

proponents of higher thresholds contended that a lower baseline would result in burdensome and excessive detail.

The Department has decided to adopt \$5,000, the highest proposed amount, as the threshold for itemizing disbursements. As with the "other" receipts threshold, the fundamental issue involves a balancing of competing interests. Advocates of a low (or no) threshold emphasized the need for transparency of union finances; by lowering or eliminating the threshold, the union must divulge a greater amount of financial information. Ultimately, greater transparency enhances the deterrence of union financial misconduct and provides union members with more knowledge about the union's activities, regardless of any potential financial mismanagement. Greater transparency, however, also involves a greater burden on the unions in terms of reporting. Proponents of a higher threshold focused on this aspect, and urged the Department to set a high standard, e.g., \$25,000. After consideration of both viewpoints, the Department believes that a \$5,000 threshold strikes the proper balance between the benefits and costs of itemization. First, it is plain that virtually any disbursement is significant in that it provides information on how the union is being run, and provides a potential avenue for fraud. Second, the Department has concluded that the threshold should be set at an amount that will, in effect, establish a uniform standard for determining that a particular transaction, or set of transactions, is reportable. Third, the threshold must accommodate the concerns about the burden of tracking and reporting the information. The Department will continue to be mindful of the need for any future adjustment in the threshold for itemization in order to ensure that the information reported is meaningful. Several comments recommended using indexed thresholds rather than defined dollar amounts. The comments contended that indexed thresholds provide a more accurate basis for determining whether a disbursement is significant in light of the union's overall level of outlay. Two comments merely suggested adopting an indexed threshold as a general proposition. Other comments identified specific alternative formulae: 5% of total union assets; 5% of total disbursements; or a percentage based on the GAAP concept of materiality.

The Department rejects the indexed threshold approach because it does not provide a desirable level of certainty for the reporting community. An indexed

threshold will vary annually depending on the base figure from which the threshold is derived. This figure cannot be determined until the close of the fiscal year. In any given year, moreover, the base figure itself may be controversial if the Department and the union disagree as to the monies that should be included in the base figure, complicating a union's ability to comply with, and the Department's ability to enforce, the reporting requirements. Any disagreement over the base figure will necessarily affect the indexed threshold and disrupt the reporting of disbursements. Thus, a figure that is subject to annual fluctuation creates an unpredictable standard. A defined dollar threshold provides an unequivocal and predictable standard by which each union may determine whether a disbursement must be reported. Although the economic significance to the union of \$5,000 may vary with the size of a union's income, the interest of the membership in having access to a broad array of information concerning the sources and uses of union finances, and in the detection and deterrence of fraud, remains constant.

The proponents of an indexed threshold or a materiality standard premised their arguments on the belief that a bright line threshold will require reporting of immaterial disbursements. As explained above, the Department's adoption of a \$5,000 threshold is based in large part upon the view that receipts and disbursements of that amount are significant to union members. Further, the Department does not believe that the GAAP's test for materiality is persuasive in this context. As a commenter noted, unlike commercial entities, which are accountable based on their profit or loss, labor unions are accountable in terms of the stewardship responsibilities of their officers. Consequently, the use of a sum that would have little effect on an entity's viability may be safely ignored by an investor who cares only for return on investment, but may be of considerable interest to a union member when spent by his or her union, as the union member's interest extends well beyond a concern with the union's bottom line, to the furtherance of its overall mission. A materiality standard would not give sufficient weight to these non-economic concerns, for a union member is interested not solely in the funds themselves, but the activities of the union. See Statement of Financial Accounting Concepts No. 2 (SFAC No. 2), ¶¶123–132. Further, adoption of the vague materiality standard as the threshold for itemization would require unions to obtain substantial professional

assistance, thus increasing the burden on the labor organization. See *id.*

A few comments opposed reporting aggregated disbursements to a single entity or individual if the total amount meets the threshold because the union would have to track each disbursement through the fiscal year to determine whether the aggregated amount meets the threshold at the end of the year. Other comments treated aggregation as part of itemization and opposed both requirements because they perceived the entire reporting process as imposing burdensome and costly compliance requirements; providing too much information to be useful; imposing a unique and more rigorous standard on labor unions than applies to any other organization; and requiring significant and costly changes to the union's current accounting system.

With respect to tracking minor (less than \$5,000) disbursements through the fiscal year, the Department does not believe the comments identify a substantial basis for abandoning the aggregation principle. Once the union installs or modifies its accounting software to appropriately chart each disbursement, tracking every disbursement regardless of amount will not be burdensome. Indeed, unions already must track every disbursement, and must know the type and amount of each disbursement, in order to report them in the appropriate aggregate amounts for each category on the existing Form LM–2. Furthermore, the advantages of aggregation offset any additional burden from tracking all disbursements. Aggregation denies the incentive to break up a "major" disbursement to a single entity or individual in order to avoid the threshold for itemizing the payment to circumvent the reporting requirements of the statute. Aggregation therefore provides a more accurate picture of a union's disbursements because it focuses on the total amount of money the union pays a particular entity or individual, rather than only the "major" disbursements. Given the benefits of aggregation and the fact that unions are already required to track each disbursement, the Department rejects the position that aggregation will be overly burdensome by requiring the union to track all disbursements, including those that ultimately will not be reported as itemized payments.

The Department invited comments on whether to require itemization of disbursements to an individual or entity that, in the aggregate, total less than the threshold amount in a particular Schedule once the threshold has been reached either in another Schedule or in