



# Proposed Changes to Streamline

Examples and Scenarios

July 24, 2020

# Policy Decisions for Prenotice Discussion

- Should the violations for Major Donor Committees and Behested Payment reporting be added? If so, how strict should the criteria be?
- Should the % added to the penalty increase based on how early the respondent participates in settlement?
- How strict should the criteria be to exclude cases by population of jurisdiction and 24-hour reports not filed timely?
- Does the Commission agree that the penalties for Tier Two should be higher when the criteria for participation to the Tier Two program is more generous?

# Streamline Program – Types of Violations

## Current Streamline Program

- Late Statements and Reports
  - Statement of Economic Interest
  - Campaign Statement or Report
  - Lobbying Reports
- Unreported Economic Interest(s)
- Unreported Lobbying Activity, Contributions or Expenditures
- Cash Contribution(s) or Expenditure(s)
- Campaign Bank Account
- Committee Naming
- Advertising and Mass Mailing Disclosures
- Recordkeeping
- Gift Limit
- SMO Campaign Filings
- Proper Recusal for a Conflict of Interest
- Major Donor Notifications
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## Proposed Streamline Program

- Late Statements and Reports
  - Statement of Economic Interest
  - Campaign Statement or Report
  - Lobbying Reports
- Unreported Economic Interest(s)
- Unreported Lobbying Activity, Contributions or Expenditures
- Cash Contribution(s) or Expenditure(s)
- Campaign Bank Account
- Committee Naming
- Advertising and Mass Mailing Disclosures
- Recordkeeping
- Gift Limit
- SMO Filing Issues
- Proper Recusal for a Conflict of Interest
- Major Donor Notifications
- Major Donor Filers
- Behested Payments Reports

# Overall Exclusions from Streamline Program

## Current Streamline Program

- Any evidence of an intent to conceal or violate the Act or regulations relating to the Act.
- Presented the FPPC false or altered evidence.
- Made false statements to the FPPC regarding material facts.
- Evidence of intentional interference with a witness in the FPPC matter.
- **The same candidate, committee, or principal officer has paid a prior penalty for the same type of violation occurring within the last five years.**
- **For late statements and reports, history of not timely filing statements or reports.**
- Violations caused in the aggregate more than minimal public harm.
- Has other violations under review for prosecution that do not qualify for a streamline penalty.

## Proposed Streamline Program – Tier One and Tier Two

- Any evidence of an intent to conceal or violate the Act or regulations relating to the Act.
- Presented the FPPC false or altered evidence.
- Made false statements to the FPPC regarding material facts.
- Evidence of intentional interference with a witness in the FPPC matter.
- The extent and gravity of the public harm in the aggregate is more than minimal.
- Has other violations under review for prosecution that do not qualify for a streamline penalty.

## Proposed Streamline Program – Tier One

- **The same candidate, committee, or principal officer has paid a prior penalty for the same type of violation occurring within the last five years.**
- **For late statements and reports, history of not timely filing statements or reports.**

# Exclusion and Eligibility

## – Late Statements of Economic Interests

### Exclusions – Current Streamline Program

- A public official also had a conflict of interest violation under Sections 1090 or 87100 involving the undisclosed economic interest.

### Exclusions – Tier One

- The undisclosed economic interests were from a source that was regulated by or had business before the filer's agency.
- The public official also had a conflict of interest violation under Sections 1090 or 87100 involving the undisclosed economic interest.

### Eligibility – Tier Two

- The public official has paid a Tier One penalty or received a Warning Letter for the same type of violation occurring within the last five years.
- The undisclosed economic interests were from a source that was regulated by or had business before the filer's agency but did not cause a conflict of interest violation under Sections 1090 or 87100

# Penalties - Late Statements of Economic Interests

| Current Streamline Program  | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$600</li><li>• \$800</li><li>• \$1,000</li><li>• \$1,200</li></ul> |

# Exclusion and Eligibility

## – Unreported Economic Interest(s) on an SEI

### Exclusions – Current Streamline Program

- The undisclosed gift(s) or income received from a source that was regulated by or had business before the filer's agency.
- The undisclosed gift(s) or income caused a conflict of interest violation under Sections 1090 or 87100.

### Exclusions – Tier One

- The undisclosed gift(s) or income received from a source that was regulated by or had business before the filer's agency.
- The undisclosed economic interest caused a conflict of interest violation under Sections 1090 or 87100.

