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Campaign Contribution Limits: Selected Questions About *McCutcheon* and Policy Issues for Congress

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Summary

Aggregate limits on federal campaign contributions are intended to reduce the risk of real or perceived corruption. The aggregate limits cap the total amount that one can give to all candidates, parties, or political action committees (PACs). For the 2014 election cycle, the aggregate limit for individual contributions is $123,200.

The Supreme Court of the United States is currently considering a challenge to the aggregate contribution limits. Alabama contributor Shaun McCutcheon and the Republican National Committee (RNC) brought the case, *McCutcheon v. FEC*, after the aggregate limits prevented McCutcheon from contributing as desired to federal candidates and parties during the 2012 election cycle. On October 8, 2013, the Court heard oral argument in the case. A decision is expected during the Court's current term. Regardless of the outcome, the case provides an opportunity to consider arguments surrounding the aggregate limits and to examine issues that might be relevant for Congress if the limits are altered.

This report offers a preliminary analysis of major policy issues and potential implications that appear to be most relevant as the House and Senate prepare for the ruling and decide whether or how to respond. If the outcome in *McCutcheon* changes the status quo, debate is likely about whether existing provisions prevent the real or perceived corruption that some believe accompanies large contributions (or, in this case, a larger number of limited contributions). If the current aggregate limits were relaxed or eliminated, additional funds might flow to candidate committees, party committees, or PACs. Joint fundraising committees and leadership PACs might expand as tools to funnel large contributions to multiple candidate committees, parties, or PACs. Disclosure of contributors who exceed the current aggregate limits might also be a policy concern. It is important to note that whether these possibilities will occur is unclear at this time.

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Scope of the Report

This report is intended to respond to Congress's ongoing interest in campaign finance policy amid Supreme Court consideration of *McCutcheon*. The report relies on a question-and-answer format designed to highlight key information in a brief and accessible way. Because the outcome of the case remains to be determined, this report offers a preliminary analysis of major policy issues and potential implications that appear to be most relevant as the House and Senate prepare for the ruling and consider whether or how to respond. Importantly, the content of that ruling—including the possibility that the status quo will be maintained—remains unknown at this time. Similarly, the report discusses possible implications of the case for campaign fundraising or disclosure to illustrate policy issues that might be relevant for congressional consideration. This report does not provide a legal analysis of the case or of legal issues that might affect the policy matters discussed here. Other CRS products provide additional information about various policy and legal issues.[1]

The parties in *McCutcheon* and those filing *amicus* briefs make numerous arguments for and against the existing contribution limits. This report does not attempt to address all those arguments. It also does not address various arguments surrounding legal matters in the case, such as which level of constitutional scrutiny courts should apply or whether courts should defer to Congress to establish contribution limits.

This report will be updated to reflect major developments and as policy implications become clearer.

What are the major public policy issues surrounding the *McCutcheon* case?

McCutcheon v. FEC involves a challenge to the aggregate amount (discussed below) that an individual can contribute to federal candidates, political parties, and political action committees (PACs). During the 2012 election cycle, Alabama donor Shaun McCutcheon wished to contribute more than the existing aggregate limits to candidates and the Republican National Committee (RNC). Prohibited from making and receiving the contributions, McCutcheon and the RNC filed suit against the Federal Election Commission (FEC), which enforces the Federal Election Campaign Act (FECA) contribution limits.[2] In September 2012, a three-judge panel of the U.S. District Court for the District of Columbia upheld the aggregate limits. Through a review process specified in the Bipartisan Campaign Reform Act (BCRA), the case was then appealed to the

[1] On campaign finance policy generally, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett. On campaign finance law generally, see CRS Report RL30669, *The Constitutionality of Campaign Finance Regulation: Buckley v. Valeo and Its Supreme Court Progeny*, by L. Paige Whitaker. For additional discussion of legal issues surrounding *McCutcheon*, see CRS Report WSLG546, *Supreme Court To Hear Constitutional Challenge To Aggregate Contribution Limits*, by L. Paige Whitaker; and CRS Report WSLG363, *The Supreme Court, Citizens United, and Further Challenges to Campaign Finance Law: Aggregate Contribution Limits*, by L. Paige Whitaker.

[2] FECA is 2 U.S.C. §431 *et seq*.

Supreme Court.[3] On October 8, 2013, the Court heard oral argument. A decision is expected during the Court's current term.

What are the existing contribution limits? Which ones might be affected by *McCutcheon*?

