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Labor Organization Officer and Employee Reports; Proposed Rules

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 404

RIN 1215–AB49

Labor Organization Officer and Employee Reports

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Employment Standards Administration (ESA) of the Department of Labor (Department) is proposing to revise the Form LM–30 and its instructions. The Form LM–30 implements section 202 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), 29 U.S.C. 432, whose purpose is to require officers and employees of labor organizations to publicly disclose possible conflicts between their personal financial interests and their duty to the labor union and its members. The proposed rule would clarify the Form LM–30, and its instructions, by explaining key terms and providing examples of the financial matters that must be reported, eliminate exemptions in the current Form LM–30 that permit filers to not report financial matters that would otherwise be required to be reported under the Act, and improve the usability of the reports by union members and the public. The Department invites general and specific comment on any aspect of the rule; it also invites comment on specific points, as noted throughout the text of this preamble.

DATES: Comments must be received on or before October 28, 2005.

ADDRESSES: You may submit comments, identified by RIN 1215–AB49, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov.

E-mail: OLMS–REG–1215–AB49@dol.gov.

FAX: (202) 693–1340. To assure access to the FAX equipment, only comments of five or fewer pages will be accepted via FAX transmittal, unless arrangements are made prior to faxing, by calling the number below and scheduling a time for FAX receipt by the Office of Labor-Management Standards (OLMS).

Mail: Mailed comments should be sent to Kay Oshel, Director of the Office of Policy, Reports and Disclosure Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5605, Washington, DC 20210. Because the Department continues to experience delays in U.S. mail delivery due to the ongoing concerns involving toxic contamination, you should take this into consideration when preparing to meet the deadline for submitting comments.

OLMS recommends that you confirm receipt of your comment by contacting (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877–8339 (TTY/TDD).

Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: For further information contact Kay H. Oshel, Director of the Office of Policy, Reports and Disclosure, at: Kay H. Oshel, U.S. Department of Labor, Employment Standards Administration, Office of Labor-Management Standards, 200 Constitution Avenue NW., Room N–5605, Washington, DC 20210, *olms-public@dol.gov,* (202) 693–1233 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Background

The Form LM–30 is used by officers and employees of labor organizations subject to the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act). The Act requires public disclosure of certain financial interests held, income received, and transactions engaged in by labor organization officers and employees and their spouses and minor children. Subject to certain exclusions, these interests, incomes, and transactions include: (1) Payments or benefits from, or interests in, an employer whose employees the filer's union represents or is actively seeking to represent; (2) transactions involving interests in, or loans to or from, an employer whose employees the filer's union represents or is actively seeking to represent; (3) interests in, income from, or transactions with a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent; (4) interests in, income from, or transactions with a business that deals with the filer's union or a trust in which the filer's union is interested; (5) transactions or arrangements with an employer whose employees the filer's union represents or is actively seeking to represent; and (6) payments from an employer or labor relations consultant.

The Form LM–30, which implements in part the financial disclosure provisions of Title II of the LMRDA, has remained essentially unchanged in the more than 40 years since 1963, when the Labor Department first approved the form LM–30. Over the past several years, the Department has engaged in a process to improve the administration of the LMRDA, including the design and usefulness of the financial reports required by the Act. In the course of this process, a number of problems were identified with Form LM–30. This proposed rule would address these problems by

- Clarifying the instructions by explaining the key terms used in the Act and instructions, and by providing examples of the financial matters that must be reported under each subsection of the Act;
- Eliminating exemptions that permit filers to not report financial matters that would otherwise be required to be reported under the Act, and which present the potential of conflicts of interests for union officers and employees;
- Improving disclosure by creating a summary table on the front page of the report, supported by schedules, for disclosing (1) The filer's interests, payments, loans, transactions or arrangements, (2) the other party to these financial practices, and (3) the dealings, if any, between the party and the filer's labor organization or the employer whose employees the filer's labor organization represents or actively seeks to represent.

The Department invites comment on this proposed rule with respect to the benefits of these changes, the ease or difficulty with which labor organization officers and employees will be able to comply with these changes, and whether the changes will be meaningful, useful, and in accordance with the purposes of the LMRDA, which are to disclose to union members and the public information about certain financial interests of union officials. Interested parties and the public are invited to draw upon their experience with similar conflict and disclosure standards in other settings such as government employment, accounting, corporate governance, legal and judicial practice, medicine, and journalism. The Department invites general and specific comment on any aspect of the rule; it also invites comment on specific points, as noted throughout the text of this preamble.

A. Financial Transparency

This proposed rule seeks to revise the Form LM–30, the form used by labor

organization officers and employees to file the annual financial reports required by section 202 of the LMRDA, 29 U.S.C. 432. The rulemaking continues the Department's efforts over the past four years to improve voluntary compliance with, and enforcement of, the LMRDA. In response to requests from union members, members of Congress, public interest groups, and others, the Department:

- Launched a new disclosure web site (*http://www.union-reports.dol.gov*), where individuals may view union financial reports and conduct data searches;
- Added reports filed by labor union officers and employees, employers, and labor relations consultants (Forms LM–10, LM–20, LM–21, and LM–30) to the disclosure web site;
- Modernized the annual financial disclosure report (Form LM–2) filed by the largest labor organizations (see 68 FR 58374, Oct. 9, 2003);
- Raised the filing threshold for Form LM–2, thereby increasing the number of labor organizations that may file a simplified version of the annual financial disclosure report;
- Enhanced compliance assistance programs for filers; and
- Increased the investigative resources of OLMS field offices to facilitate enforcement of the Act.

The Secretary also created a new annual financial disclosure report (Form T–1) for use by the largest labor organizations to report on the financial operations of certain trusts in which they are interested (see 68 FR 58374, Oct. 9, 2003), but the requirement that union file this information report was vacated by the District of Columbia Circuit on appeal. See *American Federation of Labor and Congress of Indus. Organizations* v. *Chao*, 409 F. 3d 377 (D.C. Cir. May 31, 2005), petition for rehearing and rehearing en banc filed July 15, 2005. The goal of these initiatives, like this proposal, has been to achieve more detailed and transparent reporting of the financial information that Congress, in enacting the LMRDA, intended to be made public for the benefit of union members and the public. Such transparency allows union members to obtain information needed by them to monitor their union's affairs and to make informed choices about the leadership of their union and its direction. At the same time, this transparency promotes the unions' own interests as democratic institutions and the interests of the public and the government. Financial transparency also deters fraud and self-dealing, and facilitates the discovery of such misconduct when it does occur. In these ways, the Department's reforms advance the LMRDA's declared purpose ''that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations.'' LMRDA § 2(a), 29 U.S.C. 401(a).

B. The History of the LMRDA

In enacting the LMRDA in 1959, a bipartisan Congress expressed the conclusion that in the labor and management fields ''there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.'' LMRDA § 2(a), 29 U.S.C. 401(a).

The legislation was the direct outgrowth of a Congressional investigation conducted by the Select Committee on Improper Activities in the Labor or Management Field, commonly known as the McClellan Committee, chaired by Senator John McClellan of Arkansas. In 1957, the committee began a highly publicized investigation of union racketeering and corruption; and its findings of financial abuse, mismanagement of union funds, and unethical conduct provided much of the impetus for enactment of the LMRDA's remedial provisions. See generally Benjamin Aaron, *The Labor-Management Reporting and Disclosure Act of 1959*, 73 Harv. L. Rev. 851, 851–55 (1960). During the investigation, the committee uncovered a host of improper financial arrangements between officials of several international and local unions and employers (and labor consultants aligned with the employers) whose employees were represented by the unions in question or might be organized by them. Similar arrangements also were found to exist between union officials and the companies that handled matters relating to the administration of union benefit funds. See generally Interim Report of the Select Committee on Improper Activities in the Labor or Management Field, S. Report No. 85–1417 (1957) (''Interim Report of the McClellan Committee''). For examples of some of the improper arrangements directly or indirectly involving officials of these unions, see pp. 42–86, 122–30, 150–57, 222–55, 376–420, 441–50. See *also* Robert F. Kennedy, *The Enemy Within* (1960) (discussing the committee's investigation).

The statute was designed to remedy these various ills through a set of integrated provisions aimed at union governance and management. These include a ''bill of rights'' for union members, which provides for equal voting rights, freedom of speech and assembly, and other basic safeguards for union democracy, see LMRDA §§ 101–105, 29 U.S.C. 411–415; financial reporting and disclosure requirements for unions, union officers and employees, employers, labor relations consultants, and surety companies, see LMRDA §§ 201–206, 211, 29 U.S.C. 431–436, 441; detailed procedural, substantive, and reporting requirements relating to union trusteeships, see LMRDA §§ 301–306, 29 U.S.C. 461–466; detailed procedural requirements for the conduct of elections of union officers, see LMRDA §§ 401–403, 29 U.S.C. 481–483; safeguards for unions, including bonding requirements, the establishment of fiduciary responsibilities for union officials and other representatives, criminal penalties for embezzlement from a union, loans by a union to officers or employees, employment by a union of certain convicted felons, and payments to employees for prohibited purposes by an employer or labor relations consultant, see LMRDA §§ 501–505, 29 U.S.C. 501–505; and prohibitions against extortionate picketing and retaliation for exercising protected rights, see LMRDA §§ 601–611, 29 U.S.C. 521–531.

The reporting requirement for officers and employees operates in tandem with the Act's establishment of a fiduciary duty for union officials and representatives. 29 U.S.C. 501. Congress addressed conflicts of interest in both section 202 and section 501(a) of the Act. 29 U.S.C. 432, 501(a). The latter provides in part:

> The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the

organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization.

29 U.S.C. 501(a). Both provisions address the potential and actual conflict between a union representative's personal interests and his or her duty to the union and its members. See Theodore Clark, Jr., *The Fiduciary Duties of Union Officials under Section 501 of the LMRDA*, 52 Minn. L. Rev. 437, 458–60 (1962).

The need for the officer and employee disclosure provisions was not seriously debated during the consideration of the LMRDA legislation. The McClellan Committee hearings disclosed a history of self-dealing by certain union officials, often at the expense of their union's membership. Then Senator John F. Kennedy was the chief sponsor of the Senate bill, S. 505, which served as the foundation for the LMRDA. In introducing the bill for the Senate's consideration, Senator Kennedy addressed concerns about the involvement of union officials in matters that blurred their personal interests and their union's interests, which would be remedied by the legislation. Senator Kennedy used the experience of the Teamsters union, as revealed by the investigation of the McClellan Committee, to underscore the purposes to be achieved by the Act:

First. It will no longer be possible for the dues of Teamster members to be paid out to hoodlums posing as business agents, or be invested in improper or risky racetrack or real estate deals, or to be used by [the union's] officers to build their own personal financial empires without the knowledge of the members themselves—or without investigation by the press and public authorities.

Second. [A union official] would be required to disclose all his business dealings with insurance agents handling the union's welfare funds, his private arrangements with employers, his hidden partnerships in business ventures foisted upon his members, and all other possible conflicts of interest.

* * * * * * *

Sixth. [Union officials] will find future collusion with employers vastly restricted—with no more loans from employer groups, no more attacks on rival unions through middlemen * * *, and no more secrecy shrouding the use of union funds to bail out a collaborating employer.

105 Cong. Rec. S817 (daily ed. Jan. 20, 1959), reprinted in 2 NLRB Legislative History of the Labor-Management Reporting and Disclosure Act of 1959 (''Leg. History''), at 969. The improper dealings by the Teamster officials, to which Senator Kennedy refers, are detailed in the Interim Report of the McClellan Committee, at, *e.g.*, 48, 59–60, 64–86, 222–54, 443–50. These dealings, like those identified by officials of other unions in the Interim Report, included actions undertaken by national officers, or others acting at their behest, involving matters affecting not only the national union's operation but also matters of importance to local and intermediate bodies of their union. See *e.g.*, Interim Report, at 4–7, 46–49, 51, 55, 59–60, 63, 69, 74, 81, 87, 122–25, 128, 130, 179, 186–87, 224, 228, 230–40, 244, 250, 252, 284–85, 295, 297, 300, 444–48, 264–66, 268, 281. See also *The Enemy Within*, at 97, 99, 104–05, 106, 221–24.

The Senate Committee Report provided an overview of section 202 of the LMRDA:

[This section] requires a union officer or employee to disclose any securities or other interest which he has in a business whose employees his labor union represents or ''seeks to represent'' in collective bargaining. When a prominent union official has an interest in the business with which the union is bargaining, he sits on both sides of the table. He is under temptation to negotiate a soft contract or to refrain from enforcing working rules so as to increase the company's profits. This is unfair to both union members and competing businesses.

S. Rep. No. 187 (''Senate Report'') (1959), at 15, reprinted in 2 Leg. History, at 411. As explained in the Senate Report: ''The hearings before the McClellan committee brought to light a number of instances in which union officials gained personal profit from a business which dealt with the very same employer with whom they engaged in collective bargaining on behalf of the union.'' *Id.* The committee endorsed the concern expressed in the AFL–CIO's ethical practices code that the union official ''may be given special favors or contracts by the employer in return for less than a discharge of his obligations as a trade-union leader.'' *Id.*

In explaining the purpose of the disclosure rules for union officers and employees, the Senate Report presented ''three reasons for relying upon the milder sanction of reporting and disclosure [relative to establishing criminal penalties] to eliminate improper conflicts of interest,'' which can be summarized as follows:

- Disclosure discourages questionable practices. ''The searchlight of publicity is a strong deterrent.'' Disclosure rules should be tried before more severe methods are employed.
- Disclosure aids union governance. Reporting and publication will enable unions ''to better regulate their own affairs. The members may vote out of office any individual whose personal financial interests conflict with his duties to members,'' and reporting and disclosure would facilitate legal action by members against ''officers who violate their duty of loyalty to the members.''
- Disclosure creates a record. The reports will furnish a ''sound factual basis for further action in the event that other legislation is required.''

Senate Report, at 16, reprinted in 1 Leg. History, at 412. The Report further stated:

The committee bill attacks the problem [of conflicts of interest] by requiring union officers and employees to file reports with the Secretary of Labor disclosing to union members and the general public any investments or transactions in which their personal financial interests may conflict with their duties to the members. The bill requires only the disclosure of conflicts of interest as defined therein. The other investments of union officials and their sources of income are not matters of public concern. No union officer or employee is obliged to file a report unless he holds a questionable interest in or has engaged in a questionable transaction. The bill is drawn broadly enough, however, to require disclosure of any personal gain which an officer or employee may be securing at the expense of the union members.

Senate Report, at 14–15, reprinted in 1 Leg. History, at 410–11. The House Committee Report (''House Report''), H.R. Rep. No. 741 (1959), at 11, reprinted in 1 Leg. History, at 769, conveyed the same message. Both the Senate and House Reports recognize that a reportable interest is not necessarily an illegal practice. As the House Report stated:

In some instances matters to be reported are not illegal and may not be improper but may serve to disclose conflicts of interest. Even in such instances, disclosure will enable the persons whose rights are affected, the public, and the Government, to determine whether the arrangements or activities are justifiable, ethical, and legal.

House Report, at 4, reprinted in 1 Leg. History, at 762. See Senate Report, at 38, reprinted in 1 Leg. History, at 434 (''By requiring reports * * *, the committee is not to be construed as necessarily condemning the matters to be reported if they are not specifically declared to be improper or made illegal under other provisions of the bill or other laws.''). ''Reports are required as to matters which should be public knowledge so that their propriety can be explored in the light of known facts and conditions.'' *Id.* As stated by Senator Barry Goldwater after the Act had been passed:

Briefly, what must be reported are holdings of interest in or the receipt of economic benefits from employers who deal or might deal with such union official's union, or

holdings in or benefits from enterprises which do business with such union official's union.

105 Cong. Rec. A8512 (daily ed. Oct. 2, 1959), reprinted in 2 Leg. History, at 1846.

Conflict of interest standards, including disclosure obligations of individuals and entities occupying positions of trust, are well grounded in U.S. law. As stated in the House Report, repeating almost verbatim the same point in the Senate Report:

For centuries the law of fiduciaries has forbidden any person in a position of trust subject to such law to hold interests or enter into transactions in which self-interest may conflict with complete loyalty to those whom he serves. Such a person may not deal with himself, or acquire adverse interests, or make any personal profit as a result of his position. The same principle has long been applied to trustees, to agents, and to bank directors. It should be equally applicable to union officers and employees [quoting the AFL–CIO's ethical practices code]: ''[A] basic ethical principle in the conduct of union affairs is that no responsible trade union official should have a personal financial interest which conflicts with the full performance of his fiduciary duties as a worker's representative.''

Senate Report, at 11, reprinted in 1 Leg. History, at 769. See generally Restatement (Second) of Trusts (1959) §§ 170, 173; Restatement (Second) of Agency (1958) §§ 381, 387–98.

Section 202 is an effort, in part, to make effective the disclosure requirements associated with the fiduciary standards applied to union officials in Title V of the LMRDA, which, in turn, reflect the requirements of the extensive code voluntarily adopted by the AFL–CIO in 1957 and applied to its affiliated unions and officials. See Senate Report, at 12–16, reprinted in 1 Leg. History, at 408–12; House Report, at 9–12, reprinted in 1 Leg. History, at 767–70. See also Archibald Cox, *Internal Affairs of Labor Unions under the Labor Reform Act of 1959*, 58 Mich. L. Rev. 819, 824–29 (1960). The following excerpts from this code demonstrate the nexus between the voluntary code and the disclosure requirements of section 202.

[A] basic ethical principle in the conduct of trade union affairs is that no responsible trade union official should have a personal financial interest which conflicts with the full performance of his fiduciary duties as a workers' representative.

* * * * *

[U]nion officers and agents should not be prohibited from investing their personal funds in their own way in the American free enterprise system so long as they are scrupulously careful to avoid any actual or potential conflict of interest.

