

(sun-dried) Seedless raisins, this date may be extended by the Committee to a later date within the 2002–03 crop year.

\* \* \* \* \*

(s) *Additional opportunity for vine removal.*

The Committee may announce a date later than that provided in § 989.156(b), by which producers, who agree to remove the vines on a production unit may file an application to participate in a raisin diversion program.

(1) For the 2002 Natural (sun-dried) Seedless raisin diversion program, additional opportunity for vine removal shall be provided in accordance with paragraph (u) of this section.

(2) For raisin diversion programs applicable to the 2003 and subsequent crop years, the following provisions apply.

(i) The announced date shall be not later than May 1. The diversion certificates will be issued only for the production units from which vines are removed. The total tonnage available to such applicants shall not exceed the tonnage determined by deducting the tonnage approved for applications received on or before December 20 from the total tonnage announced as eligible by the Committee for diversion: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. Applications shall be considered and approved on a first-come, first-served, basis and shall not be given preference over the tonnage approved for applications received on or before December 20: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. The vines shall be removed from the production units for which such applications are approved not later than June 1.

(ii) Producers who agree to remove the vines pursuant to this paragraph shall notify the Committee in advance of the date when such vines will be removed in order to allow a representative of the Committee to observe and verify such vine removal.

\* \* \* \* \*

Dated: November 25, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

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## FEDERAL ELECTION COMMISSION

### 11 CFR Parts 104, 106, and 300

[NOTICE 2002–24]

#### FEC Policy Statement: Interim Reporting Procedures

**AGENCY:** Federal Election Commission.

**ACTION:** Statement of policy.

**SUMMARY:** During the transition period following the effective date of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), the Commission intends to exercise its discretion by not pursuing the political committees and other persons and entities addressed below for possible violations of the reporting statutes and regulations covered by the instructions set out in this policy statement if they fully adhere to those instructions and timely file the described reports. The limitations on the scope and duration of the policy are discussed in detail below.

**FOR FURTHER INFORMATION CONTACT:** Mr. John C. Vergelli, Acting Assistant General Counsel, Mr. Jonathan M. Levin, Senior Attorney, Mr. Gregory Scott, Assistant Staff Director for Information, and Ms. Debbie Chacona, Reports Analysis Division Chief of Party/Non-Party Branch, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** Congress established a 90-day period during which the Commission was required to promulgate regulations implementing Title I of BCRA regarding certain national, state, and local party committee activities, including reporting of Federal election activity and certain allocable expenses. This period ended on June 25, 2002. Congress also required the Commission to complete the remaining BCRA rulemakings, including those regarding other reporting requirements, in 270 days, which is December 22, 2002. The Commission adopted final rules implementing Title I on June 25, 2002. *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule*, 67 FR 49,064 (July 29, 2002) (“Soft Money Final Rules”). The Commission has also completed four other rulemakings to implement BCRA: (1) Final Rules on Electioneering Communications, 67 FR 65190 (October 23, 2002); (2) Interim Final Rules Regarding FCC Database on Electioneering Communications, 67 FR 65212 (October 23, 2002); (3) Final Rules on Reorganization of Regulations on Contributions and Expenditures, 67 FR 50582 (August 5, 2002); and (4) Final

Rules on Contribution Limitations and Prohibitions, 67 FR 69928 (November 19, 2002). The Commission notes that other BCRA-related reporting rules (e.g., electioneering communications, independent expenditures) are not yet finalized, but are expected to be before December 22, 2002, including the Consolidated Reporting Rulemaking, which the Commission is scheduled to complete on December 12, 2002. Issuance of new and revised reporting forms, software and instructions is dependent upon the finalization of all the reporting rules. However, BCRA’s reporting requirements became effective on November 6, 2002. The Commission is in the process of updating its reporting forms, software, and instructions to incorporate all the new regulations, and will need a period of time after December 22, 2002, to complete this process. In the interim, filers will continue to use existing disclosure forms and software for their December 5th Post General Election Report, January 31st Year End Report and, for monthly filers only, the February Monthly Report, which covers January 2003.

