

that must be reported, which correspondingly increases the information available for inspection. The availability of this information makes concealment of fraud more difficult, and allows members to evaluate the wisdom of the union's financial transactions. The threshold is significant: union members ordinarily protect their rights by reviewing these reports, unlike investors in public corporations and other individuals protected by the audit, oversight, and whistleblower provisions discussed in Section II(C). While a strong argument could be made that all expenditures are thus significant and should be itemized, a lower threshold would increase the accounting burden. The \$5,000 threshold adopted strikes a balance between the opposing viewpoints. Thus, while the revised form neither permits nor necessitates individual assessments of the materiality of information about particular transactions, it requires the disclosure of information that is significant to union members.

Commenters also argued that proposed Form LM-2 violates GAAP because the costs of reporting the information exceed the benefits to users of the information. While the costs of the revised Form LM-2 are addressed in more detail in the Regulatory Flexibility and Paperwork Reduction Act Analyses, *see* Section V, the Department has determined that these costs are outweighed by benefits. FASB and other government regulatory bodies have discovered that the total benefits derived from shared information are nearly impossible to quantify. Information is different from other commodities because the benefits from information can extend beyond the immediate users. The revised Form LM-2 directly benefits union members because increased disclosure permits members to make better decisions about union governance and helps deter and detect fraud. The public also benefits from the deterrence of fraud, due to the costs fraud imposes on, for example, the criminal justice system, and from the promotion of ethical conduct in the administration of labor organization affairs, which increases the stability of labor organizations, and thus promotes the flow of commerce. *See* 29 U.S.C. 401 ("Declaration of Findings, Purposes, and Policy"). The information required on the revised Form LM-2 thus benefits a wide variety of users, which is consistent with SFAC No. 2, ¶ 143.

Commenters noted several issues related to the application of FAS 117, Financial Statements of Not-For-Profit Organizations, to labor organization financial reporting. The FASB has

opined regarding the appropriate scope of financial statements for not-for-profit organizations:

A complete set of financial statements of a not-for-profit organization shall include a statement of financial position as of the end of the reporting period, a statement of activities and a statement of cash flows for the reporting period, and accompanying notes to financial statements. FAS 117, ¶ 6.

FAS 117, however, applies only broad, general standards for reporting information in not-for-profit organization financial statements (FAS 117, ¶ 48), and the FASB recognizes that general purpose financial statements may not fulfill the special-purpose needs of regulatory requirements like those imposed by the LMRDA (FAS 117, ¶ 45). Even not-for-profit organizations subject to FAS 117 are required to report expenses by functional categories and to allocate costs among significant programs as applicable (*see* FAS 117, ¶¶ 26–28) because of differences in indicators of performance as compared to for-profit business organizations (FAS 117, ¶ 61).

Comments on the Department's proposal indicate some confusion regarding the question whether revisions to Form LM-2 will require labor organizations to maintain their financial records using a cash basis or accrual method. Some unions and individuals have read the proposed rules to require unions to maintain their financial records system on an accrual basis. In this regard, some of the commenters noted that Schedule 1 of the proposed Form LM-2 requires reporting of receivables, a concept associated with accrual accounting. Some of the commenters also expressed their view that the majority of unions use the cash method of accounting and that it would be a substantial burden for them to make the conversion to the accrual method. Some of the commenters also noted that cash basis reporting comports with IRS requirements.

A local union explained that its accounting system uses the cash basis method. It noted that the proposed Schedule 1 (Accounts Receivable) and Schedule 8 (Accounts Payable) call for information maintained by systems set up on the accrual method of accounting. The local explained that this information is not readily available from cash basis systems, noting that commercial accounting systems track income and expenses, not receipts and disbursements. The local expressed its concern that it would be able to provide the accounts receivable and accounts payable information only by undertaking manual searches through

voluminous records. It also noted a specific concern regarding the reporting of membership information, noting that its system to track membership is not integrated with its general ledger, with the result that it has no general ledger account set up to capture written off or uncollected dues income. Similarly, one labor organization noted concerns with regard to reporting accounts receivable and accounts payable (insofar as they require "aging" information). The commenter explained that this change would require it to spend considerable additional time to properly complete a Form LM-2. It explained that many local unions have members' dues sent to third parties or their particular international and that the locals' portion of the dues is only later remitted to the locals. One commenter stated that the cash basis method better effectuates the LMRDA's focus on receipts and disbursements.

Some commenters, however, read the proposed rules as continuing the cash basis requirement. In their comments, they requested that the Department, as part of the final rule, allow unions the option to utilize the accrual method of accounting. In support of this approach, they noted that accrual accounting is required by GAAP, reflecting, in their view, the belief that accrual accounting provides a more effective gauge of an organization's financial condition. In this regard, one commenter noted that the Department itself once recognized, when it proposed revisions to the Form LM-2 in 1992 (later withdrawn in part), that "accrual accounting generally provides a more accurate indication of an organization's financial condition and operations." 57 FR 49282 (Oct. 30, 1992). Other commenters noted that the current cash basis requirement forces them to convert information in their accrual-based system for the sole purpose of submitting a Form LM-2, an expensive and time-consuming undertaking. One labor organization noted that its accounting personnel last year spent nearly half of the 1,200 hours it spent in preparing the Form LM-2 in converting information from its accrual-based system to a cash basis mode. Several commenters also noted that the IRS accepts reports using the accrual method of accounting.

An international labor organization, the Air Line Pilots Association (ALPA), explained that it uses an accrual system to collect detailed information for its payroll, employee expense reports, member accounts receivable, and flight pay loss. ALPA noted that the current requirement that unions employ the cash method in preparing a Form LM-2 requires time-consuming conversion