* * * * *

In a sense, a trade union official holds a position comparable to that of a public servant. Like a public servant, he has a high fiduciary duty not only to serve the members of his union honestly and faithfully, but also to avoid personal economic interest which may conflict or appear to conflict with the full performance of his responsibility to those whom he serves.

* * * * *

There is nothing in the essential ethical principles of the trade union movement which should prevent a trade union official, at any level, from investing personal funds in the publicly traded securities of corporate enterprises unrelated to the industry or area in which the official has a particular trade union responsibility.

* * * * *

The policies * * * apply to: (a) all officers of the AFL–CIO and all officers of national and international unions affiliated with the AFL–CIO, (b) all elected or appointed staff representatives and business agents of such organizations, and (c) all officers of subordinate bodies of such organizations who have any degree of discretion or responsibility in the negotiation of collective bargaining agreements or their administration.

* * * * *

[These principles] apply not only where the investments are made by union officials, but also where third persons are used as blinds or covers to conceal the financial interests of union officials.

Ethical Practices Code IV: Investments and business interests of union officials (''AFL–CIO Ethical Practices Code''), 105 Cong. Rec.*16379 (daily ed. Sept. 3, 1959), reprinted in 2 Leg. History, at 1408.

The Department intends by the proposals set forth herein to better achieve the purposes of the LMRDA, as demonstrated by the legislative history. To that end, and by this reform, the Department will increase compliance with the financial disclosure requirements in the Act, clarify the form and instructions by use of examples and defined terms, remove counterproductive exemptions to the filing requirements, and organize the information in a more useful format.

C. Statutory Language

Section 202 provides in its entirety:

SEC. 202. (a) Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the Secretary a signed report listing and describing for his preceding fiscal year—

(1) Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer;

(2) Any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(3) Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(4) Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;

(5) Any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and

(6) Any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in section 302(c) of the Labor Management Relations Act, 1947, as amended.

(b) The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, in shares in an investment company registered under the Investment Company Act or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, or to report any income derived therefrom.

(c) Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a

report under subsection (a) unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

29 U.S.C. 432.

D. Increases in Sophistication and Complexity of Financial Practices

The Form LM–30 has remained essentially unchanged since 1963, when the Department first approved the Form LM–30. See 28 FR 14384 (Dec. 27, 1963). During this time the operations of unions have changed and financial matters affecting institutions and individuals have become more sophisticated. While the same statutory disclosure standard applies now as it did when the Act took effect, the financial activities of individuals and organizations have increased exponentially in scope, complexity and interdependence over the past four decades.

For example, many unions manage benefit plans for their members, maintain close business relationships with financial service providers such as insurance companies and investment firms, operate revenue-producing subsidiaries, and participate in foundations and charitable activities. The complexity of union financial practices, including business relationships with outside firms and vendors, increases the likelihood that union officers and employees may have interests in, or receive income from, these businesses. As more labor organizations conduct their financial activities through sophisticated trusts, increased numbers of businesses have commercial relationships with such trusts, creating financial opportunities for union officers and employees who may operate, receive income from, or hold an interest in such businesses. In addition, employers also have fostered multi-faceted business interests, creating further opportunities for financial relationships between employers and union officers and employees. In this context, disclosure is critical to promoting good union governance, fostering ethical behavior, and deterring and detecting self-dealing.

Moreover, present-day concerns about the intersection of personal interest and professional responsibilities are no longer associated only with traditional trustees, but are matters of central importance to the securities industry, corporate governance, and, among other professional groups, lawyers, physicians, accountants, researchers, journalists, and government employees.

The Department believes that the purposes of the Act could be better accomplished by promoting increased compliance with the financial disclosure requirements in the Act, clarifying the form and instructions by use of examples and defined terms, removing counterproductive exemptions to the filing requirements, and organizing the information in a more useful format. By improving the form and promoting compliance with reporting requirements, union members will obtain a more accurate picture of the personal financial interests of their union's officers and employees, as those interests may bear upon their actions on behalf of the union and its members. Publicly available information concerning potential conflicts of union officials allows union members to better understand any financial incentives or disincentives faced by their union's officers and employees, and to make informed choices about the leadership of their union and its management of the union. Additional disclosure promotes the unions' own interests as democratic institutions responsive to the concerns of union members, and deters, as well as facilitates the discovery of, fraud and self-dealing.

E. The Current Form LM–30

The Department initiated its enforcement of the section 202 reporting requirements within months of the enactment of the LMRDA in 1959, and a regulation making the Form LM–30 effective was published in 1963. See 28 FR 14384 (Dec. 27, 1963).

The current Form LM–30 consists of four sections: a section for identifying data about the filer, and Parts A through C. (The current form and instructions are available at www.olms.dol.gov.) Part A of the form seeks transactions that would be reportable under sections 202(a)(1), (a)(2), and (a)(5). See 29 U.S.C. 432(a)(1), (2), (5). Part A thus generally requires reporting of holdings in, transactions and arrangements with, and income and loans from the employer whose employees the filer's labor organization represents or actively seeks to represent. Part B attempts to implement sections 202(a)(3), and (a)(4). See 29 U.S.C. 432(a)(3), (4). Part B thus generally captures holdings in and income from businesses that deal either with the labor organization, a trust in which the labor organization is interested, or the employer whose employees the filer's labor organization represents or actively seeks to represent. Part C attempts to implement section 202(a)(6). See 29 U.S.C. 432(a)(6). Part C thus generally requires reporting of payments of money or other things of value from employers and labor relations consultants.

Specifically, the first section gathers basic information about the filer, including the name of the organization in which the filer is an officer or employee, the filer's position with the organization, and the fiscal year covered by the report.

In the ''General Instructions'' filers are informed: ''You do not have to report any sporadic or occasional gifts, gratuities, or loans of insubstantial value, given under circumstances or terms unrelated to the recipient's status in a labor organization, or anything excluded in the specific instructions in Parts A, B, or C below.''

Part A instructs the filer: ''Complete [this part] if you (1) held an interest in, (2) engaged in transactions (including loans) with, or (3) derived income or other economic benefit of monetary value from, an employer whose employees your organization represents or is actively seeking to represent. Complete a separate Part A for each such employer and for each such interest, transaction, or item of income or other economic benefit connected with that employer.'' For each such interest, transaction, or income, the filer is requested to disclose its nature, value, and date of receipt. With regard to the nature of a discloseable transaction, the instructions provide as examples: ''Continuing use of automobile for personal purposes, gift of refrigerator, payment for services.'' Additional examples provided include: ''Loan of money from employer, rental of loft building, located at X street, Y city, Z State, to employer.'' The instructions provide additional information for reporting interests in, and transactions involving, stocks, bonds, securities, options and similar interests.

After identifying the matters that have to be reported, the instructions advise the potential filer that he or she should not report holdings of, transactions in, or income from bona fide investments in registered securities; holdings of, transactions in, or income from other securities if they are of ''insubstantial value or amount'' (defined as holdings or transactions of $1,000 or less and income of $100 or less in any one security) and occur under terms unrelated to the filer's status in the labor organization; transactions involving purchases and sales of goods and services in the regular course of business at prices generally available to any employee of the employer; and ''payments and benefits received as a bona fide employee of the employer for past or present services, including wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other

benefit plan; and payments for periods in which such employee engaged in activities other than productive work, if the payments for such period of time are: (a) Required by law or a bona fide collective bargaining agreement, or (b) made pursuant to a custom or practice under such a collective bargaining agreement, or (c) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization.''

Part B instructs the filer to report ''an interest in or * * * income or other economic benefit with monetary value, including reimbursed expenses, from a business (1) a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with the business of an employer whose employees your labor organization represents or is actively seeking to represent, or (2) any part of which consists of buying from or selling or leasing directly or indirectly to, or otherwise dealing with your labor organization or a trust in which your labor organization is interested.'' Filers are instructed that they are not required to report any of the interests or income identified in two exceptions to Part A (holdings in, transactions in, and income from bona fide investments in registered securities and insubstantial holdings in, transactions in, and income from other securities). The filer must identify the name and address of the business involved, describe the type of organization the business deals with (employer, labor organization, trust), enter the nature of the dealings between the two parties and the value of these dealings, enter the interest held or income received by the filer, and the dollar amount of such income or interest.

In Part C, the filer is advised to ''Complete Part C if you received from any employer (other than an employer covered under Parts A and B above), or from any labor relations consultant to an employer, any payment of money or other thing of value.'' The instructions identify the following as items that are not required to be reported: (1) Payments of the kind referred to in section 302(c) of the Labor Management Relations Act (LMRA); (2) bona fide loans, interest or dividends from banks, other bona fide credit institutions, and insurance companies; and (3) interest on bonds or dividends on stock, provided such interest or dividends are received, and such bonds or stock have been acquired, under circumstances and terms unrelated to the recipient's status in a labor organization and the issuer of such securities is not an enterprise in competition with the employer whose employees the filer's labor organization represents or actively seeks to represent. The instructions then advise that notwithstanding the exceptions, the filer must report any payments ''(1) not to organize employees; (2) to influence employees in any way with respect to their rights to organize; (3) to take any action with respect to the status of employees or others as members of a labor organization; and (4) to take any action with respect to bargaining or dealing with employers whose employees [the filer's] organization represents or seeks to represent.'' For each interest or transaction to be reported under Part C, filers must identify the name of the employer or labor relations consultant and the nature and amount of the payment.

The LMRA section 302(c) exclusions are not explained in the instructions. Instead, the instructions provide a full-page quotation of that section. As a general rule, the section 302(c) exclusions make the following payments non-reportable: (1) Any money or other thing of value payable by an employer to (a) an employee whose established duties include acting openly for the employer in matters of labor relations or personnel administration, or (b) any officer or employee of a labor organization who also is an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) money or other thing of value payable in satisfaction of a judgment, arbitral award, settlement or release of any claim in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to deductions from wages in payment of dues in a labor organization by written assignment; (5) with respect to money or other thing of value paid to a trust fund established by the representative of an employer's employees for the sole benefit of these employees, their families and dependents to pay for medical care, pensions, compensation for occupational injury, unemployment benefits, life insurance, disability insurance or accident insurance; (6) with respect to money or other thing of value paid by any employer to a trust fund established by the representative of the employer's employees for the purpose of pooled vacation, holiday, severance or similar benefits, or apprenticeship or training programs; (7) with respect to money or other thing of value paid by any employer to an individual or pooled trust fund for the purpose of (a) educational scholarships for the benefit of employees, families, and dependents, (b) child care centers, or (c) employee housing; (8) with respect to money or other thing of value paid by any employer to a trust for defraying the costs of legal services; or (9) with respect to money or other thing of value paid by any employer to a labor management committee.

F. Number of Current Form LM–30's Filed

Prior to initiating this rulemaking, the Department sought to determine the number of Form LM–30s filed, and the number of union officers and employees. The following table represents all reports filed in fiscal years 2001 through 2004:

Fiscal year	Number of reports filed
2001	59
2002	49
2003	41
2004	95
Total	244

Next, the Department attempted to identify the universe of people who are potentially subject to the reporting requirements by calculating the number of union officers and employees. The only source reasonably available to the Department was reports filed on Forms LM–2, LM–3 and LM–4. These reports are filed by labor organizations to disclose their financial conditions and operations, as well as limited information concerning officers and employees. The following table sets forth the Form LM–30 data gleaned from the FY 2002 LM reports:

Source of data	Number of officers or employees reported
LM–2 Officers	66,749
LM–2 Employees	47,371
LM–3 Officers	86,808
LM–4 Officers	3,706
Total	204,634

Using these 2002 figures and the annual average of approximately 61 Form LM–30 filings for this 4-year period, the Department computed a filing rate for Form LM–30 of 0.03% ($61/204{,}634 \times 100 = 0.03\%$). The Form LM–2, used by the largest labor organizations, requires the filer to list all the union's officers and the employees

who received more than $10,000 in salary, allowances, and other direct and indirect disbursements from the union. Form LM–3, used by unions with under $200,000 in annual receipts (raised to $250,000 for fiscal years beginning July 1, 2004 and thereafter), requires the filer to list all the union's officers, but report employees who received more than $10,000 in salary, allowances, and other direct and indirect disbursements from the union only in the additional information item on the form. This information is not available in the OLMS disclosure database. Form LM–4 filers (unions with annual receipts of less than $10,000) do not report either officers or employees. Form LM–4 is signed by two officers of the union. Although an estimate, the 0.03 percentage can be used to gauge the filing rate in the absence of more precise figures.

Recently, OLMS evaluated a small number of union employees to determine how many may have been required to file Form LM–30, but failed to do so. Employees of unions with titles identifying them as legal professionals, mostly lawyers, legislative affairs specialists, and lobbyists, were culled from information derived from Form LM–2 reports filed in FY 2002. Legal professionals were selected because it is possible, using Internet-based data, to investigate links between these employees or their spouses and firms that do business with the union, thereby indicating a potentially reportable interest under section 202(a)(4). None of the 438 employees had filed Form LM–30. These 438 individuals' full names were used in Internet searches for information indicating that they had outside legal employment. The use of the surname, coupled with other Internet-based biographical data, on one or two occasions revealed that an official's spouse had such outside legal employment. Then, an Internet search of the name of the outside employer was conducted to determine whether the employer listed the union official's union as a client, or otherwise indicated that it provided services to the union official's union. OLMS contacted eight individuals who, based on the Internet research, appeared to have received, or whose spouse appeared to have received, payments from an employer that dealt with the individual's union. Through these contacts, OLMS sought additional information from them to determine whether the individuals should have filed the Form LM–30 based on a reportable interest under section 202(a)(4). Of these eight, six completed and filed a Form LM–30 following the OLMS contact. Three of the six reports had to be returned to the filers for revisions or additional information. Review of the final amended reports confirmed that these six individuals had disclosed reportable interests. When asked, some filers did not give a reason for failing to earlier file the reports. Others said they had been unaware of the reporting requirements. Of the remaining two individuals, one had severed his relationship with the employer before becoming a union employee. In the final case, it was determined that the individual did not receive any benefits other than from the two unions that employed him. The filing rate for this group was 1.37% ($6/438 \times 100 = 1.37\%$). This filing rate is probably understated for the 438 employees because OLMS was able to research only potential section 202(a)(4) reporting situations. Others in the group may well have owed reports based on payments from, transactions with, or holdings in, employers or businesses that deal with an employer whose employees the labor organization represents or is actively seeking to represent.

Available data does not allow the Department to precisely measure the current filing rate of union officers and employees or predict what that rate would be if all individuals with reportable interests or transactions filed Form LM–30. The individuals covered by the informal inquiry discussed above may or may not be indicative of a typical union employee. Legal professionals may be more likely or less likely to engage in financial activities covered by the Form LM–30 than union employees in other professions. Further, the circumstances of these professionals may be different from those of union officers. As earlier mentioned, the number of estimated union officers and employees is necessarily understated, in that mid-size unions report in a readily available manner only officers, not employees, on their Form LM–3, small unions list only two signatory officers on their Form LM–4, and employees who receive $10,000 or less in a year are not reported on any of these forms. Certainly, the Department recognizes that not all union officers or employees have reportable interests or transactions. Nevertheless, it is clear that the identified employees had not filed Form LM–30 until they were contacted by OLMS, and half of them did not complete the report correctly on their first attempt. If union legal professionals had to be informed of their obligation to file the reports and failed to correctly complete the report, it is reasonable to conclude, in the Department's view, that other employees are similarly unaware of their obligation to file and similarly confused by the form. The Department will continue to research the extent to which current Form LM–30 submissions are deficient, and requests comment on further data on this question.

On many other occasions, OLMS has discovered during an audit or investigation that a union officer or employee was engaged in a reportable situation but had not filed the required Form LM–30 until OLMS became involved. For example:

- A local president owned 50% of a business that resurfaced the union's parking lot. Over two years, the business received $9,000 from the union. See section 202(a)(4), 29 U.S.C. 432(a)(4).
- A union designated certain attorneys to represent injured members. Some of these attorneys, who were employers, furnished cash or items of value such as trips and golf clubs to union officials. See section 202(a)(6), 29 U.S.C. 432(a)(6).
- A union hired the accounting firm of an employee's spouse. The firm received over $29,000 from the union over two years. See section 202(a)(4), 29 U.S.C. 432(a)(4).
- An officer of a union, whose members worked at a theater, formed a business with two partners. He put his share of the business in his wife's name although he actually managed the business which employed members of his local to work for the theater. He and his wife received almost $75,000 in profits, expense reimbursements, and salary from the business. See section 202(a)(1), 29 U.S.C. 432(a)(1).
- A union president owned the building in which the union rented office space. See section 202(a)(4), 29 U.S.C. 432(a)(4).
- A union officer's spouse owned a janitorial business that provided daily janitorial services to the union at $800 per month. See section 202(a)(4), 29 U.S.C. 432(a)(4).
- A union employee's spouse owned an advertising company which printed materials for the union and its funds. In one year, the company received over $245,000 from the union and the funds. See section 202(a)(4), 29 U.S.C. 432(a)(4).
- Four local officers formed a company that provided payroll services to the local as well as to theatrical companies that employed members of the local. Two other officers of the local received over $20,000 as employees of the company. See section 202(a)(4), 29 U.S.C. 432(a)(4) (due to services provided to the local union); section

202(a)(3), 29 U.S.C. 432(a)(3) (due to services provided to the theatrical company employers).

