Presidential Documents

Proclamation 5704 of September 17, 1987

National Year of Friendship With Finland, 1988

By the President of the United States of America

A Proclamation

Finnish settlers first arrived in this country in 1638, when Nordics, many of them natives of Finland or Swedes who spoke Finnish, established the colony of New Sweden in present-day Delaware. They introduced European civilization to the Delaware River Valley and began the transformation of a vast wilderness. Theirs were the pioneer spirit and virtues that are the foundation of our national character. The 350th anniversary of their landing is a most fitting time to celebrate the legacy of America's Finnish pioneers and their descendants and to recall that the friendship of the United States and Finland has deep historical roots.

To commemorate the relationship between the peoples of Finland and the United States on the 350th anniversary of New Sweden, the Congress, by Public Law 99–602, has designated 1988 as "National Year of Friendship with Finland," and has authorized and requested the President to issue a proclamation in its observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim 1988 as National Year of Friendship with Finland. I call upon all Americans to observe the year with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

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Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

Domestic Dates Produced or Packed In Riverside County, CA; Change of Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will add a two-pound plastic container to the existing regulations prescribed for whole and pitted DAC dates of any variety handled in the United States under the Federal marketing order for California dates. Date container sizes are limited under the marketing order to prevent pricing confusion in the marketplace. The change will give handlers additional marketing flexibility. DAC dates are the highest quality of dates shipped under the marketing order.

EFFECTIVE DATE: September 22, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, USDA, AMS, Fruit and Vegetable Division, Marketing Order Administration Branch, Room 2526-South Building, P.O. Box 96456, Washington, DC 20090-6456, telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 987, as amended (7 CFR Part 987), regulating the handling of dates produced or packed in Riverside County, California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 26 handlers of California dates subject to regulation under the date marketing order, and approximately 150 producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1) as those having annual gross revenues for the last three of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the date handlers and producers may be classified as small entities.

Notice of this rule was published in the **Federal Register** (52 FR 26668, July 16, 1987). That notice provided that interested persons could file public comments through August 17. No comments were received.

Date production in the United States is in the Coachella Valley of California. Nearly all of the dates are grown and packed within 20 miles of Indio, California. In 1986, 17,600 tons of California dates were produced. This is about 39 percent smaller than the record large 1985 crop of 29,000 tons. Shipments of California whole and pitted dates in domestic markets totaled 4,937 tons in the 1985-86 marketing year, and 4,425 tons in 1984-85 (October through September). Through May of the 1986-87 marketing year, the industry has shipped almost 7,300 tons to domestic markets. The farm value of the 1985 crop was $25.1 million. For 1985, bearing acreage was 4,373 acres and nonbearing acreage was 1,297 acres. Since 1980, more date palms have been planted than have been removed.

It is the Department's veiw that permitting use of an additional container will provide handlers additional marketing flexibility and benefit both growers and handlers.

This rule will amend § 987.112a(b)(3)(i) and (ii) of Subpart—Administrative Rules (7 CFR 987.101 through 987.172) to authorize the marketing of whole and pitted DAC dates in the domestic market in two-pound plastic containers. The provisions are issued under § 987.48 of the marketing order.

Section 987.112a(b)(3) prescribes consumer sizes of plastic containers, in terms of net weight content, that handlers must use when they package DAC dates in such containers for handling in domestic markets. The largest plastic containers currently authorized for whole and pitted date shipments are 1 pound 8 ounces, and more than two pounds. The committee believes that a two-pound container will fit advantageously into the array of sizes currently authorized. The committee also believes that the use of two-pound plastic containers will foster increased whole and pitted date sales.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because (1) this action relaxes restrictions on handlers by permitting handlers to use an additional plastic container; (2) some handlers are waiting to use the additional container; and (3) the new container is expected to further California date sales and shipments during the course of the current season and future seasons.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, California, Dates.

For the reasons set forth in the preamble, the following action pertaining to 7 CFR Part 987 is taken:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CA

1. The authority citation for 7 CFR Part 987 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 987.112a [Amended]

2. Sections 987.112a(b)(3) (i) and (ii) of Subpart—Administrative Rules (7 CFR 987.101–987.172), are amended by inserting the words "two pounds or more" in place of the words "more than two pounds".

Dated: September 15, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–21836 Filed 9–21–87; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 1987–11]

Contributions to and Expenditures by Delegates to National Nominating Conventions

AGENCY: Federal Election Commission.

ACTION: Final rule; transmittal of regulations to Congress.

SUMMARY: The Commission has revised its regulations at 11 CFR 110.14 governing the role of delegates and delegate committees in the Presidential delegate selection process. These regulations implement the contribution and expenditure limitations applicable to delegates and delegate committees, and set forth the reporting obligations of delegate committees under the Federal Election Campaign Act ("the Act" or "FECA"), 2 U.S.C. 431 *et seq.* The revisions clarify the distinction between the treatment of individual delegates and the treatment of delegate committees under these rules. The amended rules also establish criteria for determining whether delegate committees are affiliated with the campaign committee of the Presidential candidate they support. In addition, the Commission has made several corresponding amendments to 11 CFR 100.5(e), 110.1 and 110.2 to bring those provisions into conformity with the revised delegate selection rules. Further information on these revisions is provided in the supplementary information which follows.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 376–5690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revised rules governing the delegate selection process at 11 CFR 110.14. The Commission is also publishing conforming amendments to §§ 100.5, 110.1 and 110.2 to reflect the changes made in the delegate selection regulations.

On March 4, 1987, the Commission issued a Notice of Proposed Rulemaking seeking comments on proposed revisions to these regulations. 52 FR 6580. Three comments were received in response to the Notice. A public hearing was scheduled for April 22, 1987, but was subsequently cancelled because no requests to testify were received.