### Exclusions – Tier Two

- The undisclosed economic interest caused a conflict of interest violation under Sections 1090 or 87100.

### Eligibility – Tier Two

- The undisclosed gift(s) or income received from a source that was regulated by or had business before the filer's agency.

# Penalties - Unreported Economic Interest(s) on a Statement of Economic Interests

| Current Streamline Program  | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• \$100</li><li>• \$200</li><li>• \$300</li><li>• \$400</li></ul> | <ul style="list-style-type: none"><li>• \$100</li><li>• \$200</li><li>• \$300</li><li>• \$400</li></ul> | <ul style="list-style-type: none"><li>• \$1,000</li><li>• \$1,200</li><li>• \$1,400</li><li>• \$1,600</li></ul> |



# Exclusion and Eligibility

## – Unreported Contributions or Expenditures

### Exclusions – Current Streamline Program

- The total amount unreported was more than 20% of the total contributions or expenditures for the committee for the reporting period or the total amount unreported is greater than the applicable population-based limit per reporting period.

### Exclusions – Tier One

- The total amount unreported is greater than the applicable population-based limit per reporting period.

### Eligibility – Tier Two

- The total amount unreported is greater than the applicable population-based limit per reporting period **but less than \$100,000**.

# Penalties – Unreported Contributions or Expenditures

## Current Streamline Program

- \$100 + 1% or 3%
- \$200 + 2% or 4%
- \$300 + 3% or 5%
- \$400 + 4% or 6%

## Proposed Streamline Program - Tier One

- \$100 + 1% or 3%
- \$200 + **1% or 3%**
- \$300 + **1% or 3%**
- \$400 + **1% or 3%**

## Proposed Streamline Program - Tier Two

- \$600 + 1% or 3%
- \$800 + 1% or 3%
- \$1,000 + 1% or 3%
- \$1,200 + 1% or 3%

# Example – 20% threshold

## Case Summary:

Unsuccessful candidate in a local election.

Committee size approx. \$16k.

The Committee failed to accurately disclose their campaign activity on the first pre-election campaign statement but amended the statement in question before the election.

## Exclusion from the Streamline Program:

The total amount unreported was more than 20% of the total contributions or expenditures for the committee for the reporting period.

The Committee failed to timely report 22% (\$3,415.35) of total contributions and 44% (\$5,756.57) of total expenditures.

## Mainline Penalty:

\$1,000 approved on September 19, 2019

## Streamline Penalty:

\$157

# Exclusion and Eligibility

## – Late Lobbying Reports

### Exclusions – Current Streamline Program

- The total required activity to be reported for that reporting period is greater than **\$100,000**.
- Evidence that the filer tried to conceal lobbying activity.
- An individual lobbied without registering.
- Multiple reports not timely filed.
- There was evidence of a substantial amount of activity not disclosed in connection with legislative or administrative actions actively lobbied during the period.
- The undisclosed activity included campaign contributions.

### Exclusions – Tier One

- The total required activity to be reported for that reporting period is greater than **\$50,000**.
- Evidence that the filer tried to conceal lobbying activity.
- An individual lobbied without registering.
- Multiple reports not timely filed.
- There was evidence of a substantial amount of activity not disclosed in connection with legislative or administrative actions actively lobbied during the period.
- The undisclosed activity included campaign contributions.

### Exclusions – Tier Two

- Evidence that the filer tried to conceal lobbying activity.
- An individual lobbied without registering.
- There was evidence of a substantial amount of activity not disclosed in connection with legislative or administrative actions actively lobbied during the period.
- The undisclosed activity included campaign contributions.

### Eligibility – Tier Two

- The total required activity to be reported for that reporting period is greater than \$50,000 but less than \$100,000.
- Multiple reports not timely filed.

# Penalties - Late Lobbying Reports

## Current Streamline Program

- \$200 + 1%
- \$400 + 2%
- \$600 + 3%
- \$800 + 4%

## Proposed Streamline Program - Tier One

- \$200 + 1%
- \$400 + 1%
- \$600 + 1%
- \$800 + 1%

## Proposed Streamline Program - Tier Two

- \$600 + 1%
- \$800 + 1%
- \$1,000 + 1%
- \$1,200 + 1%

# Exclusion and Eligibility

## – Unreported Lobbying Activity

### Exclusions – Current Streamline Program

- The total unreported activity to be reported for that reporting period is greater than 20% of the activity required to be reported for that reporting period or is greater than **\$100,000**.