• The spouse of a union officer owned a company that provided cleaning and maintenance services to the union and its trust. In one year, the company received over $94,000 from the union and the trust. See section 202(a)(4), 29 U.S.C. 432(a)(4)

• During a campaign for a state government office, a business agent received contributions from employers who were covered by the union's collective bargaining agreement. See section 202(a)(1), 29 U.S.C. 432(a)(1)

• A union officer was part-owner, along with his wife and daughter, of a copier supply company. He was the officer of several unions, including one which employed his daughter as a benefit representative and union trustee. All of the unions purchased office equipment and services from the family's company. See section 202(a)(4), 29 U.S.C. 432(a)(4)

• A union employee owned a heating and air conditioning business that performed HVAC work for the union. See section 202(a)(4), 29 U.S.C. 432(a)(4)

In these instances, compliance with the Form LM–30 requirements would have provided union members with valuable information concerning the finances of their unions' employees and officers. This would have assisted union members in evaluating the efficacy of the work performed by union employees and the leadership provided by union officers. The information would have alerted them to potential conflicts of interests, and guided them as to which actions or decisions of their officers and employees might require greater scrutiny, to determine whether the conflicts have affected the union official's service to the union. Armed with this information, union members could express their concerns at membership meetings, see 29 U.S.C. 411(a), cast a more informed vote at the next internal union election, see 29 U.S.C. 481–483, employ union procedures for removal of officers guilty of serious misconduct, see 29 U.S.C. 481(h), or exercise their right to obtain judicial relief for violations of the fiduciary responsibilities of union officials, see 29 U.S.C. 501(b).

In other instances, compliance with Form LM–30 requirements would have revealed criminal conduct. For example, the president of a national union had the sole authority to appoint or remove attorneys from a list of ''Designated Legal Counsel.'' These attorneys represented injured union members who sought compensation from the railroad for on-the-job injuries. Rather than selecting attorneys on the basis of their skills, the president awarded the designation to attorneys who paid the union president with cash or other things of value. In another instance, contractors were hired to make repairs and improvements to the offices of a local union. The contractors also performed work on the officers' homes. However, all the expenses of the work, including about $1.2 million for work on the officers' homes, was charged to and paid by the union. A third example involves a contractor, an investment firm that managed pension and investment accounts for unions. This company collapsed in September 2000, costing its clients about $355 million. The company's former chairman was indicted on counts of fraud, money laundering, witness tampering and making illegal payments to union benefit plan trustees. As part of its scheme to buy the influence of pension fund trustees, who were union officers, the investment firm hired relatives of pension trustees as well as provided plan trustees with gifts including rifles, season tickets to sporting events, and fishing and hunting trips to various locations in the western U.S., Canada, Africa, Argentina and Mexico.

OLMS expects that by clarifying the form and instructions, adding examples to the instructions, eliminating administrative exemptions, and providing extensive compliance assistance, the filing rate will increase. During the course of a meeting held under E.O. 12866, a stakeholder asserted that the Department receives few Form LM–30 reports because union officers and employees engage in few covered transactions. The Department invites comments concerning the number of union officers and employees, and the number of union officers and employees who have not filed a Form LM–30 but who have engaged in a transaction, or held an interest that required them to do so.

The Department seeks comments on whether to promulgate a regulation that requires labor organizations to notify their officers and employees of the annual reporting obligations under the LMRDA. No notification obligation currently exists under the Department's regulations, and the regulation proposed herein does not contain such a provision. Notification by labor organizations would, nevertheless, help ensure that officers and employees are aware of their reporting obligations under the LMRDA. An increase in awareness by union officers and employees could increase the number of reports filed each year, enabling union members and the public to learn more about financial transactions in which the union's officers and employees are involved and, as needed, further inquire into the circumstances of these dealings to ensure that the interests of the members and the public are properly being served.

Under one option, each labor organization would be required to inform its officers and employees, excluding those employed solely in clerical or custodial positions, of their obligation to annually file a Form LM–30 if they, their spouse, or minor children, hold any interests, receive any payments, or engage in any transactions or arrangements covered by section 202 of the Act. *See* 29 U.S.C. 432. Notification would have to be in writing and inform officers and employees that, subject to certain exemptions, they must file a report with the Department if they have interests in, receive payments or income from, or engage in transactions or arrangements with (1) an employer whose employees the labor organization represents or actively seeks to represent, (2) a business that deals with the labor organization, or a trust in which the labor organization is interested, (3) a business a substantial part of which consists of dealing with the business of an employer whose employees the labor organization represents or is actively seeking to represent, (4) any employer, or (5) a labor relations consultant to an employer. The union would inform its officers and employees that if they have any questions concerning which financial matters are reportable and whether they are required to file a report, they should consult the Form LM–30 and its instructions, and the union would provide the web site address where the form and instructions may be found. Notification would be provided by the union to an officer within 30 days of installation into office and to an employee within 30 days of the date of hire. Initial notification would be provided to officers and employees within 60 days of the effective date of the regulation, and thereafter to each on an annual basis. A labor organization could meet this requirement by providing employees and officers with a copy of the Form LM–30 and its instructions. E-mail notification might be considered an acceptable means of informing officers and employees.

An alternative to providing a separate notice to each officer and employee would be to provide a general notice in a union publication that is addressed to every officer and employee.

The Federal government informs employees at the time of their hire and reminds them on a regular basis

thereafter about their various ethical responsibilities, including conflict of interest rules and disclosure requirements. *See* E.O. 12674 (Apr. 12, 1989), as modified by E.O. 12731 (Oct. 17, 1990). The Department seeks comments on whether a similar approach is taken by other organizations and professions. The public is asked to comment on other ways in which employers and professional associations educate their employees and association members about their obligation to disclose possible conflicts between their personal interests and the interests of their employer or clients.

The Department invites comments as to the need for and efficacy of a regulation that requires labor organizations to notify their officers and employees of the annual reporting obligations under the LMRDA. In this connection, it would be helpful to learn what steps are now being taken by labor organizations to inform their officers and employees about conflict-of-interest situations, including disclosure and reporting requirements to the union and its members. Is such information typically provided by an international or national union to all its affiliates? Is it typically contained in a national or international constitution or some other document, such as a handbook for officers and employees, or training materials? Do local and intermediate unions include such information in their constitutions or bylaws—or in other documents? What information is provided to union officials by trusts in which a union has an interest? Under what circumstances and how often have allegations of officer or employee conflicts of interests led to internal or judicial proceedings?

During the course of a meeting held under E.O. 12866, a stakeholder questioned the Department's authority to require labor organizations to notify their officers and employees of their disclosure obligations. The public is invited to comment on this issue.

G. Deficiencies in the Reports Filed Using the Current Form LM–30

OLMS examined each of the 244 Form LM–30 reports filed during fiscal years 2001, 2002, 2003, and 2004 and determined that a majority of filers did not complete the form correctly. For example, although Part A is separate and distinct from Parts B and C, 100 filers erroneously filled out Part A in addition to the appropriate and intended disclosure of an interest, transaction, income, or arrangement in Part B or C. A total of 136 filers who completed Part B failed to indicate whether the business they had an interest in, transaction with, or income from dealt with a labor organization, trust, or employer. A total of 117 of the filers who completed Part B provided no information or incomplete and insufficient information about the nature and approximate value of the dealings between the business and the employer, labor organization or trust. Further, 59 of the filers provided no information or inadequate information about the nature of the interest they held in, or the income they received from, the business.

In addition to the deficiencies described above, numerous other errors occurred that resulted in inadequate and incomplete disclosure. For example, most filers failed to answer one or more required questions. In three instances, children of an officer or employee filed Form LM–30 rather than the officer or employee. Six filers did not specify their position within the union, four filers failed to report the fiscal year that was covered by the report, two filers did not sign the form, and one form was signed by the union official's spouse. In Part A, 22 filers provided no information or inadequate information about the nature and amount of the interest in, transaction with, or income from an employer whose employees their union represented or was actively seeking to represent.

The Department believes that the errors discussed above can be reduced by clarifying the form and instructions, adding examples to the instructions, and providing extensive compliance assistance. This rulemaking, further, is part of an overall initiative that includes greater scrutiny of Form LM–30 reports, and union financial records, as well as increased enforcement. The Department believes that these efforts will further reduce the error rate. The Form LM–30 will be more useful to union members and the public when the reports that are filed are responsive to the questions asked, and can thus be meaningfully compared with the reports of other union officials. This will permit union members to understand the nature of the financial matter being reported, and its significance. This will allow union members to make informed decisions as to the leadership and management of their union. During the course of a meeting held under E.O. 12866, a stakeholder asserted that errors in filed reports could be reduced solely by increased compliance assistance by the Department. We will continue to research the extent to which current Form LM–30 submissions are deficient, and request comments on further data that may help the Department explore this question. The Department invites comments concerning all methods that would reduce the number of errors made in completing Form LM–30.

H. Significant Proposed Changes to the Form LM–30, and Request for Comments Concerning Filing Exemptions Created by the Department

1. Definitions, Examples and Administrative Exemptions

Definitions: The proposal defines key terms. The current instructions do not explain terms that are essential to the form's completion. The revised instructions define: actively seeks to represent, arrangement, benefit with monetary value, bona fide employee, bona fide investment, dealing, directly or indirectly, filer/reporting person/you, income, labor organization, labor organization employee, labor organization officer, legal or equitable interest, minor child, payer, publicly traded securities, substantial part, and trust in which a labor organization is interested.

In defining the term ''labor organization,'' the instructions clarify that an officer or employee of a local union must file reports when he or she engages in transactions with a business that deals with his or her affiliated national labor organization, or engages in transactions with an employer whose employees the national labor organization is actively seeking to represent. Similarly, an officer or employee of a national union must file reports when he or she engages in transactions with a business that deals with an affiliated subordinate labor organization, or engages in transactions with an employer whose employees a subordinate labor organization is actively seeking to represent. By the same token, when determining whether a report must be filed due to payments from, or interests held in, a business that deals with a trust in which a labor organization is interested, the term ''labor organization'' will retain this expanded meaning. Thus, for example, an officer of a local union must file reports when he or she engages in transactions with a business that deals with a trust in which his or her affiliated national labor organization is interested.

Similarly, in defining ''bona fide employee,'' the revised Form LM–30 would require the reporting of payments received by union officers from an employer for work performed for the union. A typical example involves a ''no docking'' arrangement where an employer allows a union steward or union officer to resolve grievances, often on an ''as-needed'' basis, without a loss

of pay. In other instances, a union official is paid by an employer while working full time on union business.

A full discussion of the new definitions is provided below in the discussion of the instructions.

Examples: The proposal provides examples to help filers determine what must be reported under each subsection of section 202. These examples will provide illustrations of reportable and non-reportable interests, payments, income, transactions, and arrangements. A full discussion of the examples is provided below in the discussion of the instructions.

Administrative Exemptions and Special Reports: The proposed instructions also eliminate some exemptions in the current form. These exemptions permit filers to omit certain financial matters from disclosure that would otherwise be reportable if engaged in by the filer or the filer's spouse or minor child. These exemptions are discussed below, along with other exemptions that the Department does not propose to remove. Comments are invited on both the exemptions that the Department proposes to remove and the exemptions that are not proposed to be removed.

Under the existing instructions, filers are notified: ''You do not have to report any sporadic or occasional gifts, gratuities, or loans of insubstantial value, given under circumstances or terms unrelated to the recipient's status in a labor organization.'' The LMRDA Interpretative Manual (''LMRDA Manual''), revised in March 2005, states that ''anything with a value of $25 or less will be considered 'de minimis' and therefore not reportable if it is given under circumstances unrelated to the recipient's status in a labor organization.'' LMRDA Manual, § 241.700.

The Department seeks comments regarding whether this exemption should be retained or removed. This exemption applies by its terms to all reports due under section 202. It does not provide guidance as to when a gift, gratuity, or loan is ''unrelated to the recipient's status in the labor organization.'' The statute calls for disclosure of ''any'' stock, bond or other interest, ''any'' income, ''any'' loan, and ''any'' payment or other thing of value. See 29 U.S.C. 432(a)(1)–(6). This language could indicate that Congress did not intend to exempt certain gifts, gratuities, or loans based on their dollar value. Further, Congress imposed a substantiality test in section 202(a)(3) (''any business a substantial part of which consists of * * * dealing with the business of an employer''), but did not do so, at least expressly, in describing the holdings, transactions, and income that is reportable under section 202. See 29 U.S.C. 432(a).

At the same time, exceptions based on insubstantiality are commonly read into statutes that do not expressly contain them. See *Wisconsin Dept. of Revenue* v. *William Wrigley, Jr., Co.*, 505 U.S. 214, 231 (1992) (''the venerable maxim *de minimis non curat lex* ('the law cares not for trifles') is part of the established background of legal principles against which all enactments are adopted, and which all enactments (absent contrary indication) are deemed to accept.''). Furthermore, other reporting and disclosure systems do not require reports of small value items. For the purposes of comparison, one may look to the treatment of gifts in the financial disclosure reports for certain Federal Government employees. Employees with general schedule positions of grade 15 and below whose duties may involve potential conflicts of interest must file Office of Government Ethics (OGE) Confidential Financial Disclosure Report 450 (OGE Form 450). The form has a range of standards for reporting different interests and transactions. Gifts totaling $285 or less from any one source need not be reported, and gifts valued at $114 or less need not be included in determining whether the $285 threshold has been exceeded. Federal employees in positions above GS–15 and in certain other positions of confidential or policymaking character must file a Public Financial Disclosure Report (SF 278). This form treats gifts in a manner similar to the OGE Form 450. Gifts totaling $260 or less from any one source need not be reported, and gifts valued at $104 or less need not be included in determining whether the $260 threshold has been exceeded. Similar to the current Form LM–30's requirement that a *de minimis* gift be reported if the gift is related to the filer's status in the union, under the government's disclosure regime, gifts to a filer's spouse or dependent child must be disclosed ''to the extent the gift was not given to him or her totally independent of the relationship to you.'' See SF 278, p. 12; OGE 450, p5. Unlike the Form LM–30, government employees must report gifts from any source, unless a specific exemption applies, while union officers and employees must report gifts received only from certain businesses and employers. See SF 278, p. 12–13; OGE 450, p5. In one significant regard, government filers are permitted to exclude from their reports gifts of ''hospitality (food, lodging and entertainment) on the donor's personal or family premises.'' See SF 278, p. 12–13; OGE 450, p5.

Under the OGE Form 450, loans of $10,000 or less are not reportable, and there are four exceptions for loans exceeding the threshold, including mortgages on personal residences, and loans for personal automobiles, household furnishings, or appliances, where the loan does not exceed the purchase price. The loan reporting requirements of the SF 278 are very similar. A copy of both of these forms and instructions are available at the OGE Web site at: *http://www.usoge.gov.*

The Department seeks comment on whether the term ''insubstantial'' left without further explanation in the instructions could be applied to shield from disclosure some financial transactions that would be of interest to union members. The Department could augment the existing instructions to define ''insubstantial value'' so that filers are able to distinguish between reportable and non-reportable gifts, gratuities, or loans based on a clearly articulated standard, like that in the Interpretative Manual or those in the Federal employee disclosure forms. The Department seeks comment on whether the $25 threshold set out in the LMRDA Interpretative Manual is an appropriate one, whether the burden to report small interests and transactions is reasonable, and whether it would be preferable to require reporting of all transactions and allow union members to assess whether a particular holding or transaction is substantial enough to possibly present a conflict between private interest and union responsibilities. During the course of a meeting held under E.O. 12866, some stakeholders stated that the exemption for insubstantial transactions in the existing instructions should be clarified, and that the threshold for disclosure be increased. The public is invited to comment on all aspects of this issue.

Part A of the current instructions exempts from reporting

(ii) Holding of, transactions in, or income from, securities [that are not traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, in shares in an investment company registered under the Investment Company Act of 1940, or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935], provided any such holding, or transaction, or receipt of income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. For purposes of this exclusion, holdings or transactions involving $1,000 or less and receipt of income of $100

or less in any one security shall be considered insubstantial;

(iii) Transactions involving purchases and sales of goods and services in the regular course of business at prices generally available to any employee of the employer.

(iv) Payments and benefits received as a bona fide employee of the employer for past or present services, including wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan; and payments for periods in which such employee engaged in activities other than productive work, if the payments for such period of time are: (a) Required by law or a bona fide collective bargaining agreement, or (b) made pursuant to a custom or practice under such a collective bargaining agreement, or (c) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization.

The Department does not propose to remove exemption (ii), but seeks comment on whether to remove or retain this exemption. This exception, which was created administratively, apparently was intended to discourage reporting of ''insubstantial'' matters unrelated to the filer's position in the union. In like fashion, the LMRDA Manual provides an example of the application of this exception and states that a $400 purchase of stock, traded over the counter by an employee (and thus otherwise reportable) of a company that supplies his union over $1 million annually in goods and services need not be reported where the market value of the stock is $1000 or less and the yearly income from the stock is $100 or less and the holdings and interest are unrelated to the individual's employment by the union. LMRDA Manual, § 246.700 (but also noting that the Department may always require a special report that disclosed the purchase).

As discussed above, exceptions based on insubstantiality are commonly applied. Further, there is precedent for a similar use of reporting thresholds. Under the SF 278, stocks, bonds and securities from one source need not be reported if they total $1,000 or less in value. Investment income of $200 or less need not be reported. Under the OGE Form 450, investments with a value greater than $1,000 or which produce more than $200 in income are reportable.

On the other hand, the exemption deals with unregistered securities, or securities sold through an unregistered exchange, which Congress considered reportable. See 29 U.S.C. 432(b). Further, unlike the federal disclosure forms, section 202 of the Act requires reporting only on financial matters that were considered to be potential conflicts for union officers and employees by Congress and identified in the statute. Likewise, section 202 does not require reports of financial matters that do not pose this danger, no matter how large the value of the holding or transaction. In this context, an exemption based on insubstantiality or union status factors could arguably result in nondisclosure of transactions that present conflicts of interests for union officials and were identified by Congress as reportable, denying union members relevant information to evaluate their officers and employees not only at the time of union elections but throughout their tenure. The Department seeks comment on whether this exemption should be removed or retained.

