

Filers will need to study and understand the new requirements and may have to work with their staff or vendors to make adjustments to the union's accounting and recordkeeping systems, and then train the staff. However, these sorts of operations—changing the way disbursements are classified and the types of information recorded—are routine in the normal course of business and relatively easy to perform within accounting systems. Moreover, as discussed in the preamble, the public comments suggest that 60% of the national and international unions already maintain written records for the information required by the new “other receipts” schedule and that many unions already maintain records as part of their normal business practice that reflect the required detail for disbursements for the revised form (even though between 10 and 40% of unions could not provide all of the required detail). Finally, because each labor organization's filing date is dependent on its chosen fiscal year, many unions will have more than three months to complete any changes they may have to make to their accounting and recordkeeping systems.

Additionally, the Department will provide substantial compliance assistance to unions to assist them in understanding the new requirements and making adjustments to their recordkeeping and reporting practices. This initiative will include guidance that provides an overview of the requirements, a comparison of the old and new requirements, the types of account changes unions may have to make, guidance to assist unions to configure off-the-shelf software to best capture the information needed to provide the data required for submitting the LM-2 and T-1 reports, a schedule of seminars for unions hosted throughout the country, an email list-serve to provide periodic updates to interested parties, web-based materials that include frequently asked questions, a description of the Form T-1 registration process, and other topics of interest to filers.

Filers that choose to take advantage of the electronic importation features of the Department's reporting software will need to create reports within their accounting systems that will be used to complete the revised Form LM-2 and new Form T-1. However, this work need not be completed until the form is ready to be filed, no earlier than 15 months after the effective date of the final rule and nearly 18 months after publication. Further, in the event that any labor organization encounters severe difficulties concerning electronic

filing, a hardship exemption will be available.

A few commenters suggested that unions only be required to report the debts they have written off as a less burdensome alternative to reporting all debts above the proposed \$1,000 threshold that are 90 days or more past due. This alternative was rejected because: (1) The Department believes that raising the itemization threshold to \$5,000 for reporting debts will alleviate much of the burden suggested by commenters as a multitude of relatively small accounts will no longer have to be listed, particularly for smaller unions; (2) as discussed above, itemized disclosure is important because it provides a vital early warning signal of financial distress and possible fraud as in the Washington Teachers' Union case; and (3) the itemization requirement is tailored to a union member's legitimate interest in knowing, for example, whether the union continues to do business with an entity that fails to pay its debts or whether the union continually falls behind in payments to a certain vendor. Moreover, the public comments suggest that the majority of unions already collect most, if not all, of the information required by the accounts receivable and accounts payable schedules on the final form, which is not surprising considering the current Form LM-2 requires aggregate reporting of accounts receivable and accounts payable.

Finally, a few commenters, together with the AFL-CIO, suggested an exemption from functional reporting to reduce the burden on smaller labor organizations. The Department has rejected this alternative because it would: (1) Eliminate the availability of meaningful information to over 12.3 million union members in unions with less than \$6.0 million in annual receipts (the current SBA small entity standard for unions) and significantly reduce the transparency and accountability in the reporting of union financial condition and operations, which may have far greater impact on, and relevance to, union members, particularly since such lower levels of union organizations generally set and collect dues and provide representational and other services for their members; and (2) not provide any additional deterrence to fraud and embezzlement by officials in smaller labor organizations.

Moreover, functional accounting is not a new concept to labor organizations, large or small. The current Form LM-2, through its use of categories, requires labor organizations to report certain expenditures by

function. Moreover, functional accounting is required of not-for-profit organizations under the standards established by the FASB and some of the labor organizations that submitted comments acknowledged that they use functional reporting as a management tool. Furthermore, many commenters overlooked the fact that the IRS requires not-for-profit organizations, including unions, to report their expenditures by certain categories and that the IRS uses several functional categories that parallel, in many respects, the categories in the proposed Form LM-2. For example, both the IRS Form 990 and the new Form LM-2 require disclosure of disbursements related to political activity and lobbying (even though, unions typically report no information under these categories to the IRS). Finally, as explained above, the Department has made significant changes to the functional categories and associated schedules in the new Form LM-2 to minimize the burden, particularly on small unions.

### 3. Number of Small Entities Covered Under the Rule

The primary impact of this final rule will be on the largest labor organizations, defined as those that have \$250,000 or more in annual receipts. There are approximately 4,778 labor organizations of this size that are required to file Form LM-2 reports under the LMRDA (just 19.0% of all labor organizations covered by the LMRDA). The Department estimates that 4,463 of these unions, or 93.4%, are considered small under the current SBA standard (annual receipts less than \$6.0 million). These unions have average annual receipts of approximately \$1.1 million and an average of 14 officers and 4 employees. The rule will also reduce the burden on 501 small unions that will be able to file Form LM-3 instead of Form LM-2 because of raising the LM-2 threshold to \$250,000. These estimates are based on 2001 and 2002 data from the Office of Labor-Management Standards eLORS system. This system contains annual receipt data on all Form LM-2, LM-3, and LM-4 filers. Although these estimates may not be predictive of the exact number of small unions that will be impacted by this final rule in the future, the Department believes these estimates to be sound and are derived from the best available information.

### 4. Reporting, Recordkeeping and Other Compliance Requirements of the Rule

This final rule is not expected to have a significant economic impact on a substantial number of small entities.