

representative character. Samples shall be handled only by employees of the licensee prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the licensed gin or warehouse. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned. Samples that where drawn by a mechanical sampler at the gin may be transported with the bales to the warehouse and then shipped or delivered direct to the classing office by the warehouse.

(g) *Request for classification.* Samples received from a licensed gin or warehouse with the identification tag required in § 28.908(f) shall constitute a request for classification service by the producer.

#### § 28.909 Costs.

(a) Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be assumed by the producer, but tags and containers for the shipment of samples and shipping charges via U.S. Postal Service or duly authorized common carrier will be furnished by the service. After classification the samples shall become the property of the Government. The proceeds of the sale of cotton samples shall be used to defray the costs of providing the services under this subpart.

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is \$1.85 per bale.

(c) The Division will periodically bill producers or the voluntary agents designated by producers for the cost of classification. A discount of 5 cents per sample will be granted for services provided under this section when billing is made to voluntary agents.

#### Classification

##### § 28.910 Classification of samples and issuance of classification data.

(a)(1) The samples submitted as provided in the subpart shall be classified by employees of the Division and classification memoranda showing the official quality determination of

each sample according to the official cotton standards of the United States shall be issued by any one of the following methods at no additional charge:

(i) Computer diskettes,

(ii) Computer tapes, or

(iii) Telecommunications, with all long distance telephone line charges paid by the receiver of data.

(2) When an additional copy of the classification memorandum is issued by any method listed in paragraph (a)(1), there will be a charge of five cents per bale. If provided as an additional method of data transfer, the minimum fee for each tape or diskette issued shall be \$10.00.

(b) Owners of cotton, other than producers, may receive classification data showing the official quality determination of each sample by means of telecommunications from a central database to be maintained by the Division. The fee for this service shall be five cents per bale, with all long distance telephone line charges paid by the receiver of data. The minimum charge assessed for services obtained from the central database shall be \$5.00 per monthly billing period.

(c) Upon request of an owner of cotton for which classification memoranda have been issued under the subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 15 cents per bale or a minimum of \$5.00 per sheet.

##### § 28.911 Review classification.

(a) A producer may request one review classification for each bale of eligible cotton. The fee for review classification is \$1.85 per bale.

(b) Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20 through 28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government

property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 40 cents per sample in addition to the fee established above in this section.

#### Limitations of Services

##### § 28.917 Limitations of services.

The Director, or an authorized representative, may suspend, terminate, or withhold cotton classing and market news services to any producer upon any failure of the producer to comply with the act or these regulations. Failure to remit fees for classification services shall result in loss of service.

Dated: September 28, 2007.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 07-4891 Filed 10-2-07; 8:45 am]

BILLING CODE 3410-02-P

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 113

[Notice 2007-18]

#### Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other Than Personal Use

**AGENCY:** Federal Election Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Election Commission is revising its rules regarding the use of campaign funds by candidates and other individuals. The revision adds to the current list of permissible uses of campaign funds in Commission regulations: donations to non-Federal candidates; and any other lawful purpose other than personal use. This change conforms the provision with those in the Federal Election Campaign Act, as amended (“the Act”). Further information is provided in the supplementary information that follows.

**EFFECTIVE DATE:** November 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Stacey J. Shin, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** Section 313 of the Federal Election Campaign Act of 1971, as amended (“the Act”), sets forth permissible uses of

contributions<sup>1</sup> accepted by candidates and donations<sup>2</sup> received by individuals to support their activities as Federal officeholders. Section 313 is codified at 2 U.S.C. 439a and is referred to hereafter as “Section 439a.” Section 439a(a) provides that candidates may use contributions, and individuals holding Federal office may use donations, for: (1) Expenditures in connection with the candidate’s or individual’s campaign for Federal office; (2) ordinary and necessary expenses incurred in connection with duties of the individual as a Federal officeholder; (3) contributions to an organization described in section 170(c) of the Internal Revenue Code; (4) transfers, without limitation, to a national, State, or local committee of a political party; (5) donations to State and local candidates subject to the provisions of State law; and (6) any other lawful purpose, unless such purpose constitutes personal use of contributions or donations. See 2 U.S.C. 439a(a).

Section 113.2 of the Commission’s regulations implements Section 439a by tracking the permissible uses of campaign funds and funds donated to a Federal officeholder. The Commission initiated this rulemaking to add to section 113.2 the two recently enacted permissible uses regarding donations to non-Federal candidates, and donations for any other lawful purpose other than personal use. See the Consolidated Appropriations Act of 2005.<sup>3</sup> The Commission notes that before 2002, the Act and Commission regulations had permitted the use of campaign funds for “any other lawful purpose” other than personal use. The Bipartisan Campaign Reform Act of 2002 (“BCRA”),<sup>4</sup> deleted “any other lawful purpose” from Section 439a and set forth four permissible uses of campaign funds.

