

resolution of nomination contests, even though the later than usual dates for the Presidential nominating conventions in 2004 will mean that the official start of the general election campaigns will be later in the cycle than usual. Therefore, the June 1 date in the former 11 CFR 9003.3(a)(1)(i) and (a)(1)(i)(A) is changed to April 1 of the election year as the starting date for GELAC solicitations and most deposits.

## 2. Redesignation of Excessive Contributions to the GELAC

The Commission is revising its rules governing the sources of GELAC funds at 11 CFR 9003.3(a)(1) to reflect its recent changes to its rules concerning the redesignation of excessive contributions at 11 CFR 110.1(b)(5)(ii)(B). *See Explanation and Justification for the Rules Governing Contribution Limitations and Prohibitions*, 67 FR 69928, 69930–32 (Nov. 19, 2002). These changes allow authorized committees to redesignate excessive primary contributions to the general election without obtaining a signed written document from the contributor under certain circumstances. Section 110.1(b)(5)(ii)(B) allows the candidate's committee to presume that the contributor of an excessive primary contribution would not object to a redesignation of any excessive amount to that candidate's general election, without obtaining written agreement from the contributor for the redesignation. *Id.* at 69931. The explanation and justification for this rule elaborated 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.

The NPRM proposed revisions to 11 CFR 9003.3(a)(1)(i), (a)(1)(i)(C) and (a)(1)(v) to permit publicly funded Presidential candidates to presume that those making excessive contributions for the primary election would consent to the redesignation of their contributions to the candidate's GELAC. The three commenters who addressed this issue supported these proposed changes.

The Commission has decided to revise its rules to reflect the adoption of the presumptive redesignations for the GELAC, with several changes from proposed 11 CFR 9003.3(a)(1) to clarify the operation of the rule and presumptive redesignations. Section 9003.3(a)(1)(i) is being revised to delete the phrase “by the contributor” to

permit the deposit of contributions redesignated by presumption into GELACs. Section 9003.3(a)(1)(i)(C) is not being revised because the NPRM's revisions for this provision incorrectly suggested that a contribution redesignated by presumption is considered a contribution designated in writing.

Section 9003.3(a)(1)(ii)(A), which the NPRM would not have revised, applies by its terms to “contributions made during the matching payment period that do not exceed the contributor's limit for the primary election.” Because presumptive redesignations are limited to excessive contributions, contributions under this provision can only be redesignated in writing, so the reference to “redesignations” in section 9003.3(a)(1)(ii)(A)(3) is being revised to “written redesignations.” Similarly, the citation to 11 CFR 110.1(b)(5) in § 9003.3(a)(1)(ii)(A)(4) is being revised to refer only to the provisions for written redesignations, which are 11 CFR 110.1(b)(5)(i) and (ii)(A). The recordkeeping requirements in 11 CFR 110.1(l) continue to be incorporated by citation into § 9003.3(a)(1)(ii)(A)(4).

Section 9003.3(a)(1)(iv) continues to require that contributions that are made after the beginning of the expenditure report period but that are not designated in writing for the GELAC must first be used to satisfy any primary committee debts or repayment obligations before they can be redesignated in writing for the GELAC. This approach constitutes an exception to the usual approach, which would consider these contributions as made with respect to the general election (*i.e.*, chronologically the next election under 11 CFR 110.1(b)(2)(i)). The Commission believes that the priority for primary committee obligations should be continued for these contributions. Consequently, the provision is being revised to state explicitly that these contributions are considered made with respect to the primary election. Additionally, § 9003.3(a)(1)(iv)(C) is being revised to state that the redesignation must be written; it is not presumptive. The contributions subject to redesignation under section 9003.3(a)(1)(iv) are those that do not exceed the contributor's limit for the primary election. These revisions were not in the NPRM, but they are consistent with the proposal, which would not have revised the primary preference and would have limited presumptive redesignation to excessive contributions.

Revisions to § 9003.3(a)(1)(v) make clear that excessive primary contributions can be presumptively

redesignated for the GELAC pursuant to 11 CFR 110.1(b)(5)(ii)(B). This applies to contributions made during the matching payment period or, pursuant to 11 CFR 9003.3(a)(1)(iv), during the expenditure report period. In order to do so, the phrase “obtains the contributor's redesignation for the GELAC” is being replaced with “redesignates the contribution for the GELAC,” and the citation to 11 CFR 110.1 is being clarified to 11 CFR 110.1(b)(5)(i) and (ii)(A) or (ii)(B). This provision is also amended to note specifically that the timing requirement in the presumptive redesignation regulation, 11 CFR 110.1(b)(5)(ii)(B)(1), does not apply in this instance due to the operation of section 9003.3(a)(1)(iv).

Contributions made during the expenditure report period that are considered made with respect to the primary election may not be submitted for matching. *See* 11 CFR 9034.3(i). Although one commenter supported the matchability of such contributions, the Commission continues to consider these contributions to be unmatchable. As presumptively redesignated contributions, they were made for a purpose other than influencing the results of a primary election, and section 9034.3(i) prohibits matching such contributions.

Thus, considered as a whole, the revised 11 CFR 9003.3(a)(1) allows a candidate to treat all or part of an excessive primary contribution as a GELAC contribution, as long as the contribution meets the following requirements: (1) The contribution was not designated for a particular election; (2) the contribution would exceed the primary election contribution limitations if it were treated as a primary contribution; (3) the redesignation would not cause the contributor to exceed the contribution limitations; and (4) the treasurer provides a written notification to the contributor within 60 days of receipt of the contribution of the amount that was redesignated to the GELAC and that the contributor may request a refund. The Commission notes that presumptively redesignated contributions to the GELAC must be refunded if the contributor requests a refund or, as with all other contributions accepted for the GELAC, within 60 days of a candidate's date of ineligibility (“DOI”) if the candidate does not become the nominee. *See* 11 CFR 9003.3(a)(1)(i)(A).

The NPRM also sought comment on expressly allowing excessive contributions to a GELAC to be presumptively redesignated to a Presidential candidate's authorized committee for the primary election,