Section 438(d) of Title 2, United States Code, requires that any rule or regulation prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on September 17, 1987.

Explanation and Justification

The Notice of Proposed Rulemaking raised several questions concerning the role of draft committees and multicandidate committees closely associated with potential Presidential candidates in the delegate selection process, but did not put forward draft language to resolve the issues presented. One comment addressed these areas. The Commission also raised the same questions concerning multicandidate committees in a separate rulemaking regarding affiliation between political committees. See 51 FR 27183 (July 30, 1986). The Commission has concluded that it is more appropriate to address the multicandidate committee questions in the affiliation regulations rather than in the delegate regulations. Similarly, the Commission has decided that it would be better to address the draft committee issues in a separate rulemaking project at a later date. Consequently, the revised delegate selection regulations do not specifically cover these areas.

Section 110.14 Contributions to and expenditures by delegates and delegate committees.

Section 110.14 of the Commission's regulations establishes guidelines for delegates and delegate committees as to the impact of the FECA on a range of activities they may wish to undertake in the process of selecting delegates to a national nominating convention. Under § 110.14, funds received and spent for delegate selection activities are contributions and expenditures made to influence federal elections. This results from the definition of "election," which includes both a national nominating convention and a primary election held to select delegates to such a convention. 2 U.S.C. 431(1) (B) and (C). Consequently, only funds permissible under the Act may be used for such activities. However, because delegates are not candidates for federal office under the FECA, individual delegates are not subject to the same limitations on contributions they receive or the same reporting requirements as federal candidates. By contrast, delegate committees that qualify as political committees under 2 U.S.C. 431(4) have the same reporting requirements and are subject to the same contribution limits as other political committees, with certain limited exceptions explained below. The Commission's regulations also contain provisions explaining when certain expenditures by delegates and delegate committees may trigger the limits on contributions to a federal candidate, or may affect a publicly-financed Presidential candidate's spending limits.

A major focus of the revisions to § 110.14 is the reorganization of this section to clarify which provisions apply to individual delegates and which ones apply to delegate committees. Section 110.14 has also been retitled "Contributions to and expenditures by delegates and delegate committees" to reflect this reorganization. The provisions pertaining to contributions made to an individual delegate and expenditures made by that delegate are located in new paragraphs (d), (e) and (f). The corresponding provisions that apply to delegate committees are set forth in new paragraphs (g), (h) and (i). The other major change in § 110.14 is the addition of new paragraphs (j) and (k), which provide guidance as to when delegate committees may be deemed to be affiliated with a Presidential candidate's authorized committee or with other delegate committees.

Section 110.14(a) Scope.

This paragraph generally follows the current rule by stating that § 110.14 applies to all levels of the delegate selection process. Although no substantive changes have been made, paragraph (a) was slightly reworded for clarity and designated "Scope."

In response to a question posed in the Notice of Proposed Rulemaking, one commenter urged the Commission to

amend this provision to state more precisely what activities are part of the delegate selection process. Given that delegate selection procedures vary from state to state and from party to party, the Commission has concluded that more detailed language would not provide sufficient flexibility to examine individual situations.

Section 110.14(b) Definitions.

There is no change in the definition of "delegate" in paragraph (b)(1).

The definition of "delegate committee" in paragraph (b)(2) has been revised to make clear that a delegate committee may not necessarily be a political committee under the Act. Consequently, only delegate committees that qualify as political committees under 11 CFR 100.5 are required to register with the Commission pursuant to Part 102 and file reports of receipts and disbursements in accordance with Part 104.

Section 110.14(c) Funds received and expended; prohibited funds.

Section 110.14(c)(1) contains new language to clarify that funds received or disbursements made for the purpose of furthering the selection of a delegate to a national nominating convention are contributions or expenditures made for the purpose of influencing a federal election. This represents a continuation of previous Commission policy. *See* Explanation and Justification for 11 CFR 110.14, 45 FR 34865, 34866 (May 23, 1980); AO 1980–5; and AO 1975–12.

This paragraph also sets forth two exceptions to the general rule, following current § 110.14(a) (1) and (2). First, fees paid by a delegate to a State or subordinate State party committee as a condition for ballot access as a delegate are not contributions or expenditures for the purpose of influencing federal elections. Payments made to a State party committee by individuals who seek to qualify for selection as delegates are analogous to payments made by candidates for Federal office as a condition of ballot access that are specifically excluded from the definition of "contribution" and "expenditure." 2 U.S.C. 431(8)(B)(xiii); and 431(9)(B)(x); 11 CFR 100.7(b)(18); and 11 CFR 100.8(b)(19). *See also* AO 1980–5. The second category of payments that are exempted are administrative expenses incurred by a State or subordinate State party committee in connection with the sponsoring of conventions or caucuses during which delegates to a national nominating convention are selected.

Paragraph (c)(2) follows current § 110.14(f) by requiring that all funds received and disbursements made for the purpose of furthering a delegate's selection to a national nominating convention, including payments required as a condition of ballot access and administrative expenses incurred by a State or subordinate State committee, be made from funds permissible under the Act. The Commission received one comment strongly supporting the permissible funds requirement.

Section 110.14(d) Contributions to a delegate.

This paragraph generally follows current § 110.14(c) in explaining the application of the contribution limits to contributions made to individual delegates. Although no substantive changes have been made, this paragraph has been reorganized for clarity. Contributions to delegates are not subject to the limits on contributions to candidates or political committees set forth at 11 CFR 110.1 and 110.2 because delegates do not come within the definition of "candidate" in the Act. 2 U.S.C. 431(2). However, contributions from an individual to a delegate are subject to that individual's $25,000 annual limit on contributions because the aggregate annual limit applies generally to all contributions made for the purpose of influencing a federal election.