### Exclusions – Tier One

- The total unreported activity to be reported for that reporting period is greater than 20% of the activity required to be reported for that reporting period or is greater than **\$50,000**.

### Eligibility – Tier Two

- The total unreported activity to be reported for that reporting period is less than **\$100,000**.

# Penalties - Unreported Lobbying Activity

## Current Streamline Program

- \$100 + 1%
- \$200 + 2%
- \$300 + 3%
- \$400 + 4%

## Proposed Streamline Program - Tier One

- \$100 + 1%
- \$200 + 1%
- \$300 + 1%
- \$400 + 1%

## Proposed Streamline Program - Tier Two

- \$400 + 1%
- \$800 + 1%
- \$1,000 + 1%
- \$1,200 + 1%

# Exclusion and Eligibility

## – Cash Contribution(s) or Expenditure(s) of \$100 or More (1)

### Exclusions – Current Streamline Program

- Failure to timely disclose the cash contribution(s) or expenditure(s) on campaign statement(s) or report(s).
- The percentage of cash contributions and expenditures of \$100 or more exceeds **25%** of total campaign contributions and expenditures of the committee for the reporting period.
- The person made personal use of campaign funds.

### Exclusions – Tier One

- Failure to timely disclose the cash contribution(s) or expenditure(s) on campaign statement(s) or report(s).
- The percentage of cash contributions and expenditures of \$100 or more exceeds **25%** of total campaign contributions and expenditures of the committee for the reporting period.
- The person made personal use of campaign funds.

### Exclusions – Tier Two

- The person made personal use of campaign funds.

### Eligibility – Tier Two

- Failure to disclose the cash contribution(s) or expenditure(s) on campaign statement(s) or report(s) if the total amount of cash is **\$1,000 or less** for that statement or report.
- The percentage of cash contributions and expenditures of \$100 or more exceeds **25% but is not greater than 50%** of total campaign contributions and expenditures of the committee for the reporting period.



# Exclusion and Eligibility

## – Cash Contribution(s) or Expenditure(s) of \$100 or More (2)

### Exclusions – Current Streamline Program

- The total amount of cash contributions and expenditures for the reporting period exceeds **\$10,000**.
- The campaign records were insufficient to determine if use of cash concealed other violations.

### Exclusions – Tier One

- The total amount of cash contributions and expenditures for the reporting period exceeds **\$10,000**.
- The campaign records were insufficient to determine if use of cash concealed other violations.

### Exclusions – Tier Two

### Eligibility – Tier Two

- The total amount of cash contributions and expenditures for the reporting period exceeds **\$10,000** but is **not greater than \$25,000**.

# Penalties - Cash Contribution(s) or Expenditure(s) of \$100 or More

| Current Streamline Program  | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• 25%</li><li>• 50%</li><li>• 100%</li><li>• 200%</li></ul> | <ul style="list-style-type: none"><li>• 25%</li><li>• 50%</li><li>• 100%</li><li>• 200%</li></ul> | <ul style="list-style-type: none"><li>• 50%</li><li>• 75%</li><li>• 100%</li><li>• 200%</li></ul> |

# Exclusion and Eligibility

## – Campaign Bank Account

### Exclusions – Current Streamline Program

- The total amount of all contributions not deposited in a campaign bank account/ campaign expenditures not from the campaign bank account during the statement period exceeds **10%** of the total contributions received/total amount of all campaign expenditures for that period or the total amount exceeds **\$10,000**.
- The person made personal use of campaign funds.
- The campaign records were insufficient to determine if use of another account concealed other violations.

### Exclusions – Tier One

- The total amount of all contributions not deposited in a campaign bank account/ campaign expenditures not from the campaign bank account during the statement period exceeds **10%** of the total contributions received/total amount of all campaign expenditures for that period or the total amount exceeds **\$10,000**.
- The person made personal use of campaign funds.
- The campaign records were insufficient to determine if use of another account concealed other violations.

### Exclusions – Tier Two

- The person made personal use of campaign funds.
- The campaign records were insufficient to determine if use of another account concealed other violations.