Exemption (iii) is a statutory exemption for transactions involving purchases and sales of goods and services in the regular course of business at prices generally available to any employee of the employer. The statutory language applies by its terms to financial matters reportable under section 202(a)(5), not to section 202(a)(1) or 202(a)(2). Section 202(a)(5) requires union officers and employees to report any ''business transaction or arrangement'' with an employer whose employees the union represents or is actively seeking to represent. It is for this reporting obligation alone that section 202 applies the exception for ''purchases and sales of goods and services in the regular course of business at prices generally available to any employee of such employer.''

Sections 202(a)(1) and (a)(2) require union officers and employees to report (1) holdings in an employer whose employees the union represents or is actively seeking to represent, (2) transactions in such holdings, (3) loans to or from such employers, and (4) income or any other benefit with monetary value (including reimbursed expenses) received from such an employer. Sections 202(a)(1) and (a)(2) do *not* include the ''regular-course-of-business'' exception.

The instructions for Part A of the current form combine the separate reporting obligations of sections 202(a)(1), (a)(2), (a)(5) into a single query. In so doing, the instructions also apply the statutory exceptions applicable to each obligation to the other obligations. Thus, the current form applies the ''regular-course-of-business'' exception to sections 202(a)(1) and (a)(2)'s requirement that union officers and employees report (1) holdings, (2) transactions in holdings, (3) loans, and (4) income or any other benefit with monetary value (including reimbursed expenses).

The Department's proposal adheres to the statutory design and thus proposes to remove the exemption for reports due under section 202(a)(1) and 202(a)(2). The proposed form would thus eliminate the application of the ''regular course of business'' exception to reports, due under sections 202(a)(1) and (a)(2), of (1) holdings in an employer whose employees the union represents or is actively seeking to represent, (2) transactions in such holdings, (3) loans to or from such employers, and (4) income or any other benefit with monetary value (including reimbursed expenses) received from such an employer. Rather, the proposed form applies the ''regular-course-of-business'' exception only to reports, due under section 202(a)(5), of any ''business transaction or arrangement'' with an employer whose employees the union represents or is actively seeking to represent.

Union members have an interest in knowing of such holdings, transactions in holdings, loans, and income so they can evaluate whether each is significant enough, or of such a nature, to constitute a conflict of interest. The statutory exemption for payments and other benefits received as a bona fide employee of the employer is sufficient to exempt all the ordinary payments received as part of an employment relationship; the exemption in the current form, the Department believes, may provide a means to exclude other items that present conflicts of interest for union officials. For example, a union officer who receives income from the employer of union members for contract work could, at least arguably, avoid disclosing the payment by relying on this ''regular-course-of-business'' exemption. Also, it is conceivable that a union employee who purchases certain types of ownership interests could avoid disclosing the holding by relying on this exemption. A union official with an employer as a client has a conflict between personal interests and union loyalties, as does an official with an ownership interest in the employer. The change is consistent with the plain language of the statute, which applies the ''regular-course-of-business'' exception only to financial matters reportable under section 202(a)(5), not to section 202(a)(1) or 202(a)(2). The elimination of this exemption will result in more detailed and transparent reporting of financial information that union members may find helpful in determining whether their union's officers and employees are subject to financial pressures inconsistent with

their responsibilities to the union and the union members.

Similarly, the first part of exemption (iv) (up to the semicolon) (dealing with payments and benefits received as a bona fide employee of the employer) is created by statute. Under the statute, it applies to reports due under sections 202(a)(1) and 202(a)(5). Section 202(a)(1) requires union officers and employees to report (1) holdings in an employer whose employees the union represents or is actively seeking to represent, and (2) income or any other benefit with monetary value (including reimbursed expenses) from such an employer. As discussed above, section 202(a)(5) requires union officers and employees to report any ''business transaction or arrangement'' with such an employer. Sections 202(a)(1) and (a)(5) both contain an exception for ''payments and other benefits received as a bona fide employee of such employer.''

Section 202(a)(2) requires union officers and employees to report (1) transactions in holdings in an employer whose employees the union represents or is actively seeking to represent, and (2) loans to or from such an employer. Section 202(a) does *not* include the ''bona fide employee'' exception.

By combining these separate reporting obligations—sections 202(a)(1), (a)(2), (a)(5)—into a single query, the instructions for Part A of the current form also apply the statutory exceptions applicable to each obligation to all three obligations. Thus, the current form applies the ''bona fide employee'' exception to section 202(a)(2)'s requirement that union officers and employees to report (1) transactions in holdings, and (2) loans.

The proposed form applies the ''bona fide employee'' exception only to reports, due under sections 202(a)(1) and (a)(5), of (1) holdings in an employer whose employees the union represents or is actively seeking to represent, (2) income or any other benefit with monetary value (including reimbursed expenses) from such an employer, and (3) business transactions or arrangements with such an employer.

The proposed form would eliminate the application of the ''bona fide employee'' exception to reports, due under sections 202(a)(2), of (1) transactions in holdings in an employer whose employees the union represents or is actively seeking to represent, and (2) loans to or from such an employer.

Union members have an interest in knowing all transactions of union officers and employees involving transactions in ownership interests in, and loans to or from, the employer, so they can evaluate whether such matters are significant enough, or of such a nature, to constitute a conflict of interest. Under the current form, a union officer could avoid reporting a loan received from the employer on the ground that the loan was a benefit received as a bona fide employee, despite the union members' legitimate interest in knowing whether the person who negotiates the terms and conditions of their employment is beholden to the employer. Removal of the exemption would thus provide union members with important information concerning the financial activities of their officers and employees. Further, sales and purchases of ownership interest in the employer are highly unlikely to constitute payments received as a bona fide employee, and, in any event, a union member would likely be interested to learn whether their union officers or employees availed themselves of the opportunity to purchase or divest in employer holdings. The exemption in the current form is all but superfluous in the context of ownership interests, and to the extent that it is not superfluous, it is counterproductive. The presence of a largely useless exemption can create confusion and complicate enforcement. Finally, the change is consistent with the plain language of the statute, which applies the ''bona fide employee'' exception only to financial matters reportable under sections 202(a)(1) and 202(a)(5), not to section 202(a)(2).

Following the statutory framework, the Department, therefore, proposes to eliminate this exemption for reports due under section 202(a)(2). Further, as discussed in greater detail in IV.B.2.b, below, the portion of the exemption that excludes payments for periods in which such employee engaged in activities other than productive work will also be removed.

Part B of the current instructions adopts exemption (ii) from Part A. This exemption was created by the Department, and, for the reasons discussed above, the Department seeks comment on whether the exemption should be retained, but does not propose to remove this exemption.

Part C of the current instructions contains the following exemptions:

(ii) Bona fide loans, interest or dividends from national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions.

(iii) Interest on bonds or dividends on stock, provided such interest or dividends are received, and such bonds or stock have been acquired, under circumstances and terms unrelated to the recipient's status in a labor organization and the issuer of such securities is not an enterprise in competition with the employer whose employees your labor organization represents or actively seeks to represent.

The Department proposes to eliminate these two exemptions. Section 202(a)(6) requires union officers and employees to report ''any payment of money or other thing of value (including reimbursed expenses)'' received from ''any employer'' or any labor relations consultant to an employer.

Part C (Items 13 and 14) of the current form implements the statutory requirement for reporting payments received from an employer or a labor relations consultant to an employer. The first exemption permits union officers and employees to *not* report bona fide loans, interest or dividends from bona fide credit institutions. The proposed form would eliminate this exemption.

The exemption operates as a barrier to disclosure. In one case, a credit union controlled by a local union made 61% of the credit union's loans to four loan officers, three of whom were officers of the local. By eliminating this exemption, union officers and employees will be required to disclose such loans, interest payments, or dividends. Disclosure of these loans would have benefited the union members. The actions of these officials were not in the best interest of the credit union, or the labor organization that established it, because of the potential consequences of not spreading lending risk among multiple loan recipients and the granting of loans for reasons related to union status rather than ability to repay.

The exemption in the current form is not required by the statute, which is silent on this issue. Indeed, the exemption tracks one that Congress chose to include in reports of employers, but omitted from the reports of union officers and employees. Compare 29 U.S.C. 433(a) with 29 U.S.C. 432(a)(6). Further, this exemption leaves the filer to determine, without further guidance, whether a loan is bona fide.

Exemption (iii) of Part C will also be eliminated under the Department's proposal. This exemption is similar in certain respects to the statutory exemption of section 202(b), but unlike section 202(b), it exempts from reporting bonds and stocks that are not registered with the SEC or traded on a registered securities exchange. Further, section 202(a)(6), to which this exemption applies, already contains an exemption ''with respect to the sale and purchase of an article or commodity at the prevailing market price in the

regular course of business.'' To the extent that the exemption in the current form excludes from reporting transactions that fail to meet the statutory section 202(a)(6) exemption, it sanctions nondisclosure of transactions at below-market prices made outside of the regular course of business—the most suspect transactions. Union members would have an interest in knowing whether a union official has received a benefit not available to others on similar terms, in order to evaluate where the union official's loyalties may lie and whether any divided loyalties could affect the official's ability to represent the union members. Further, this exemption invites abuse by permitting the filer to make an unguided determination on whether the bonds and stocks have been acquired under circumstances unrelated to the recipient's status in a labor organization. The exemption is not required by the statute, and its removal is consistent with it.

The exceptions described above are not required by the statutory language and despite their apparent design to simplify reporting, they have added a layer of complexity to the proper understanding of the section 202 reporting obligations. The exemptions are lengthy, and require study in addition to that needed to understand the reporting obligations. They are ambiguous, and may lead filers to believe that reportable transactions may be omitted from the form.

Exemptions (ii) and (iv) of Part A, and exemptions (ii) and (iii) of Part C were not expected to be invariably available. See 29 CFR 404.4. A special report was intended to be used to obtain such exempted information upon demand of the Department, although the special report provision has proved useless in practice, in part because the Department cannot know when important information has been omitted and that a special report would be revealing. See 29 CFR 404.4. The Department proposes to delete the special report provision. As mentioned above, at the time the Form LM–30 was created, the Department acted under the impression that more complete reporting could be realized through an ad hoc special report, and could be selectively required by the Secretary. See 29 CFR 404.4. These reports would allow the Secretary to require the disclosure of the information that was exempted from disclosure by operation of the four administrative exemptions discussed above. *Id.* No procedures were established, however, to govern the imposition of a special report; nor did the Department ever issue or seek a special report. The special report regulation is an acknowledgement that one or more of the exemptions potentially permit the non-reporting of conflict-of-interest transactions, but leaves no realistic method by which the Department can identify these cases and require more detailed reporting. Further, in today's regulatory and statutory environment, which mandates numerous time consuming procedures and analyses before a reporting form may be issued or revised, the Department's ability to implement a special report for a particular set of union officers and employees is questionable.

In essence, the exemptions proposed to be eliminated render non-reportable transactions that by statute are subject to disclosure, a deficiency that has not been effectively eliminated through the use of a special report procedure. In addition to being not required by statute, the exemptions proposed to be removed necessarily reduce the information available to union members *to evaluate their union officials*. Instead of the Department determining in advance that entire categories of financial holdings or transactions should not be disclosed, the better course may be to require reporting so that union members may decide for themselves whether the financial matters are of concern. The resulting increased transparency will permit union members to obtain information needed by them to monitor their union's affairs and to make informed choices about the leadership of their union and its direction. At the same time this increased transparency will promote the unions' own interests as democratic institutions and the interests of the public and the government. The increased financial transparency will also deter fraud and self-dealing, and facilitate the discovery of such misconduct when it does occur.

2. Restructured Form

The broad purpose of the Form LM–30 is to disclose possible conflicts between the personal financial interests of a union officer or employee and his union. A union member or other person reviewing a report should be able to easily discern the financial interests of the filer. The current form is not arranged to quickly provide such information. The current form does not provide a summary of the data on the report. The viewer must examine all the Parts A, B, and C that are filed; review the payers in all Items 6, 8, and 13; and sum the amounts in all Items 7b, 12b, and 14b to obtain an overview of what has been reported. Union members reviewing the report of a filer with multiple reportable transactions and interests from several sources would thus have to sort through numerous pages of the report to discern who had paid the filer and perform the math themselves.

To remedy this problem, the Department's proposal contains a summary information schedule that may satisfy the needs of many users of the report without need for greater detail. In the revised form, for convenience and ease of understanding, the term ''payer'' is used to describe the employer, business, or labor relations consultant that is financially involved with the filer. Using this terminology, a Payer Summary Schedule on the first page of the report shows the name of every payer from which the filer received money or in which the filer held an interest, and the total monetary value the filer derived from each payer. Each payer is numbered to correspond to the appropriate Payer Detail Page. Anyone interested in further information regarding the interests and transactions can skip directly to the appropriate detail page.

The proposed form will call for additional contact information about the filer and his or her labor organization, including the e-mail address of each filer, and the telephone number, web site address, state of incorporation or registration, and state business identification number of each payer. The purpose of this additional contact information is to allow those who view the report to accurately identify the filer and, more important, accurately identify and further research the business with which the filer has a financial relationship. Ambiguous information about the filer or the source of payments to the filer can negate the utility of the report, by denying members sufficient information to assess the conflict situation. Comments are solicited on the significance of this information to readers of the reports and whether a filer has reasonable access to this information.

A labor organization schedule will be added to the form allowing a filer to list the unions that the filer is employed by or an officer of, thus negating the need for filers to submit multiple reports. Continuation pages ease completion of the form, and facilitate search and retrieval.

The proposal also organizes all the reported financial interests and transactions into tables. This will allow a member or other user to perform an electronic search on the OLMS disclosure database. Upon promulgation of a final rule, this database will be

configured in a way that will facilitate such searches.

The Department seeks comments on the proposed notice requirement, clarification of the form, use of examples to guide filers, removal of the administrative exemptions, deletion of the special report procedures, and restructuring of the form.

III. Authority

A. Legal Authority

The legal authority for the notice of proposed rulemaking is sections 202 and 208 of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. 432, 438.

B. Departmental Authorization

Section 208 of the LMRDA provides that the Secretary of Labor shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under Title II of the Act and such other reasonable rules and regulations as she may find necessary to prevent the circumvention or evasion of the reporting requirements. 29 U.S.C. 438. Secretary's Order 4–2001, issued May 24, 2001, and published in the **Federal Register** on May 31, 2001 (66 FR 29656), continued the delegation of authority and assignment of responsibility to the Assistant Secretary for Employment Standards in Secretary's Order 5–96 of those functions to be performed by the Secretary of Labor under the LMRDA.

IV. Overview of the Regulations and Instructions

The discussion that follows describes the Department's proposal to revise its regulations implementing section 202(a) of the LMRDA, 29 CFR part 404, and the Form LM–30 and its accompanying instructions, which are incorporated into the regulations by reference. 29 CFR 404.3. The following discussion highlights the key elements of each subsection of section 202 and the significant changes between the proposed and current regulations, form, and instructions.

A. The Regulations

1. The proposal would amend section 404.4 of the regulations, 29 CFR 404.4, relating to special reports. This section provides that the Secretary may require the filer to file special reports on certain matters pertinent to an officer's or employee's holdings or interests covered by section 202, specifically including four categories of holdings, transactions, and payments that would be reportable but for four administrative exemptions. These include two administrative exemptions to Part A. The first permits the filer to exclude holdings of, transactions in, or income from non-registered securities of insubstantial value that are unrelated to the filer's status in the labor organization. See Instructions, Part A, exclusion (ii). The second consists of an expansion of the statutory exclusion for payments and benefits received as a bona fide employee to include ''payments for periods in which such employee engaged in activities other than productive work.'' See Instructions, Part A, exclusion (iv). They also include two administrative exemptions to Part C. The first specified Part C exemption excludes bona fide loans, interest, or dividends from banks, insurance companies and other bona fide credit institutions. See Instructions, Part C, exclusion (ii). The second concerns interest on bonds or dividends on stock, provided such interest or dividends are received, and such bonds or stock have been acquired, under circumstances and terms unrelated to the recipient's status in a labor organization and the issuer of such securities is not an enterprise in competition with the employer whose employees the filer's labor organization represents or actively seeks to represent. See Instructions, Part C, exclusion (iii). Although the special report provision will be deleted, the Department notes that it maintains statutory authority to assess each report for sufficiency, require amended reports, and to commence investigations where it is necessary to determine whether any person has or is about to violate any provision of the Act. 29 U.S.C. 440, 521.

2. In addition, the Department proposes to amend section 404.7, which requires the maintenance and preservation of records. The language has been revised to better identify some of the documents that must be retained and to address the fact that records now may be maintained in electronic format. The Department intends no substantive change in meaning, as the revised language merely clarifies and makes explicit the retention requirements that have always been imposed by the regulation and statute. See 29 CFR 404.7; 29 U.S.C. 436.

3. The Department proposes to amend section 404.1 to add definitions for the following terms: *Benefit with monetary value, dealing, income, labor organization, minor child*, and *trust in which a labor organization is interested.* See 29 CFR 404.1. In addition, the existing definitions for the terms ''labor organization officer,'' and ''labor organization employee'' will be modified. These are terms that appear in 29 CFR 404, and it is thus appropriate to define the terms in the regulations themselves. The terms and their definitions will also appear in the instructions, as will other terms, discussed below, that appear only in the instructions. This approach is used in the existing regulations and instructions.

To be as effective as possible, a reporting and disclosure statute such as section 202(a) depends on a known and easily applied standard regarding what must be reported. Such a standard is important not only for union officials who must comply with the reporting requirements and for the administrative agency that enforces compliance, but also, because of the special objectives of the LMRDA, for union members and the general public who rely on disclosure and need to know what the disclosure or its absence represents.