BCRA introduced new reporting responsibilities for political party committees and other reporting entities and significantly changed certain existing requirements. Among the significant changes introduced by BCRA are the reporting by State, district, and local party committees of Federal election activities (“FEA”), including the allocation of some of those activities between Federal funds and “Levin” funds, and revisions in those committees’ allocations of payments between Federal and non-Federal funds. See 11 CFR 300.2(i), 300.36, 106.7, and 104.17. In addition, BCRA introduced provisions for Federal candidates and their committees with respect to candidate funding of his or her own campaign in the form of the “millionaires provision” and provisions for reporting by individuals and entities making electioneering communications. See 2 U.S.C. 434(a)(6)(B), 434(f), and 441a–1(b).

As new forms are now being developed to meet the new requirements, the Commission concludes that a period of transition and adjustment with respect to reporting is needed, including allowance for the continued use of the ballot composition formula in the Post-General and Year End Reports. To assist filers during this transition period, the Commission has developed the interim disclosure

procedures set forth below.<sup>1</sup> These procedures address BCRA-related transactions not contemplated by the existing reporting forms and filing software. Questions concerning these procedures may be directed to the FEC's Information Division, Reports Analysis Division or Electronic Filing Office, as appropriate.

Hence, the Commission intends to exercise its discretion by not pursuing the committees and other persons and entities addressed below for possible violations of the reporting statutes and regulations covered by the instructions set out in this policy statement if the filers fully adhere to those instructions and timely file the reports.

### Interim Reporting Procedures

#### *Interim Disclosure Procedures for State, District and Local Party Committees*

1. Reporting Allocable Administrative and Generic Voter Drive Expenses (that are not Federal Election Activity (FEA)) for November and December 2002

For the December 5th Post General Election report and the January 31st Year End report *only*, state, district and local party committees may continue to allocate administrative and generic voter drive expenses according to the ballot composition ratio for the 2001–2002 election cycle. Committees should report this activity just as they always have: payments should be disclosed on Schedule H4, and transfers from the nonfederal account should appear on Schedule H3. Committees need not submit a new Schedule H1.

2. Reporting Allocable Exempt Activities (that are not FEA) for November and December 2002

For the December 5th Post General Election report and the January 31st Year End report *only*, state, district and local party committees may continue to allocate payments for exempt activities based on the time or space devoted to federal candidates, as compared to the time or space of the entire communication. Committees should report this activity just as they always have: payments should be disclosed on Schedule H4, and transfers from the nonfederal account should appear on Schedule H3.

<sup>1</sup> These procedures also apply to filers involved in special elections held during this period, including the November 30 and January 4 special elections in Hawaii. Those filers should pay special attention to the instructions for disclosing "Federal Election Activity" (defined in 11 CFR 100.24) and "Electioneering Communications" (defined in 11 CFR 100.29), since both are triggered by proximity to an election. See 11 CFR 300.33, 300.36, and proposed 104.20.

### 3. Reporting Receipts of "Levin Funds"

#### • Paper Filers:

—Using a separate Schedule A, itemize each receipt (regardless of amount) as a memo entry. Do not include these receipts in totals or on the Detailed Summary Page.

—IMPORTANT: Label the Schedule A "Levin funds."

—Disclose total "Levin fund" receipts as a lump sum in a cover memo attached to the report.

#### • E-Filers:

—On a Schedule A, itemize each receipt (regardless of amount) as a memo entry. These receipts will not be included in totals or on the Detailed Summary Page.

—IMPORTANT: Use the text entry description field to label the receipt as "Levin funds"

—Disclose total "Levin fund" receipts as a lump sum using a text record.

**Note:** During the transition period, the Commission will allow committees to amend reports to disclose as Levin funds receipts that were not initially disclosed as such. The Commission plans to address this issue more broadly when it finalizes the reporting and filing procedures for BCRA in 2003.

### 4. Reporting Disbursements for Non-Allocable (100% federal) "Federal Election Activities" (i.e., Public Communications and Certain Salary Payments)

#### • Paper Filers:

—Use a separate Schedule B labeled "FEA—100% Federal" to disclose each disbursement, regardless of amount.

—Adjust the totals on the completed Detailed Summary Page by adding the total "FEA—100% Federal" to line 31 "Total Federal Disbursements."

#### • E-Filers:

—Using Schedule B as a model, submit a Form 99 (miscellaneous text submission) labeled "FEA—100% Federal" disclosing for each disbursement, regardless of amount:

- The name of the committee;
- The name, mailing address, city, state and zip code for each payee;
- The date and amount; and
- The purpose of the disbursement.

—To account for these disbursements on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.

