

Dated: July 30, 1999.

Scott E. Thomas,  
Chairman, Federal Election Commission.  
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## FEDERAL ELECTION COMMISSION

### 11 CFR Part 9036

[NOTICE 1999-15]

#### Matching Credit Card and Debit Card Contributions in Presidential Campaigns

**AGENCY:** Federal Election Commission.

**ACTION:** Final rules and transmittal of regulations to Congress.

**SUMMARY:** On June 10, 1999, the Commission approved new regulations that allow contributions made by credit or debit card, including contributions made over the Internet, to be matched under the Presidential Primary Matching Payment Account Act. "Matchable contributions" are those which, when received by candidates who qualify for payments under the Matching Payment Act, are matched by the Federal Government. The rules published today provide general guidance on the documentation that must be provided before credit and debit card contributions will be matched, and state that more detailed guidance will be found in the Commission's Guideline for Presentation in Good Order.

**DATES:** Further action, including the publication of a document in the *Federal Register* announcing an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 26 U.S.C. 9039(c).

**FOR FURTHER INFORMATION CONTACT:** Rosemary C. Smith, Acting Assistant General Counsel, or Rita A. Reimer, Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694-1650 or (800) 424-9530 (toll free).

**SUPPLEMENTARY INFORMATION:** On June 17, 1999, the Commission published revisions to its regulations at 11 CFR 9034.2 and 9034.3 to permit the matching of credit card and debit card contributions, including contributions received over the Internet, under the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* ("Matching Payment Act"). 64 FR 32394. In that document the Commission announced that further documentation requirements for these contributions would be addressed in the Commission's upcoming rules

concerning the public financing of presidential primary and general election campaigns. *Id.* The Commission is publishing this separate document for this purpose in order to give the regulated community the earliest possible guidance in this area.

Under the Matching Payment Act, if a candidate for the presidential nomination of his or her party agrees to certain conditions and raises in excess of \$5,000 in contributions of \$250 or less from residents of each of at least 20 States, the first \$250 of each eligible contribution is matched by the Federal Government. 26 U.S.C. 9033, 9034. In the past, the Commission declined to match credit card contributions, although it has permitted campaign committees to accept them. The Commission has always held contributions submitted for matching to a higher documentation standard because the matching fund program involves the disbursement of millions of dollars in taxpayer funds. However, the Commission decided earlier this year such contributions should be matched, if appropriate safeguards and procedures were in place to guard against the receipt of excessive and prohibited contributions.

On December 16, 1998, the Commission published a Notice of Proposed Rulemaking ("NPRM") in which it sought comments on a wide range of issues involved in the public financing of presidential primary and general election campaigns. 63 F.R. 69524 (Dec. 16, 1998). Several of those who commented on the NPRM and several witnesses who testified at the Commission's March 24, 1999 public hearing on the NPRM urged the Commission to match qualified contributions made by credit or debit card over the Internet. After considering the comments, testimony and other relevant material, the Commission decided to authorize the matching of such contributions as long as safeguards were present to limit the possibility of fraudulent, illegal or excessive contributions. *See Explanation and Justification to the Federal Election Commission's Rules Addressing Matching Credit Card and Debit Card Contributions in Presidential Campaigns*, 64 F.R. 32394 (June 17, 1999). The new rules are codified at 11 CFR 9034.2(b) and (c), and 11 CFR 9034.3(c). The Commission also approved an Advisory Opinion, AO 1999-9, that authorized the matching of Internet contributions, but made its approval contingent on the expiration of the Congressional review period discussed below.

Section 9039(c) of Title 26, United States Code, requires that any rules or regulations prescribed by the Commission to carry out the provisions of the Matching Payment Act be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated.

The regulations at 11 CFR 9034.2 and 9034.3 on matching credit card and debit card contributions were sent to Congress on June 11, 1999. The legislative review period for those rules has not yet expired. However, if those rules are disapproved, then the new rules at 11 CFR 9036.1 and 9036.2 would not take effect, because they are a corollary to the earlier rules. The revisions to 9036.1 and 9036.2 are also subject to their own legislative review period, which began when they were transmitted to Congress on Aug. 2, 1999.

The Commission announced in the June 17, 1999 document that, unless Congress and the President enact legislation disapproving the amendments to 11 CFR 9034.2 and 9034.3, these changes will apply retroactively to contributions made on January 1, 1999 and thereafter. The same is true of these further regulations.

#### Explanation and Justification

##### *Section 9036.1 Threshold Submission*

This section sets forth the requirements a candidate must meet in making the threshold submission to the Commission, that is, the submission in which the candidate demonstrates that the requirements of 26 U.S.C. 9033 and 9034 have been met. The Commission is adding a new paragraph (b)(7) to this section, dealing with credit and debit card contributions, and renumbering paragraphs (b)(7) and (b)(8) as paragraphs (b)(8) and (b)(9), respectively.

