

requires principal campaign committees to file by July 15 of the year before the general election of the office sought that discloses the gross receipts available to the candidates and their authorized committees to expend in connection with the primary election and the general election as determined on June 30 of that year. The gross receipts amounts must include the contributions that have been designated, deemed to be designated, or redesignated for both the primary election and the general election. Principal campaign committees must report the amount of contributions from personal funds of their candidates received by any of the candidates' authorized committees by June 30 that have been designated for the primary election and the general election. They must then subtract the contributions from personal funds that have been designated for the primary election from the gross receipts that may be expended in connection with the primary election and disclose that amount. Likewise, they must also compute and disclose the amount for the general election.

Paragraph (b)(2) requires that principal campaign committees file another report on January 31 of the year of the general election of the office sought. This paragraph is similar to paragraph (b)(1) except that the pertinent date is December 31 of the year preceding the relevant general election. Principal campaign committees must disclose the same information under paragraph (b)(2) as in paragraph (b)(1) but instead of reporting the amount determined as of June 30, this amount is determined as of December 31.

While BCRA mandates that the opposition personal funds amount use the amounts determined for June 30 and December 31, the interim final rules set the deadlines for the reports at July 15 and January 31, respectively, to coincide with the filing deadlines of the second quarterly reports and the year-end reports that all authorized committees are required to file. The Commission seeks comment whether these are appropriate deadlines.

Part 110—Contribution and Expenditure Limitations and Prohibitions

1. 11 CFR 110.1 Conforming Amendment to 11 CFR 110.1(b)(3) Regarding Net Debts Outstanding (2 U.S.C. 441a(j))

Current 11 CFR 110.1(b)(3) restricts the ability of candidates and their authorized committees to accept contributions after the election. It states

that they can accept contributions up to the amount of their "net debts outstanding." "Net debts outstanding" is defined in current 11 CFR 110.1(b)(3)(ii). In order to conform with the fundraising restrictions in new 11 CFR 116.11 (*see* Explanation and Justification for new 11 CFR 116.11, below), new paragraph (b)(3)(ii)(C) would be added to current 11 CFR 110.1 to exclude the amount of personal loans that exceed \$250,000 from the definition of "net debts outstanding."

2. 11 CFR 110.10 Deletion of Former 11 CFR 110.10(b) Definition of "Personal Funds"

As explained in greater detail above (*see* Explanation and Justification for new 11 CFR 100.33), the Commission is implementing BCRA's new definition of "personal funds." The Commission has decided to locate this new definition in new 11 CFR 100.33. Accordingly, the Commission is deleting the former definition of "personal funds" in former 11 CFR 110.10(b).

Part 116—Debts Owed by Candidates and Political Committees

BCRA added a new subsection (j) to 2 U.S.C. 441a, which restricts the ability of candidates and their authorized committees to raise funds after the election to repay loans that the candidates made to their authorized committees. These loans are referred to as "personal loans." Section 441a(j) of FECA states that:

Any candidate who incurs personal loans after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed \$250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

Although 2 U.S.C. 441a(j) is part of the Millionaires' Amendment, the provision has wider application than the other provisions of the Millionaires' Amendment because it is placed as a separate subsection within 2 U.S.C. 441a. This statutory provision thus applies to all personal loans from candidates to their authorized committees regardless of whether the increased contribution and party spending limits in 2 U.S.C. 441a(i) or 441a-1 apply. BCRA's amendment to 2 U.S.C. 441a regarding candidate loans also applies to presidential candidates, who may be self-financed, or who may be permitted under the public funding regime to make limited expenditures from personal funds for their campaigns. Therefore, the interim final

rules add new section 11 CFR 116.11—*Debts Owed by Candidates or Political Committees* rather than include new rules implementing 2 U.S.C. 441a(j) in 11 CFR part 400 with the other Millionaires' Amendment regulations. The interim final rules also include a conforming amendment to 11 CFR 110.1(b)(3) regarding net debts outstanding, *see* above.

1. 11 CFR 116.11 Restriction on an Authorized Committee's Repayment of Personal Loans Exceeding \$250,000 Made by the Candidate to the Authorized Committee

A. Interim Final Rule

According to the sponsors of the Millionaires' Amendment, the purpose of 2 U.S.C. 441a(j) is to restrict the amount of money candidates and their authorized committees can raise after the election to repay the candidates for personal loans.² Essentially, authorized committees may only use up to \$250,000 of contributions made after the election to repay the candidates. New 11 CFR 116.11 sets forth these restrictions.

The interim final rules define "personal loans" in paragraph (a) of 11 CFR 116.11. The definition includes not only loans made by candidates to their authorized committees, but also loans made by other persons to the authorized committees that are endorsed or guaranteed by the candidate or that are secured by the personal funds of the candidate. This definition ensures that loans to authorized committees that are used in connection with the candidate's campaign for election, for which the candidate is personally liable, are subject to the provisions of 11 CFR 116.11. It is important to note that new 11 CFR 116.11 applies to all loans made, endorsed, or guaranteed by candidates regardless of whether the other provisions of the Millionaires' Amendment are triggered, *i.e.*, the increased contribution limits.

The definition of "personal loans" in paragraph (a) specifies that advances made by the candidate to their authorized committees are personal loans subject to the repayment restrictions in 11 CFR 116.11. The Commission seeks comment on whether the interim final rules should specify within this definition of "personal loans" other debts and obligations that

² "This (amendment) limits candidates who incur personal loans in connection with their campaign in excess of \$250,000. They can do \$250,000 and then reimburse themselves with fundraisers. But anything more than that, they cannot repay it by going out and having fundraisers once they are elected with their own money." 147 CR S2451 (daily ed. Mar. 19, 2001) (statement of Sen. Domenici).