FECA, as amended, specifies two different kinds of contribution limits. The first are *individual limits*. These limits, sometimes also called *base limits*, place a ceiling on the amount that an individual, party, or PAC can contribute to a single candidate, party, or PAC during a single election. Second, FECA limits the *aggregate amount* an individual can contribute to all candidates, parties, or PACs. The aggregate limit on individual contributions appears to be most relevant for *McCutcheon*.

Table 1 below summarizes the relevant individual and aggregate limits for 2013-2014.[4] As the table shows, individuals can contribute up to

- $2,600 per candidate, per election (for a total of $5,200 for both the primary and general elections, or the complete 2014 election cycle);[5]
- $5,000 annually to PACs; and
- $32,400 annually to national parties.

The aggregate limits set overall caps on the amount an individual can contribute. For 2013-2014, individual contributions can total no more than $123,200. Of that amount, $48,600 can go to candidates, with the remaining $74,600 to parties and PACs. The PAC limits do not apply to super PACs or other political committees (i.e., *Carey* committees) that can accept unlimited contributions for use in independent expenditures.[6]

[3] For additional discussion, see CRS Report WSLG546, *Supreme Court To Hear Constitutional Challenge To Aggregate Contribution Limits*, by L. Paige Whitaker. BCRA is P.L. 107-155; 116 Stat. 81. BCRA amended FECA.

[4] Because *McCutcheon* concerns contributions made during the 2012 election cycle, limits subject to inflation adjustments for that cycle were slightly less than those noted in the table. For example, the individual contribution limit for contributions per candidate, per election, was $2,500 rather than $2,600.

[5] If a runoff election were held, individuals could contribute an additional $2,600.

[6] Independent expenditures (IEs) are disbursements used to call for election or defeat of federal candidates. On the definition of *independent expenditures*, see 2 U.S.C. §431(17). For additional discussion of super PACs, see CRS Report R42042, *Super PACs in Federal Elections: Overview and Issues for Congress*, by R. Sam Garrett.

Table 1. Selected Federal Contribution Limits, 2013-2014

Limits marked with an asterisk (*) are adjusted biennially for inflation.

	Recipient			
Contribution Type or Limit Type	**Principal Campaign Committee**	**Multicandidate Committee (most PACs, including leadership PACs, but *not* super PACs)**	**National Party Committee (DSCC; NRCC, etc.)**	**State, District, Local Party Committee**
Individual Contributions	$2,600 per election*	$5,000 per year	$32,400 per year*	$10,000 per year (combined limit)
Aggregate Limit on Individual Contributions	$48,600 to all candidates*	$74,600 to all PACs and parties*	$74,600 to all PACs and parties*	$48,600* of the $74,600* limit (see left) may go to state/local parties and PACs.
Overall Biennial Limit on Individual Contributions		$123,200*		

Source: CRS adaptation from FEC, "Contribution Limits for 2013-2014," http://www.fec.gov/info/contriblimitschart1314.pdf.

Notes: The table assumes that leadership PACs would qualify for multicandidate status. The original source, noted above, includes additional information and addresses non-multicandidate PACs (which are relatively rare). *Multicandidate committees* are those that have been registered with the FEC (or, for Senate committees, the Secretary of the Senate) for at least six months; have received federal contributions from more than 50 people; and (except for state parties) have made contributions to at least five federal candidates. See 11 C.F.R. §100.5(e)(3). In practice, most PACs attain this status automatically over time. Contributions to super PACs are unlimited, as are those to PACs employing the *Carey* exemption for independent expenditures. For additional discussion, see CRS Report R42042, *Super PACs in Federal Elections: Overview and Issues for Congress*, by R. Sam Garrett.

Why are the existing limits in place?

Contribution limits have been a hallmark of campaign finance policy and law for decades. Congress established most of the current contribution limits in the 1970s when it enacted and amended FECA.[7] Most recently, Congress updated all but the PAC contribution limits with the 2002 enactment of BCRA. BCRA also adjusted most contribution limits for inflation and reaffirmed congressional support for an overall aggregate limit.[8]

The existing limits are generally justified as a way to avoid real or perceived *quid pro quo* corruption (e.g., "vote-buying"). Essentially, Congress established the existing individual limits at a threshold at which it believed struck a balance between permitting donors to support their

[7] Previous limits originated in the early 1900s, although at the time FECA was enacted, the existing campaign finance regulatory structure was generally considered to be ineffective. For additional historical discussion, see, for example, Robert E. Mutch, *Campaigns, Congress, and Courts: The Making of Federal Campaign Finance Law* (New York: Praeger, 1988); and Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform* (Ann Arbor, MI: University of Michigan Press, 2008).

