

# Bundling Disclosure Rules Upcoming for 2009

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November 2008

The Federal Election Commission's (FEC) interregnum in the first half of 2008 delayed its implementation of the bundling disclosure rules mandated by the Honest Leadership and Open Government Act of 2007 (HLOGA). The FEC issued a Notice of Proposed Rulemaking containing proposed rules a year ago on November 6, 2007, but the FEC has yet to finalize the regulations. On September 17, 2008, the FEC took a procedural step toward final regulations when it held a public hearing on the topic. A final date for completion of the rulemaking has not been set.

HLOGA requires that candidate committees, leadership committees and party committees disclose aggregate contributions bundled by lobbyists, lobbying firms, employers of in-house lobbyists, employee-lobbyists and PACs established or controlled by any of the aforementioned persons, if two or more contributions worth more than \$15,000 were bundled by a covered person in a six-month period. "Bundled contributions" for purposes of these reports involve those contributions:

- Forwarded from the contributor or contributors to the committee from the lobbyist, lobbying firm, employer of in-house lobbyists or employee-lobbyist (something that we never recommend); or
- Received by the committee from a contributor or contributors, but credited by the committee, candidate or officeholder involved to the lobbyist, lobbying firm, employer of in-house lobbyists or employee lobbyist through records, designations or other means of recognizing that a certain amount of money has been raised by that person.

## Authors

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Caleb P. Burns  
Partner  
202.719.7451  
cburns@wiley.law

The purpose of the FEC rulemaking is to flesh out the meaning of these statutory terms.

Neither the bundling provisions in HLOGA nor the proposed FEC regulations impose any affirmative obligations on lobbyists, their employers or their PACs. Instead, the reporting obligations fall entirely upon the recipient committees. Nonetheless, lobbyists, lobbying employers, lobbying firms and their PACs may want to be cognizant of the fact that their contributions may be disclosed in this manner as they plan their political activity in the new year and the new election cycle.