

Political Law Compliance and Investigations Update

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Maine Residents Pass Ballot Measure Limiting Contributions to Super PACs; Changes to New York Lobby Filings Go Into Effect

Maine

On November 5, 2024, Maine residents voted in favor of passing a ballot measure that limits contributions from individuals, PACs and business entities to PACs “for the purpose of making independent expenditures” to \$5,000 per calendar year. The law is expected to come into effect sometime in December 2024. Given that the law has not yet been implemented, it is not clear what is meant by contributions given “for the purpose of making independent expenditures.”

Also, since contributions to PACs have historically been unlimited regardless of whether a PAC makes independent expenditures, this measure has the unusual effect of creating limits for independent expenditure PACs (*i.e.*, super PACs), as well as for regular PACs when made for the purpose of making independent expenditures, while leaving other contributions to regular PACs unlimited.

Legal challenges to the new limits are expected in light of the U.S. Supreme Court’s 2010 decision in *Citizens United v. FEC*, which permitted corporations to use treasury funds for independent expenditures, and the D.C. Circuit’s ruling in *SpeechNow.org v. FEC*, which held that limits on contributions to PACs that only engage in making independent expenditures violate First Amendment free speech protections.

New York

On June 26, 2024, the New York State Commission on Ethics and Lobbying in Government (the Commission) approved amendments to lobbying regulations pertaining to the definition, role and responsibilities of the “Responsible Party,” the person responsible for accurately filing lobbying statements and reports on behalf of a lobbyist or client, as described below. These changes went into effect on December 1, 2024.

- **Definition of Responsible Party:** Under the prior regulations, the term Responsible Party was defined as the lobbyist’s or client’s chief administrative officer (CAO), a term that is not otherwise defined. Despite the seemingly high-ranking title, the Commission in practice has accepted lower-level employees who have the authority to make representations on behalf of the company to serve as the CAO for reporting purposes. The amendments clarify that if a lobbyist or client is an organization, the Responsible Party must have the legal authority to bind the lobbyist or client. Typically, this individual will hold an executive position and/or be a partner, member or owner of the organization. The amendment restricts a person whose sole responsibility or authority is to prepare

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lobbying reports from serving as a Responsible Party. The Commission advises that this change is to ensure that the Responsible Party has the requisite knowledge and authority to be able to attest to the truth, accuracy and completeness of the filing, as described below.

- **Role of the Responsible Party:** Under the prior regulations, either the Responsible Party or his or her designee were responsible for signing and filing all lobbying statements and reports. Under the amendments, now only the Responsible Party has such authority.

- **Responsibility of the Responsible Party:** As noted above, under the prior regulations, the Responsible Party or his or her designee were required to sign all lobbying reports and statements. Under the amendments, the Responsible Party must now also attest, under penalty of perjury, to the truth, accuracy and completeness of an organization's lobbying filing.

The Commission advises filers to review and, if applicable, update their Organization Profile in the Lobbying Application to ensure the appropriate Responsible Party(s) are reflected.

Please let us know if you have any questions.

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