

April 27, 2019

Federal Election Commission
c/o Office of the General Counsel
999 E Street, NW
Washington, D.C. 20463

RE: Petition for Rulemaking to Add 11 C.F.R. § 100.57

Dear Federal Election Commission:

I respectfully submit this petition for rulemaking pursuant to 11 C.F.R. § 200.2. I ask the Commission amend the rules in 11 C.F.R. Part 100 Subpart B, defining “contribution” under the FECA, to unambiguously define costly information, opposition research, and kompromat to be “contributions”.

As the Commission knows, foreign entities have offered, or in fact delivered, opposition research or other information valuable to election campaigns in the course of recent elections. Such offers or transfers of information have occurred in prior elections as well, with varying responses by the recipient. We are strictly non-partisan, and have no interest in discussing any partisan differences or impacts of such actions, so will address the matter on a principled basis.

Certain information can be extremely valuable in elections. Some is traditionally paid for by candidates’ committees, such as polling data and opposition research (including preemptive “opposition research” on their own candidate).

Some such information may not be lawful to use, such as using compromising material (“kompromat”) to blackmail or otherwise compromise any candidate for office.

When such information is obtained from an external source, it constitutes a “contribution” under the Act. It is subject to the restrictions and reporting requirements for such contributions, such as the absolute bar to receipt or solicitation, direct or indirect, from a foreign national source.

Information is an unusual kind of contribution, in that once it is given, it cannot be returned or “un-seen”.¹ Information from a prohibited source, or that could be used to blackmail or otherwise compromise any candidate, must be swiftly investigated both by the Commission and appropriate law enforcement authorities. Such information is not merely a problem under the Act, but a potential counter-intelligence matter. Even purely passive receipt of such information — though not a violation of the Act by the recipient — still requires immediate action.

To be absolutely clear, we believe that the information covered in this amendment is *already* a “contribution” within the meaning of the Act, whether or not it is adopted. However, we believe that the public would benefit from additional clarity of an explicit regulation.

I request to appear before the Commission in any hearing on this matter, via video conference.

Respectfully submitted,

/s/ Sai

on behalf of:

Sai,

Fiat Fiendum, Inc. (f/k/a Make Your Laws, Inc.),

Make Your Laws PAC, Inc., *and*

Make Your Laws Advocacy, Inc.

500 Westover Dr #4514

Sanford, NC 27330

sai@fiatfiendum.org

¹ We pointed out a similar issue with Bitcoin contributions before, in the AO which the Commission approved unanimously: that it is not *possible* to “refuse” or “return” Bitcoin contributions, and so they entail unique regulatory problems.

Proposed amendment, 11 C.F.R. § 100.57 (Valuable Information)

- a) “Valuable Information” is any information that:
- i) is not freely available to the public;
 - ii) is provided to any person regulated by this Act
 - (1) at a cost less than the ordinary market rate,
 - (2) from any person not hired by the recipient to generate such information, or
 - (3) from any person prohibited from making a contribution under this Act;
 - iii) would cost a non-trivial amount for the recipient to obtain at their own expense; and
 - iv) that
 - (1) would likely have the effect of influencing any election for Federal office; or
 - (2) parties or candidate committees have traditionally expended money to obtain, such as polling data or opposition research
 - v) Valuable Information also includes any information that could be used to blackmail or otherwise compromise any candidate for Federal office (including indirect coercion, such as of a candidate’s family), regardless of source.
- b) Valuable Information is a “contribution” within the meaning of 11 C.F.R. § 100.51.
- c) “Foreign Information” and “Compromising Information” mean any information described under paragraph (a)(iii)(3) and (a)(v), respectively.
- d) The recipient of any Foreign or Compromising Information or any offer thereof shall, within 3 days of receiving such information or offer, file a written report to the Commission, which shall include:
- i) all material facts the recipient has about the circumstances at the time of report, and

- ii) a full copy of the information received.

The recipient shall file an updated report of any additional material facts within 3 days of becoming aware such additional facts.

- e) The Commission shall maintain any Compromising Information under seal, except for information otherwise available to the public, or with the consent of all persons against whom the information could be used. This seal shall not bar any transfer of information to any law enforcement entity or court with jurisdiction over the matter.
- f) The Commission, upon learning of any Foreign or Compromising Information, including by receipt of a report under paragraph (d), shall:
 - i) automatically and immediately, without any Commission vote:
 - (1) initiate investigations pursuant to 11 C.F.R. §§ 111.3 and 111.10;
 - (2) provide a report to the Federal Bureau of Investigation; and
 - (3) in the case of Compromising Information, provide a report to every reasonably identifiable person against whom such information could be used, or whose private information is disclosed by such information;
 - ii) immediately provide a report to any other law enforcement entity with likely jurisdiction over the matter;
 - iii) within 14 days, publicly issue a report on the matter, redacted for any seal under paragraph (e), and to protect any ongoing law enforcement investigation thereof; and
 - iv) within 30 days after the conclusion of any law enforcement investigation thereof, publicly issue a report on the matter, redacted for any seal under paragraph (e).