

FEC Adopts Bundling Rules, But Has Yet to Issue the Necessary Interpretative Guidance

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On December 18, 2008, the Federal Election Commission (FEC) adopted final rules regarding disclosure of contributions bundled by lobbyists, lobbyist employers and their PACs. (The delay in these rules, required by the Honest Leadership and Open Government Act [HLOGA] to be implemented in 2008, resulted from the period in the first half of 2008 when the Commission did not have sufficient Commissioners to operate.) The rules have yet to be published in the *Federal Register* and are not yet effective. Moreover, the regulated community awaits the Explanation and Justification for the rules, which is expected to assist in the interpretation of the new rules.

As dictated in HLOGA, the proposed rules do not require any additional disclosure by lobbyists, their employers or their PACs. Instead, the reporting burden falls on the recipient candidate committees, political party committees and leadership PACs. Nonetheless, the reporting rules will affect lobbyists, their employers and their PACs, depending on whether or not they engage in activity that falls within the definition of "bundling" and are concerned if they are publicly disclosed as "bundlers" on a committee's reports.

According to the rules, bundling means forwarding contributions to the three types of recipient committees, as well as receiving credit from the recipient committee "through records, designations or other means of recognizing that a certain amount of money has been raised by the" lobbyist, employer or PAC.

We will provide further analysis of the new bundling rules, including the effective date, once the Commission issues its Explanation and Justification for the rules and has the rules published in the *Federal*

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