (internal quotation marks omitted). The petition  
9 asks the Commission to adopt new regulations, and amend its current regulations, to address  
10 convention committees, as well as to remove related regulations that are now “obsolete.”

11 The Commission seeks comments on the petition. The public may inspect the petition on  
12 the Commission’s website at <http://www.fec.gov/fosers>, or in the Commission’s Public Records  
13 Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday, from 9 a.m. to  
14 5 p.m. Interested persons may also obtain a copy of the petition by dialing the Commission’s  
15 Faxline service at (202) 501-3413 and following its instructions. Request document #282.

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

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On behalf of the Commission,

Matthew S. Petersen,  
Chairman,  
Federal Election Commission.

DRAFT B

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2 DATED: \_\_\_\_\_  
3 BILLING CODE: 6715-01-P