B. The Instructions

The following discussion tracks the major sections of the proposed instructions. The proposed instructions, in turn, correspond roughly with the layout of the existing instructions. We identify the changes between the proposed and existing instructions; these changes also are reflected in the revised layout and design of the form itself. The proposed layout of the form is based on other updated OLMS financial disclosure reports and includes a summary schedule.

1. General Changes

The myriad types of financial transactions made reportable by section 202 complicate the design of a ''self-explanatory'' form. The filer must rely on the instructions to accurately complete the form. We invite comments as to the layout of the instructions, their clarity, and suggestions about how to better explain the reporting obligations.

2. Introductory Section of the Instructions

a. The first heading of the proposed instructions: ''Why file'' is identical to the current form. Like the current form it delineates the basic reporting obligations. However, the proposal adds more information to better place the filing obligation in the larger context of the LMRDA. We identify the elements of the statute and explain that the basic purpose of the section 202 report is to publicly identify any actual or apparent conflict between the personal financial interests of a filer, spouse, or minor child and the filer's obligation to the union and its members. The proposal also clarifies that no report need be filed unless the filer, spouse, or minor child

held a covered interest or engaged in a covered transaction during the reporting period.

b. The second heading of the proposed instructions is ''Definitions.'' This is a new section of the instructions.

The terms defined include: *actively seeking to represent, arrangement, benefit with monetary value, bona fide employee, bona fide investment, dealing, directly or indirectly, filer/reporting person/you, income, labor organization, labor organization employee, labor organization officer, legal or equitable interest, minor child, payer, publicly traded securities, substantial part,* and *trust in which a labor organization is interested.*

The meaning of many of these terms is left unclear by the current instructions. By defining and explaining the key terms used by section 202, a filer will better understand his or her reporting obligations, which, in turn, will improve the likelihood of filing and the accuracy of the reports. Providing information that should be disclosed, based on statutory requirements, will aid union members in assessing whether their union's officers and employees have entered into financial arrangements with employers, businesses, and others that could potentially compromise the officials' ability to act in the best interests of, and achieve the best results for, the union and its members.

Actively seeking to represent, as proposed, means that a labor organization has taken steps to become the bargaining representative of the employees of an employer, including but not limited to:

- Sending organizers to an employer's facility;
- Placing an individual in a position as an employee of an employer that is the subject of an organizing drive and paying that individual subsidies to assist in the union's organizing activities;
- Circulating a petition for representation among employees;
- Soliciting employees to sign membership cards;
- Handing out leaflets;
- Picketing; or
- Demanding recognition or bargaining rights or obtaining or requesting an employer to enter into a neutrality agreement (whereby the employer agrees not to take a position for or against union representation of its employees), or otherwise committing labor or financial resources to seek representation of employees working for the employer.

This definition, in large part, is based on a statement from the legislative history. See Senate Report, at 15, reprinted in 1 Leg. History, at 411 (The phrase ''actively seeking to represent'' denotes ''more than that the union hopes some day to become the bargaining representative of a group of employees or claims jurisdiction to organize them. It requires specific organizational activities such as sending organizers into a community, handing out leaflets, picketing, or demanding recognition and bargaining rights''); House Report, at 11; reprinted in 1 Leg. History, at 769. The examples are concrete actions commonly associated with attempts to organize a workforce. Comments are invited as to the merit and clarity of the enumerated activities and whether other examples would be helpful. In the Department's view, the term ''actively seek to represent'' seeks to distinguish between situations where a union has taken steps to organize and those where the union merely has an interest in organizing employees of the employer in question. For example, a union may wish to represent employees of a certain employer, and may even have finalized an organizing plan, but has not yet begun to implement the plan. Such a union is not actively seeking to represent employees of this employer. Comments are sought as to whether it is appropriate to trigger the reporting obligation on the decision to organize an employer's workforce distinct from taking the first concrete step to organize. The Department recognizes that some organizing activities are initiated without notice to the public or an employer, but there would appear to be few, if any, situations, where the disclosure of a reported interest on the Form LM–30 would be the first open acknowledgment of the union's active efforts to represent employees. Commenters are asked to address this assumption.

Arrangement, as proposed, means any agreement or understanding, tacit or express, or any plan or undertaking, commercial or personal, by which the filer, spouse, or minor child will obtain a benefit, directly or indirectly, with an actual or potential monetary value.

The term encompasses both personal and business transactions, including an unwritten understanding. For example, if an employer's representative during the reporting period solicits a union officer to accept a job with the employer, the filer must report the solicitation, unless the filer rejects the offer. A standing job offer must be reported because it carries the potential of monetary value to the filer. Another example of a situation requiring a report would be one in which a covered employer provides insider information about a stock or other investment opportunity, unless the filer rejects the advice and takes no steps to act on it.

Certain senior government officers and employees are required to file publicly available reports (SF 278) disclosing their financial interests as well as the interests of their spouse and dependent children. The SF 278 requires a filer to report ''arrangements'' including ''(1) future employment; (2) a leave of absence during [the filer's] period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.'' The form notes that disclosure ''includes any agreements or arrangements with a future employer entered into by a termination filer.'' SF 278, p. 15; See also OGE 450, p. 4.

In addition, senior government filers ''must disclose any negotiations for future employment from the point you and a potential non-Federal employer have agreed to your future employment by that employer whether or not you have settled all of the terms, such as salary, title, benefits, and date employment is to begin.'' SF 278, p. 15.

Benefit with monetary value, as proposed, means anything of value, tangible or intangible, including any interest in personal or real property, gift, insurance, retirement, pension, license, copyright, forbearance, bequest or other form of inheritance, office, options, agreement for employment or property, or property of any kind.

This definition is adopted from disclosure regulations applicable to federal employment. See 5 CFR 2634.105(h); 5 CFR 2634.302(b)(1).

Bona fide employee, as proposed, is an individual who performs work for, and subject to the control of, the employer.

In considering the meaning to be given *bona fide employee*, the Department considered the purposes of the LMRDA, and the following point in the AFL–CIO's Ethical Practices Code: ''No responsible trade union official should accept kickbacks, under-the-table payments, gifts of other than nominal value, or any personal payment of any kind other than regular pay and benefits for work performed as an employee from an employer or business enterprise with which his union bargains collectively.'' AFL–CIO Ethical Practices Code, 105 Cong. Rec.*16379 (daily ed. Sept. 3, 1959), reprinted in 2 Leg. History, at 1408. The Department

has also considered the disclosure form (SF 278) required to be completed by senior government officials and employees. The instructions for the SF 278 require filers to report earned income, including ''fees, salaries, commissions, compensation for personal services, retirement benefits, and honoraria,'' excluding ''income from employment by the United States government.'' SF 278, p. 8. Finally, the Department recognizes that numerous federal agencies, including the Department, continue the pay of union representatives engaged in the conduct of union-management business. See Agreement between Local 12, AFGE, AFL–CIO and the U.S. Department of Labor, Article 45 (Effective March 20, 2005).

Under the proposed definition, to be exempt from reporting, payments and other benefits received as a bona fide employee of the employer must be attributable to work performed for, and subject to the control of, the employer. See *Nationwide Mut. Ins. Co.* v. *Darden*, 503 U.S. 318, 322–24 (1992). Such payments and other benefits are non-reportable, even if they represent compensation for such work previously performed, such as earned or accrued wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan, leave for jury duty, and all payments required by law. In contrast, compensation for work performed as an independent contractor does not constitute payments or benefits to a bona fide employee, even if the individual also serves as a bona fide employee while performing other work. Most fundamentally, compensation paid to an individual who is carried on the employer's payroll but who does not work (a ''no-show employee'') is not compensation to a bona fide employee.

By its terms, the proposed definition excludes payments for work performed for an individual other than the employer, or work performed outside the control of the employer. This definition will, thus, require reporting of at least two types of compensation that are currently excluded from reporting as ''payments and other benefits received as a bona fide employee.'' See Instructions, Part A, exclusion (iv). These compensation types are ''union leave'' and ''no docking'' payments. Under a union-leave policy, the employer continues the pay and benefits of an individual who works full time for a union. Under a no-docking policy, the employer permits individuals to devote portions of their day or workweek to union business, such as processing grievances, with no loss of pay. Continuation of pay in this context is not ''payments or other benefits received as a bona fide employee'' because the payments are not attributable to work performed for, and subject to the control of, the employer. Rather, the pay is for services performed for, and subject to the control of, the union. The payments are, therefore, reportable. See 29 U.S.C. 432(a)(1), (a)(5).

The current instructions treat as non-reportable payments for ''activities other than productive work,'' depending in part on the collective bargaining agreement and the employer's practices. Specifically, exemption (iv) of Part A of the current form excludes ''payments for periods in which such employee engaged in activities other than productive work, if the payments for such period of time are: (a) Required by law or a bona fide collective bargaining agreement, or (b) made pursuant to a custom or practice under such a collective bargaining agreement, or (c) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization.'' See Instructions, Part A, exemption (iv). The LMRDA Manual discusses the situation when a union officer ''is excused from his regular work to handle grievances and [is] paid his regular wages while handling grievances.'' It states: ''Such a situation will not normally require reports from the union officer * * * on the theory that the employee officer is being paid for work performed of value to the employer who is interested in seeing to it that grievances are immediately adjusted.'' LMRDA Manual, § 248.005.

The Department proposes to change this rule. Under the Department's proposed instructions, an officer or employee would have to report any payments for other than ''productive work,'' including union-leave and no-docking payments. These payments are not received as a bona fide employee of the employer; they are received as a representative or employee of the union. The employer's perception that an employee's work for the union is valuable, a fact relied on by the LMRDA Manual, does not seem relevant. The question is whether the payment is received as a bona fide employee, not whether the employer considers the money well spent. The payments also represent a potential conflict of interest. Members have an interest in knowing how much union officers or employees are paid by the employer for time spent on union business. This information would be significant for members in assessing the effectiveness of union officers and employees and in evaluating candidates for union office. For example, during collective bargaining negotiations, an officer who enjoys union-leave or no-docking payments may agree, or feel pressure to agree, to reduced benefits for employees in exchange for increases in his or her employer payments. Similarly, a union employee may feel pressure to not zealously pursue a grievance on behalf of a union member for fear of alienating the employer and jeopardizing his or her payments. The exemption in the current form is not required by statute, which is silent on this issue.

In discussing the legality of ''no-docking'' payments under the Labor Management Relations Act, one circuit judge wrote, ''Congress was concerned about any form of payment that could upset the balance between labor and management. The payments at issue in this case do exactly that. They create a conflict of interest for union negotiators who may agree to reduced benefits for the employees in exchange for financial support for the union.'' See *Caterpillar* v. *United Auto Workers*, 107 F.3d 1052 (3rd Cir. 1997) (*en banc*) (emphasis in original) (Mansmann, J., dissenting), *cert. granted*, 521 U.S. 1152, *dismissed as moot*, 523 U.S. 1015 (1998). The Department finds this reasoning persuasive in the context of section 202 of the LMRDA, and the proposed interpretation to be more consistent with the language of the statute than the current approach. These payments present a potential for conflicts of interest. By exempting these payments from reporting, the Department has deprived union members of information they may need to make an informed judgment on whether their union officers and employees are subject to financial incentives that could hinder them in fulfilling the trust that has been placed in them. The Department acknowledges that this proposal is a departure from the Department's past practice and invites comment about the problems (or their absence) that have arisen by allowing such payments to go unreported. The Department also seeks comment about whether disclosure is always appropriate for ''no docking'' situations and, if not, suggestions as to whether quantitative (such as number of hours) or qualitative (such as discussing a grievance with a supervisor or management official) distinctions should affect the disclosure obligation.

Bona fide investment, as proposed, means personal assets of the filer held to generate profit not acquired by improper means or as a gift from an

employer, a business that deals with the filer's union or a trust in which the filer's union is interested, a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent, or a labor relations consultant to an employer. *See publicly traded securities.*

The primary purpose of this definition is to alert filers that stock or other securities received as a gift will not constitute a ''bona fide investment,'' under the provision that exempts from reporting bona fide investments in publicly traded securities when the gift is received from an employer, certain businesses, or a labor relations consultant. See discussion of *publicly traded securities*, below. A union officer or employee who receives a gift of publicly traded stock from an employer, for example, must therefore disclose the holding, unless another reporting exemption applies.

Dealing, as proposed, means to engage in a transaction (bargain, sell, purchase, agree, contract) or to in any way traffic or trade.

In the course of providing compliance assistance to union officers and employees, OLMS has been asked if payments from a union to a trust in which the union is interested constitute ''dealing[s]'' between the trust and the union under section 202(a)(4) of the Act, which creates a reportable relationship when a union officer or employee receives a payment from a business engaged in ''buying from, selling or leasing to, or otherwise dealing, with'' the union. OLMS has been asked whether dealings between a union and a union related trust exist when payments are made by an employer to the trust pursuant to a collective bargaining agreement negotiated by the union. In addition, the public has asked whether contributions by a union to a charitable, social, educational, or political organization constitute dealings between the union and the organization. The Department's current and proposed instructions do not speak explicitly to this issue, and the government's reporting system is not directly on point. See OGE 450, p. 14 (''If you receive food, transportation, lodging, and entertainment or a reimbursement of official travel expenses from a non-profit tax-exempt institution categorized by the IRS as one falling within the terms of 26 U.S.C. 501(c)(3), you must report the name of the organization, a brief description of the in-kind services or the reimbursement and the value.'') The Department seeks comments on these issues, and the related issue of whether trusts and such organizations constitute, or can constitute, ''business[es]'' under sections 202(a)(3) and (a)(4), or ''employers'' under section 202(a)(6), so that payments from such organizations to union officials would be reportable. What activities or transactions between trusts and other organizations and the union would rise to the level of dealings? What factors, if any, should the Department consider when determining if trusts and other organizations are businesses or employers? Finally, commenters are asked to consider these questions in regard to labor organizations and labor management committees. Can these entities constitute businesses under sections 202(a)(3) and (a)(4), or constitute employers under section 202(a)(6), and, if so, what type of activities and transactions between such entities and the filer's union should be considered dealings?

Directly or indirectly, as proposed, means by any course, avenue, or method. *Directly* encompasses holdings and transactions in which the filer, spouse, or minor child receives a payment or other benefit without the intervention or involvement of another party. *Indirectly* includes any payment or benefit which is intended for the filer, spouse, or minor child or on whose behalf a transaction or arrangement is undertaken, even though the interest is held by a third party, or was received through a third party.

The purpose of this definition is to clarify that filers must disclose any benefits received by them (or their spouse or minor child) from a third party where the third party is acting on the behalf, or at the behest, of an employer or business where the benefit would have to be reported if made by it directly to the filers (or their spouse or minor child). Benefits received from an employee, agent, or representative of an employer or business, or other entity acting on behalf of the employer or business, should be considered to be received from the employer or business. Payments to a third party to be held for the use or benefit of the filer are also reportable. The definition is deliberately drawn broadly, consistent with the legislative history ''to require disclosure of any personal gain which an officer or employee may be securing at the expense of union members.'' Senate Report, at 15, reprinted in 1 Leg. History, at 411. See also AFL–CIO Ethical Practices Code, reprinted in 2 Leg. History, at 1406 (''[The ethical principles] apply not only where the investments are made by union officials, but also where third parties are used as blinds or covers to conceal the financial interests of union officials'')

Filer/Reporting Person/You, as proposed, mean any officer or employee of a labor organization who is required to file Form LM–30. These terms are used synonymously and interchangeably throughout the instructions and, when referring to reportable interests, income, or transactions, these terms include interests, income, or transactions involving the union officer's or employee's spouse or minor child.

Income, as proposed, means all income from whatever source derived, including, but not limited to, compensation for services, fees, commissions, wages, salaries, interest, rents, royalties, copyrights, licenses, dividends, annuities, honorarium, income and interest from insurance and endowment contracts, capital gains, discharge of indebtedness, share of partnership income, bequests or other forms of inheritance, and gifts, prizes or awards.

This definition is designed to help filers identify the types of financial matters that are subject to the reporting requirements. The list is adopted from disclosure regulations applicable to federal employment. See 5 CFR 2634.105(j); 5 CFR 2634.302.

Labor organization, as proposed, means the local, intermediate, or national or international labor organization that employed the filer, or in which the filer held office, during the reporting period, and any parent or subordinate labor organization of the filer's labor organization.

Under sections 202(a)(1) through (a)(5), union officers and employees must report payments from, holdings in, or transactions with the following entities:

(1) An employer whose employees the filer's labor organization represents or is actively seeking to represent;

(2) A business a substantial part of which consists of dealing with an employer whose employees the filer's labor organization represents or is actively seeking to represent; or

(3) A business that deals with the filer's labor organization or a trust in which the filer's labor organization is interested.

The reporting obligation thus depends on what organization constitutes the filer's labor organization. Many labor organizations consist of a three-tier hierarchy, such as a local labor organization, an intermediate body, and a national or international labor organization.

The current instructions are silent about the obligation of an officer or employee to report, under section

202(a)(4), interests or income from businesses that deal with parent or subordinate labor organizations within the filer's labor organization. See 29 U.S.C. 432(a)(4). In the same way, the instructions are silent as to whether labor organizations affiliated with that of the union officer or employee are encompassed by the phrase ''an employer whose employees such labor organization represents or is actively seeking to represent.'' See 29 U.S.C. 202(a)(1), (2), (5). For example, one reading of the statute would mean that payments by an employer to a union official would not be reportable if a different labor union within the same overall union hierarchy was the entity actively seeking to represent the employees of the employer. As currently written, a filer would have to contact the Department or obtain a copy of the LMRDA Manual to learn that the obligation extends beyond the immediate organization in which the filer is an officer or employee. As provided in the LMRDA Manual: ''An international union officer must report his income from [a] business [that has dealings with an employer whose employees a local union represents] even though he is not an officer of the local which represents the employees of the business, and even though his duties as an international officer do not include representation activities.'' LMRDA Manual, § 241.100.

