

ALERT

FEC Announces Reporting Deadlines Unaffected by COVID-19 Shutdown; LDA Due Dates Not Adjusted; Adjustments to Pre - Election Windows Expected for Postponed Primaries

March 18, 2020

The Federal Election Commission (FEC) announced yesterday that period reporting deadlines will not be postponed even as the agency has closed its offices to visitors due to the coronavirus (COVID-19) pandemic. Reports and other documents filed electronically will continue to be processed, while items submitted by mail (including reports required to be filed by the regular deadlines) will be accepted but will not be processed in the interim. Separately but relatedly, the next deadline for lobbying reports required under the Federal Lobbying Disclosure Act is April 20.

Federal Lobbying Reports. We have confirmed with the Secretary of the U.S. Senate's office (which jointly administers the reporting requirements with the office of the Clerk of the U.S. House of Representatives) that they have no authority to extend this deadline.

FEC Reports. For periodic FEC reports such as monthly and quarterly reports that are *not* tied to any pre-election or post-election time windows, the first upcoming reporting deadline is the March monthly report (covering February activity, for those who are required to or have elected to file monthly). The March monthly report is due this Friday, March 20. The next upcoming quarterly report (for those who do not file monthly) for the first quarter is due on April 15. Per the FEC's announcement, those reporting deadlines remain unchanged.

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A number of other reporting deadlines and issues tied to election dates may or may not be adjusted, depending on whether a state has postponed its primaries. The following is how we *expect* these issues to be addressed based on the relevant law and agency precedent involving postponed primaries. However, we emphasize that filers should await additional guidance from the FEC to confirm these understandings. We expect such additional guidance from the FEC and other authorities in the coming days.

Independent Expenditures. In addition to quarterly reporting requirements, sponsors of independent expenditures aggregating \$10,000 or more with respect to a particular election (including primaries) up through the 20th day before an election are required to file reports within 48 hours of triggering the threshold. Within 19 days and more than 24 hours before an election, independent expenditures aggregating \$1,000 or more with respect to a particular election must be reported within 24 hours. Those 48-hour and 24-hour requirements generally will remain the same, but the cutoff periods should vary depending on whether a primary relevant to the reported independent expenditures has been postponed.

Electioneering Communications. Electioneering communications are regulated within 30 days before a primary, and reports are required to be filed within 24 hours whenever a sponsor has spent more than \$10,000 on such communications. The basic 24-hour reporting requirement will remain unchanged, but the regulated pre-election window should change if a primary is postponed.

Pre-Primary Reports. Campaign committees of candidates participating in primaries or nominating conventions must file a pre-primary report 12 days before the primary or the convention. PACs that file quarterly also must file a 12-day pre-primary report for spending in connection with a primary through the 20th day before the primary if such spending was previously unreported. Again, the general 12-day pre-primary filing requirement will remain unchanged, but the particular dates such reports are due and the covered periods should change if a primary is postponed.

"Last-Minute Contribution" Reports for Candidate Committees. Candidate campaign committees that receive contributions of \$1,000 or more from a donor within 20 days but more than 48 hours before any election (including primaries) in which the candidate is on the ballot must report such contributions within 48 hours. Those covered periods and report due dates also should vary if a primary has been postponed, but the basic reporting requirement will remain unchanged.

Primary/General Election Contributions. Candidates may accept contributions subject to separate limits for the primaries and general elections. If a primary is postponed, candidates should be permitted to continue accepting contributions for the primary up through the date of the postponed election. Conversely, provided they have won the primary, they will be permitted to spend funds for the general election only once the postponed primary is held.

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Wiley's Election Law practice will continue to monitor the latest developments in reporting deadlines and election dates. We are fully equipped to assist our clients with their campaign finance and lobbying reports and related questions as we operate remotely in these challenging and unprecedented times.

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