As noted above, however, the “any other lawful purpose” provision was restored to Section 439a through the Consolidated Appropriations Act of 2005. At that time, Congress also added donations to State and local candidates as permissible uses of campaign funds.

<sup>1</sup> A “contribution” is a payment, service or anything of value given to a person for the purpose of influencing a Federal election. See 11 CFR 100.52(a). “Contributions” are subject to the limits and prohibitions of the Act.

<sup>2</sup> A “donation” is a payment, service or anything of value given to a person other than a “contribution.” See 11 CFR 300.2(e).

<sup>3</sup> Pub. L. 108–447, 118 Stat. 2809 (2004). The Consolidated Appropriations Act of 2005 directed that section 312a(a) of the Act be amended, but was executed by amending section 313(a) of the Act “as the probable intent of Congress.” 2 U.S.C.A. 439a (West 2004).

<sup>4</sup> Pub. L. 107–155, 116 Stat. 81 (2002).

These changes to the Act prompted this rulemaking.

The Commission published a Notice of Proposed Rulemaking (“NPRM”) on July 19, 2007, in which it sought comment on proposed revisions to 11 CFR 113.2. See *Notice of Proposed Rulemaking for Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other Than Personal Use*, 72 FR 39583 (July 19, 2007).<sup>5</sup> The comment period closed on August 20, 2007. The Commission received one written comment from the Internal Revenue Service, which stated that “the proposed rules do not pose a conflict with the Internal Revenue Code or the regulations thereunder.”

Accordingly, the Commission has decided to revise its rules governing the use of campaign funds to add to the current list of permissible uses of campaign funds in Commission regulations: (1) Donations to non-Federal candidates; and (2) any other lawful purpose other than personal use. These changes are identical to those proposed in the NPRM.

#### Transmission of Final Rules to Congress

Under the Administrative Procedure 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 final rules that follow were transmitted to Congress on September 25, 2007.

#### Explanation and Justification

##### 1. 11 CFR 113.2(d)—Donations to State and local candidates

Section 439a(a)(5) of the Act expressly permits Federal candidates and officeholders to donate their campaign funds to State and local candidates. The Commission is amending 11 CFR 113.2 accordingly, by adding a new paragraph (d), which permits Federal candidates and officeholders to donate campaign funds from their authorized committees to “State and local candidates subject to the provisions of State law.”

##### 2. 11 CFR 113.2(e)—Any other lawful purpose

The Commission is amending 11 CFR 113.2 by inserting a new paragraph (e), which states that campaign funds “may be used for any other lawful purpose,

unless such use is personal use under 11 CFR 113.1(g).” New paragraph (e) follows section 439a(a)(6) of the Act, which permits the use of campaign funds “for any other lawful purpose,” unless the funds are converted by any person to personal use. The Commission notes that this change to the Act had the effect of superseding the analysis in Advisory Opinion 2003–26 (Voinovich), in which the Commission concluded that after BCRA deleted the “any other lawful purpose” provision from Section 439a, campaign funds could be used only for those non-campaign purposes that were specifically enumerated in Section 439a. The change also had the effect of superseding, in part, Advisory Opinion 2004–03 (Dooley), to the extent that Advisory Opinion 2004–03 placed certain limits on an authorized committee that had converted into a multicandidate committee and its use, for any lawful purpose, of funds that had been received when the committee was an authorized committee.

#### Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached final rule does not have a significant economic impact on a substantial number of small entities. The basis for this certification is that any individuals and not-for-profit entities affected by this rule are not “small entities” under 5 U.S.C. 601. The definition of “small entity” does not include individuals, but classifies a not-for-profit enterprise as a “small organization” if it is independently owned and operated and not dominant in its field. 5 U.S.C. 601(4). The final rule affects authorized committees, which are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals. Authorized committees are financed by contributions from a large number of persons and controlled by the candidate and the candidate’s campaign employees and volunteers. To the extent that any authorized committees might be considered “small organizations,” the number that are affected by this final rule is not substantial.

The final rule also does not impose any additional restrictions or increase the costs of compliance for authorized committees. Instead, the final rule provides authorized committees with additional options for using campaign funds, which track the recent changes to 2 U.S.C. 439a(a). The final rule does not impose an undue burden upon authorized committees because they are already required to report the use of

<sup>5</sup> Available at [http://www.fec.gov/pdf/nprm/useoffunds/notice\\_2007-15.pdf](http://www.fec.gov/pdf/nprm/useoffunds/notice_2007-15.pdf).

campaign funds to the Commission. Therefore, the attached final rule does not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 11 CFR Part 113

Campaign funds.