Union members have an interest in knowing benefits their officers or employees receive from businesses that deal with their parent or subordinate unions or with employers whose employees their parent or subordinate unions represent, or are actively seeking to represent, so they can evaluate whether these benefits are significant enough, or of such a nature, to constitute a conflict of interest. For example, union members have an interest in knowing if a spouse of a local union officer owns a travel agency that does business with the national union. Likewise, under the current instructions, and unless the filer was familiar with the interpretative manual, union members would not know if a president of a national labor organization owns a printing company that provides services to many of the national union's subordinate local labor organizations. Yet, employees of local unions may choose to patronize this printing company to seek favor with, or avoid alienating, the national president, despite less expensive services available elsewhere.

The statutory language itself is ambiguous on this point. However, as discussed above, Senator Kennedy's statement about how the Act would remedy the improper actions by certain high ranking international union officers evinces Congressional concern about the conflict posed by a union official's personal interests and the official's obligation to all the union's members and constituent units, not merely concern about matters relating solely to the particular tier of the union in which the filer serves as an officer or employee. As discussed above, the McClellan Committee's investigation disclosed a myriad of arrangements whereby union officials, whose personal interests were intertwined with those of employers and benefit providers, suborned the interests of their affiliated locals and their members to the officials' personal interests and the interests of the officials' financial benefactors. Confident that Congress would not have intended to ignore the serious problems identified by the McClellan Committee's investigation, the Department's proposal clarifies the reach of the disclosure obligation to include conflicts that arise between a union official and his responsibility to both the immediate unit of the union that he serves and any parent or subordinate unit of that unit.

Labor organization employee, as proposed, means any individual (other than an individual performing exclusively clerical or custodial services) employed by a labor organization within the meaning of any law of the United States relating to the employment of employees.

By statute, an employee ''means an individual employed by an employer''. 29 U.S.C. 402(f). An employer is broadly defined to include ''an employer within the meaning of any law of the United States relating to the employment of employees.'' 29 U.S.C. 402(e). Under the common law, any individual working at the control and direction of a labor organization will be an employee of the organization. The common law contains various formulations and factors to be considered in determining the employment status of an individual. See *Nationwide Mut. Ins. Co.* v. *Darden*, 503 U.S. at 318, 322–24 (1992). The contractual relationship between an individual and the labor organization and the actual duties of the individual, not the labels ''independent contractor'' or ''consultant,'' will determine whether an individual is a labor organization employee. A hired individual is an employee if the union has the right to control the manner and means by which the work product is accomplished. Among the other factors relevant to this inquiry are the skill required to perform the job; the source of the instrumentalities and tools; the location of the work; the duration of the relationship between the union and the individual; whether the union has the right to assign additional projects to the individual; the extent of the individual's discretion over when and how long to work; the method of payment; the individual's role in hiring and paying assistants; whether the work is part of the individual's regular business; the provision of employee benefits; and the tax treatment of the individual. *Id.*

Under this analysis, professionals who work ''in house,'' on more than an episodic basis, alongside other individuals employed by the union, typically are employees. For example, an accountant would be an employee of the labor organization if the labor organization determines the manner by which the accounting duties are performed, and the accountant is paid regularly by salary for his or her work activities. However, an accountant hired from a private firm for a fixed fee for a specific, non-recurring project likely would be an independent contractor. If the filer has any doubt about his or her status as an employee or independent contractor, the filer should consult a private attorney for legal advice or OLMS for further information.

Although unions are required to report on their financial disclosure forms employees who receive more than $10,000 a year, 29 U.S.C. 431(b), there is no similar earnings threshold for reporting by labor union employees. A labor organization employee who earns less than $10,000 is subject to the reporting requirements.

The source of payment is not dispositive of whether an individual is a labor organization employee. An individual who is paid by the employer to perform union work, either under a ''union leave'' or ''no docking'' policy, is an employee of the union if the individual performs services for, and under the control of, the union. See discussion above, under the definition of ''bona fide employee.'' The mere fact that payment is made by the employer does not eliminate the individual's status as an employee of the union. Thus, individuals who receive payments from an employer, either under a ''union leave'' or ''no docking'' policy, for work performed for, and under the control of, the union must file a Form LM–30.

Labor organization officer, as proposed, means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing

body. An officer is (1) a person identified as an officer by the constitution and bylaws of the labor organization; (2) any person authorized to perform the functions of president, vice president, secretary, or treasurer; (3) any person who in fact has executive or policy-making authority or responsibility; and (4) a member of a group identified as an executive board or a body which is vested with functions normally performed by an executive board.

An officer thus includes a trustee appointed to oversee the union. A steward may not be identified in the union constitution as an officer, but may perform executive duties, and thus be an officer.

This proposed definition tracks the definition of officer at section 3(n) of the LMRDA, 29 U.S.C. 402(n), and adds a new second sentence to the current regulation's definition, 29 CFR 404.1(b). The LMRDA Manual applies the definition to trustees appointed to oversee a labor organization. See LMRDA Manual, 241.200. Comments are invited as to whether the proposed definition of ''officer'' is clear and, if not, how it may be improved. Title V of the LMRDA, like section 202, establishes a conflict of interest standard for union officials that extends to officers and other ''representatives'' of the union. Commenters are requested to address the Department's determination that the reporting obligation does not reach all the union officials who are covered by the Act's application of fiduciary standards to union officials and representatives. 29 U.S.C. 501.

Legal or equitable interest, as proposed, means any property or benefit, tangible or intangible, that has an actual or potential monetary value for the filer, spouse, or minor child without regard to whether the filer, spouse, or minor child holds possession or title to the interest.

Minor child, as proposed, means a son, daughter, stepson, or stepdaughter less than 21 years of age.

The current instructions, like the LMRDA, are silent about the age at which a child reaches his or her majority. There is no federal statute that prescribes a definition of ''minor child'' that would have application to section 202(a) of the LMRDA. It is possible to construe the term ''minor child'' by reference to the law of the specific state where the action occurred, rather than construing the term to have a uniform, nationwide federal definition. State law definitions for the legal concept of childhood and age of majority differ from state to state but also may differ widely from legal context to legal context within the same state. Moreover, the general rule as set forth in *Mississippi Band of Choctaw Indians* v. *Holyfield*, 490 U.S. 30 (1989), is ''in the absence of a plain indication to the contrary, * * * Congress when it enacts a statute is not making the application of the federal act dependant on state law.'' Id. at 43, citing *Jerome* v. *United States*, 318 U.S. 101, 104 (1943).

There is a need for a uniform, nationwide meaning of ''minor child'' under the LMRDA and without such a uniform definition the objective of the LMRDA will be frustrated. In this connection, not only do state law definitions for the legal concept of childhood and age of majority differ from state to state but also may differ widely from legal context to legal context within the same state. Thus, the same state may have differing age limitations for contracting, driving, marriage, child support and custody, voting, abortion, responsibility for medical care, taxes, tort law, welfare, and numerous other contexts. See generally Elizabeth S. Scott, *The Legal Construction of Adolescence*, 29 Hofstra L. Rev. 547 (2000). Further, court decisions are not always in agreement regarding how to determine which state's law should apply in specific situations; i.e., a conclusion regarding a child's age of majority may differ depending upon whether the situs of the activity or property, the actors' residence, the actors' domicile, or some other factor is controlling. See generally 42 Am. Jur.2d Infants § 13, p. 21; 43 C.J.S. Infants § 109, pp. 372–73. Decisions regarding which state law would be applicable to the age of majority of a specific ''minor child'' may also be made more difficult because of the significant changes in structure, scope, and complexity that labor organizations have undergone in recent decades. Such uncertainty as to which state law to apply and whether a report would be required would certainly function as obstacles to efficient and effective compliance, enforcement, and use of reports. A union member may be an officer of a local union, an intermediate union, and an international union, each located in a different state. Further, a rule that made the filing requirements vary by state could make an interest reportable by one officer in one state non-reportable by a different officer in another state. Both filers and union members who view filed reports require a known and easily applied single standard regarding when reports are required, and what a disclosure or its absence represents.

In 1959 when the LMRDA was enacted, it was well established that at common law the age at which a person reached his or her majority in the states was twenty-one years. See, e.g., 5 Samuel Williston and Richard A. Lord, *A Treatise on the Law of Contracts* § 9:3 n.15 (4th ed. 1993 & Supp. 1999). The Department has concluded that in 1959 when Congress used the term ''minor child'' in section 202(a) of the Act, Congress intended a uniform federal standard to apply and referred to the general common law meaning at that time, which was a person who had not yet reached the age of twenty-one years. We also believe that twenty-one is more suitable than an earlier age to distinguish between a child's relative dependence upon, and independence from, the finances of a parent.

Although the Department is not aware of any federal statute or policy counseling against the proposed definition, the Department acknowledges that 18 often is considered a threshold age, and that this age is sometimes used in federal statutes and regulations, *e.g.,* 18 U.S.C. 25(a)(2) (crimes of violence using minors); 20 U.S.C. 1228c(d)(5) (disclosure requirements for federal education activities); 42 U.S.C. 619 (block grants for temporary assistance for needy families); 42 U.S.C. 1396r–1a(b)(1) (grants to states for medical assistance programs); 42 U.S.C. 5106g(1) (child abuse treatment and prevention program); 5 CFR 843.102 (administration of death benefits and employee refunds under federal retirement system); 34 CFR 263.3 (grant administration provision relating to professional development of certain educators allowing dependent allowance for care of children). Other statutes and regulations apply a state's (or tribe's) age of majority, *e.g.,* 38 CFR 1.464 (age of consent for certain medical treatment); 43 CFR 4.201 (testamentary interests of Native Americans). At the same time, other federal statutes and regulations, notably those with a focus on the financial dependency of an individual on his or her parents, apply a test that looks to both the individual's age and circumstances. See, *e.g.,* 5 U.S.C. 8441 (survivor annuities for Federal employees); 26 U.S.C. 152(c)(3) (Internal Revenue Code); 28 U.S.C. 376(a)(5) (survivor annuities for Federal judges); 38 CFR 3.57 (veterans' benefits); 20 CFR 645.120 (administration of welfare-to-work grants); 20 CFR 416.1101 (supplemental security income). The SF 278 public disclosure form for senior government officials and employees defines the term ''dependent

child'' to mean a filer's ''son, daughter, stepson, or stepdaughter if such person is either: (1) Unmarried, under age 21, and living in your household, or (2) a 'dependent' of yours within the meaning of section 152 of the Internal Revenue Code of 1986.'' SF 278, p. 2. The OGE 450, the confidential financial disclosure reports used by certain government employees at or below the GS–15 grade level, uses the same definition. OGE 450, p. 1. The Department, therefore, invites comments as to the appropriate age, particular circumstances, or both when financial holdings of, or transactions by, a child should no longer be reportable.

Payer, as proposed, means:

(1) An employer whose employees the filer's labor organization represents or is actively seeking to represent;

(2) A business a substantial part of which consists of dealing with an employer whose employees the filer's labor organization represents or is actively seeking to represent;

(3) A business that deals with the filer's labor organization or a trust in which the labor organization is interested; or

(4) Any employer or any person who acts as a labor relations consultant to an employer.

The term *payer* is not used in the statute or the current form. In the revised form, the term ''payer'' is used to describe the employer, business, or labor relations consultant that is financially involved with the filer. The Department recognizes that the term is imperfect, in that in common parlance a business in which a filer holds an interest would not ordinarily be consider a ''payer'' of the filer. But the term, the Department believes, well describes an entity that provides income or other benefit, and adequately describes an entity that disburses the proceeds of a loan. It is thus used in the instructions as a shorthand description of the third party involved in a potential conflict-of-interest situation (as defined, ''payer'' combines the key elements of section 202) and allows the filer to report on a single schedule all the reportable holdings and transactions which the filer had with a particular individual or entity. The Department requests comments on whether the term ''payer'' is potentially confusing, in that some reportable events are not payments and the involved third party makes no disbursement, such as when a union officer holds an interest in the business of an employer. Comments are invited as to whether another word or short term would better describe the parties whose relationship to the filer triggers the reporting obligation.

Publicly traded securities, as proposed, means bona fide investments in (1) securities traded on a registered national securities exchange under the Securities Exchange Act of 1934, (2) in shares in an investment company registered under the Investment Company Act of 1940, or (3) in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, and income derived from such securities. The American Stock Exchange, Boston Stock Exchange, Chicago Board Options Exchange, Chicago Stock Exchange, International Securities Exchange, National Stock Exchange (formerly the Cincinnati Stock Exchange), New York Stock Exchange, Pacific Exchange, and Philadelphia Stock Exchange are registered with the Securities and Exchange Commission (SEC) under the Securities Exchange Act of 1934. The NASDAQ stock market is not a registered national securities exchange. As registration status may change, the filer should seek current information. Public investment companies comprise certain mutual funds, closed end funds, and unit investment trusts. Interstate public utility holding companies are engaged, through subsidiaries, in the electric utility business or in the retail distribution of natural or manufactured gas. A filer may determine whether an exchange is registered with the SEC by making inquiries with the exchange or by consulting the SEC. A list of registered exchanges is maintained by the SEC on its web site. A filer may determine whether an investment company or public utility holding company is registered with the SEC by making inquiries to the companies, checking any prospectus, or consulting the SEC. A list of registered public utility companies is maintained by the SEC on its web site.

The statute treats certain securities differently than other holdings or transactions that trigger a reportable interest. Many securities, including certain stocks and bonds, are excluded from the reporting requirements, even when a security represents an ownership interest in an employer of the employees represented by the labor organization or in a business that deals with such an employer or with the filer's labor organization, if the security constitutes a public traded security. Filers should also be aware that the security must also be a bona fide investment to be non-reportable. See discussion of *bona fide investment* above. Stock received as a gift, regardless of the exchange on which it is traded or its registration with the SEC, will not constitute a ''bona fide investment,'' under the provision that exempts from reporting bona fide investments in publicly traded securities when the gift is received from an employer, certain businesses, or a labor relations consultant. See discussion of bona fide investment, above. A union officer or employee who receives a gift of publicly traded stock from an employer, for example, must therefore disclose the holding, unless another exemption applies. A filer who is uncertain about whether a particular security must be reported should consult a securities specialist or OLMS. The SEC maintains a web site with general information about securities and how the public may contact the Commission for assistance: *http://www.sec.gov.*

The Senate Report addresses the ''publicly traded securities'' exclusion as follows:

[T]he reporting requirements contained in paragraphs (1) [through] (5) * * * shall not apply to publicly traded securities and other securities that are publicly regulated * * * [T]he committee believes that the holding of publicly traded or regulated stock can hardly lead to conflicts of interest because of the unlikelihood that such holdings will amount to a substantial or controlling interest. Existing public regulation of such securities held in such quantities provide sufficient safeguards of disclosure.

Senate Report, at 38, reprinted in 1 Leg. History, at 434. The House Report does not discuss an exclusion for publicly traded securities; however, the bill that was passed by the House contains the same exception for publicly traded securities as contained in both the Senate bill and the Act as passed. See H.R. 8400, reprinted in 1 Leg. History, at 619, 639, and 2 Leg. History, at 1691–92.

The publicly traded securities exception echoes a point in the AFL–CIO's ethical practices code:

The [restrictions on the holding of interests in a company that has substantial business with an employer whose employees are represented by the union or the latter's competitors] do not apply in the case of an investment in the publicly traded securities of widely held corporations which investment does not constitute a substantial enough holding to affect or influence the course of corporate decision.

AFL–CIO Ethical Practices Code, reprinted in 105 Cong. Rec. S16378 (daily ed. Sept. 3, 1959) and 2 Leg. History, at 1408.

The SF 278 instructions inform senior government employees to report the ''identity and category of valuation of any interest in property (real or personal) held by you, your spouse or dependent child in a trade or business,

or for investment or the production of income which has a fair market value which exceeds $1,000 as of the close of the reporting period. These interests include, but are not limited to, stocks, bonds, pension interests and annuities, futures contracts, mutual funds, IRA assets, tax shelters, beneficial interests in trusts, personal savings or other bank accounts, real estate, commercial crops, livestock, accounts or other funds receivable, and collectible items held for resale or investment.'' There is no exception for bona fide investments in publicly traded securities. SF 278, p. 6–7. The confidential form used by government employees of lower rank has comparable requirements, requiring reports of all assets that have a value greater than $1000 or that produce income over $200, although the filer need not report the value of the asset or the amount of income generated. OGE 450, p. 2.

The proposed instructions contain examples to highlight the differences among securities. The Department invites comments about its determination that a filer must report investments in securities that are traded on NASDAQ and any suggestions regarding the reporting of over-the-counter trades or similar transactions. Comments also are invited, as discussed above, as to whether some interests, income, and transactions in non-publicly traded securities should be exempt from reporting, provided any such interests, income and transactions are of insubstantial value or amount and occur under terms unrelated to the filer's status in a labor organization.

Substantial part, as proposed, means 5% or more. Where a business's receipts from an employer whose employees the filer's labor organization represents or is actively seeking to represent constitute 5% or more of its annual receipts, a substantial part of the business consists of dealing with this employer.