The Commission received one comment on this section, which supported the requirement that contributions to delegates count against the individual contributor's $25,000 annual contribution limit. The commenting organization also urged the Commission to revise the regulations in certain respects. It suggested treating authorized and committed delegates as agents of the Presidential candidate's principal campaign committee, and counting contributions to and expenditures by such delegates against the committee's contribution limits. Alternatively, the commenter proposed counting such contributions and expenditures against the candidate's limits only in the event that the individual delegate is directly or indirectly financed by the Presidential candidate or the campaign committee. The Commission does not believe that such a substantial change in the regulations is necessary. If there is evidence in a particular case demonstrating that an individual delegate is in fact serving as an agent of a Presidential campaign committee or of a delegate committee, the Commission's regulations allow for the attribution of the delegate's contributions and expenditures to the committee. The new provisions on affiliation of delegate committees also resolve some of the commenter's concerns.

Section 110.14(e) Expenditures by a delegate to advocate only his or her selection.

New paragraph (e) follows current § 110.14(d) regarding expenditures by delegates to advocate only their own selection. This provision has been reorganized for clarity, but contains no substantive changes.

Section 110.14(f) Expenditures by a delegate referring to a candidate for public office.

New § 110.14(f) governs delegate expenditures for communications which advocate the delegate's selection and which also include information on or reference to a candidate for public office, including a Presidential candidate. The new provisions concerning such "dual purpose" expenditures are based on current § 110.14(d)(2), although they have been revised in several respects. First, the "dual purpose" expenditure provisions have been reorganized into two separate paragraphs. New § 110.14(f) governs dual purpose expenditures made by individual delegates, and the corresponding provisions for delegate committees are located in new § 110.14(i). Second, the new regulations apply to references to candidates for any public office, not just references to Presidential candidates. This revision recognizes that delegates and delegate committees may wish to mention federal, state or local candidates in their campaign materials. Although the Commission considered more fundamental changes to these provisions, it decided to continue the overall approach taken in the current rules. None of the public comments addressed the possible changes to these regulations put forth by the Commission.

Paragraph (f)(1) generally follows current § 110.14(d)(2)(i) with regard to "dual purpose" expenditures that are made in connection with volunteer activities. Such expenditures are neither contributions subject to the § 110.1 contribution limits, nor subject to the § 110.8 spending limits for Presidential candidates, provided that two conditions are satisfied. The materials must be used in connection with volunteer activity, and the expenditures cannot be made for general public communications or political advertising. This provision is based on the so-called "coattail" exemption from the definition of contribution in 2 U.S.C. 431(8)(B)(xi). This exemption applies to delegate expenditures because it applies to

payments by candidates for public office. Although delegates are not candidates for federal office under the Act, they may be considered candidates for public office. As the Commission has stated previously, this exemption is intended to encourage volunteer activity in the delegate selection process and to permit delegates to campaign as part of a team. Explanation and Justification for 11 CFR 110.14, 45 FR 34865, 34867 (May 23, 1980); *See also* 125 Cong. Rec. H23815 (Sept. 10, 1979) (statement of Rep. Frenzel).

Paragraph (f)(2) governs "dual purpose" expenditures by delegates involving the use of general public political advertising, such as broadcasting, newspapers, magazines, billboards and direct mail. This provision has been slightly revised from current § 110.14(d)(2)(ii) for clarity, but has not been changed substantively. Thus, this paragraph applies the standards established by the FECA at 2 U.S.C. 431 (8) and (17) to determine whether such expenditures by individual delegates are in-kind contributions or independent expenditures for the candidates referred to in the communications. As in-kind contributions, such delegate expenditures are subject to the contribution limits of 11 CFR 110.1 and the Presidential candidate's spending limits under 11 CFR 110.8. Although individual delegates do not have to report making such in-kind contributions, the recipient candidate's committee does incur reporting obligations. On the other hand, if the delegate's expenditures qualify as independent expenditures, they are not subject to limitation in amount, but they must be made and reported in accordance with the requirements of 11 CFR Part 109.

Paragraph (f)(3), which is based upon the provisions of current § 110.14(d)(2)(ii)(A)(*2*), addresses delegate expenditures for the purpose of disseminating, distributing or republishing a candidate's campaign materials. It has been amended in two respects. First, the wording of this provision has been revised to recognize that delegates might wish to republish materials produced by federal candidates other than Presidential candidates. Second, the new language clarifies that such expenditures are in-kind contributions subject to the contribution limits and reportable by the federal candidate whose material is used. The new provision follows the current rule by not requiring such expenditures to be charged against a publicly financed Presidential candidate's spending limits unless they were made with the cooperation or prior consent of, or in consultation with, or at the request or suggestion of the candidate or his or her campaign committee.

New § 110.14(f)(4) follows current § 110.14(d)(2)(ii)(D) in defining the term "direct mail" for the purposes of the delegate selection regulations.

Section 110.14(g) Contributions made to and by a delegate committee.

New § 110.14(g) follows current § 110.14(d) in applying the contribution limitations and reporting requirements of the Act to contributions made and received by delegate committees. The Commission has reorganized this provision, but has made no substantive revisions. Thus, contributions received from a Presidential candidate's campaign committee will count against that candidate's spending limits under 11 CFR 110.8 if the candidate elects to receive public financing.

Section 110.14(h) Expenditures by a delegate committee to advocate only the selection of one or more delegates.

The Commission has added new § 110.14(h) to the regulations to provide a more complete explanation of how the contribution and expenditure limits apply to delegate committee expenditures that advocate only the selection of one or more delegates. This provision, which generally follows new § 110.14(e), states that such expenditures are not considered to be contributions to any candidate, and are not subject to the § 110.1 contribution limits. Similarly, they are not chargeable to the expenditure limits of any Presidential candidate under § 110.8(a). Finally, new paragraph (h) continues the current requirement that delegate committees must report these expenditures in accordance with 11 CFR Part 104.

