

primary election expenditures. *Id.* After considering several alternative approaches, the Commission decided to continue to permit GELACs to be established at any time but added the June 1 starting date for deposits other than excessive primary contributions and solicitations of contributions to the GELAC. *Id.* The Commission explained that it selected the June 1 date because “barring unforeseen circumstances, this is the point when a party’s prospective nominee can be reasonably assured that he or she will need to raise funds for a GELAC” and the date gives prospective nominees “sufficient time to raise the funds that will be needed.” *Id.* The effective date of these regulatory amendments was June 1, 2000, which meant that the pre-June 1 solicitation prohibition was not operative for the 2000 election cycle.

The Commission seeks comment on whether it should delete this restriction or continue to use June 1 of the presidential election year as the starting date for GELAC solicitations and most deposits to a GELAC. Would an earlier date in the election year such as May 1 or April 1 be preferable, given that many presidential primaries have been moved to earlier dates? Should an earlier date be used for presidential candidates who run unopposed in the primaries or who have a reasonable certainty prior to June 1 of the election year that they will become their party’s nominee? Should the starting date be eliminated? Are these restrictions required by, or consistent with, the FECA and the Fund Act?

D. Redesignation of Excessive Contributions and GELACs

In addition, the Commission proposes to revise the rules at 11 CFR 9003.3(a)(1) governing the sources of GELAC funds to reflect the Commission’s recent changes to its rules at 11 CFR 110.1(b)(5)(ii)(B) concerning the redesignation of excessive contributions. *See Explanation and Justification for the Rules Governing Contribution Limitations and Prohibitions*, 67 FR 69928, 69930–32 (Nov. 19, 2002). The Commission revised 11 CFR 110.1(a)(5)(ii)(B) to allow authorized committees to redesignate primary contributions that would otherwise be excessive to the general election without obtaining a signed written document under certain circumstances. *Id.* at 69930. Specifically, the Commission simplified the redesignation of certain excessive contributions to a candidate’s authorized committee made before a primary election, but not designated in writing for a particular election. *Id.* The

Commission allowed the candidate’s committee to presume that the contributor of such excessive contributions intended to contribute any excessive amount to that candidate’s general election, without obtaining written permission from the contributor for the redesignation. *Id.* The Commission set forth several requirements for a committee to designate contributions by this presumption, including that the candidate’s committee must be permitted to accept general election contributions. *Id.* The Commission explained that “if a presidential candidate’s authorized committee accepts public funding in the general election, the presumption is available to any such committees only to the extent they are permitted to accept contributions to a general election legal and accounting compliance fund.” *Id.* at 69930–31.

Thus, 11 CFR 110.1(b)(5)(ii)(B) now allows the treasurer of the recipient candidate committee to treat all or part of an excessive primary contribution as made with respect to the general election, as long as it meets the following requirements: (1) The contribution was made before the primary election; (2) the contribution was not designated for a particular election; (3) the contribution would exceed the primary election contribution limitations if it were treated as a primary contribution; (4) the redesignation would not cause the contributor to exceed the contribution limitations; and (5) the treasurer provides a written notification to the contributor within 60 days of receipt of the contribution of the amount that was redesignated and that the contributor may request a refund.

Therefore, the Commission proposes to revise 11 CFR 9003.3(a)(1)(i), (a)(1)(i)(C) and (a)(1)(v) to permit publicly funded presidential candidates to presume that excessive contributors to primary campaigns would consent to the redesignation of their contributions to the candidate’s GELAC. The proposed changes provide that excessive contributions may be placed in the GELAC if they are lawfully redesignated for the GELAC pursuant to 11 CFR 110.1. The rule at 11 CFR 9003.3(a)(1)(i)(C) would provide that a contribution that meets the requirements of 11 CFR 110.1(b)(5)(ii)(B) would be considered designated for the GELAC. The proposed reference to 11 CFR 110.1(b)(5)(ii)(B) would incorporate the requirements of that section. The Commission notes that presumptively redesignated contributions to the

GELAC, like all other contributions accepted for the GELAC, must be refunded within 60 days of a candidate’s DOI if the candidate does not become the nominee. *See* 11 CFR 9003.3(a)(1)(i)(A). The recordkeeping requirements in 11 CFR 110.1(l) are separately addressed in section 9003.3(a)(1)(ii)(A)(4).

A related proposal, which is not included in the proposed rules that follow, would be to revise 11 CFR 9003.3 to expressly allow excessive contributions to a GELAC to be presumptively redesignated to a presidential candidate’s authorized committee for the primary election, based on the conditions delineated at 11 CFR 110.1(b)(5)(ii)(C) for redesignation of excessive general contributions to a candidate’s primary election. The Commission’s rules at 11 CFR 110.1(b)(5)(ii)(C), like the rule for presumptive redesignations for a general election, allow authorized committees to redesignate general election contributions that would otherwise be excessive for the primary election without obtaining a signed written document under certain circumstances. *See* 67 FR 69931. Such presumptively redesignated contributions would be included in the calculation of a presidential primary candidate’s NOCO but could not be submitted for matching because they are redesignated for a different election and the contributor lacked the donative intent to influence the primary election. *See* 11 CFR 9034.3(e) and (k).

The Commission seeks comment on these proposals. Should a different rule apply for redesignation of excessive contributions to or from a GELAC than for redesignations to or from the general election of candidates who do not accept public funds? Should such presumptive redesignations be subject to additional restrictions than those delineated at 11 CFR 110.1(b)(5)(ii)?

IV. Other Presidential Candidate Issues

A. Quarterly and Monthly Reporting Requirements (11 CFR 104.5(b)(2))

The Commission made a number of changes to its rules governing reporting when implementing BCRA’s new reporting requirements. *Explanation and Justification for the Rules Governing Bipartisan Campaign Reform Act of 2002 Reporting*, 68 FR 404 (Jan. 3, 2003). One of these changes was revising 11 CFR 104.5(a) to set forth a new reporting schedule for principal campaign committees of House of Representatives and Senate candidates following BCRA’s requirements that such candidates must file quarterly