—Examples of these transactions in FECFile are available on the Commission's BCRA web page at [http://www.fec.gov/pages/bcra/bcra\\_update.htm](http://www.fec.gov/pages/bcra/bcra_update.htm).

### 5. Reporting the Allocation Formula for Paying Allocable "Federal Election Activities," if any, Conducted in 2002

Use the table below to determine the appropriate formula for allocating "Federal Election Activities," if any, conducted between November 6, 2002, and December 31, 2002.

2002 Races on general election ballot	Federal percentage
A Senate candidate was on the ballot in my state in the 2002 General election.	21% Federal
A Senate candidate was not on the ballot in my state in the 2002 General election.	15% Federal

#### • Paper Filers

—Attach a cover letter, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

#### • E-Filers

—Add a text record, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

### 6. Reporting the Allocation Formula Used for Paying Allocable "Federal Election Activities" and for Administrative Expenses and the Cost of Generic Voter Drives, as of January 1, 2003

Use the table below to determine the appropriate allocation formula to use on or after January 1, 2003.

2004 Races on general election ballot	Federal percentage
Presidential and Senate candidates will <i>both</i> be on the ballot in my state in the next regular federal general election.	36% Federal
Presidential candidate, but not a Senate candidate, will be on the ballot in my state in the next regular federal general election.	28% Federal

On the first report disclosing 2003 activity (e.g., February 20th Monthly Report):

#### • Paper Filers

—Attach a cover letter, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

—Do *not* use the current version of Schedule H–1.

#### • E-Filers

—Add a text record, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

## 7. Reporting Disbursements for "Federal Election Activities" Allocated Between Federal Funds and "Levin Funds"

### • Paper Filers

- Using Schedule H4 as a model, submit a cover letter labeled "H6—Shared FEA," disclosing:
  - The name of the committee;
  - The name, mailing address, city, state and zip code for each payee;
  - The date of each transaction;
  - The category of federal election activity (e.g., voter registration);
  - The year-to-date total for the activity;
  - The purpose of disbursement;
  - The federal share of each expense;
  - The "Levin fund" share of each expense; and
  - The combined federal/Levin total for each entry.
- As on Schedule H4, multiple entries may appear on each page, and should be subtotaled by page and totaled on the last page.
- Adjust the totals on the *completed* Detailed Summary Page by:
  - Adding the combined federal and Levin fund total from the last page to the total for line 30 "Total Disbursements;" and
  - Adding the total federal share from the last page to the total for line 31 "Total Federal Disbursements."

### • E-Filers

- Using Schedule H4 as a model, submit a Form 99 (miscellaneous text submission) labeled "H6—Shared FEA," disclosing:
  - The name of the committee;
  - The report to which the activity relates (e.g., 2002 Year End Report);
  - The name, mailing address, city, state and zip code for each payee;
  - The date of each transaction;
  - The category of federal election activity (e.g., voter registration);
  - The year-to-date total for the activity;
  - The purpose of disbursement;
  - The federal share of each expense;
  - The "Levin fund" share of each expense; and
  - The combined federal/Levin total for each entry.
- As on Schedule H4, multiple entries may appear on each page of the H6, and should be subtotaled by page and totaled on the last page.
- To account for these disbursements on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- Examples of these transactions in FECFile are available on the Commission's BCRA Web page at

[http://www.fec.gov/pages/bcra/bcra\\_update.htm](http://www.fec.gov/pages/bcra/bcra_update.htm).

## 8. Reporting Transfers of "Levin Funds" Into the Federal Account for Shared "Federal Election Activity"

### • Paper Filers:

- Using Schedule H3 as a model, submit a cover letter labeled "H5—Transfers of Levin Funds for Shared FEA," disclosing:
  - The name of the committee;
  - The name of the account (i.e., "Levin");
  - The date of the transfer; and
  - The categorical breakdown of the transfer received on that date (e.g., total voter registration, total GOTV, etc.).
- As on Schedule H3, transfers must be segregated by date on the H5. It is permissible, however, to include transfers occurring on multiple dates on each page, as long as they are segregated by date.
- Aggregate transfers by category should appear at the bottom of the last page of H5.
- Adjust the totals on the *completed* Detailed Summary Page by adding the combined Levin fund transfers to the total for line 19 "Total Receipts."
- Do *not* adjust the total for line 20 "Total Federal Receipts."