Section 110.14(i) Expenditures by a delegate committee referring to a candidate for public office.

New § 110.14(i) has been added to the delegate selection regulations to provide an explicit statement concerning expenditures by delegate committees for communications which advocate the selection of one or more delegates and which also include information on or reference to a candidate for public office, including a Presidential candidate. This provision parallels new § 110.14(f), which governs "dual purpose" expenditures made by individual delegates. New paragraph (i) was included in response to questions that were raised during the 1984 Presidential election cycle as to whether the "dual purpose" expenditure provision (current § 110.14(d)(2)) applied only to individual delegates, or to delegate committees as well. *See* MURs 1667 and 1704 (1984). The Commission has previously stated that the "dual purpose" expenditure rules apply to delegates who form political committees. *See* AO 1980–5. Moreover, current paragraph (d)(2) contains parentheticals indicating that delegate committees must report such expenditures. Thus, new § 110.14(i) represents a continuation of the Commission's previous approach with regard to delegate committee expenditures.

New § 110.14(i)(1) generally follows revised § 110.14(f)(1) by explaining when "dual purpose" expenditures by delegate committees made in connection with volunteer activities are not treated as contributions to the federal candidates mentioned. However, delegate committees must report such expenditures, although individual delegates need not do so.

"Dual purpose" expenditures by delegate committees for general public communications or political advertising are covered in new § 110.14(i)(2). This provision generally follows new § 110.14(f)(2) and the current rules in setting forth the conditions under which such "dual purpose" expenditures must be treated as in-kind contributions to or independent expenditures on behalf of the candidates mentioned.

During this rulemaking, the Commission considered alternatives to the current requirement that delegate committee expenditures for general public political advertising be allocated between the delegates and the candidates mentioned. One possibility was to not allow allocation, and to treat the entire expenditure as an in-kind contribution or independent expenditure for the candidate named. The opposite approach would be to eliminate the need for allocation by considering the entire expenditure to be solely for the purpose of influencing the selection of the delegates mentioned. The Commission has decided to reject both of these alternatives, and to reaffirm the current approach requiring allocation. The FECA establishes standards as to what is considered an in-kind contribution and what is an independent expenditure. 2 U.S.C. 431 (8) and (17). Those standards apply to disbursements by delegate committees in precisely the same way that they apply to disbursements made by other persons and political committees. Consequently, the Commission's regulations must

continue to apply these standards to delegate committees.

The Commission notes that in allocating "dual purpose" expenditures under § 110.14(i)(2), delegate committees should be guided by the general principles set out in the allocation regulations at 11 CFR Part 106. Thus, the amount to be attributed to each delegate or candidate should reflect the benefit reasonably expected to be derived. 11 CFR 106.1(a). This can be based on readily apparent factors such as the number of candidates mentioned and the amount of space or time accorded to each.

Paragraph (i)(3) addresses expenditures by delegate committees to disseminate, distribute or republish a candidate's campaign materials. It follows new § 110.14(f)(3), except that delegate committees must report such expenditures in the same manner as they report other types of expenditures.

New § 110.14(i)(4), which explains what is meant by the term "direct mail," follows new § 110.14(f)(4).

Section 110.14(j) Affiliation of a delegate committee with a Presidential candidate's authorized committee.

The Commission has added new § 110.14(j) to provide guidance as to when a delegate committee will be considered affiliated with the authorized committee of the Presidential candidate it supports. Paragraph (j)(1) states that these two committees are affiliated if they are established, financed, maintained or controlled by the same person, such as the Presidential candidate, or the same group of persons. Paragraph (j)(2) sets forth a list of factors that the Commission may consider in making affiliation determinations. These provisions implement the statutory requirement that, for purposes of the contribution limitations, all political committees established, financed, maintained or controlled by the same person or group of persons be treated as a single political committee. 2 U.S.C. 441a(a)(5).

The Notice of Proposed Rulemaking indicated that questions arose during the 1984 Presidential election cycle concerning possible affiliation between delegate committees and a Presidential candidate's authorized committee. *See* Matters Under Review 1667 and 1704 (1984). Specifically, the Notice sought comment as to when the relationship between two such committees is sufficiently close that they must be treated as affiliated under the Act. The Commission also posed the question as to what circumstances should cause the committees to be considered affiliated *per se*, and what circumstances should raise a presumption of affiliation. Comments were also requested as to the types of interactions that demonstrate common establishment, financing, maintenance or control.

One comment was received on these issues. The commenter took the position that delegate committees and Presidential campaign committees should be affiliated *per se* if any delegate associated with the delegate committee is formally authorized by the Presidential candidate or runs on the ballot as committed to that candidate. The commenting organization advocated a case-by-case approach for delegate committees consisting solely of uncommitted delegates, and submitted a list of proposed factors that it felt are particularly significant in this regard. The commenter urged the Commission to adopt this approach to prevent circumvention of the contribution and expenditure limits.

The Commission has evaluated the affiliation issues in light of the public comment and the Commission's previous advisory opinions and compliance matters, particularly MURs 1667 and 1704, and has decided that a *per se* rule would not be advisable. Although a *per se* approach would eliminate the need for extensive and intrusive investigations, one problem is that it would not give the Commission sufficient flexibility to examine these situations on a case-by-case basis. Nevertheless, Presidential campaigns and prospective delegates need guidance as to whether specific actions will jeopardize their nonaffiliated status. Accordingly, the Commission is including in the new rules a set of indicia of affiliation to be applied in examining the relationship between delegate committees and Presidential campaign committees.

