

part 400 because the self-financed candidate's expenditures from personal funds allow the authorized committee to accept contributions under the increased limit. After the self-financed candidate ceases to be a candidate, either because the candidate has withdrawn from the campaign or the election has taken place, should the authorized committee be able to continue to raise funds under the increased limits to pay off the outstanding debts?

### Calculating the Increased Limits

The rules in new subpart C of part 400 address the determination as to when, if ever, a candidate for the House of Representatives or Senate may accept contributions under the increased limits, and when, if ever, a political party committee may make coordinated party expenditures on behalf of the candidate under the increased limits. The regulations in subpart D go to determining the amounts of the increased limits.

Under 2 U.S.C. 441a(i) (Senate) and 2 U.S.C. 441a-1 (House of Representatives), when the relevant thresholds are triggered the contribution limit in 2 U.S.C. 441a(a)(1)(A) is increased. The Commission notes that 2 U.S.C. 441a(a)(1)(A) applies to *all* persons and is not limited to individuals. The Commission has decided to limit the increased contribution limit to individuals, however, based on the titles given to the Millionaires' Amendment provisions in BCRA and on the legislative history of the Millionaires' Amendment. *See, e.g.*, BCRA Secs. 304 and 319 (entitled "Modification of *individual* contribution limits in response to expenditures from personal funds" and "Modification of *individual* contribution limits for House candidates in response to expenditures from personal funds," respectively) (emphasis added); 147 CR S2537 (daily ed. Mar. 20, 2001) (statement of Sen. Domenici); 147 CR S2538 (daily ed. Mar. 20, 2001) (statement of Sen. DeWine) (explaining effect of triggering threshold amount on *individual* contribution limits). The Commission seeks public comment, however, on whether, despite provisions' titles in BCRA and the legislative history of the Millionaires' Amendment, the Commission should expand the availability of the increased contribution limit to include all persons and not only individuals.

### 1. 11 CFR 400.40 Calculating the Increased Limits for Senate Elections

Although the Senate and House of Representatives versions of the Millionaires' Amendment are similar in many respects, they differ in the amounts of the increased limits once those increased limits are triggered. 11 CFR 400.40 implements the increased limits for Senate elections. (11 CFR 400.41, below, implements the increased limits for House of Representatives elections.) Paragraph (a) of 11 CFR 400.40 states that the section applies to Senate elections.

Paragraph (b) states conditions on the operation of the increased limits as calculated under this section. Paragraph (b)(1) cross-references the conditions and restrictions in new subpart C. Paragraph (b)(2) clarifies that the amount limitations on contributions by persons other than multicandidate political committees under the increased limits are indexed for inflation, just as are the underlying applicable limits in 2 U.S.C. 441a(a)(1)(A) on which they are based. *See* 2 U.S.C. 441a(c).

Paragraph (c) outlines the procedure for calculating the increased contribution and coordinated party expenditure limits. Paragraph (c)(1) cross-references 11 CFR 400.10 and instructs the calculator to determine the opposition personal funds amount. Paragraph (c)(2) cross-references 11 CFR 110.18 and directs the calculator to determine the voting age population ("VAP") of the candidate's State. Once those numbers have been determined, paragraph (c)(3) directs the calculator to a table containing formulas for computing the applicable increased contribution and coordinated party expenditure limits.

While the formulas in the table in paragraph (c)(3) may appear to differ from those provided in the statute, the resulting calculations are the same. If the Commission were to simply incorporate the language of the statutory formulas into the table, those seeking to calculate the increased limits would first have to perform a separate calculation to determine the relevant threshold amount before they would be able to make use of the formulas in the table. The Commission has determined that it is preferable to provide a table that synthesizes all of the calculations of the relevant thresholds needed to determine the increased contribution limits in one place.

### 2. 11 CFR 400.41 Calculating the Increased Limits for House of Representatives Elections

Unlike the increased limits in Senate elections, which vary according to increasing level of expenditures from personal funds by the opposing candidate, the increased limits in House of Representatives elections are fixed. If the opposing candidate's expenditures from personal funds cause the opposition personal funds amount to exceed the threshold amount, \$350,000, a single set of increased limits is triggered. 2 U.S.C. 441a-1(a)(1)(A)-(C). 11 CFR 400.41 implements these increased limits.

Paragraph (a) clarifies that the section applies to House of Representatives elections. Paragraph (b) states the increased limits. Paragraph (b)(1) sets the increased contribution limit for individuals at \$6,000, *i.e.*, three times the applicable limit in 2 U.S.C. 441a(a)(1)(A). 2 U.S.C. 441a-1(a)(1)(A). Paragraph (b)(2) states that the limit on coordinated party expenditures in 11 CFR 109.32(b) does not apply. 2 U.S.C. 441a-1(a)(1)(B).

### 3. 11 CFR 400.42 Effect of Increased Limits on the Aggregate Contribution Limits for Individuals

Under the Act, an individual may not contribute, in the aggregate, more than \$37,500 to candidates and their authorized committees during the period which runs from January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year. 2 U.S.C. 441a(a)(3)(A). Both the Senate and House of Representatives versions of the Millionaires' Amendment provide, however, that contributions made under the increased limits do not count against the aggregate contribution limit in section 441a(a)(3)(A). 2 U.S.C. 441a(i)(1)(C)(i)(II), 2 U.S.C. 441a(i)(1)(C)(ii)(II) (Senate); 2 U.S.C. 441a-1(a)(1)(B). New 11 CFR 400.42 implements these statutory provisions.

Paragraph (a) clarifies that this section applies to all elections covered by the part, that is, both Senate and House of Representatives elections.

Both the Senate and the House of Representatives provisions of the Millionaires' Amendment provide that the 2 U.S.C. 441a(a)(3) aggregate contribution limit "shall not apply with respect to any contribution made with respect to a candidate" if such contribution is lawfully made under the increased limits. 2 U.S.C. 441a(i)(1)(C)(i)(II), 2 U.S.C. 441a(i)(1)(C)(ii)(II) (Senate); 2 U.S.C. 441a-1(a)(1)(B) (House of