### Eligibility – Tier Two

- The total amount of all contributions not deposited in a campaign bank account/ campaign expenditures not from the campaign bank account during the statement period exceeds **10% but is less than 40%** of the total contributions received/total amount of all campaign expenditures for that period or the total amount exceeds **\$10,000 but is less than \$25,000**.

# Penalties – Campaign Bank Account

## Current Streamline Program

- \$100 + 1%
- \$200 + 2%
- \$300 + 3%
- \$400 + 4%

## Proposed Streamline Program - Tier One

- \$100 + 1%
- \$200 + 1%
- \$300 + 1%
- \$400 + 1%

## Proposed Streamline Program - Tier Two

- \$400 + 1%
- \$600 + 1%
- \$800 + 1%
- \$1,000 + 1%

# Exclusion and Eligibility – Committee Naming

## Exclusions – Current Streamline Program

- Name was misleading or ambiguous.
- Incorrect name caused advertisements to be incorrect.
- Incorrect name failed to disclose a major contributor, major donor, or sponsor.
- The committee had activity over \$10,000 for the reporting period during which the committee name was incorrect.

## Exclusions – Tier One

- Name was misleading or ambiguous.
- Incorrect name caused advertisements to be incorrect.
- Incorrect name failed to disclose a major contributor, major donor, or sponsor.
- The committee had activity over \$10,000 for the reporting period during which the committee name was incorrect.

## Exclusions – Tier Two

- Name was intentionally misleading or ambiguous.

## Eligibility – Tier Two

- Incorrect name caused advertisements to be incorrect.
- Incorrect name failed to disclose a single major contributor, major donor, or sponsor.
- The committee had activity over \$10,000 but less than \$50,000 for the reporting period during which the committee name was incorrect.

# Penalties – Committee Naming

## Current Streamline Program

- \$400
- \$600
- \$800
- \$1,000

## Proposed Streamline Program - Tier One

- \$400
- \$600
- \$800
- \$1,000

## Proposed Streamline Program - Tier Two

- \$800
- \$1,000
- \$1,200
- \$1,400

# Exclusion and Eligibility

## – Advertising and Mass Mailing Disclosures (1)

### Exclusions – Current Streamline Program

- The violation is likely to result in confusion regarding the identity of the candidate or committee responsible for the advertisement, or a top contributor, sponsor, controlling candidate, or ballot measure supported or opposed.

### Exclusions – Tier One

- The violation is likely to result in confusion regarding: the identity of the candidate or committee responsible for the advertisement, or a top contributor, sponsor, controlling candidate, or ballot measure supported or opposed; **whether the advertisement is an independent expenditure; or whether the advertisement was authorized by a candidate or candidate-controlled committee.**

### Eligibility – Tier Two

- The violation resulted from a lack of committee formation through ignorance of the requirements and the committee raised and spent less than \$25,000.
- The violation was inadvertent or negligent and was disclosed on a campaign statement or report of the committee but is likely to result in confusion regarding the identity of a top contributor, sponsor, controlling candidate, or ballot measure supported or opposed or whether the advertisement is an independent expenditure.

# Exclusion and Eligibility

## – Advertising and Mass Mailing Disclosures (2)

### Exclusions – Current Streamline Program

- The advertisement or mass mailing contains more than two missing or incorrect disclosures or display requirements in the disclaimer and one or more of the missing or incorrect disclosures is: (1) **paid for by requirement**, (2) top contributor information, or (3) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate.

### Exclusions – Tier One

- The advertisement or mass mailing contains two or more missing or incorrect disclosures or display requirements in the disclaimer and one or more of the missing or incorrect disclosures is: (1) **the committee name requirement**, (2) top contributor information, or (3) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate. **A disclosure that fails to meet sizing requirements to the extent that the disclosure is not legible to the average viewer is considered a “missing or incorrect disclosure.”**

### Eligibility – Tier Two

- The advertisement or mass mailing contains less than four missing or incorrect disclosures or display requirements in the disclaimer, and included in those four is no more than two of the following: (1) **paid for by requirement**, (2) top contributor information, (3) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate, or (4) **the committee name requirement**. A disclosure that fails to meet sizing requirements to the extent that the disclosure is not legible to the average viewer is considered a “missing or incorrect disclosure.”