The indicia focus on several pertinent factors that the Commission has considered in other situations involving delegate committees. These include: Common or overlapping staff; direct and indirect financing of the delegate committee; providing other goods or services, including a mailing list; and directing or organizing the specific campaign activities to be undertaken by the delegate committee. In general, the presence of any particular factor or factors will not automatically result in a finding of affiliation. However, the presence of these factors and the extent to which the committees engage in such activities may be considered by the Commission in making its determination and can increase the likelihood that the committees will be deemed affiliated.

There are several consequences resulting from a finding of affiliation between a delegate committee and a Presidential campaign committee. First, the two affiliated committees share a single contribution limit with regard to all contributions they make or receive. This means that individual contributions to the delegate committee must be aggregated with any contributions made by those individuals to the candidate's campaign committee for that election. Such aggregation serves to further the goal of minimizing "the adverse impact on the statutory scheme caused by political committees that appear to be separate entities pursuing their own ends, but are actually a means for advancing a candidate's campaign." H.R. Rep. No. 94–1057, 94th Cong., 2d Sess. 57–58 (1976). It is also supported by the statutory requirement that "all contributions made by a person, either directly or indirectly, on behalf of a particular candidate . . . shall be treated as contributions from such person to such candidate." 2 U.S.C. 441a(a)(8).

Another consequence of affiliation is that there is no limit on the amount of funds that may be transferred between the two affiliated committees. 11 CFR 102.6(a). The amount transferred from a Presidential candidate's authorized committee to an affiliated delegate committee is not treated as a contribution to that delegate committee or as an expenditure by the Presidential committee.[1] Consequently, the transfer, itself, is not subject to the contribution limits set forth in § 110.1 and § 110.2, and does not trigger the expenditure limits of § 110.8. However, all of the delegate committee's expenditures, including expenditures made from the funds transferred, automatically count against the Presidential candidate's spending limits, as a result of affiliation.

Finally, it is impossible for a delegate committee affiliated with a Presidential campaign committee to make independent expenditures on behalf of the Presidential candidate.

Section 110.14(k) Affiliation between delegate committees.

New § 110.14(k) has been added to the delegate regulations to address affiliation between different delegate committees. It states that the criteria for affiliation set out at 11 CFR 100.5(g) will be applied to determine whether delegate committees are affiliated with each other. Under § 100.5(g)(2), delegate committees are affiliated if they are

[1] The disbursement should be reported as a transfer to an affiliated committee and not as a contribution or expenditure. The recipient committee should also report receipt of the transfer. *See* 11 CFR 104.3(a)(2)(v).

established, financed, maintained or controlled by the same corporation, labor organization, person or group of persons, including any parent, subsidiary, branch, division, department or local unit thereof. The indicia of affiliation set out at § 100.5(g)(2)(ii) will be used to ascertain whether the delegate committees are commonly established, financed, maintained or controlled.

If the Commission finds that two or more delegate committees are affiliated, the committees will share a single contribution limit for all contributions made or received. This means that they must aggregate contributions received from the same contributor. In addition, the affiliated delegate committees must aggregate the contributions they make to the same candidate or political committee, including any expenditures that qualify as in-kind contributions to such candidate. Finally, affiliated delegate committees must file separate financial disclosure reports under Part 104, and must list affiliated committees on their statements of organization. *See* 11 CFR 102.2.

Conforming Amendments

In addition to the foregoing revisions to 11 CFR 110.14, several additional amendments have been made to other sections of the Commission's regulations for clarification and to make those sections consistent with the new language of 11 CFR 110.14. The revisions are located in 11 CFR 100.5(e), 110.1 and 110.2. The Commission received no public comments on these changes.

Section 100.5 Political committee.

The definition of "delegate committee" in § 100.5(e)(5) has been revised to follow the definition in new § 110.14(b)(2).

Section 110.1 Contributions by persons other than multicandidate political committees.

New paragraph (m) has been added to § 110.1 to provide that the contribution limits set forth in that section do not apply to contributions made to an individual delegate, but are applicable to contributions given to a delegate committee. The new language is consistent with current § 110.14 (c) and (e) and new § 110.14 (d)(1) and (g)(1), and does not represent a substantive change in this area.

Section 110.2 Contributions by multicandidate political committees.

There are no substantive changes in this section. However, new paragraph (j) has been added to state that the § 110.2 limits on contributions by multicandidate committees do not apply to funds given to an individual delegate, but are applicable to contributions made to a delegate committee. This provision follows new § 110.1(m) and is consistent with both current and new § 110.14.

List of Subjects

11 CFR Part 100

Campaign funds, Elections.

11 CFR Part 110

Campaign funds, Elections, Political candidates, Political committees and parties.

For the reasons set out in the preamble, Subchapter A, Chapter I of Title 11, Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. 11 CFR Part 100 is amended by revising § 100.5(e)(5) to read as follows:

§ 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).

* * * * *

(e) * * *

(5) *Delegate committee.* A delegate committee is a group of persons that receives contributions or makes expenditures for the sole purpose of influencing the selection of one or more delegates to a national nominating convention. The term "delegate committee" includes a group of delegates, a group of individuals seeking selection as delegates and a group of individuals supporting delegates. A delegate committee that qualifies as a political committee under 11 CFR 100.5 must register with the Commission pursuant to 11 CFR Part 102 and report its receipts and disbursements in accordance with 11 CFR Part 104. (See definition of "delegate" at 11 CFR 110.14(b)(1).)

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

3. The authority citation for Part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h, and 441i.

4. Section 110.1 is amended by adding paragraph (m) to read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

* * * * *

(m) *Contributions to delegates and delegate committees.* (1) Contributions to delegates for the purpose of furthering their selection under 11 CFR 110.14 are not subject to the limitations of this section.

(2) Contributions to delegate committees under 11 CFR 110.14 are subject to the limitations of this section.