#### PART 113—USE OF CAMPAIGN ACCOUNTS FOR NON-CAMPAIGN PURPOSES

■ For the reasons set out in the preamble, the Federal Election Commission is amending Subchapter A of Chapter I of Title 11 of the *Code of Federal Regulations* as follows:

■ 1. The authority citation for Part 113 continues to read as follows:

**Authority:** 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

■ 2. Section 113.2 is amended by:

■ a. Adding paragraph (d);

■ b. Redesignating paragraphs (e) and (f) as paragraphs (f) and (g);

■ c. Adding new paragraph (e) ;

■ d. Amending newly redesignated paragraph (f)(1) introductory text by removing the reference “paragraph (e)(5)” and inserting in its place, the reference “paragraph (f)(5)”;

■ e. Amending newly redesignated paragraph (f)(1) introductory text by removing the reference “paragraph (e)(1)(i)” and inserting in its place, the reference “paragraph (f)(1)(i)”;

■ f. Amending newly redesignated paragraph (f)(1)(ii)(A) by removing the reference “paragraph (e)(1)(i)” and inserting in its place, the reference “paragraph (f)(1)(i)”.

#### § 113.2 Permissible non-campaign use of funds (2 U.S.C. 439a).

\* \* \* \* \*

(d) May be donated to State and local candidates subject to the provisions of State law; or

(e) May be used for any other lawful purpose, unless such use is personal use under 11 CFR 113.1(g).

\* \* \* \* \*

Dated: September 24, 2007.

**Robert D. Lenhard,**

*Chairman, Federal Election Commission.*

[FR Doc. E7-19260 Filed 10-2-07; 8:45 am]

**BILLING CODE 6715-01-P**

#### NATIONAL CREDIT UNION ADMINISTRATION

#### 12 CFR Part 701

RIN 3133-AD33

#### Member Inspection of Credit Union Books, Records, and Minutes

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rule.

**SUMMARY:** The National Credit Union Administration (NCUA) is issuing a final rule on member inspection of federal credit union (FCU) books, records, and minutes. The rule provides that a group of members representing approximately one percent of the membership, with a proper purpose and upon petition, may inspect and copy nonconfidential portions of the credit union's books, records, and minutes. This rule standardizes and clarifies existing member inspection rights.

**DATES:** This rule is effective November 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Paul Peterson, Staff Attorney, Division of Operations, Office of General Counsel, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone (703) 518-6540.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In April 2007, the NCUA Board published a proposed rule on member inspection of FCU books, records, and minutes. 72 FR 20061 (April 23, 2007). The proposal provided that a group of members representing approximately one percent of an FCU's membership, upon petition and with a proper purpose, may obtain access to the nonconfidential portions of the FCU's books, records, and minutes. As stated in the preamble to the proposal, the NCUA Board intended it to replace existing NCUA legal opinions stating FCU members may inspect an FCU's books and records under the same terms and conditions that state corporation law where the FCU is located permits shareholder inspection of corporate records. The NCUA Board believes regulating member inspection of FCU records is preferable to reliance on state corporation law because corporation law on shareholder inspection varies from state to state and all FCUs should have the same standard regardless of an FCU's location. In addition, some courts may refuse to apply their state corporation law to inspection requests by FCU members or may incorrectly

analogize the financial interests of credit union members to those of depositors in a mutual savings bank and deny members inspection on those grounds. In fashioning the proposed rule, the Board identified an existing Office of Thrift Supervision (OTS) rule governing the right of shareholders to inspect the books, records, and minutes of federal stock savings associations. 12 CFR 552.11 (OTS Rule). The proposal tracked the OTS Rule in large part.

The public comment period closed on June 22, 2007. NCUA received 37 comments on the proposal. After consideration of the comments, NCUA has prepared this final rule on member inspection of FCU books, records, and minutes.

##### B. Public Comments

Several commenters believed the rule and its petition process were unnecessary. Some of these commenters suggested that member access to FCU information should be limited to information the FCU, in its discretion, determined to release to its members. Other commenters stated the existing member access process, that is, reliance on state corporation law to determine member rights, was adequate.

The NCUA Board disagrees with these commenters. Permitting members access to FCU information at the discretion of the FCU would limit FCU transparency and treat FCU members as something less than the true owners of the FCU. Also, as discussed in the preamble to the proposed rule, reliance on State law and State courts to apply State law to FCUs has not worked well in the context of member access to FCU records. 72 FR 20061, 20062 (April 23, 2007). Accordingly, this final rule retains the proposed process for members to obtain access to FCU records by petition.

Many commenters stated that, if the NCUA retained the proposed petition process, it should provide additional protection for credit unions and credit union records. Some of these commenters argued the proposed rule would make it too easy for competitor credit unions and banks to acquire sensitive financial information. Some of these commenters also felt special interests could use the petition process in a repetitive fashion to paralyze a credit union. Many commenters also believed that the proposal went too far in making the information related to the compensation, benefits, and qualifications of senior management available to members.

Upon consideration of the public comments the NCUA Board has made several changes in the member petition