# Penalties – Advertising and Mass Mailing Disclosures

## Current Streamline Program

- \$100 + 1%
- \$200 + 2%
- \$300 + 3%
- \$400 + 4%

## Proposed Streamline Program - Tier One

- \$100 + 1%
- \$200 + 1%
- \$300 + 1%
- \$400 + 1%

## Proposed Streamline Program - Tier Two

- \$400 + 1%
- \$600 + 1%
- \$800 + 1%
- \$1,000 + 1%

# Exclusion and Eligibility – Recordkeeping

## Exclusions – Current Streamline Program

- The lack of recordkeeping inhibited audit efforts.
- The lack of recordkeeping made it impracticable to determine if a person substantially complied with the Act's campaign reporting requirements.
- The lack of recordkeeping may have inhibited discovery of other violations.

## Exclusions – Tier One

- The lack of recordkeeping inhibited audit efforts.
- The lack of recordkeeping made it impracticable to determine if a person substantially complied with the Act's campaign reporting requirements.
- The lack of recordkeeping may have inhibited discovery of other violations.

## Exclusions – Tier Two

- The lack of recordkeeping appears to be intentional.

## Eligibility – Tier Two

- The inadvertent or negligent lack of recordkeeping inhibited audit efforts.
- The inadvertent or negligent lack of recordkeeping made it impracticable to determine if a person substantially complied with the Act's campaign reporting requirements.
- The inadvertent or negligent lack of recordkeeping may have inhibited discovery of other violations

# Penalties – Recordkeeping

| Current Streamline Program  | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$600</li><li>• \$800</li><li>• \$1,000</li><li>• \$1,200</li></ul> |

# Exclusion and Eligibility – Gift Limit

## Exclusions – Current Streamline Program

- The gift giver is a named party in, or the subject of, a governmental decision before the gift recipient or the gift recipient's agency.
- Failure to report the gift on a Statement of Economic Interests, if required.
- The fair market value of the gift is more than \$200 over the gift limit.

## Exclusions – Tier One

- The gift giver is a named party in, or the subject of, a governmental decision before the gift recipient or the gift recipient's agency.
- Failure to report the gift on a Statement of Economic Interests, if required.
- The fair market value of the gift is more than \$200 over the gift limit.

## Eligibility – Tier Two

- The gift giver is a named party in, or the subject of, a governmental decision before the gift recipient or the gift recipient's agency but did not cause a conflict of interest.
- Failure to report the gift on a Statement of Economic Interests, if required.
- The fair market value of the gift is more than \$200 over the gift limit but less than \$1,000 over the gift limit.

# Penalties – Gift Limit

| Current Streamline Program  | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$600</li><li>• \$800</li><li>• \$1,000</li><li>• \$1,200</li></ul> |

# Exclusion and Eligibility – Major Donor Filers

## Exclusions – Current Streamline Program

- N/A

## Exclusions – Tier One

- Contributions for the calendar year exceeded \$50,000.
- The contributions also required 24 Hour Reports to be filed within the last 16 days before the relevant election and the recipient of the contribution did not file a 24-Hour Report before the relevant election.

## Exclusions – Tier Two

- The report missing was due within the last 16 days before the relevant election and was not disclosed on a 24-Hour Report filed by the recipient of the contribution before the relevant election.

## Eligibility – Tier Two

- Contributions for the calendar year were less than \$150,000 and less than three statements or reports were late during that calendar year.

# Penalties - Major Donor Filers

| Current Streamline Program                            | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• N/A</li></ul> | <ul style="list-style-type: none"><li>• \$400</li><li>• \$600</li><li>• \$800</li><li>• \$1,000</li></ul> | <ul style="list-style-type: none"><li>• \$800</li><li>• \$1,000</li><li>• \$1,200</li><li>• \$1,400</li></ul> |

# Exclusion and Eligibility

## – Behested Payment Reports

### Exclusions – Current Streamline Program

- N/A

### Exclusions – Tier One

- The maker of the payment is a named party in, or the subject of, a governmental decision before the behestor or the behestor's agency.
- The amount reported late was **\$50,000** or more for a single behested payment report.
- The amount required to be reported, when divided by the number of public officials participating in the behest, was **\$50,000** or more.
- The behestor has paid a prior penalty to the Commission for the same type of violation occurring within the last five years.

### Eligibility – Tier Two

- The maker of the payment is a named party in, or the subject of, a governmental decision before the behestor or the behestor's agency.
- The amount to be reported on the behested payment report exceeded **\$150,000**.
- The amount required to be reported, when divided by the number of public officials participating in the behest, was **\$150,000** or more.