5. Section 110.2 is amended by adding paragraph (j) to read as follows:

§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

* * * * *

(j) *Contributions to delegates and delegate committees.* (1) Contributions to delegates for the purpose of furthering their selection under 11 CFR 110.14 are not subject to the limitations of this section.

(2) Contributions to delegate committees under 11 CFR 110.14 are subject to the limitations of this section.

6. Section 110.14 is revised to read as follows:

§ 110.14 Contributions to and expenditures by delegates and delegate committees.

(a) *Scope.* This section sets forth the prohibitions, limitations and reporting requirements under the Act applicable to all levels of a delegate selection process.

(b) Definitions—(1) *Delegate.* Delegate means an individual who becomes or seeks to become a delegate, as defined by State law or party rule, to a national nominating convention or to a State, district, or local convention, caucus or primary that is held to select delegates to a national nominating convention.

(2) *Delegate committee.* A delegate committee is a group of persons that receives contributions or makes expenditures for the sole purpose of influencing the selection of one or more delegates to a national nominating convention. The term "delegate committee" includes a group of delegates, a group of individuals seeking selection as delegates and a group of individuals supporting delegates. A delegate committee that qualifies as a political committee under 11 CFR 100.5 must register with the Commission pursuant to 11 CFR Part 102 and report its receipts and disbursements in accordance with 11 CFR Part 104.

(c) *Funds received and expended; Prohibited funds.* (1) Funds received or disbursements made for the purpose of furthering the selection of a delegate to

a national nominating convention are contributions or expenditures for the purpose of influencing a federal election, see 11 CFR 100.2 (c)(3) and (e), except that—

(i) Payments made by an individual to a State committee or subordinate State committee as a condition for ballot access as a delegate are not contributions or expenditures. Such payments are neither required to be reported under 11 CFR Part 104 nor subject to limitation under 11 CFR 110.1; and

(ii) Payments made by a State committee or subordinate State party committee for administrative expenses incurred in connection with sponsoring conventions or caucuses during which delegates to a national nominating convention are selected are not contributions or expenditures. Such payments are neither required to be reported under 11 CFR Part 104 nor subject to limitation under 11 CFR 110.1 and 110.2.

(2) All funds received or disbursements made for the purpose of furthering the selection of a delegate to a national nominating convention, including payments made under paragraphs (c)(1)(i) and (c)(1)(ii) of this section, shall be made from funds permissible under the Act. *See* 11 CFR Parts 110, 114 and 115.

(d) *Contributions to a delegate.* (1) The limitations on contributions to candidates and political committees under 11 CFR 110.1 and 110.2 do not apply to contributions made to a delegate for the purpose of furthering his or her selection; however, such contributions do count against the limitation on contributions made by an individual in a calendar year under 11 CFR 110.5.

(2) Contributions to a delegate made by the authorized committee of a presidential candidate count against the presidential candidate's expenditure limitation under 11 CFR 110.8(a).

(3) A delegate is not required to report contributions received for the purpose of furthering his or her selection.

(e) *Expenditures by delegate to advocate only his or her selection.* (1) Expenditures by a delegate that advocate only his or her selection are neither contributions to a candidate, subject to limitation under 11 CFR 110.1, nor chargeable to the expenditure limits of any Presidential candidate under 11 CFR 110.8(a). Such expenditures may include, but are not limited to: Payments for travel and subsistence during the delegate selection process, including the national nominating convention, and payments for any communications advocating only the delegate's selection.

(2) A delegate is not required to report expenditures made to advocate only his or her selection.

(f) *Expenditures by a delegate referring to a candidate for public office*—(1) *Volunteer activities that do not use public political advertising.* (i) Expenditures by a delegate to defray the costs of certain campaign materials (such as pins, bumper stickers, handbills, brochures, posters and yard signs) that advocate his or her selection and also include information on or reference to a candidate for the office of President or any other public office are neither contributions to the candidate referred to nor subject to limitation under 11 CFR 110.1 provided that:

(A) The materials are used in connection with volunteer activities; and

(B) The expenditures are not for costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising.

(ii) Such expenditures are not chargeable to the expenditure limitation of a presidential candidate under 11 CFR 110.8(a).

(iii) A delegate is not required to report expenditures made pursuant to this paragraph.

(2) *Use of public political advertising.* A delegate may make expenditures to defray costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising to advocate his or her selection and also include information on or reference to a candidate for the office of President or any other public office.

(i) Such expenditures are in-kind contributions to a Federal candidate if they are made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate, his or her authorized political committee(s), or their agents. *See* 11 CFR 100.7(a)(iii)(A); 2 U.S.C. 441a(a)(7)(B).

(A) The portion of the expenditure allocable to a Federal candidate is subject to the contribution limitations of 11 CFR 110.1.

(B) A Federal candidate's authorized committee must report the portion of the expenditure allocable to the candidate as a contribution pursuant to 11 CFR Part 104.

(C) The portion of the expenditure allocable to a presidential candidate is chargeable to the presidential candidate's expenditure limitation under 11 CFR 110.8(a).

(ii) Such expenditures are independent expenditures under 11 CFR Part 109 if they are made for a communication expressly advocating the election or defeat of a clearly identified Federal candidate that is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, the candidate or any agent or authorized committee of such candidate.

(A) Such independent expenditures must be made in accordance with the requirements of 11 CFR Part 109.

(B) The delegate shall report the portion of the expenditure allocable to the Federal candidate as an independent expenditure in accordance with 11 CFR 109.2.

(3) *Republication of candidate materials.* Expenditures made to finance the dissemination, distribution or republication, in whole or in part, of any broadcast or materials prepared by a Federal candidate are in-kind contributions to the candidate.

(i) Such expenditures are subject to the contribution limits of 11 CFR 110.1.