[8] See §307, P.L. 107-155; 116 Stat. 102-103.

favored candidates while also limiting potential corruption. Support for the aggregate limits generally rests with a concept known as the "anti-circumvention rationale," which holds that an overall limit is necessary to protect the individual limits. Supporters generally argue that if a contributor were permitted to make an unlimited number of contributions, it would make little difference that each individual contribution were capped. Such donors might still enjoy outsized influence in elections and policymaking, therefore potentially corrupting both.[9]

Opponents of the aggregate limits contend that the limits cap the amount of political speech or association a contributor can exercise. As CRS has noted elsewhere, appellants (McCutcheon and the RNC) in the case argue that unlike base limits, the aggregate contribution limits act as a spending limit by unconstitutionally restricting the number of candidates, parties, and PACs that an individual can support.[10] More specifically, some contend that the aggregate contribution limits set an arbitrary threshold, beyond which additional contributions allegedly become corrupt. Opponents also generally argue that aggregate contributions, and contributions to parties and PACs generally, carry a lower risk of corruption than contributions to individual candidates.[11] Opponents of the existing limits also suggest that provisions in FECA, FEC regulations, or both already sufficiently protect against circumvention of the individual contribution limits through limits on coordination, coordinated party expenditures, and earmarking.[12] Finally, some contend that limits on contributions to parties force donors to contribute to arguably less-accountable "outside" groups—which are not subject to limits—such as super PACs or 501(c) organizations.[13]

Which policy issues might Congress consider?

It is unclear precisely how the campaign environment, and the need for related legislation or oversight, might be affected by the *McCutcheon* decision. This section briefly discusses some of the more prominent implications that could arise for Congress regardless of the outcome, and particularly if a major change in the status quo occurs.

Developments thus far suggest that debate will continue about whether existing provisions in law or regulation sufficiently guard against a single contributor amassing potentially corrupting influence or whether new law or regulation is necessary. For some, existing restrictions on earmarking[14] contributions, and the fact that party committees, joint fundraising committees, or

[9] See, for example, *Brief of Democratic Members of the United States House of Representatives as* Amici Curiae *in Support of Appellee*, http://fec.gov/law/litigation/mccutcheon_sc_house_amici_brief.pdf, p. 20-22.

[10] CRS Report WSLG546, *Supreme Court To Hear Constitutional Challenge To Aggregate Contribution Limits*, by L. Paige Whitaker.

[11] See, for example, *Brief for Appellant Shaun McCutcheon*, http://fec.gov/law/litigation/mccutcheon_sc_mcc_brief.pdf, pp. 18-23; 45-50.

[12] See the "Which policy issues might Congress consider?" section of this report for additional discussion. In brief, all three provisions are designed to limit the potential for evading contribution limits. The coordination concept largely concerns the financial value of in-kind contributions or services, such as the polling data transmitted from a party to a campaign. Political parties may make expenditures (coordinated party expenditures) in consultation with candidates subject to limits. Earmark rules specify that even if candidate contributions are routed through another source, they are attributed to the original donor. See, in particular, 11 C.F.R. §109.20; 11 C.F.R. §109.32; and 11 C.F.R. §110.6 respectively.

[13] The PAC contribution limit does not apply to super PACs and "Carey committees" accepting contributions to separate accounts maintained only for independent expenditures. For additional discussion, see CRS Report R42042, *Super PACs in Federal Elections: Overview and Issues for Congress*, by R. Sam Garrett.

[14] As noted previously, earmarking concerns identifying the original source of a contribution passed through another (continued...)

PACs are legally separate entities from candidate campaigns, limit the potential for abuse. For others, aggregate contributions exceeding current limits could violate the spirit of the individual limits and inherently create the potential for corrupting influence. Those favoring additional regulation might also raise concerns about whether larger aggregate contributions could allow candidates to circumvent the base limits by using joint fundraising committees, leadership PACs, or both.

