

FEDERAL ELECTION COMMISSION**11 CFR Parts 100, 101, 104, 110, 116, 400, and 9035****[Notice 2003—3]****Increased Contribution and Coordinated Party Expenditure Limits for Candidates Opposing Self-Financed Candidates****AGENCY:** Federal Election Commission.**ACTION:** Interim final rules.

SUMMARY: The Federal Election Commission (“FEC” or “Commission”) is adopting, as interim final rules, new regulations relating to increased contribution limits for individuals when contributing to candidates who are facing self-financed candidates under the Federal Election Campaign Act of 1971 (“FECA” or the “Act”), as amended by the Bipartisan Campaign Reform Act of 2002 (“BCRA”). The so-called “Millionaires’ Amendment” in BCRA raises the individual contribution limits for candidates for the Senate and House of Representatives depending on the amount that opposing candidates expend from personal funds in connection with an election. BCRA also removes the limitations on national and State party committee expenditures on behalf of a candidate if the opposing candidate’s expenditures from personal funds exceed a threshold amount. These interim final rules implement the various provisions of the Millionaires’ Amendment including thresholds, computation formulas, increased contribution limits with overall caps, repayment of personal loans, and reporting requirements.

The Commission is promulgating these rules on an interim final basis. The Commission is soliciting comments on all aspects of the interim final rules and may amend the interim rules as appropriate in response to comments received. Further information is contained in the Supplementary Information that follows.

DATES: The interim final rules are effective on February 26, 2003. Comments must be received on or before March 28, 2003. If the Commission receives sufficient requests to testify, it may hold a hearing on these interim final rules. If the Commission decides to hold a hearing, it will announce the date after the end of the comment period. Persons wishing to testify at a hearing should so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Mai T. Dinh, Acting Assistant General Counsel, and must be

submitted in either electronic or written form. Electronic mail comments should be sent to millionaire@fec.gov and must include the full name, electronic mail address, and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address, and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463.

Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, Mr. J. Duane Pugh, Jr., Acting Special Assistant General Counsel, or Mr. Robert M. Knop, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: In the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Public Law 107–155, 116 Stat. 81 (March 27, 2002), Congress made extensive and detailed amendments to the Federal Election Campaign Act of 1971, as amended (“FECA” or the “Act”), 2 U.S.C. 431 *et seq.* This is one of a series of rulemaking notices the Commission has published over the past several months in order to meet the rulemaking deadlines set out in BCRA. The Commission adopted these interim final rules on December 19, 2002.

These interim final rules address the so-called “Millionaires’ Amendment” to BCRA. Section 304 of BCRA adds a new paragraph (i) to 2 U.S.C. 441a, which addresses Senate elections. Section 319 of BCRA adds a new section 441a–1 to the FECA, which addresses elections for the House of Representatives. The Senate provisions also add new notification or reporting requirements in 2 U.S.C. 434. Collectively, these provisions address elections in which a candidate for the Senate or the House of Representatives faces an opponent who is spending significant amounts of his or her personal funds on the race. It is important to note that the increased contribution and coordinated party expenditure limitations available to candidates opposing self-financed candidates under the Millionaires’ Amendment apply *only* to candidates running for the Senate or the House of

Representatives and do *not* apply to candidates running for President or Vice-President. These interim final rules also address a provision of BCRA limiting how a candidate may repay a loan he or she has made to his or her campaign. 2 U.S.C. 441a(j).

Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the **Federal Register** at least 30 calendar days before they take effect. The interim final rules on Increased Contribution Limits for Candidates Opposing Self-financed Candidates were transmitted to Congress on January 17, 2003.

Explanation and Justification

As of January 1, 2003, the Act, as amended by BCRA, limits the amount that a person, other than a multicandidate political committee, may contribute to a candidate to \$2,000 per election, which is indexed for inflation. 2 U.S.C. 441a(a)(1)(A). Under the Act, an individual may not contribute, in the aggregate, more than \$37,500 to candidates and their authorized committees during a 2-year period. 2 U.S.C. 441a(a)(3)(A). The Act also limits the amounts of coordinated expenditures by national and State political party committees (including subordinate committees) made in connection with the general election campaign of a candidate. 2 U.S.C. 441a(d)(3).

The Millionaires’ Amendment raises contribution limits on contributions received by a candidate for the Senate or the House of Representatives who is facing a “self-financed” opponent, that is, an opponent who spends significant amounts of his or her personal funds on the race. As the opponent’s spending from personal funds reaches certain prescribed levels, the candidate is granted limited relief from certain contribution limits and party spending limits.¹ First, when the spending of personal wealth by the opponent reaches certain thresholds (and other conditions are met), the candidate may accept contributions from individuals under increased contribution limits. Second, national and State political party committees may make unlimited coordinated party expenditures on behalf of the candidate under 2 U.S.C.

¹ “Candidate” is used in this document to mean that candidate who is facing an “opponent,” or “opposing candidate,” whose expenditures from personal funds are sizeable.