(ii) The Federal candidate must report the expenditure as a contribution pursuant to 11 CFR Part 104.

(iii) Such expenditures are not chargeable to the presidential candidate's expenditure limitation under 11 CFR 110.8 unless they were made with the cooperation, or with the prior consent of, or in consultation with, or at the request or suggestion of, the candidate or any agent or authorized committee of such candidate.

(4) For purposes of this paragraph, "direct mail" means any mailing(s) by commercial vendors or any mailing(s) made from lists that were not developed by the delegate.

(g) *Contributions made to and by a delegate committee.* (1) The limitations on contributions to political committees under 11 CFR 110.1 and 110.2 apply to contributions made to and by a delegate committee.

(2) Contributions to a delegate committee count against the limitation on contributions made by an individual in a calendar year under 11 CFR 110.5.

(3) A delegate committee shall report contributions it makes and receives pursuant to 11 CFR Part 104.

(h) *Expenditures by a delegate committee to advocate only the selection of one or more delegates.* (1) Expenditures by a delegate committee that advocate only the selection of one or more delegates are neither contributions to a candidate, subject to limitation under 11 CFR 110.1 nor chargeable to the expenditure limits of any Presidential candidate under 11 CFR 110.8(a). Such expenditures may include but are not limited to: Payments for

travel and subsistence during the delegate selection process, including the national nominating convention, and payments for any communications advocating only the selection of one or more delegates.

(2) A delegate committee shall report expenditures made pursuant to this paragraph.

(i) *Expenditures by a delegate committee referring to a candidate for public office*—(1) *Volunteer activities that do not use public political advertising.* (i) Expenditures by a delegate committee to defray the costs of certain campaign materials (such as pins, bumper stickers, handbills, brochures, posters and yard signs) that advocate the selection of a delegate and also include information on or reference to a candidate for the office of President or any other public office are neither contributions to the candidate referred to, nor subject to limitation under 11 CFR 110.1 provided that:

(A) The materials are used in connection with volunteer activities; and

(B) The expenditures are not for costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising.

(ii) Such expenditures are not chargeable to the expenditure limitation of a presidential candidate under 11 CFR 110.8(a).

(iii) A delegate committee shall report expenditures made pursuant to this paragraph.

(2) *Use of public political advertising.* A delegate committee may make expenditures to defray costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising to advocate the selection of one or more delegates and also include information on or reference to a candidate for the office of President or any other public office. If such expenditures are in-kind contributions or independent expenditures under paragraphs (i) or (ii) below, the delegate committee shall allocate the portion of the expenditures relating to the delegate(s) and candidate(s) referred to in the communications between them and report the portion allocable to each.

(i) Such expenditures are in-kind contributions to a Federal candidate if they are made in cooperation, consultation or concert with or at the request or suggestion of the candidate, his or her authorized political committee(s), or their agents.

(A) The portion of the expenditure allocable to a Federal candidate is subject to the contribution limitations of 11 CFR 110.1. The delegate committee shall report the portion allocable to the Federal candidate as a contribution in-kind.

(B) The Federal candidate's authorized committee shall report the portion of the expenditure allocable to the candidate as a contribution pursuant to 11 CFR Part 104.

(C) The portion of the expenditure allocable to a presidential candidate is chargeable to the presidential candidate's expenditure limitation under 11 CFR 110.8(a).

(ii) Such expenditures are independent expenditures under 11 CFR Part 109 if they are made for a communication expressly advocating the election or defeat of a clearly identified Federal candidate that is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, the candidate or any agent or authorized committee of such candidate.

(A) Such independent expenditures must be made in accordance with the requirements of 11 CFR Part 109.

(B) The delegate committee shall report the portion of the expenditure allocable to the Federal candidate as an independent expenditure in accordance with 11 CFR 109.2.

(3) *Republication of candidate materials.* Expenditures made to finance the dissemination, distribution or republication, in whole or in part, of any broadcast or materials prepared by a Federal candidate are in-kind contributions to the candidate.

(i) Such expenditures are subject to the contribution limitations of 11 CFR 110.1. The delegate committee shall report the expenditure as a contribution in-kind.

(ii) The Federal candidate's authorized committee shall report the expenditure as a contribution pursuant to 11 CFR Part 104.

(iii) Such expenditures are not chargeable to the presidential candidate's expenditure limitation under 11 CFR 110.8 unless they were made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, the candidate or any agent or authorized committee of such candidate.

(4) For purposes of this paragraph, "direct mail" means any mailing(s) by commercial vendors or any mailing(s) made from lists that were not developed by the delegate committee or any participating delegate.

(j) *Affiliation of delegate committees with a Presidential candidate's authorized committee.* (1) For purposes of the contribution limits of 11 CFR 110.1 and 110.2, a delegate committee shall be considered to be affiliated with a Presidential candidate's authorized committee if both such committees are established, financed, maintained or controlled by the same person, such as the Presidential candidate, or the same group of persons.

(2) Factors the Commission may consider in determining whether a delegate committee is affiliated under paragraph (j)(1) of this section with a Presidential candidate's authorized committee may include, but are not limited to:

(i) Whether the Presidential candidate or any other person associated with the Presidential authorized committee played a significant role in the formation of the delegate committee;

(ii) Whether any delegate associated with a delegate committee is or has been a staff member of the Presidential authorized committee;

(iii) Whether the committees have common or overlapping officers or employees;

(iv) Whether the Presidential authorized committee provides funds or goods in a significant amount or on an ongoing basis to the delegate committee, such as through direct or indirect payments for administrative, fundraising, or other costs, but not including the transfer to a committee of its allocated share of proceeds jointly raised pursuant to 11 CFR 102.17 or 9034.8;

(v) Whether the Presidential candidate or any other person associated with the Presidential authorized committee suggested, recommended or arranged for contributions to be made to the delegate committee;

(vi) Similar patterns of contributions received by the committees;

(vii) Whether one committee provides a mailing list to the other committee;

(viii) Whether the Presidential authorized committee or any person associated with that committee provides ongoing administrative support to the other committee;

(ix) Whether the Presidential authorized committee or any person associated with that committee directs or organizes the specific campaign activities of the delegate committee; and

(x) Whether the Presidential authorized committee or any person associated with that committee files statements or reports on behalf of the delegate committee.