Individual Campaigns and Individual Donors

- If the aggregate limits were relaxed, donors could contribute amounts above the current aggregate limits if they chose to do so. The ability of individual political committees to attract donors who are able to "max out" (as reaching the aggregate threshold is often described) would likely vary considerably.[15] Conversely, if no change in the status quo occurred, donors would be confined to the current limits.
- Those who wish to invest large sums in campaigns—albeit through spending rather than contributions—are already permitted to do so by making independent expenditures or contributing to super PACs.[16] It is possible that raising or eliminating the cap on aggregate contributions could lead to more money in elections overall, as donors add more contributions to their existing spending. It is also possible that donors would instead reallocate their existing independent spending toward more contributions to candidates, parties, or PACs.
- Observers have posed a variety of hypothetical scenarios about how donors might react if permitted to make more aggregate contributions than they may today. To take one example, if a donor were permitted to do so and wanted to, in the absence of aggregate limits, he or she might give $5,200 to a candidate in every congressional race in the 2014 cycle. That amount could total approximately $2.3 million in House races and $171,600 in Senate contests.[17] The same contributor might also be able to contribute to political party committees, PACs, or both. When assessing these and other estimates, it is important to note that they could vary substantially from actual outcomes. Although it is certainly possible that a donor might be able to make a contribution in every race, donors would not necessarily choose to do so, nor would every race be contested.

(...continued)

entity (a "conduit," such as a political party). See chapter 6 in Federal Election Commission, *Federal Election Commission Campaign Guide: Political Party Committees*, Washington, DC, August 2013, http://www.fec.gov/pdf/partygui.pdf.

[15] Although some social science research has studied why political contributors give money, there is relatively little empirical data about why people give the amounts they do (particularly why they choose to "max out"). On existing research, see, for example, Bertram N. Johnson, *Political Giving: Making Sense of Individual Campaign Contributions* (Boulder, CO: First Forum Press, 2013); and Peter L. Francia, et al., *The Financiers of Congressional Elections: Investors, Ideologues, and Intimates* (New York: Columbia University Press, 2003).

[16] For additional discussion, see CRS Report R42042, *Super PACs in Federal Elections: Overview and Issues for Congress*, by R. Sam Garrett.

[17] This scenario assumes that a donor could give $2,600 for both the primary and general elections (totaling $5,200 for the entire election cycle) and that there would be 435 House and 33 Senate contests (excluding delegate races and assuming that a contributor gave to one candidate in each race).

- Even if donors were permitted to give as much as they desired, it is unclear how many such donors exist or what their preferences might be. A recent Center for Responsive Politics analysis found that 646 donors gave the maximum permissible amount of $117,000 during the 2012 election cycle.[18] Exact numbers are unknown because existing disclosure requirements do not guarantee that donors who "max out" will be identified. Although political committees must make their best efforts to report to the FEC the name, address, occupation, and employer of contributors who give more than $200,[19] political committees would not necessarily know about a donor's contributions to other political committees. Practically speaking, this means that those who wish to determine whether a donor has exceeded aggregate limits must either ask the donor or compare FEC reports that itemize donor identity. Even then, typographical errors and inconsistencies (e.g., varying use of middle initials) can make it difficult to determine whether donors with similar names or other identifying information are, in fact, the same person. Regardless of the outcome in *McCutcheon*, if Congress wished to make identifying particular donors easier, requiring a consistent donor identification number could be an option. Such an option could have the advantage of making tracking individual donor activity (including whether someone exceeded the aggregate limits) easier. However, this approach might raise donor-privacy concerns, as well as the logistical challenge of how and when a donor number would be issued.

Fundraising and Relationships Among Non-Candidate Committees

Joint Fundraising Committees

- During Supreme Court oral argument in *McCutcheon*, much of the discussion emphasized entities known as "joint fundraising committees" (JFCs). These political committees essentially serve as a clearinghouse for contributions. JFCs often receive contributions that, if treated as a single contribution, would exceed individual limits. JFCs route the contributions, in permissible amounts, to multiple political committees (e.g., several candidate and party committees) based on a pre-determined allocation formula. The large initial contributions are thus treated, for compliance purposes, as multiple contributions.[20] Although sometimes controversial, JFCs are a common fundraising method among both major parties and have existed since the late 1970s.[21] During Supreme Court oral argument, some of the discussion emphasized hypothetical scenarios in which a single contributor might be able to give approximately $3.5 million to a party

[18] Bob Biersack, *McCutcheon's Multiplying Effect: Why An Overall Limit Matters*, Center for Responsive Politics, blog posting, September 17, 2013, http://www.opensecrets.org/news/2013/09/mccutcheons-multiplying-effect-why.html.

[19] 2 U.S.C. §434(b)(3)(A).

[20] On JFC regulations generally, see 11 C.F.R. §102.17.