# Penalties – Behested Payment Reports

| Current Streamline Program                            | Proposed Streamline Program - Tier One  | Proposed Streamline Program - Tier Two  |
|---|---|---|
| <ul style="list-style-type: none"><li>• N/A</li></ul> | <ul style="list-style-type: none"><li>• \$200</li><li>• \$400</li><li>• \$600</li><li>• \$800</li></ul> | <ul style="list-style-type: none"><li>• \$600</li><li>• \$800</li><li>• \$1,000</li><li>• \$1,200</li></ul> |

# Exclusion and Eligibility

## – Late Campaign Statement of Report (1)

### Exclusions – Current Streamline Program

- Activity Thresholds:
  - \$4,000 – under 10,000;
  - \$5,700 – 10,001 – 25,000;
  - \$8,200 – 25,001 – 62,500;
  - \$11,700 – 62,501 – 156,250;
  - \$16,700 – 156,251 – 390,625;
  - \$23,900 – 390,626 – 976,562;
  - \$34,200 – 976,563 – 2,441,406;
  - \$48,900 – 2,441,407 – 6,103,515;
  - \$69,900 – 6,103,516 – 15,258,789;
  - \$100,000 – above 15,258,790.

### Exclusions – Tier One

- Activity Thresholds
  - \$16,700 – under 390,625;
  - \$23,900 – 390,626 – 976,562;
  - \$34,200 – 976,563 – 2,441,406;
  - \$48,900 – 2,441,407 – 6,103,515;
  - \$69,900 – 6,103,516 – 15,258,789;
  - \$100,000 – above 15,258,789.
- Special Districts – \$16,700.

### Eligibility – Tier Two

- Committees excluded from Tier One as a result of the limits based on population but limited to a maximum of \$100,000 in activity for the relevant statement or report.

# Exclusion and Eligibility

## – Late Campaign Statement of Report (2)

### Exclusions – Current Streamline Program

- Pattern of campaign statements or reports not timely filed.
- A 24-Hour Report required to be filed during the last 16 days before the election and not filed before the election unless the amount required to be reported was de minimis.

### Exclusions – Tier One

- Pattern of campaign statements or reports not timely filed.
- A 24-Hour Report required to be filed during the last 16 days before the election and not filed before the election unless the amount required to be reported was de minimis.

### Eligibility – Tier Two

- A 24-Hour Report required to be filed during the last 16 days before the election and not filed before the election unless the amount required to be reported was **\$50,000 or greater**.

# Exclusion and Eligibility

## – Late Campaign Statement of Report (3)

### Exclusions – Current Streamline Program

- Any 24-Hour Report required to be filed and not filed before the election if the contribution or expenditure was not reported on another report or statement filed before the election.
- The late filed report was filed more than five business days after it was due and the timely reporting of the contribution would have resulted in a change to the disclosure of the committees' top contributors.

### Exclusions – Tier One

- Any 24-Hour Report required to be filed and not filed before the election if the contribution or expenditure was not reported on another report or statement filed before the election.
- The late filed report was filed more than five business days after it was due and the timely reporting of the contribution would have resulted in a change to the disclosure of the committees' top contributors.

### Eligibility – Tier Two

- Any 24-Hour Report required to be filed and not filed before the election and the contribution or expenditure was not reported on another report or statement filed before the election, **unless the subject contribution or expenditure would have disclosed an advertisement or mass mailing paid for or sent by the committee, and the advertisement or mass mailing failed to disclose the name of the committee in accordance with Section 84502 or 84305.**
- The late filed report was filed more than five business days after it was due and the timely reporting of the contribution would have resulted in a change to the disclosure of the committees' top contributors.

# Limits by Jurisdiction Population

|          | Total Number | Categories Consolidated into \$16,700 limit (pop. below 390,625) 0<br><b>Current Draft</b> | Categories Consolidated into \$11,700 limit (pop. below 156,250)<br><b>Alternative</b> |  |
|----------|--------------|--|--|--|
| Counties | 58           | 37   | 27   |  |
| Cities   | 470          | 462  | 440  |  |
| Total    | 528          | 499  | 467  |  |

1. \$4,000 for populations at or under 10,000;
2. \$5,700, for populations between 10,001 – 25,000;
3. \$8,200, for populations between 25,001 – 62,500;
4. \$11,700, for populations between 62,501 – 156,250

# Population Threshold Example #1

## Case Summary:

Unsuccessful candidate  
in a local election.