Substantial part, as used in section 202(a)(3) of the LMRDA and the instructions for (a)(3), refers to the magnitude of the business transacted between the business and the employer whose employees the filer's labor organization represents or is actively seeking to represent, as a percentage of all business transacted by the business. The threshold for substantiality is met when the business's receipts from the employer constitutes 5% or more of the annual receipts of the business. The purpose of section 202(a)(3)'s substantial-part provision is to relieve union officials from having to report income or transactions that do not have potential conflict-of-interest implications. An official who has an interest in, or receives income from, a business that receives 5% or more of its income from the employer of the union members may well face a conflict. A business with 5% of its receipts from a single client will have the opportunity and inclination to make demands or offer inducements to retain that business. In negotiations with the union, the employer could use its relationship with the business as a bargaining tool, either threatening to end the relationship or promising to provide additional business opportunities. This presents the possibility that a union official may, for example, be coerced or have a financial incentive to accede to terms in negotiations with the employer of the union's members that the official would otherwise reject. These possibilities counsel the disclosure of these relationships between the business and the employer, and the extent of the officer or employee's interest in or income from the business. Disclosure of these relationships and financial interests and transactions will provide union members with important information about potential financial conflicts and will deter fraud and self-dealing, which can occur when an individual is subject to improper influence in the performance of official duties. This disclosure, like the other reforms proposed herein, will help union members ensure that their union officers and employees act on their behalf, and not give preferential treatment to any private business, employer, or individual.

In proposing the 5% threshold, the Department has considered thresholds established by or under other statutes and regulations, *e.g.,* 26 U.S.C. 72 (5% owners of an entity subject to different tax treatment under rules applicable to employee annuities and distributions); 5 CFR 550.143(c) (a substantial part of a tour of duty constitutes at least 25%); 20 CFR 416.211 (payment of a substantial part of an individual's care means more than 50% for the purposes of reducing supplemental security income payments); 20 CFR 628.405 (substantial part of labor market to be defined by state ''but shall not be less than 10% of the population of a labor market area''); 26 U.S.C. 501(c)(3) (''an organization shall be exempt from taxation if, among other things, it is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.''); 26 CFR 1.501(c)(3)–1 (In determining whether the prohibited activities of an organization are ''substantial,'' all the surrounding facts and circumstances, including the articles and activities of the organization, are to be considered); *Haswell* v. *U.S.*, 500 F.2d 1133, 1146 (Ct. Cl. 1974) (although finding percentage test inappropriate, court determines that where 20.5% of association's expenditures in 1967 were for political activities, and 19.27% of total expenditures in 1968 were for political activities, political activities were a substantial part of association's operations); *Seasongood* v. *Comm'r*, 227 F.2d 907, 912 (6th Cir. 1955) (where less than 5 percent of time and effort of organization was devoted to political activities these activities were not a substantial part of the organization's activities, and therefore contributions to the organization were tax deductible).

A larger number of statutes and regulations leave ''substantial'' undefined or provide a qualitative factor in establishing its reach, *e.g.*, 18 U.S.C. 1093 (defining substantial as ''such numerical significance,'' the loss of which would destroy ''group as a viable entity''). The Department acknowledges that none of the statutes or regulations compels 5% or any other percentage as the threshold for defining substantiality of business dealings under the LMRDA, but, we believe that 5%, or something close to that figure, represents the appropriate level of business activity that may pose conflict of interest concerns and should be disclosed. The Department also believes that it is better to set the threshold at the lower end of the range of reasonableness in order to alert filers of the need to monitor their conduct to avoid actual conflict of interest situations.

The Department seeks comments on whether a percentage threshold should be imposed, whether the percentage threshold should be higher or lower, whether a percentage of receipts is the appropriate consideration, whether union officials with holdings in, or income from, a business would be able to determine the percentage of the business's income that comes from dealings with the employer, and whether a dollar amount threshold could lawfully be imposed, and, if so, what figure would represent an appropriate dollar threshold.

Trust in which a labor organization is interested, as proposed, means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and

(2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

This definition is provided by section 3(l) of the LMRDA. 29 U.S.C. 402(l). The inclusion of the definition in the instructions is meant to assist filers who otherwise might not recognize that the LMRDA prescribes a specific meaning to the term.

c. The third heading of the proposed instructions is ''Who Must File.'' It combines the second and third categories of the existing form. The proposal restates the short description of the reporting obligation in the current form, but the proposal differs from the existing instruction in two ways. First, the proposal no longer provides for a ''Special Report.'' As discussed, the special report was designed to inform filers that the Secretary could require additional information from them, specifically including certain information that the Secretary, by crafting administrative exclusions, had removed from the reporting obligation. Due to its lack of utility, the Department proposes to eliminate the provision regarding ''Special Reports.''

Second, as discussed above, the proposed instructions inform the filer that reports must include information about a spouse and minor child even if his or her status changes during the fiscal year, for example, by divorce or a child reaching age 21.

3. The proposed instructions identify each subsection of section 202 by heading and explain the nature of the information that must be reported and any exceptions or exclusions under that particular subsection. Examples are provided to illustrate the application of each subsection.

The revised instructions define the transactions that must be reported under this subsection. The Department expects that a more straightforward approach with clear examples will help eliminate the errors in previously filed Form LM–30 reports, as discussed above, and increase compliance with the reporting requirements.

Subsection 202(a)(1)

The proposed instructions state:

[A1] Payments or Benefits From, or Holdings in, an Employer Whose Employees Your Union Represents or Is Actively Seeking To Represent

You must complete Form LM–30 if you or your spouse or your minor child, directly or indirectly, held a stock, bond, security, or other interest, legal or equitable, in, or derived any income or any other benefit with monetary value (including reimbursed expenses) from, an employer whose employees your labor organization represents or is actively seeking to represent.

Exceptions

You are not required to report:

- Payments and benefits received as a bona fide employee of the employer. See definition of *bona fide employee,* above.
- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. See definition of *publicly traded securities.*
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. See definition of *publicly traded securities.*

Discussion: Under section 202(a)(1) of the LMRDA, officers and employees of a labor organization shall file with the Secretary a signed report listing and describing for the filer's preceding fiscal year—''any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer.'' 29 U.S.C. 432(a)(1).

Three exclusions apply to reports under section 202(a)(1). The first is contained within 202(a)(1) and concerns payments received as a bona fide employee of the employer. See discussion of this exemption following the definition of *bona fide employee.*

A second exclusion is prescribed by section 202(b) for publicly traded securities held as a bona fide investment. See discussion of this exemption following the definition of *publicly traded securities.* A third exclusion concerns insubstantial holdings, transaction, and income relating to securities that are not publicly traded. See discussion at section I.H.1, above.

Insofar as section 202(a)(1) is concerned, the legislative history instructs:

> Section [202(a)(1)] requires a union officer or employee to disclose any securities or other interest which he has in a business whose employees his labor union represents or ''seeks to represent'' in collective bargaining. When a prominent union official has an interest in the business with which the union is bargaining, he sits on both sides of the table. He is under temptation to negotiate a soft contract or to refrain from enforcing working rules so as to increase the company's profits. This is unfair to both union members and competing businesses. The same danger exists when the union official is interested in a business which his union is ''actively seeking to represent'' for the purposes of collective bargaining.

Senate Report, at 15, reprinted in 1 Leg. History, at 411. The text of the House Report repeats these points, virtually verbatim. House Report, at 11, reprinted in 1 Leg. History, at 769.

To assist the filer, the instructions contain definitions of several terms used in this subsection, including *legal or equitable interests, directly or indirectly, benefit with monetary value, actively seeking to represent, bona fide employee, and publicly traded securities.* None of these key terms is explained in the current instructions.

As discussed in section I.H.2., the Department proposes to remove an exemption found in the current instructions: Part A, exemption (iii) (dealing with goods and services in the regular course of business). Exemption (iv) (dealing with payments received as a bona fide employee) has been changed, as discussed above in connection with the definition of *bona fide employee.*

The proposed instructions provide the following examples to help officers and employees identify interests and transactions that must be reported under this subsection.

Example 1

You are a union officer and truck driver who is paid for five days of work by the employer, even though you only drive a truck one day a week and spend the rest of the week handling union member grievances or other union-related work. You must report the pay and benefits received from the employer for the time spent performing union work under this subsection.

Example 2

You are an officer of a union that represents Widget Company employees. To help prepare for your retirement, you purchase 5,000 shares of Widget Company stock over the New York Stock Exchange or another registered stock exchange. You need not report the shares under this subsection, under the exception for bona fide investments in publicly traded securities.

Example 3

You are an officer of a union that represents Widget Company employees. Your wife owns 5,000 shares of Widget Company stock that Widget's CEO gave

her on Mother's Day two years ago. This stock is traded on the New York Stock Exchange or another registered stock exchange. You must report the shares under this subsection because the holding of this interest is reportable regardless of when it was obtained and, as a gift, the exclusion for bona fide investments in publicly traded securities does not apply.

Example 4

You are a full-time officer of a union that represents employees of several different employers. One of the employers pays your expenses on a trip with management officials to a plant in another part of the country to view some new equipment that the employer is considering purchasing. You must report the travel expenses under this subsection.

Example 5

You are an employee of a union that represents actors. You own a production company whose employees are represented by your union. You must report your interests in the production company under this subsection.

Example 6

You are an employee of union and your spouse works as a producer for a dinner theater that employs actors represented by your labor organization. She works 40 to 50 hours a week, producing shows and is paid a yearly salary. You do not have to report her earnings under this subsection because her payments are received as a bona fide employee of the theater company.

Example 7

You are a union officer and you receive payments under an ERISA qualified pension plan. The payments relate to your past employment for an employer whose employees your labor organization represents. These payments are received as a bona fide employee of the employer, and you do not have to report these payments under this subsection.

The Department invites comments on this subsection and encourages commenters to propose additional examples that would help filers comply with the requirements of the Act.

Subsection 202(a)(2)

The proposed instructions state:

[A2] Transactions Involving Loans From and Holdings in an Employer Whose Employees Your Union Represents or Is Actively Seeking To Represent

You must complete Form LM–30 if you or your spouse or your minor child, directly or indirectly, engaged in any transaction involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees your labor organization represents or is actively seeking to represent.

Exception

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. See definition of publicly traded securities.
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. See definition of publicly traded securities.

Special Note: [A2] covers situations where a union officer or employee or his or her spouse or minor child held an interest during the reporting year but sold, transferred or otherwise liquidated it prior to the end of the fiscal year. Such an interest must be reported under this subsection.

Discussion: Under section 202(a)(2) of the LMRDA, officers and employees of a labor organization shall file with the Secretary a signed report listing and describing for the filer's preceding fiscal year—''any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent.'' 29 U.S.C. 432(a)(2).

The legislative history explains that this subsection is designed to capture transactions during the reporting period of any matters that would be covered if the holdings or other property remained at the close of the reporting period. In virtually identical language, the committee reports stated: ''[S]ection [202(a)(2)] is ancillary to [section [202(a)(1)]. * * * Its chief purpose is to prevent dishonest persons from circumventing [202(a)(1)] by transferring securities out of their names on the date of their report but this provision also covers other transactions such as loans from the employer.'' Senate Report, at 15 (quoted), reprinted in 1 Leg. History, at 411; House Report, at 11; reprinted in 1 Leg. History, at 769.

The proposed instructions inform filers that the obligation to report loans includes any transaction in which a payer acted as a guarantor of a loan. See LMRDA Manual, §§ 244.170; 253.041. [A2] covers only loans to or from the employer whose employees his organization represents or is actively seeking to represent. Loans from other employers are to be considered under [A6], discussed below.

As discussed in section I.H.2., above, the Department proposes to remove exemption (iii) (dealing with goods and services in the regular course of business). Similarly, the Department proposes to eliminate exemption (iv) (dealing with payments received as a bona fide employee), now contained in the current instructions, as to reports under this subsection.

The proposed instructions provide the following examples to help officers and employees identify interests and transactions that must be reported under this subsection.

Example 1

You are a union officer and after the beginning of the fiscal year, you are allowed to participate in the purchase of stock options at a preferred rate for a new business enterprise launched by the employer. Three weeks before the end of your fiscal year, you exercise the options to purchase the stock and then immediately sell it to realize a gain of $25,000. This transaction must be reported under this subsection even though you no longer own the stock.

Example 2

You are a union employee and your minor child receives 100 shares of stock as a high school graduation gift from an employer whose employees your union represents. She immediately sells it to assist with college expenses. Both transactions, the receipt and the sale, must be reported under this subsection.

Example 3

You are a union officer, and like all employees of the employer whose members your union represents, you hold an ownership interest in the business of the employer. In this fiscal year, you sell this interest to the employer. Although the holding of this interest is not reportable under section 202(a)(1) because it is a benefit received as a bona fide employee, the sale of the interest is reportable under this subsection.

Example 4

You are a union officer and your husband receives a loan from an employer whose employees your union represents. The loan must be reported under this subsection.

Example 5

You are a union employee. Your wife is a partner of a package delivery company. The company receives a loan from Easy Credit Limited that was

arranged with the assistance of an employer whose employees are represented by your union. The loan must be reported under this subsection.

The Department invites comments on this subsection and encourages commenters to propose additional examples that would help filers comply with the requirements of the Act.

Subsection 202(a)(3)

The proposed instructions state:

[A3] Holdings in or Transactions With a Business that Deals with an Employer Whose Employees Your Union Represents or Is Actively Seeking To Represent

You must complete Form LM–30 if you, your spouse or your minor child, directly or indirectly, held an interest in, or received any income or other benefit with monetary value (including reimbursed expenses) from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees your labor organization represents or is actively seeking to represent.

Exception

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. See definition of *publicly traded securities.*
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. See definition of *publicly traded securities.*

Discussion: Under section 202(a)(3) of the LMRDA, officers and employees of a labor organization shall file with the Secretary a signed report listing and describing for the filer's preceding fiscal year—''any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent.'' 29 U.S.C. 432(a)(3).

Apart from paraphrasing the language of section 203(a)(3), the committee reports noted only that the McClellan Committee hearings disclosed ''a number of instances in which union officials gained personal profit from a business which dealt with the very same employer with whom they engaged in collective bargaining on behalf of the union.'' Senate Report, at 15 (quoted), reprinted in 1 Leg. History, at 411; see House Report, at 12 (virtually the same), reprinted in 1 Leg. History, at 770. The Senate and House committees each endorsed the concern expressed in the AFL–CIO's Ethical Practices Code that the union official ''may be given special favors or contracts by the employer in return for less than a discharge of his obligations as a trade-union leader.'' Senate Report, at 15, reprinted in 1 Leg. History, at 411; House Report, at 12, reprinted in 1 Leg. History, at 770.

The proposed instructions explain the key terms of this provision, most of which have been discussed in connection with [A1] and [A2]. The term *substantial part* is unique to [A3]. As discussed above, in the definition of this term, where a business's receipts from an employer whose employees the filer's labor organization represents or is actively seeking to represent constitute 5% or more of its annual receipts, a substantial part of the business consists of dealing with this employer.

The interest in, or income derived from the business must be disclosed in full. A filer is not permitted to reduce the amount reported by, for example, a percentage proportionate to the amount of work performed by the business for the employer.

The proposed instructions provide the following examples to help officers and employees identify interests and transactions that must be reported under this subsection.

Example 1

You are a union officer. You own a small machine parts business. The employer of the employees your union represents purchased a large quantity of machine parts from your business. The employer's purchases represented 10% of the total receipts of your business that year. You must report, under this subsection, your interest in the machine parts business and the dealings between the business and the employer.

Example 2

You are an officer of an international union. Your wife owns an accounting firm and last year 20% of the receipts of her firm were from an employer whose employees are represented by a local union that is subordinate to your international union. You must report, under this subsection, your wife's interest in the accounting firm and the dealings between her business and the employer.

Example 3

You are a union officer and part owner of a copier supply company. Your union represents employees of employers A, B, and C. Last year 3% of the company's receipts were from employer A, 2% were from employer B, and 4% were from employer C. You must report under this subsection because a total of 9% of the company's receipts was from employers whose employees your labor organization represents. You must report your interests in the copier supply company, and its dealings with each of the employers.

Example 4

You are the business manager of a local union that represents stage technicians. You have a business supplying lighting and other equipment to companies putting on shows and conventions within the jurisdiction of your local. These companies employ members of your union, and 5% or more of your business is derived from these companies. You must report, under this subsection, your interest in your business and its dealings with the companies that hire the union members.

Example 5

You are the president of a union that represents employees of a trucking company. In addition to his full time job, your spouse moonlighted part-time last year and earned $9,000 cleaning business offices on Sundays. Once a month, the trucking company paid your spouse $80 to clean its office space, for an annual total of $960, about 10% of his company's business. You must report the $9,000 in income under this subsection, as well as the dealings between the cleaning business and the trucking company.

Example 6

You are an employee of a union that has a collective bargaining agreement with trade show contractors. You were also a seasonal employee of a company that received 5% of its receipts last year from leasing fork lifts to these contractors. You must report, under this subsection, your income or other benefits with monetary value (including reimbursed expenses) received from the company and the dealings between the company and the contractors.

Example 7

You are the treasurer of a union that has a collective bargaining agreement with trade show contractors. You are the owner of a company that gets 100% of its income from providing laborers to those contractors for handling empty

crates. You must report, under this subsection, your ownership interest in the company and its dealing with the trade show contractors.

Example 8

You are a union employee. Your wife is an employee of a law firm that received 10% of its income last year from an employer whose employees your union represents. You must report, under this subsection, your wife's income or other benefits with monetary value (including reimbursed expenses) received from the law firm, and the dealing between the law firm and the employer.

The Department invites comments on this subsection and encourages comments proposing additional examples that would help filers comply with the requirements of the Act. The Department specifically requests comments on the threshold set to establish a ''substantial part'' of a company's business.

Subsection 202(a)(4)

The proposed instructions state:

[A4] Holdings in or Transactions With a Business That Deals With Your Union or a Trust in Which Your Union Is Interested

You must complete Form LM–30 if you or your spouse or your minor child, directly or indirectly, held an interest in, or received any income or other benefit with monetary value (including reimbursed expenses) from, a business any part of which consists of buying from, selling or leasing to, or otherwise dealing with, your labor organization or a trust in which your labor organization is interested.