[21] For additional discussion, particularly concerning allocation and reporting requirements, see Appendix B in Federal Election Commission, *Federal Election Commission Campaign Guide: Political Party Committees*, Washington, DC, August 2013, http://www.fec.gov/pdf/partygui.pdf. For a contemporary example of joint fundraising, see Anthony Corrado, "Fundraising Strategies in the 2012 Campaign," in *Campaigns and Elections American Style*, ed. James A. Thurber and Candice J. Nelson, 4th ed. (Boulder, CO: Westview, 2014), pp. 103-104. JFCs developed through a series of FEC advisory opinions (AOs). See, for example, AOs 1977-14; 1977-20; and 1979-35.

joint fundraising committee for disbursement to other party committees and candidates.[22] Some might also raise concerns about the composition of JFCs, particularly if they were perceived to provide outsized influence to one candidate or donors who helped route funds to other candidates. As noted elsewhere in this report, these scenarios might or might not develop, and might or might not be unique to a post-*McCutcheon* environment.

Contributions to Parties

- Traditional contributions to parties could also be affected. In the absence of aggregate limits to national parties, contributions might be directed to at least three arms of each party: the national party committee and the two legislative campaign committees. For example, a contributor who wished to support the "national" Democratic Party could give to the Democratic National Committee (DNC), the Democratic Congressional Campaign Committee (DCCC), and the Democratic Senatorial Campaign Committee (DSCC). In this scenario, one contributor might give $97,200 rather than the current (2014) annual limit of $32,400.[23] The same is true for counterpart Republican committees. The current federal limit on combined contributions to district, local, and state parties is $10,000 per year. Here, too, in the absence of aggregate limits, any number of district, state, or local parties, might be supported.

PACs and Leadership PACs

- Relaxing aggregate contribution limits could have implications for leadership PACs. Beginning in the 1980s, sitting or prospective members of the congressional leadership formed these committees to provide another resource, besides their campaign committees, to make financial contributions to other lawmakers' campaigns. Today, leadership PACs extend to a wide range of Members. Contributions to leadership PACs (and other PACs) share a combined $74,600 biennial limit (for 2013-2014) with parties. Some observers have suggested that if aggregate limits on contributions to leadership PACs were lifted, it might cause further proliferation of these committees and raise concerns about whether they would be seen as extensions of the Member's campaign committee.[24] Although such an outcome might occur, it is also perhaps noteworthy that any candidate who wishes to do so may already form a leadership PAC. If increased (or current) leadership PAC activity were of concern to Congress, one option could be to require that leadership PACs and the candidates with whom they are affiliated share a contribution limit. As **Table 1** shows, currently individuals may contribute $5,000 annually to leadership PACs and up to $5,200 per candidate for the 2014 election cycle. Those who view

[22] Discussion of this and similar figures appears throughout the oral-argument transcript, http://www.supremecourt.gov/oral_arguments/argument_transcripts/12-536_7l48.pdf . See especially pp. 20-25.

[23] This scenario assumes that a donor could give the $32,400 maximum for the 2014 cycle to each of the three national party committees.

[24] See, for example, Bob Biersack, *McCutcheon's Multiplying Effect: Why An Overall Limit Matters*, Center for Responsive Politics, blog posting, September 17, 2013, http://www.opensecrets.org/news/2013/09/mccutcheons-multiplying-effect-why.html.

leadership PACs as a method of circumventing candidate contribution limits might favor a shared limit. On the other hand, those favoring the status quo might object to restricting leadership PACs, noting that they cannot contribute more than $5,000 annually to any Member's campaign, and that separate limits are consistent with FEC rules based on longstanding campaign practice.[25]

- Some have suggested that traditional PACs dedicated to contributing to a few candidates could emerge in a post-*McCutcheon* era, thereby potentially circumventing the spirit of the individual limits.[26] As with the leadership PAC example, it appears that this scenario could unfold regardless of *McCutcheon*, but a ruling that permitted additional giving above the current aggregate limits might provide new incentives for both kinds of PACs to emerge and solicit donors who today would be unable to give as much as they might like because they had "maxed out."

