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**Authors:**

**Tim L. Peckinpaugh**  
tim.peckinpaugh@klgates.com  
+1.202.661.6265

**Michael J. O'Neil**  
mike.oneil@klgates.com  
+1.202.661.6226

**Scott C. Nelson**  
scott.nelson@klgates.com  
+1.503.226.5756

**Christopher J. Hopfensperger**  
christopher.hopfensperger@klgates.com  
+1.202.778.9851

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## FEC's Rules on Disclosure of "Bundled" Contributions Top Flurry of Ethics Activity

The Federal Election Commission (FEC) recently approved new guidelines implementing portions of a 2007 ethics law requiring the public disclosure of registered lobbyists' "bundled" contributions. The regulations, which will apply to certain bundled contributions beginning in mid-March, also require any Political Action Committee that is "controlled" or administered by a lobbyist or registrant to amend its registration form with the FEC.

Notably, the action on the bundling regulations is just the latest event in a recent flurry of ethics-related news, including President Obama's signing of an executive order imposing new ethics rules on political appointees, the FEC's release of the increased limits on campaign contributions for the 2009/2010 election cycle, and the new thresholds for registration under the Lobbying Disclosure Act.

### FEC Approves Guidelines Implementing Disclosure of "Bundled" Contributions

As part of the implementation of the Honest Leadership and Open Government Act of 2007, the Federal Election Commission (FEC) this month released final regulations requiring political committees – to include recipient campaign committees, leadership PACs, and political parties – to disclose certain contributions that are "bundled" by those persons registered to lobby. The first such reports will be filed May 18, 2009, and the reports will cover donations made as early as March 19, 2009.

Under the new regulations, all such political committees must list the name, address, employer and aggregate amount bundled by a lobbyist/registrant or lobbyist/registrant Political Action Committee (PAC) that bundles more than **\$16,000** in a semiannual filing period. In addition, reporting committees that file campaign finance reports on a quarterly or monthly basis must report such bundled contributions according to their usual reporting schedule.

A bundled contribution is one that is (1) physically or electronically forwarded by the bundler to the campaign committee or (2) received by the committee and credited in some way to the bundler. Under the regulations, such credit can be provided in several ways including:

- titles that the reporting committee assigns to persons who have raised a certain amount;
- tracking identifiers that the reporting committee assigns and that are included on contributions or contribution-related materials (e.g., cover letters or website solicitation pages) for the purpose of tracking how much a person raises;

- access (including offers of attendance) to events or activities given to the bundler; and
- mementos (e.g., photographs with the candidate or books autographed by the candidate) given to the bundler.

This list of designations and the means of recognition that will trigger the disclosure requirement is not exhaustive, and the FEC expressed its intention to adopt an expansive view of such matters. The Commission did note, though, that the definition of recognition does not extend to the mere knowledge of a registrant's bundling activities.

Finally, PACs that are "controlled" by a lobbyist or entity registered under the Lobbying Disclosure Act (LDA) must amend their FEC Form 1 by March 29, 2009.

For a more detailed analysis of the new bundling regulations, including examples of their application, please consult the updated K&L Gates Ethics Guide by [clicking here](#).

### President Obama Imposes New Ethics Restrictions on Political Appointees

Shortly after his inauguration, President Obama issued an executive order further limiting the pre- and post-employment activities of appointees in his administration and also further limiting gifts from lobbyists and those who employ them to those same appointees.

The appointees to which the new restrictions apply include:

- non-career, full-time Presidential and Vice Presidential appointees;
- non-career Senior Executive appointees; and
- Schedule C appointees or appointees selected under similar criteria.

**Pre-employment restrictions:** All such appointees are now prohibited from working on any "particular matter involving specific parties that is directly and substantially related to [a] former employer or former clients" for the first two years they hold their positions. Those who were registered lobbyists prior to appointment have further restrictions, including that they may not seek employment with any agency that they lobbied within the two years prior to their appointment or participate in any specific issue area in which they lobbied in the two years prior to their employment.

The post-employment restrictions also have been increased. All appointees are subject to a two-year ban on lobbying their former agencies in certain situations (as opposed to the existing one year ban). Those who leave the administration to lobby are banned for the duration of the administration from lobbying covered executive branch officials and non-career SES employees.

Finally, appointees also are subject to additional gift ban rules on gifts from lobbyists and those who employ them. This apparently means that gifts from those who retain outside lobbyists but do not themselves file LDA reports are not included in the new restrictions.

As a baseline matter, the executive order reduces the number of exceptions to the definition of "gift" that apply to registrants. The exceptions that continue to apply to registrants are:

- gifts based on a personal friendship
- discounts and similar benefits
- gifts that are based on an outside business or employment relationship that:
  - stem from the business or employment activities of an employee's spouse when it is clear that such benefits have not been offered or enhanced because of the employee's official position, or
  - are ordinarily provided by a prospective employer in connection with bona fide employment discussions

- gifts, including those of protocol or etiquette, given to the president or vice president and related to the conduct of their offices
- gifts allowed under specific statutory authority

As a result of the new rules, however, registrants are no longer allowed to provide gifts to covered executive officials under the following previous exceptions:

- widely attended events
- items valued at less than \$20 per occasion and totaling less than \$50 in a calendar year
- social invitations from persons other than prohibited sources
- meals, refreshments and entertainment in foreign areas
- awards and honorary degrees
- gifts that are based on an outside business or employment relationship that result from outside business or employment
- gifts connected with political activities permitted under the Hatch Act

### FEC Raises Contribution Limits

The FEC also recently increased the limits on individual political contributions, raising the amount that an individual can give to a candidate to \$2,400 per election. Under the new limits, individuals may also donate up to \$30,400 per year to national parties

and a combined total of \$115,500 for the 2010 races to all federal candidates, parties and committees.

The increases, which are instituted every two years, are required by the Bipartisan Campaign Reform Act of 2002, which indexes the limits for inflation.

The amount individuals can give to Political Action Committees remains at \$5,000 per year.

For a chart detailing the full range of applicable contribution limits, [click here](#).

### Thresholds for Lobbying Registration Increase to Adjust for Inflation

Under the terms of the LDA, the threshold levels for lobbying expenses that trigger the law's registration requirement reset on January 1, 2009. Persons whose lobbying expenses are below these levels may be excluded from registering.

For retained "outside lobbyists," registration on behalf of a particular client is not required if the total income from the client for lobbying activities does not exceed, or is not expected to exceed, \$3,000 during any quarterly period.

For organizations having in-house lobbying operations, registration is not required, unless lobbying expenses exceed, or are expected to exceed, \$11,500 during any quarterly period.

These amounts are indexed for inflation and will increase again in early 2013. For more information on whether your expenses require you to register under the LDA, [click here](#).

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