

standard accounting reports in one of several common file formats. There will be a non-recurring burden as the filers create the proper reports, which can then be used in future years. It is important to note that smaller filers that would only report a handful of itemized transactions for the year may choose to complete the form manually through copy-and-paste techniques rather than using the DSD to set up the necessary accounting reports to export the itemized data. As the analysis of the burden associated with making the changes required by the revised form, set forth in Section V, demonstrates, the burdens anticipated by many commenters are overstated.

As explained in Section V, the Department agrees with some of the comments that, even though the Department has received no comments over the years regarding its published assessments of the burden of filing the current Form LM-2, the burden of filing the current form may have been underestimated. The Department has revised its assessment of the burden associated with the current form upward in response to the comments it received in order to improve the estimate of the additional time and cost involved in filing the revised form. Even using these higher estimates and acknowledging that there will be increased costs for reporting labor organizations as a result of these reforms, the Department has concluded that the advantages derived from the more detailed reporting outweigh the extra burden imposed on unions. As noted above, the FASB acknowledges the utility of itemized (or "disaggregated") financial data. FAS No. 117, ¶ 118. By contrast, reporting in general "bottom-line" amounts does not provide the level of detailed information that will effectively answer an interested member's inquiry. Moreover, generalized reporting places the burden on the member to obtain the information from the union, including resort to litigation if the union fails or refuses to disclose the requested information voluntarily. OLMS experience over years of auditing and investigating union financial activities indicates that increased access to information concerning a union's financial picture will enable its members to protect their own interests through more effective vigilance over union funds, and will aid OLMS in future enforcement efforts. Disclosure of basic information about major transactions is the most effective means of providing information to union members who are interested in their organization's financial affairs.

Together with reporting receipts and disbursements by functional categories, the proposed rule will provide information that will help ensure that union leadership is acting in the interests of its membership.

The Department disagrees with those comments that suggest itemization will overwhelm interested parties with information. These comments rest on the erroneous premise that an individual seeking information must rely on hard-copy documents to review the Form LM-2. Labor organizations (with few exceptions), however, must file the form electronically. The new procedures provide more detailed, and more accessible, information than the existing system by utilizing the advantages of computer technology. Electronic filing permits the reviewer to focus his or her review using a search engine to guide the inquiry; on-screen (or paper) review of each entry is unnecessary. Further, the current Form LM-2 informs the member only of the aggregate disbursements (or receipts); the member must go through the trouble of obtaining more detailed information from the union concerning the individual transactions in order to find any meaningful information regarding specific receipts and disbursements. Itemized reporting provides the detailed information in a searchable format as an initial matter. Finally, Statement B of the revised Form LM-2 provides aggregate figures for each disbursement Schedule. A member reviewing the revised Form LM-2, therefore, has access to *both* the aggregate and the individual disbursements for each category. Resort to the more detailed information remains at the member's discretion.

In a related vein, one comment contended that the level of detail required by itemization will inevitably result in unintentional reporting errors, "costly criminal investigations" for misreporting, and "prosecutorial abuse." Two comments expressed an additional concern that the errors could be used to prosecute union officers under the LMRDA because the officers must certify the correctness of the reported information. The commenters' suggestion that increased reporting errors may prompt unwarranted investigations and prosecutions is speculative and unsupported by any evidence in the rulemaking record. Moreover, only willful violations, not inadvertent errors, can result in criminal liability. See 29 U.S.C. 439.

Several comments argued that itemization imposes a unique reporting standard on unions that no other oversight agency requires and no other

entity or organization must meet. The argument is neither accurate nor persuasive. First, as explained in detail in Section II(C), this argument is based upon incorrect assumptions. Second, other agencies do, in fact, require itemized reporting of financial transactions by certain kinds of organizations (for example, the Internal Revenue Service requires itemized reporting of disbursements by Section 527 organizations and the Federal Election Commission requires itemized reporting of receipts and disbursements by federal political committees. Third, reporting practices for a regulated community may vary depending on the particular requirements imposed by various laws. The appropriate standards for financial disclosure by labor organizations must be determined in light of the LMRDA, and not the practices, policies or criteria of other laws. In that vein, the LMRDA sought to address the particular problems posed by labor organization reporting by requiring reports containing "such detail as may be necessary to disclose its financial conditions and operations." See 29 U.S.C. 431(b). The fact that other agencies, administering other laws, utilize different reporting criteria and practices is not a valid objection to requiring itemization for purposes of the LMRDA.

2. Itemization of Confidential Information

One of the most significant concerns expressed by many comments concerned the potential harm to union interests in disclosing confidential financial and personal information required by Schedules 14-19. Commenters contended that such detailed disclosure could adversely affect union interests and activities that should be kept confidential as a matter of law or public policy. The comments focused principally on disclosure of the information to individuals or organizations outside the union that might use the information to impede legitimate union activities or otherwise harm union interests. The comments cited a variety of examples in which such itemization could be detrimental to the union itself or other organizations and individuals involved with the union and its activities: (i) Identifying individuals paid by the union to seek employment with a non-union employer in order to assist the union in organizing its workforce; (ii) revealing "job-targeting" or "market recovery" programs; (iii) discouraging the union from seeking legal advice if fee disclosure reveals the attorney-client relationship; (iv) violating legal rules