General Considerations

- Regardless of the outcome in *McCutcheon*, if Congress wishes to reexamine the ways in which contributions might flow through parties or PACs to candidates, three sets of provisions—those concerning coordinated party expenditures, coordination, or earmarks—could be especially relevant. These related concepts are discussed below.
  - FECA permits parties to make "coordinated party expenditures" in consultation with their candidates.[27] Often, these expenditures are for political advertising or polling. For the 2012 cycle,[28] parties could spend up to $45,600 for House nominees in at-large states, $91,200 for House nominees in states with multiple districts, and between $91,200 and approximately $2.6 million for Senate candidates.[29] As noted previously, the *McCutcheon* appellants contended that limits on coordinated party expenditures minimize the chances that individual contributions to parties will improperly benefit particular candidates. If additional contributions to parties were permitted, some might argue that coordinated party expenditure limits also should be commensurately raised or eliminated. In fact, proposals to do so predate *McCutcheon*. Some see raising or eliminating the existing caps as a remedy for parties that face increasing financial competition from "outside" groups, such as super PACs and 501(c) organizations. Others

[25] In a 2003 rulemaking, the FEC determined that although leadership PACs are "affiliated" with candidates, candidate committees and leadership PACs have separate contribution limits. On those rules and the agency's rationale, see Federal Election Commission, "Leadership PACs," 68 *Federal Register* 67013, December 1, 2003.

[26] See, for example, Charles Fried, "It's Not Citizens United," *New York Times*, October 2, 2013, p. A23.

[27] For additional discussion, see CRS Report RS22644, *Coordinated Party Expenditures in Federal Elections: An Overview*, by R. Sam Garrett and L. Paige Whitaker.

[28] As of this writing, the FEC has not yet announced 2014 limits.

[29] Senate amounts are determined by formula based on a state's voting-age population (VAP). The 2012 limits are available on the FEC website, http://www.fec.gov/info/charts_441ad_2012.shtml. Parties are also permitted to make unlimited independent expenditures, assuming that they do not impermissibly coordinate with a campaign.

caution that raising or eliminating coordinated party expenditure limits could effectively return parties to the "soft money" era that predated BCRA.[30]

- For expenditures that fall outside the coordinated party expenditure framework, other restrictions typically apply. Perhaps most prominently, existing FEC regulations establish a three-part test that considers who paid for a communication (such as a political advertisement), the conduct surrounding production, and communication content to determine whether impermissible coordination has occurred and, therefore, whether contribution limits were exceeded.[31] Some observers contend that these regulations—which have been the subject of protracted litigation—are too complex, easily avoided, or both.[32] If Congress chose to do so, it might reduce some of the ambiguity surrounding the current standard by replacing it with statutory language specifying what constitutes coordination and the level and type of permissible coordination. Establishing agreement on key concepts could be controversial, as the FEC has found through its regulatory efforts and subsequent litigation.
- Earmarking provisions in FECA and FEC regulations require attributing candidate contributions to their original source even if they are passed through an intermediary.[33] For example, if an individual contributed to a PAC with instructions that a portion of the contribution go to a specific candidate, the contribution would likely be treated as "earmarked" and reported accordingly.[34] Earmarking provisions were discussed at *McCutcheon* oral argument as a potential safeguard against circumventing aggregate contribution limits. Accordingly, it is possible that these provisions could be relevant for understanding the Court's opinion. In general, however, because most contributions are not made through earmarking, it is unclear at this point how consequential these scenarios might be.

Conclusion

Whatever the outcome in *McCutcheon*, the debate over contribution limits is unlikely to end when the Court issues its opinion. This report has provided a preliminary overview of policy issues that may be relevant as that debate continues and as Congress prepares to consider the decision. If the aggregate limits are relaxed or abolished, the most obvious implications could be for individual campaigns, parties, or PACs that are able to receive contributions which might today be precluded from donors who had already "maxed out." More substantial implications

[30] For additional discussion of hard money, soft money, and BCRA, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett.

[31] 11 C.F.R. 109.21.

[32] Most notably, these include the *Shays v. FEC* cases.

[33] 2 U.S.C. §441a(a)(8); 11 C.F.R. §110.6. For independent expenditures (which candidate committees do not make), donor identity can remain unclear. For additional discussion, see CRS Report R42042, *Super PACs in Federal Elections: Overview and Issues for Congress*, by R. Sam Garrett.

[34] This scenario is distinct from bundling, in which an event host, for example, collects several checks made out to the candidate campaign and delivers them to the campaign. Bundling reporting requirements apply to lobbyists in some circumstances. See 2 U.S.C. §434(i).

could occur if a change in the aggregate limits permitted magnifying individual contributions through contributions to multiple political committees, such as joint fundraising committees. It is important to note that actual donor behavior and fundraising practices would depend heavily on the particulars of the *McCutcheon* decision, individual preferences, and strategic decisions.

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