

One union stated that the Department could achieve its goal without such drastic changes in the requirements by using the methodology in the current Form LM-2. In its view, the Department could have taken the "natural categories" on the present Form LM-2 and divided them into natural "subcategories," or it could have developed schedules similar to those presently required for "Office and Administrative Expenses" or "Benefits." While such revisions would still involve reporting disbursements in the aggregate, members would have the right under Section 201(c) of the LMRDA, 29 U.S.C. 431(c), to obtain more detailed data directly from their union. The Department rejects the suggestion that unions should be allowed to design their own functional reporting categories or add categories to those prescribed by the Department. As explained by the FASB in the Qualitative Characteristics of Accounting Information, at ¶ 16, not even the FASB expects "all its policy decisions to accord exactly with the preferences of every one of its constituents."

Indeed, they clearly cannot do so, for the preferences of its constituents do not accord with each other. Left to themselves, business enterprises, even in the same industry, would probably choose to adopt different reporting methods for similar circumstances. But in return for the sacrifice of some of that freedom, there is a gain from the greater comparability and consistency that adherence to externally imposed standards brings with it. There also is a gain in credibility. The public is naturally skeptical about the reliability of financial reporting if two enterprises account differently for the same economic phenomena.

Statement of Financial Accounting Concepts No. 2 (SFAC No. 2), ¶ 16. On this point, the FASB also explained:

Information about an enterprise gains greatly in usefulness if it can be compared with similar information about other enterprises and with similar information about the same enterprise for some other period or some other point in time. The significance of information, especially quantitative information, depends to a great extent on the user's ability to relate it to some benchmark.

Id., ¶ 111. Further, a union member's statutory right, under Section 201(c) of the LMRDA, to examine records underlying the report is a complement to, but does not supplant, a union's statutory duty to report. In light of the comments from union members concerning the difficulties members have faced in obtaining review of these records, the Department has determined that altering the categories, rather than merely relying on Section 201(c), would

more effectively further the transparency goals of the LMRDA. See 29 U.S.C. 431(c).

The Department does not agree with the assertion that the better course is to simply disaggregate the categories in the existing Form LM-2 to effect more detailed reporting. In response to specific comments, the Department has combined two proposed categories ("Contract Negotiation and Administration" and "Organizing") into a single schedule entitled "Representational Activities," added a category entitled "Union Administration," combined the proposed categories for "Political Activities" and "Lobbying" into a single schedule, and eliminated the category entitled "Other Disbursements." The categories that remain are tailored to reflect the activities performed by unions, and will allow union members to readily gauge whether the union is committing its resources in the sums and proportions they consider appropriate. Requiring itemization of major disbursements within the current categories would not serve this purpose.

Union commenters faulted the proposal for failing to address the Department's prior position, articulated in 1993, that functional reporting imposed a very substantial burden on unions without significantly advancing a member's understanding of his or her union's operations and finances. There is no merit to the assertion that the Department's proposal failed to address the Department's earlier position. The NPRM described the Department's rulemaking efforts in 1992 and 1993; its discussion addressed the same basic points that were the focus of the 1992 and 1993 rulemaking and outlined the reasons why the Department's current proposals are appropriate. The NPRM also identified aspects of the proposal that differ from the 1992 final rules, thereby providing the public with a full exposition of the Department's position and its views on the various points addressed in 1992 and 1993.

The commenters correctly noted that the Department's current proposals resemble the views expressed in support of the Department's 1992 final rule more closely than the later concerns that led to the Department's reconsideration of functional reporting and the rescission of the final rule. Although the 1993 rulemaking identified some perceived problems with the 1992 final rule, which the Department addresses in the instant rulemaking, the tension between the positions was based largely on policy assessments as to the relative utility and burden associated with the change in reporting requirements. While

the Department does not hold the same views on this issue as it did in 1993, the statute provides—now, as in 1993—the Department latitude in determining the form and amount of detail that should be reported by unions. Most significantly, there have been advances in technology (including its availability and application) in the last 10 years, as computers and financial management programs have become much more widely used. Internet access is more commonly available and the benefit of making information available over the Internet has been generally, and congressionally, recognized. These changes make it possible to provide substantially more information to union members and the public with less burden on unions than the changes considered in 1992 and 1993 would have imposed at that time.

Union commenters challenged assumptions that underlie the Department's functional category proposal on two related grounds. First, they contended that unions are not required to collect and report their expenses in the categories prescribed by the proposed rule by either "standard business practices" as reflected in GAAP or by "existing [federal] forms" such as the IRS Form 990. Second, the unions asserted that the categories proposed by the Department do not "describe the most common important purposes for which unions spend money." GAAP and the IRS Form 990, they assert, leave it to the reporting organization to identify what the organization believes to be its most important functions. The union commenters contended, in effect, that the Department seeks to impose one artificial, static functional reporting system on all unions without any regard as to how they presently account for their expenditures. In support of these arguments, the comments provided few, if any, examples of the most common purposes for which unions spend money, or appropriate reporting categories. The AFL-CIO argued that the relevant accounting standards provide for two basic types of expense classification. The first type is "natural expense classification," which "group[s] expenses according to the kinds of economic benefits received in incurring th[e] expenses," for example, "salaries and wages, employee benefits, supplies, rent, and utilities" (citing, AICPA Not-For Profits Guide 514). The AFL-CIO asserted that the other basic type is "functional classification," which "group[s] expenses according to the purpose for which the costs are incurred." Id. at 513. "The primary