

# FEC Advances Two New Rulemaking Petitions for Consideration

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By Caleb P. Burns and Stephen J. Kenny

On July 16, the Federal Election Commission (FEC) issued a Notice of Availability for public comment on each of two petitions for rulemaking that address Super PACs and other organizations that engage in independent expenditures and electioneering communications pursuant to *Citizens United v. FEC*. Comments are due 60 days from when the Notices are formally published in the Federal Register.

The Notice for the first petition seeks comment on whether the Commission should proceed with a rulemaking requiring any person—including so-called 501(c) organizations—that contribute directly or indirectly to Super PACs to disclose the sources of their funding.

The Notice for the second petition is more wide-ranging. It seeks comment on whether the Commission should proceed with a rulemaking concerning: (1) the disclosure of certain donor information of entities engaged in independent expenditures and electioneering communications; (2) restrictions on election-related spending by foreign nationals, including U.S. subsidiaries of foreign parents; (3) solicitation of support by corporations and labor organizations for their independent expenditures and electioneering communications; and (4) the degree to which Super PACs—especially those devoted to supporting a single candidate—must remain operationally independent from candidates and political parties.

It is worth emphasizing that these Notices are intended to seek input on whether the FEC should engage in rulemaking proceedings in the first instance. The substance of the rulemaking itself, i.e., what form

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possible new rules should take, will not be addressed unless the FEC decides to commence a formal rulemaking. At this stage, interested parties should comment on whether formal rulemaking proceedings are necessary to address these issues.

Wiley Rein has previously filed comments in response to Notices of Availability and has successfully persuaded the FEC to not commence formal rulemaking proceedings.