

441a(d)(3). These increased contribution and coordinated expenditure limits are in effect only when certain specific conditions are met, and are rescinded if other contingencies occur.

The Millionaires' Amendment establishes a "threshold amount" for each election. For House of Representatives races, the threshold amount is a set amount, \$350,000. 2 U.S.C. 441a-1(a)(1). For Senate races, the threshold amount varies, according to a formula driven by the "voting age population" of the State. 2 U.S.C. 441a(i)(1)(B).

The Millionaires' Amendment measures the opponent's expenditure of personal funds relative to the candidate's expenditures from personal funds. BCRA defines two new terms, "personal funds" and "opposition personal funds amount." 2 U.S.C. 431(26); 2 U.S.C. 441a(i)(1)(D) (Senate); 2 U.S.C. 441a-1(a)(2) (House of Representatives). For both Senate elections and House of Representatives elections, the opposition personal funds amount is the difference between the opponent's expenditures from personal funds and the candidate's expenditures from personal funds. 2 U.S.C. 441a(i)(1)(D) (Senate); 2 U.S.C. 441a-1(a)(2) (House of Representatives). This provision precludes the acceptance of contributions under increased limits, as well as the lifting of the coordinated spending limits, in a situation where a candidate's own expenditures from personal funds offset the opponent's expenditures from personal funds.

The calculation of the opposition personal funds amount also takes into account any fundraising advantage the candidate may have which negates the advantage the opponent gains from his or her expenditures from personal funds. This "gross receipts advantage" is another check on the operation of the Millionaires' Amendment, accounting for the situation where a candidate's advantage in "ordinary" fundraising may offset the expenditures from personal funds by the opponent. 2 U.S.C. 441a(i)(1)(E) (Senate); 2 U.S.C. 441a-1(a)(2)(B) (House of Representatives).

In Senate elections, when the opposition personal funds amount reaches certain multiples of the threshold amount, the candidate may accept increased contributions according to a tiered schedule. The first such multiple is twice the threshold amount. When the opposition personal funds amount reaches twice the threshold amount, the contribution limit for individuals is tripled. 2 U.S.C. 441a(i)(1)(C)(i)(I). A contribution accepted under this increased

contribution limit does not count against the individual's aggregate contribution limit under 2 U.S.C. 441a(a)(3). 2 U.S.C. 441a(i)(1)(C)(i)(II). The contribution limits also increase at multiples of four times and ten times the threshold amount. When the opposition personal funds amount reaches four times the threshold amount, the contribution limit for individuals is raised six-fold. When the opposition personal funds amount reaches ten times the threshold amount, the contribution limit for individuals is raised six-fold and the Act's limits on coordinated political party expenditures on behalf of the candidate are lifted. 2 U.S.C. 441a(i)(1)(C)(iii)(III).

In House of Representatives elections, if the opposition personal funds amount reaches the threshold amount, the individual contribution limits are tripled, such increased contributions do not count against the section 441a(a)(3) individual aggregate contribution limits, and the coordinated political party expenditures limits in section 441a(d)(3) are lifted. 2 U.S.C. 441a-1(a)(1)(A) through (C). Note that for House of Representatives candidates, unlike Senate candidates, the limits are raised or lifted all at once, and not in increments.

For both Senate and House of Representatives candidates, the operation of the increased contribution limits and the suspension of the limit on coordinated political party expenditures are subject to an on-going check in the form of the so-called "proportionality provision." See 147 CR S2538 (daily ed. March 20, 2001) (Sen. DeWine). If the sum of the contributions accepted under the increased limits plus the coordinated party expenditures made by political party committees under the increased limits exceeds 110% of the opposition personal funds amount in a Senate election or 100% of the opposition personal funds amount in a House of Representatives election, then the contribution limits revert to the original amount, and the political party expenditure limits also revert to their original amount. 2 U.S.C. 441a(i)(2)(A)(ii) (Senate); 2 U.S.C. 441a-1(a)(3)(A)(ii) (House of Representatives). Thus, the Millionaires' Amendment does not permit those candidates facing wealthy self-financed opponents to raise individual contributions significantly in excess of the amount of personal funds wealthy opponents actually spend on their own elections.

The increased contribution limits are also terminated if the self-financed opponent withdraws from the race. 2 U.S.C. 441a(i)(2)(B) (Senate); 2 U.S.C. 441a-1(a)(3)(B) (House of

Representatives). Additionally, both the Senate and House of Representatives versions of the Millionaires' Amendment prescribe rules for disposing of "excess contributions" received under the increased contribution limits. 2 U.S.C. 441a(i)(3) (Senate); 2 U.S.C. 441a-1(b) (House of Representatives).

## Part 100—Definitions

### 1. 11 CFR 100.19 File, Filed, or Filing (2 U.S.C. 434(a))

The Commission's regulations at 11 CFR 100.19 define "file, filed, and filing." The rule in current paragraph (b) states that a document is considered timely filed if it is: (1) Delivered to the appropriate filing office (either the Commission or the Secretary of the Senate), or (2) sent by registered or certified mail and postmarked by 11:59 p.m. Eastern Standard/Daylight Time of the prescribed filing date—except for pre-election reports. The final rule adds paragraph (g), discussed below, to the list of reports not subject to the rule in paragraph (b). Thus, paragraph (b) notes that this rule does not apply to reports described in 11 CFR 100.19(c) through (g) which are electronic filings, 48-hour and 24-hour reports of independent expenditures, 48-hour notices of last-minute contributions, electioneering communication statements, and notifications of expenditures from personal funds, respectively.

New paragraph (g) states that notifications of self-financed candidates' expenditures from personal funds, required under 11 CFR part 400, are considered timely filed by Senate candidates' principal campaign committees only if they are faxed or e-mailed to the Commission and faxed or e-mailed to each opposing candidate within 24 hours of the time the thresholds set forth in 11 CFR 400.21 and 400.22 are exceeded, thereby triggering the reporting requirement. As discussed in greater detail below (see Explanation and Justification for new 11 CFR 400.21, 400.22, and 400.24), Senate candidates' principal campaign committees are required to file their original notifications with the Secretary of the Senate and copies of their notifications with the Commission and each opposing candidate. Notifications by House of Representatives candidates' principal campaign committees are considered timely filed only when they are both electronically filed (if required under 11 CFR 104.18, 400.20, and 400.23) with the Commission and when they are faxed or e-mailed to each opposing candidate within 24 hours of the time the thresholds defined in 11