

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)¹ by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **September 20, 2018**, at the Los Angeles City Hall, 200 N Spring St, Los Angeles, California 90012 (Public Works Board Room, 3rd Floor), commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **September 18, 2018**.

BACKGROUND/OVERVIEW:

The Act prohibits persons from making, and committees from receiving, cash contributions of \$100 or more. Committees are also prohibited from making expenditures of \$100 or more in cash. Section 84300 provides:

“(a) No contribution of one hundred dollars (\$ 100) or more shall be made or received in cash. A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

“(b) No expenditure of one hundred dollars (\$ 100) or more shall be made in cash.

“(c) No contribution of one hundred dollars (\$ 100) or more other than an in-kind contribution shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Section 84302.

“(d) The value of all in-kind contributions of one hundred dollars (\$ 100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.”

Additionally, Section 85201 provides that all contributions or loans made to a candidate, or the candidate’s controlled committee, shall be deposited in a single campaign bank account. This is typically, referred to as the “one-bank account” rule.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

In light of the restrictions on cash contributions and expenditures as well as the one-bank account rule, a question has arisen as to the permissible use of cryptocurrencies, such as Bitcoin, for campaign contributions and expenditures. While cryptocurrencies share some characteristics of cash, they are a relatively modern form of currency and not issued by a governmental entity.

REGULATORY ACTION:

Adopt 2 Cal. Code Reg. Sections 18215.4.

Proposed Regulations 18215.4 will clarify the use of cryptocurrencies for the purposes of making and accepting campaign contributions as well as campaign expenditures. The Commission may consider any issues pertaining to the use of cryptocurrencies including, but not limited to, the following:

- Banning the use of cryptocurrencies for campaign contributions and campaign expenditures.
- Permitting the use of cryptocurrencies for campaign contributions subject to the cash contribution limit of less than \$100.
- Requiring contributions made by cryptocurrencies to be converted to cash and deposited into a committee's bank account upon receipt.
- Permitting committees to establish separate cryptocurrency accounts and make campaign expenditures from the accounts.
- Permitting contributions made by cryptocurrencies as in-kind contributions without regard to the cash contribution limits.

SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY:

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE:

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 84300 and 85201.

CONTACT:

Any inquiries should be made to Zachary Norton, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.