Committee size approx. \$22k.

The Committee failed to timely file  
campaign statements and 24-hour  
reports.

## Exclusion

### from the Streamline Program:

Activity threshold – \$8,200.

Committee activity – \$11,401.

## Mainline Penalty:

Count 1: Failure to timely file  
campaign statements – \$2,500.

Count 2: Failure to timely file  
24-hour reports – \$1,500.

A total penalty of \$4,000  
was approved on February 20, 2020.

## Streamline Penalty:

\$2,538.

# Population Threshold Example #2

## Case Summary:

Successful candidate in a local election.  
Committee size approx. \$48k.

## Exclusion from the Streamline Program:

Activity threshold – \$8,200.  
Campaign statements reported  
contributions or expenditures totaling  
more than \$8,200.

## Mainline Penalty:

Count 1: Failure to timely file five  
semi-annual campaign statements. Penalty: \$2,000.

Count 2: Failure to timely file three  
semi-annual campaign statements. Penalty: \$2,000.

Count 3: Failure to timely file two  
pre-election campaign statements. Penalty: \$2,500.

Count 4: Failure to timely file  
six 24-four contribution reports. Penalty: \$2,500.

A total penalty of \$9,000 approved on May 21, 2020.

## Streamline Penalty:

\$5,685

# Population Threshold Example #3

## Case Summary:

Successful candidate in a state primary election, unsuccessful in general.

Committee size approx. \$72k.

## Exclusion from the Streamline Program:

Activity threshold – \$23,900.

Committee activity – \$28,850.

## Mainline Penalty:

Count 1: Failure to timely file pre-election campaign statements. Penalty: \$1,500.

Count 2: Failure to timely file semi-annual campaign statements. Penalty: \$1,500.

A total penalty of \$3,000 approved on April 16, 2020.

## Streamline Penalty:

\$3,719



# 24-Hour Report Restriction Example #1

## Case Summary:

Unsuccessful candidate in a local election.

Committee size approx. \$9k.

The Committee failed to file a 24-hour contribution report to disclose receiving a \$1,000 contribution. The contributor disclosed the contribution before the election on a 24-hour contribution report.

## Exclusion

### from the Streamline Program:

A 24-Hour Report required to be filed by a committee during the last 16 days before the election and not filed before the election.

## Mainline Penalty:

\$1,500 approved on February 20, 2020

## Streamline Penalty:

\$430

# 24-Hour Report Restriction Example #1

## Case Summary:

Successful candidate in a local election.

Committee size approx. \$17k.

The Committee failed to timely file one preelection campaign statement and four 24-hour contribution reports for late contributions received totaling approximately \$16,745.

## Exclusion from the Streamline Program:

Any 24-Hour Report required to be filed by a committee and not filed before the election if the contribution or expenditure was not reported on another report or statement filed by the committee before the election.

The contribution of \$2,500 received on October 18, 2018 was reported after the election, on a semi-annual campaign statement.

## Mainline Penalty:

\$2,000 approved on June 18, 2020

## Streamline Penalty:

\$1,758

# Penalties - Late Campaign Statement of Report

## Current Streamline Program

- \$200 + 1% or 3%
- \$400 + 2% or 4%
- \$600 + 3% or 5%
- \$800 + 4% or 6%

## Proposed Streamline Program - Tier One

- \$200 + 1% or 3%
- \$400 + **1% or 3%**
- \$600 + **1% or 3%**
- \$800 + **1% or 3%**

## Proposed Streamline Program - Tier Two

- \$400 + 1% or 3%
- \$800 + 1% or 3%
- \$1,200 + 1% or 3%
- \$1,600 + 1% or 3%

# Policy Decisions for Prenotice Discussion - Recap

- Should the violations for Major Donor Committees and Behested Payment reporting be added? If so, how strict should the criteria be?
- Should the % added to the penalty increase based on how early the respondent participates in settlement?
- How strict should the criteria be to exclude cases by population of jurisdiction and 24-hour reports not filed timely?
- Does the Commission agree that the penalties for Tier Two should be higher when the criteria for participation to the Tier Two program is more generous?