### • E-Filers

- Using Schedule H3 as a model, submit a Form 99 (miscellaneous text submission) labeled "H5—Transfers of Levin Funds for Shared FEA," disclosing:
  - The name of the committee;
  - The name of the account (i.e., "Levin");
  - The report to which the activity relates (e.g., 2002 Year End Report);
  - The date of the transfer; and
  - The categorical breakdown of the transfer received on that date (e.g., total voter registration, total GOTV, etc.).
- As on Schedule H3, transfers must be grouped by date on the H5. However, unlike H3, it is permissible to include transfers occurring on multiple dates on a single page, so long as the transfers remain grouped by date.
- Total Levin fund transfers by category should appear at the bottom of the last page of H5.
- To account for these receipts on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- Examples of these transactions in FECFile are available on the Commission's BCRA web page at [http://www.fec.gov/pages/bcra/bcra\\_update.htm](http://www.fec.gov/pages/bcra/bcra_update.htm).

## Interim Disclosure Procedures for Federal Candidates and Campaign Committees

### 1. Additional Registration Information Pursuant to the "Millionaires Provision"

All candidates seeking election to federal office on/after January 1, 2003, must provide an e-mail address, a fax number and a declaration of intent to expend personal funds.

#### • Paper Filers:

- Attach a cover memo to FEC Form 2, Statement of Candidacy, disclosing an e-mail address, a fax number and a declaration of intent to expend personal funds.
- The declaration should read: "With respect to this election, I intend to expend personal funds totaling [fill in amount]."
- E-Filers:
- Include with Form 2, Statement of Candidacy, a text record disclosing an e-mail address, a fax number and a declaration of intent to expend personal funds.
- The declaration should read: "With respect to this election, I intend to expend personal funds totaling [fill in amount]."

## Interim Disclosure Procedures for Other Types of Filers

### 1. 24-Hour Notice of "Electioneering Communications"

E-mail or fax a report to the FEC disclosing:

- Name, address, occupation and name of employer or principal place of business of the individual or person making the communication;
- Name, address, occupation and name of employer or principal place of business of any person sharing or exercising control over the person making the communication;
- Name, address, occupation and name of employer or principal place of business of the custodian of the books and accounts from which the disbursements for the communication was made;
- If the person making the communication pays for it exclusively from a segregated bank account, the name and address of persons who donate \$1,000 or more to that account, including the date and amount of those donations;
- If the person making the communication does not pay for it exclusively from a segregated bank account, the name and address of persons who donate \$1,000 or more to the person making the communication (regardless of whether those funds are

used to finance the communication), including the date and amount of those donations;

- Disbursements of more than \$200, including the name and address of the payee, date, amount and purpose of the disbursement, the name of the federal candidate, and the election identified in the communication;

- Total donations received and disbursements made in this report;

- Aggregate disbursements year-to-date;

- The disclosure date (*i.e.*, the date when the communication was first publicly distributed); and

- The following statement: "Under penalty of perjury, I certify that this report is true, correct and complete." followed by the name/signature of the person making that statement and the date.<sup>2</sup>

Dated: November 22, 2002.

**David M. Mason,**

*Chairman, Federal Election Commission.*

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BILLING CODE 6715-01-P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 702, 741 and 747

#### Prompt Corrective Action

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to Congressional mandate, the National Credit Union Administration (NCUA) adopted a comprehensive system of prompt corrective action consisting of minimum capital standards and corresponding remedies to restore the net worth of federally-insured credit unions. After six quarters of implementation, the NCUA Board issued a proposed rule consisting of revisions and adjustments intended to improve and simplify the system of prompt corrective action. As revised to reflect public comments, the NCUA Board now issues a final rule incorporating these improvements.

