

of her statutory authority nor the fact that forms previously required less detailed reporting diminishes the authority provided the Secretary by the LMRDA as enacted in 1959.

In the Department's view, this rule meets both the letter and the spirit of the LMRDA, both generally and with respect to its provisions specific to union reporting requirements. The rule promotes the two related overarching purposes of union reporting: to fully inform union members, on a yearly basis, about their union's "financial condition and operations," 29 U.S.C. 431(b); and, by public disclosure of this information, to deter union officials and employees from abusing their stewardship duties and to allow members, the Department, and the public an opportunity to review a union's financial information as a check on the actions of its officials and employees. *See United States v. Budzanoski*, 462 F.2d 443, 450 (3d Cir.), *cert. denied*, 409 U.S. 949 (1972); *Int'l Bhd. of Teamsters, et al. v. Wirtz*, 346 F.2d 827, 831 (D.C. Cir. 1965). The Department's reforms also advance the LMRDA's declared purpose "that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations." 29 U.S.C. 401(a).

The AFL-CIO commented that the proposed rule attempts to dictate to unions what they should treat as their "most * * * important purposes" in structuring their budgets and accounts and is contrary to the LMRDA insofar as the statute reflects the theory that, "[g]iven certain minimum standards, 'individual members are fully competent to regulate union affairs'" (quoting S. Rep. No. 85-1684, at 4-5 (1958)). In the view of the AFL-CIO, Congress deliberately established a two-step process, found in 29 U.S.C. 431, to inform members about their union's finances and operations. The process was established to protect unions from improper government intervention in their affairs and harassment from members that would divert them from their representational function. The first step requires the preparation of a financial report in such detail as needed to disclose the union's financial condition (29 U.S.C. 431(b)); the second step requires a union, upon a member's showing of just cause, to disclose additional information (29 U.S.C. 431(c)). In the AFL-CIO's view, the proposed rule collapses this two-part process and destroys protections for a union's confidentiality and trade secrets in violation of established protections.

In the Department's view, this argument is unpersuasive. The revised form calls for more detail than the previous form, but does not require disclosure of the underlying records necessary to verify the report. *See* 29 U.S.C. 431(c). The fact that the Secretary has exercised her authority to determine that more detailed financial information should be reported on a Form LM-2 than previously does not limit a union's ability to maintain additional information, in any format it desires, including the physical evidence of financial transactions (such as cancelled checks, bills, or receipts), nor does it eliminate each union member's right to examine such information, enforceable in district court upon a showing of "just cause." Congress conditioned a union member's right to examine records necessary to verify the union's annual financial report on a showing of just cause in order to relieve unions from the harassment of repeated requests for documents based simply on curiosity. *See Kinslow v. American Postal Workers Union, Chicago Local*, 222 F.3d 269, 273 (7th Cir. 2000). This requirement, however, "simply entails a showing that the union member had some reasonable basis to question the accuracy of the LM-2 or the documents on which it was based, or that information in the LM-2 has inspired reasonable questions about the way union funds were handled." *Id.* at 274; *see also Mallick v. Int'l Bhd. of Elec. Workers*, 749 F.2d 771, 781 (D.C. Cir. 1984). No matter how much detail a union provides on its Form LM-2, members have a right to examine the actual documents or other evidence of recorded transactions to determine, for example, whether the union accurately recorded the information. Moreover, as explained more fully below, in Section III(B)(2), in response to comments from numerous unions that making certain information available to the public at large would be harmful to legitimate interests, the Department will permit labor organizations to report some receipts and disbursements as part of the aggregated total, without specificity, provided, with limited exceptions, it indicates on the Form LM-2 that it has done so. If a labor organization uses this option, only those of its members who satisfy the "just cause" standard and the Department will be entitled to review the specific information related to these disbursements. Far from eliminating the method Congress provided members to review their union's finances in more detail pursuant to section 201(c), 29 U.S.C. 431(c), that statutory tool is central to these reforms.

C. Comparison With Reporting Requirements for Corporations and Non-Profit Organizations

Several commenters, asserting that corporate scandals have surpassed any union misconduct in recent years, argued that corporations should first be made to file disclosure reports like those proposed by the Department before unions are asked to do so. Some union members argued that labor organizations are already subject to more stringent reporting requirements than corporations or other non-profit organizations. Many commenters felt that unions are like small businesses and should be provided the same protections from intrusive reporting requirements that, they assert, small businesses are provided by the Department and other regulatory agencies.

Other commenters noted that corporations and their executives are subject to significantly more burdensome reporting requirements than are unions. One commenter noted that labor organizations, unlike corporations, are not subject to various external controls and scrutiny by such entities as Wall Street investment analysts, portfolio managers, financial media, and millions of shareholders. Another commenter found the comparison between labor organizations and corporations irrelevant because unlike commercial entities, which are accountable based on their profit or loss, labor unions are accountable only in terms of the stewardship responsibilities of their officers. One commenter also noted that like corporate disclosure requirements, which have been amended periodically, union disclosure requirements should be changed in order to keep pace with the times. Another commenter estimated that the reporting and disclosure burdens on businesses are many times the burden on labor organizations.

The Department has concluded that, while there are important differences among corporations, public interest organizations, and labor organizations, increased transparency is as important for labor organizations as for other such organizations. Moreover, for the reasons set forth below, the Department is not persuaded that the requirements imposed by this rule are more restrictive than those that apply to other entities. If anything, these requirements are less intrusive, less burdensome, and require less disclosure than reporting requirements governing other entities.

First, no comparison should be drawn between union reporting requirements and requirements imposed on a