(k) *Affiliation between delegate committees.* Delegate committees will be considered to be affiliated with each

other if they meet the criteria for affiliation set forth at 11 CFR 100.5(g).

Scott E. Thomas,

Chairman, Federal Election Commission.

Dated: September 17, 1987.

[FR Doc. 87-21788 Filed 9-21-87; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0580]

Equal Credit Opportunity; Determination of Effect of State Laws (Wisconsin)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determination.

SUMMARY: The Board is publishing in final form a determination as to whether certain provisions in the Family Code of Wisconsin are inconsistent with the Equal Credit Opportunity Act (ECOA) or Regulation B and therefore preempted. The Board has made a determination not to preempt any of the provisions in question.

EFFECTIVE DATE: November 1, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Brueger, Attorney, Division of Consumer and Community Affairs, at (202) 452-2412 (for TDD users only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) *General.*

Section 705(f) of the ECOA authorizes the Board to determine whether an inconsistency exists between a provision of the act and a state law relating to credit discrimination. If, in addition to being inconsistent, a state law provides no greater protection for credit applicants than does the federal law, the state law is preempted to the extent of the inconsistency, and creditors in that state may not follow the inconsistent state requirement. In addition, section 705(b) of the ECOA provides that consideration or application of state property laws directly or indirectly affecting creditworthiness do not constitute discrimination under the act.

This determination regarding Wisconsin law is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265).

(2) *Discussion of Wisconsin law and final determination.*

The Board examined Wisconsin Statutes §§ 766.56(3)(b), 766.565(5), and 766.56(2)(d) to determine whether requirements imposed by these sections are inconsistent with the ECOA or the Board's Regulation B, which implements the act. On October 6, 1986, the Board published a preliminary determination (51 FR 35521). In that notice, the Board proposed to preempt a portion of § 766.565(5), specifically, the requirement that creditors terminate certain accounts in response to a unilateral request to do so from a nonapplicant spouse. The Board proposed not to preempt §§ 766.56(3)(b) or 766.56(2)(d), dealing with marital status and other inquiries, as no inconsistency was found between these sections and the federal law. Ten comments were received in response to the proposed determination.

After analysis and review, the Board has determined that Wisconsin may properly be viewed as a community property state for Regulation B purposes. This determination takes into account the presumption (established by the Wisconsin statute) that all property acquired and all debts incurred during the marriage are community debts, as well as the stated legislative intent that marital property is a form of community property. Therefore, the marital status inquiries allowed under § 766.56(2)(d) and the inquiry as to marital status and name and address of the spouse required under § 766.56(3)(b) are not in conflict with the federal act or regulation. In a community property state it is permissible for creditors to obtain information about the nonapplicant spouse under § 202.5(c)(2)(iv) of Regulation B, and to ask about marital status under § 202.5(d)(1).

The Board also considered whether the language of § 766.56(2)(d) to the effect that a creditor may inquire whether the applicant is "married, unmarried or separated, under a decree of legal separation," is inconsistent with the federal law. At issue is the use of the words "under a decree of legal separation," since the federal law prescribes that only the terms "married," "unmarried," and "separated" are to be used in any inquiry into marital status. The Board has concluded that the language in § 766.56(2)(d) is not mandatory and only clarifies the nature of the permissible inquiry. Under §§ 202.5(d) and 202.2(u) of Regulation B, creditors may explain to applicants the state law meaning of the terms "married," "unmarried," or "separated." Thus, no conflict exists between § 766.56(2)(d) of the Wisconsin law and § 202.5(d)(1) of Regulation B.

Finally, the Board considered an inconsistency between § 766.565(5) of the Wisconsin law and § 202.7(a) of Regulation B. Section 202.7(a) prohibits creditors from refusing to grant an individual account to a creditworthy applicant on the basis of marital status. Under § 766.565(5), a nonapplicant spouse is able unilaterally to terminate an account, leaving the applicant (who already has been found creditworthy) unable to maintain an open-end account with that creditor. The applicant may also be precluded from obtaining an account in the future from that creditor, since the creditor may consider a prior termination by the spouse in the evaluation process and may refuse on that basis to open a new account for the applicant.

While a clear inconsistency exists between the state law and the federal, the Board has made a determination not to preempt the state law. This determination is based on § 705(b) of the ECOA and implementing § 202.6(c) of Regulation B, which allow creditors to take into account state property laws that directly or indirectly affect creditworthiness. Although the Board believes that a strong legal argument can be made that § 766.565(5) primarily governs the extension of credit and the relationship between the creditor and the nonapplicant spouse, the Board has concluded after lengthy analysis that an equally valid basis exists for finding that § 766.565(5) governs the exercise of a property right since it establishes a nonapplicant spouse's authority over marital property in which he or she has or will have an ownership interest. For example, the right to terminate an open-end account, created by § 766.565(5), provides a mechanism by which the nonapplicant spouse can limit the availability of his or her interest in marital property for debts incurred under the open-end credit plan granted to the applicant spouse. Consequently, the Board has determined that § 766.565(5) is entitled to deference under § 705(b) of the ECOA and § 202.6(c) of Regulation B, and is not preempted by the act or the regulation.

List of Subjects in 12 CFR Part 202

Banks, Banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Sex discrimination, Women.