**DATES:** Effective January 1, 2003.

#### FOR FURTHER INFORMATION CONTACT:

**Legal:** Steven W. Wideman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke St., Alexandria, VA 22314. Telephone: 703/518-6557; **Technical:** Jon Flagg, Loss/Risk Analysis Officer, Office of Examination and Insurance, at

the address above. Telephone: 703/518-6378.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

1. Development of Part 702
2. Where Credit Unions Stand Today
3. Comments on Proposed Rule

##### B. Section-by-section Analysis of Final Rule

1. Section 702.2—Definitions
2. Section 702.101—Measure and effective date of net worth classification
3. Section 702.106—Standard calculation of RBNW requirement
4. Section 702.107—Alternative component for loans sold with recourse
5. Section 702.108—Risk mitigation credit
6. Section 702.201—PCA for "Adequately Capitalized" credit unions
7. Section 702.204—PCA for "Critically Undercapitalized" credit unions
8. Section 702.205—Consultation with State officials on proposed PCA
9. Section 702.206—Net worth restoration plans
10. Section 702.303—PCA for "Adequately Capitalized" new credit unions
11. Section 702.304—PCA for "Moderately Capitalized," "Marginally Capitalized" and "Minimally Capitalized" new credit unions
12. Section 702.305—PCA for "Uncapitalized" new credit unions
13. Section 702.306—Revised business plans for new credit unions
14. Section 702.401—Charges to the regular reserve
15. Section 702.403—Payment of dividends
16. Section 741.3—Adequacy of reserves
17. Section 747.2005—Enforcement of orders

The following acronyms are used throughout:

CUMAA Credit Union Membership Access Act  
 DSA Discretionary Supervisory Action  
 MBL Member Business Loan  
 MSA Mandatory Supervisory Action  
 NWRP Net Worth Restoration Plan  
 OCA Other Corrective Action  
 PCA Prompt Corrective Action  
 RBNW Risk-Based Net Worth  
 RBP Revised Business Plan  
 RMC Risk Mitigation Credit

Throughout the Supplementary Information section, citations to part 702 refer to the current version of 12 CFR 702 *et seq.* (2002) and are abbreviated to the section number only.

##### A. Background

###### 1. Development of Part 702

In 1998, Congress enacted the Credit Union Membership Access Act ("CUMAA"), Pub. L. 105-219, 112 Stat. 913 (1998). CUMAA amended the Federal Credit Union Act ("the Act") to require NCUA to adopt by regulation a system of "prompt corrective action" ("PCA") consisting of minimum capital standards and corresponding remedies

to improve the net worth of federally-insured "natural person" credit unions. 12 U.S.C. 1790d *et seq.* In February 2000, the NCUA Board adopted part 702 and subpart L of part 747, establishing a comprehensive system of PCA that combines mandatory supervisory actions prescribed by statute with discretionary supervisory actions developed by NCUA, all indexed to five statutory net worth categories. 65 FR 8560 (Feb. 18, 2000).

Subpart A of part 702 consists of standards for calculating a credit union's net worth and classifying it among five statutory net worth categories. 12 CFR 702.101-108. Also included in subpart A is a separate risk-based net worth ("RBNW") component that applies to non-"new" credit unions, § 702.102(a)(1)-(2), that satisfy minimum RBNW and asset size requirements, § 702.103, and whose portfolios of assets and liabilities carry above average risk exposure. § 702.104; 65 FR 44950 (July 20, 2000). Subpart B combines mandatory and discretionary supervisory actions indexed to the five categories, as well as PCA-based conservatorship and liquidation. §§ 702.201-206. Subpart C consists of a system of PCA for "new" credit unions. §§ 702.301-307. Subpart D prescribes reserve accounts, requirements for full and fair disclosure of financial condition, and prerequisites for paying dividends consistent with the earnings retention requirement in subpart B. §§ 702.401-403. In addition to these substantive provisions, subpart L of part 747 established an independent review process allowing affected credit unions and officials to challenge PCA decisions. 12 CFR 747.2001 *et seq.* (2000).

Part 702 and subpart L of part 747 were effective August 7, 2000, and first applied to activity in the fourth quarter of 2000 as reflected in the Call Report for that period. The RBNW component of part 702 was effective January 1, 2001, and first applied (for quarterly Call Report filers) to activity in the first quarter of 2001 as reflected in the Call Report for that period.<sup>1</sup>

At the conclusion of the initial PCA rulemaking process, the NCUA Board directed the "PCA Oversight Task Force" (a working group consisting of NCUA staff and State regulators) to review at least a full year of PCA implementation and recommend necessary modifications. 65 FR at

<sup>1</sup> Part 702 has since been amended twice—once to incorporate limited technical corrections, 65 FR 55439 (Sept. 14, 2000), and once to delete sections made obsolete by the adoption of a uniform quarterly schedule for filing Call Reports regardless of asset size. 67 FR 12459 (March 19, 2002).

<sup>2</sup> Submission of false, erroneous or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.