The Commission has issued several Advisory Opinions dealing with the Internet, *see, e.g.*, AO's 1995-9, 1995-35, 1997-16, 1999-7, 1998-22, and 1999-9. It has also initiated a project to determine the potential impact of the Internet on various aspects of political committees' operations. It has become clear to the Commission that even cutting-edge advancements in computer technology may quickly become obsolete. Consequently, the Commission has decided to include the technical requirements for making these submissions in its Guideline for Presentation in Good Order, commonly known as "PIGO." Therefore, paragraph (b)(7) states without further elaboration that, in the case of a contribution made by a credit or debit card, including one

made over the Internet, the candidate shall provide sufficient documentation to the Commission to insure that each such contribution was made by a lawful contributor who manifested an intention to make the contribution to the campaign committee that submits it for matching fund payments. It further states that additional information on the documentation required to accompany such contributions will be found in PIGO. This approach will enable the Commission to update the technical requirements much more rapidly than would be possible if these requirements were to be included in the text of the rules.

The Commission notes, however, that PIGO has been incorporated by reference into the rules, and therefore is binding on candidates and their campaigns. 11 CFR 9036.1(b)(7), 9036.2(b). A candidate seeking matching funds for his or her presidential campaign must first sign a candidate agreement that provides, *inter alia*, that the candidate and the candidate's authorized committee(s) will prepare matching fund submissions in accordance with PIGO requirements. 11 CFR 9033.1(a)(9). Contributions submitted for matching will therefore not be matched unless these procedures are followed.

*Section 9036.2 Additional Submissions for Matching Fund Payments*

This section contains information on how subsequent submissions for matching fund payments, i.e., those made after the threshold submission, should be made. For the most part these requirements are identical to those for threshold submissions, except that additional submissions need not break down contributions by State, as is required of threshold submissions.

New paragraph (b)(1)(vii) of this section is identical to new paragraph 11 CFR 9036.1(b)(7), discussed *supra*. The new paragraph reinforces the requirement found in the introductory language of paragraph (b) of this section, which states that all additional submissions for matching fund payments shall be made in accordance with PIGO.

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

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that these regulations do not affect a substantial number of entities, and most of the

covered entities are not "small entities" for purposes of the Regulatory Flexibility Act. Therefore the rules would not have a significant economic effect on a substantial number of small entities.

**List of Subjects**

*11 CFR Part 9036*

Administrative practice and procedure, Campaign funds, Recordkeeping and reporting requirements.

For the reasons set forth in the preamble, Subchapter F, Chapter I of Title 11 of the Code of Federal Regulations is amended to read as follows:

**PART 9036—REVIEW OF SUBMISSION AND CERTIFICATION OF PAYMENTS BY COMMISSION**

1. The authority citation for Part 9036 continues to read as follows:

**Authority:** 26 U.S.C. 9036 and 9039(b).

2. Section 9036.1 is amended by redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(8) and (b)(9), respectively, and by adding new paragraph (b)(7) to read as follows:

**§ 9036.1 Threshold submission.**

\* \* \* \* \*

(b) \* \* \*

(7) In the case of a contribution made by a credit or debit card, including one made over the Internet, the candidate shall provide sufficient documentation to the Commission to insure that each such contribution was made by a lawful contributor who manifested an intention to make the contribution to the candidate or authorized committee that submits it for matching fund payments. Additional information on the documentation required to accompany such contributions is found in the Commission's Guideline for Presentation in Good Order. See 11 CFR 9033.1(b)(9).

\* \* \* \* \*

3. Section 9036.2 is amended by adding new paragraph (b)(1)(vii), to read as follows:

**§ 9036.2 Additional submissions for matching fund payments.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(vii) In the case of a contribution made by a credit or debit card, including one made over the Internet, the candidate shall provide sufficient documentation to the Commission to insure that each such contribution was made by a lawful contributor who

manifested an intention to make the contribution to the candidate or authorized committee that submits it for matching fund payments. Additional information on the documentation required to accompany such contributions is found in the Commission's Guideline for Presentation in Good Order. See 11 CFR 9033.1(b)(9).

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Dated: August 2, 1999.

**Scott E. Thomas,**

*Chairman, Federal Election Commission.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Airspace Docket No. 95-AWA-4]

RIN 2120-AA66

**Modification of the Orlando Class B Airspace Area, Orlando, FL; and Modification of the Orlando Sanford Airport Class D Airspace Area, Sanford, FL**

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Orlando Class B airspace area, Orlando, FL; and the Orlando Sanford Airport Class D airspace area, Sanford, FL. Specifically, this action modifies several subareas within the lateral boundaries of the existing Orlando Class B airspace area; and lowers the vertical limits of the Orlando Sanford Airport Class D airspace area. The FAA is taking this action to enhance safety, reduce the potential for midair collision, and improve the management of air traffic operations into, out of, and through the Orlando terminal area while accommodating the concerns of airspace users. Additionally, this action corrects the coordinates for the Orlando Sanford Airport.

**EFFECTIVE DATE:** 0901 UTC, September 9, 1999.

**FOR FURTHER INFORMATION CONTACT:**

Sheri Edgett Baron, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**