Exception

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. See definition of *publicly traded securities.*
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. See definition of *publicly traded securities.*

Discussion: Under section 202(a)(4) of the LMRDA, officers and employees of a labor organization shall file with the Secretary a signed report listing and describing for the filer's preceding fiscal year—''any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization.''

The committee reports use nearly identical language to explain this subsection:

Section [202(a)(4)] requires a union officer or employee to report any interests which he has in, or income which he derives from, a business which buys from, sells or leases to, or otherwise deals with, a labor organization.

Senate Report, at 15, reprinted in 1 Leg. History, at 411; House Report, at 12 (virtually verbatim), reprinted in 1 Leg. History, at 770. As an illustration of the practice, the committees described a situation where an ''officer of a local union charged with purchasing supplies or services might be tempted to favor a firm in which he owned a dominant interest.'' Senate Report, at 16, reprinted in 1 Leg. History, at 412; House Report, at 12 (virtually verbatim), reprinted in 1 Leg. History, at 770.

The committee reports provide as an additional illustration, a situation in which ''an officer charged with placing the union's insurance would be tempted to place it through a firm of insurance brokers in which he owned an interest.'' *Id.*

The breadth of this subsection was described by Senator Goldwater as ''cover[ing] every conflict-of-interest situation.'' Senate Report, at 90, reprinted in 1 Leg. History, at 486. This subsection uses no terms that have not been earlier discussed. Its chief difference from the other subsections is that its focus is on interests or income derived from a business that deals with the filer's labor organization.

As in the current form, the Department proposes to retain the requirement that transactions with businesses that deal with trusts in which the filer's labor organization is interested are reportable. See Instructions, Part B.

The interest in, or income derived from the business must be disclosed in full. A filer is not permitted to reduce the amount reported by, for example, a percentage proportionate to the amount of work performed by the business for the employer.

The proposed instructions provide the following examples to help officers and employees identify interests and transactions that must be reported under this subsection.

Example 1

You are an officer of a district council. Your spouse owns and operates a small catering business. Your union purchases catering services from your spouse's business during the fiscal year. You must report, under this subsection, your spouse's ownership interest in the catering business, and its dealings with the union.

Example 2

You are a union officer. You work part time for a business that did maintenance work on the heating and air conditioning system at the union hall. You must report, under this subsection, the income and other benefits with monetary value (including reimbursed expenses) received from the maintenance business, and its dealings with the union.

Example 3

You are a business manager of a local union. You work on a contract basis for a plumbing supply company that sold tools and other supplies to the union and its training funds. You must report your income and other benefits with monetary value (including reimbursed expenses) received from the plumbing supply company under this subsection, and the dealings between the supply company, the union, and the training funds.

Example 4

You are an officer of a national union. You and your husband own a printing company that prints the union newsletters for a local union of the same national union. You must report, under this subsection, your and your husband's ownership interest in the printing company and its dealing with the union.

Example 5

You are an officer of a joint board and run a snow plowing business. The joint board is subordinate to an international union. The international union contracted with the business to plow the parking lot of its headquarters. You must report your interest in the snow plowing business under this subsection, in addition to the business's interest with the international union.

Example 6

You are the president of a local union and a partner in a company that was hired to resurface the union's parking lot. You must report, under this subsection, your interest in the business and its dealings with the union.

Example 7

You are an employee of a national union. Your wife works for a travel agency that handles all the travel

arrangements by officers and employees of the national union. In addition to your wife's employment compensation from the travel agency, she also receives rebates from hotels for bookings made for the union. You must report your wife's income and other benefits with monetary value (including reimbursed expenses) received from that business, and the value of the rebates she received under this subsection, as well as the dealings between the travel agency and the union.

Example 8

You are the president of a local union and your 19-year old son works for a business that produces customized t-shirts, caps, and jackets. Your local union buys logo items from his business. You must report your son's income and other benefits with monetary value (including reimbursed expenses) received from this business under this subsection, and the dealing between the business and the union.

Example 9

You are a business representative of a local union that represents shipyard workers. You and two other business representatives own a company that does medical testing of local members, which is paid for by a health benefit plan that is a trust in which your local is interested. You must report your interest in the medical testing company under this subsection, and the dealings between the testing company and the health benefit plan.

Example 10

You are an employee of a union. Each year your union holds an annual workers' summer school at a private university whose space and services are rented by the union. You go to the summer school as an instructor and bring your wife and two minor children. At no extra charge to you, the university provides accommodations for you, your wife and minor children, rather than the single room typically provided instructors. The use of the additional space and its fair market value must be reported under this subsection, in addition to the dealings between the university and the union.

Example 11

You are the president of a local union and own a building, which has numerous tenants, including your local. The ownership and income received from the operation of the building and the dealings between you and the union must be reported under this subsection.

Example 12

You are a national union president and a trustee of a jointly administered health care trust that insures union members through an insurance company. Premiums for coverage are paid by the trust to the insurance company. You are a member of the board of directors of the health insurance company, which pays you an annual fee and reimburses expenses for your attendance at board meetings. In your capacity as a trustee of the health care trust, you recuse yourself from all decisions concerning the health insurance company. As the insurance company is doing business with a trust in which your union is interested, you must report your annual fee and reimbursed expenses under this subsection. The dealings between the health insurance company and the trust must also be reported.

Example 13

You are an employee of a national union and your husband works for a law firm that represents a local union that is affiliated with your national union. You must report, under this subsection, your husband's income and other benefits with monetary value (including reimbursed expenses) received from the law firm, and the dealings between the law firm and the local union.

Example 14

You are a national union president and director of a registered investment company that offers investment opportunities to unions or trusts in which unions are interested. Your union has invested several thousand dollars in fixed income or equity funds managed by the company. You receive no gratuities, compensation, or reimbursement for your duties as a director, but you are insured against personal liability for your actions as a director under a policy paid for by the company. The investment company paid for this insurance coverage. You must report the payment under this subsection, and the dealings between the investment company and the union.

The Department invites comments on this subsection and encourages commenters to propose additional examples that would help filers comply with the requirements of the Act.

Subsection 202 (a)(5)

The proposed instructions state:

[A5] Transactions or Arrangements With an Employer Whose Employees Your Union Represents or Is Actively Seeking To Represent

You must complete Form LM–30 if you or your spouse or your minor child had any direct or indirect business transaction or arrangement with any employer whose employees your labor organization represents or is actively seeking to represent.

Exceptions

You are not required to report:

- Payments and benefits received as a bona fide employee of the employer. See definition of *bona fide employee*.
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. See definition of *publicly traded securities*.
- Purchases and sales of goods or services at prices generally available to any employee of the employer.
- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. See definition of *publicly traded securities*.

Special Note: You must report special discounts, special rates and other special treatment that you or your spouse or your minor child receives from an employer whose employees your labor organization represents or is actively seeking to represent. See definitions of *labor organization* and *actively seeking to represent*. A filer who purchases an item at a reduced price generally available to employees of the employer must nevertheless report the discount, and may not claim the exemption, unless the filer is an employee of the employer providing the discount.

Discussion: Under section 202(a)(5) of the LMRDA, officers and employees of a labor organization shall file with the Secretary a signed report listing and describing for the filer's preceding fiscal year—''any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer.''

The Senate and House Reports explained this provision in nearly identical language:

[This subsection] requires a union official to disclose any business transaction with an employer with whom his organization deals.

The aim of this subsection is to prevent loans, under-the-table payments, special discounts, and other personal allowances which might influence a union official in the conduct of an organizational campaign or collective bargaining with the employer. The testimony before the McClellan committee demonstrates the need to compel disclosure. Normal transactions such as the payment of wages and the purchase and sale of goods or services at prices available to employees generally are excepted.

Senate Report, at 12 (quoted), reprinted in 1 Leg. History, at 412; House Report, at 12 (virtually verbatim), reprinted in 1 Leg. History, at 770. The only difference between the reports is that the House tied the exception to a product's availability ''on the open market'' in place of the Senate's qualification of the rule as ''generally.'' Id. The LMRDA Manual addresses (a)(5) as follows:

Section 205(a)(5) is designed to pick up any direct or indirect business transactions between the union officer (or his wife or minor child) and the employer whose employees the union officer's organization represents. There are two very important statutory exceptions, namely payments of bona fide wages to the union officer for regular work performed, and purchases and sales in the regular course of business at prices generally available to any employee of the employer.

LMRDA Manual, § 247.300. The LMRDA Manual continues: Where a union official ''is a regular employee on the assembly line,'' he does not need to report a 20% discount on a new automobile that is available to any regular employee, but if the official is not a regular employee he must report the purchase. Id. Under the current instructions, however, the ''regular course of business'' exception appears to apply generally, without regard to whether the individual obtaining the discount is an employee of the employer providing the discount. Instructions, Part A, exclusion (iii). The proposed instructions clarify that the only individuals who may avoid reporting employee discounts are employees of the employer.

[A5] covers only business transactions with the employer whose employees the filer's organization represents or is actively seeking to represent. Payments of money or other things of value are to be considered under section [A6], discussed below.

As discussed in section I.H.2., above, exemption (iv) (dealing with payments received as a bona fide employee) has been modified, as discussed following the definition of bona fide employee.

The proposed instructions provide the following examples to help officers and employees identify interests and transactions that must be reported under this subsection.

Example 1

You are an officer of an international union affiliated with a local union that represents employees at an automobile plant. The employer permits you to participate in an executive purchase plan under which management executives are permitted to purchase vehicles produced by the employer at a discount and at a lower interest rate. The transaction must be reported under this subsection.

Example 2

You are an employee of a union that represents employees at Acme Warehouse. At your request, Acme allows your neighbor to store his company's inventory at a rate below the customary storage rate. Your neighbor, in turn, shows his gratitude by allowing you to use his luxury box at a sporting event. You must report this arrangement.

The Department invites comments on its interpretation of this subsection and encourages commenters to propose additional examples that would help filers comply with the requirements of the Act.

Subsection 202(a)(6)

The proposed instruction states:

[A6] Payments of Money or Other Thing of Value From Any Employer or Labor Relations Consultant

You must file Form LM–30 if you or your spouse or your minor child received, directly or indirectly, any payment of money or other thing of value (including reimbursed expenses) from any employer or any labor relations consultant to an employer.

The types of payments that must be reported under this subsection include any payment from an employer or a labor relations consultant to an employer for the following purposes:

- Not to organize employees
- To influence employees in any way with respect to their rights to organize
- To take any action with respect to the status of employees or others as members of a labor organization; and
- To take any action with respect to bargaining or dealing with employers whose employees your organization represents or seeks to represent.

Special Note: If you received a payment or other thing of value, including reimbursed expenses, from an employer whose employees your union represents or actively seeks to represent, or a business that consists in substantial part of dealing with such an employer, or a business that has any dealings with your union, the payment should be reported under sections [A1]–[A5]. Section 202(a)(6) covers payments and other things of value, including reimbursed expenses, from businesses and employers that are not covered by the more specific provisions of sections 202(a)(1)–(5). Thus, for example, if a transaction concerns a payment to you from the employer whose employees your labor organization represents or actively seeks to represent, or a business that deals with such an employer or your labor organization, the payment should be reported under the appropriate subsection in section 202(a)(1)–(5).

Exception

You are not required to report:

- Payments of the kinds referred to in LMRA section 302(c), summarized below:

Discussion: Under section 202(a)(6) of the LMRDA, officers and employees of a labor organization shall file with the Secretary a signed report listing and describing for the filer's preceding fiscal year—''any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in section 186(c) of this title,'' 29 U.S.C. 186(c) (also known as section 302 of the Labor Management Relations Act, 1947).

The committee reports described subsection (a)(6) in identical language as follows:

Section [202(a)(6)] requires a union official to disclose any payment received from an employer or from any person who acts as a labor relations consultant for an employer except payments permitted by section 302 of the Labor-Management Relations Act of 1947, as amended. The purpose of this paragraph, among other things, is to reach the union official who may receive a payment from an employer not to organize [its] employees.

Senate Report, at 16, reprinted in 1 Leg. History, at 412; House Report, at 12 (virtually verbatim), reprinted in 1 Leg. History, at 770. As described by the LMRDA Manual, the subsection is designed to capture ''situations that pose conflict of interest problems which are not covered in the previous five sections of 202.'' LMRDA Manual, § 248.005. By way of example, it continues: ''A union officer must report under section 202(a)(6), if he receives any payment by way of dividends or otherwise from a firm which is competitive to one which has collective bargaining agreements with his own union.'' *Id.*

Subsection (a)(6) has been interpreted consistent with its description as a ''catch-all'' for transactions with employers not reportable under subsections (a)(1) through (a)(5). Language unique to section (a)(6) is found in the exception it provides for ''payments of the kinds referred to in

section 302(c) of the Labor Management Relations Act, 1947, as amended.'' Section 302(c) contains a number of categories with exceptions and provisos that limit their general availability.

In explaining the reference to 302(c), the Senate Report stated:

> [T]he general ban in section 302 upon employer payments to unions is not to apply to money deducted from the wages of employees pursuant to a collective bargaining agreement in the form of periodic payments to a union in lieu of membership dues, not to employer payments to trust funds for pooled vacation, holiday, severance or similar benefits, or apprentice or other employee training programs.

Senate Report, at 44 (discussing comparable language addressing an employer's reporting obligation), reprinted in Leg. History, at 440; compare House Report, at 35 (no discussion beyond noting exception of ''payments of the kinds referred to in section 302(c)''), reprinted in 1 Leg. History, at 793.

The current instructions do not attempt to characterize the categories or assist the filer in applying them to his or her completion of the Form LM–30. Instead, the current instructions simply set out the entire text of section 302(c), verbatim.

The Department's proposed instructions describe the types of payments that, as a general rule, need not be reported under section (a)(6):

- (1) Any money or other thing of value payable by an employer to
  - —(a) An employee acting openly for the employer in matters of labor relations or personnel administration, or
  - —(b) Any officer or employee of a labor organization who also is an employee or former employee of such employer, as compensation for or by reason of, his service as an employee of such employer;
- (2) Money or other thing of value payable in satisfaction of a judgment, arbitral award, settlement or release of any claim in the absence of fraud or duress;
- (3) With respect to the sale or purchase of an item at the prevailing market price in the regular course of business;
- (4) With respect to deductions in payment of labor union dues from wages by written assignment;
- (5) With respect to money or other thing of value paid to a trust fund established by the representative of an employer's employees for the sole benefit of these employees, their families and dependents for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance;
- (6) With respect to money or other thing of value paid by any employer to a trust fund established by the representative of the employer's employees for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs;
- (7) With respect to money or other thing of value paid by any employer to an individual or pooled trust fund for providing scholarships for the benefit of employees, families, and dependents, child care centers, or financial assistance for employee housing;
- (8) With respect to money or other thing of value paid by any employer to a trust for defraying the costs of legal services; or
- (9) With respect to money or other thing of value paid by any employer to a labor-management committee.

Under the proposed instructions, filers are cautioned that this exception applies *only* to the holdings and transactions reportable under section 202(a)(6).

As discussed in section I.H.2., above, the current instructions provide for two additional exemptions that will not appear in the revised instructions. Filers need not report ''bona fide loans, interest or dividends from national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions,'' and ''(i)nterest on bonds or dividends on stock, provided such interest or dividends are received, and such bonds or stock have been acquired, under circumstances and terms unrelated to the recipient's status in a labor organization and the issuer of such securities is not an enterprise in competition with the employer whose employees your labor organization represents or actively seeks to represent.'' See Instructions, Part C, exemptions (ii) and (iii). The Department invites comments on the elimination of these exemptions, and the effect of such action. The Department seeks comments on whether the exceptions being deleted are duplicated, in any part, within the section 302(c) exceptions. Further, the Department seeks comments on whether the section 302(c) exceptions exclude from reporting ordinary payments of wages or salary of a filer's spouse or minor child when the wages or salary are paid by an employer whose employees the filer's labor organization does not represent and is not actively seeking to represent. Finally, the Department seeks comment on whether section 202(a)(6) limits the reporting obligation to only payments that present an actual conflict of interest, whether such an interpretation is a permissible reading of the statute, and, if so, how the instructions could be written to implement this interpretation, without granting impermissible discretion in the filer to determine which financial matters are reportable. LMRDA Interpretative Manual, § 248.005.

The proposed instructions provide the following examples to help officers and employees identify interests and transactions that must be reported under this subsection.

Example 1

You are a union officer and an attorney. Employers whose employees your labor organization does not represent or actively seek to represent often hire your law firm. One of those employers gives you a special gift of a three-week all-expense-paid trip to France as a reward for winning a major lawsuit. You must report the trip and its value under this subsection.

Example 2

You are a union officer and you receive payments under an ERISA qualified pension plan. The payments relate to your employment for an employer whose employees your labor organization does not represent or actively seek to represent. You do not have to report these payments.

Example 3

You are an officer of a national union. Your spouse is hired as a senior executive of an employer on the understanding that your union will not seek to organize that employer. You must report all the income and benefits your spouse receives from the employer under this subsection.

Example 4

You are a local union president. An employer outside of the jurisdiction of your local offers your 20-year-old daughter a paid summer internship on the understanding that you will seek to have your members go on strike against an employer who is one of their competitors. You must report all the benefits your daughter receives as part of the internship under this subsection.

The Department invites comments on its interpretation of this subsection and encourages commenters to propose additional examples that would help filers comply with the requirements of the Act.

C. Completion of the Form

The myriad types of financial transactions made reportable by section 202 complicate the design of a ''self-explanatory'' form. The filer must rely on the instructions to accurately complete the form. We invite comments addressing the layout and clarity of the form. Would the form benefit from adding additional text and, if so, what additions are recommended? Does the form have an intuitive feel to it? Does the form request information in logical

progression? How can the form be improved?

Item 1—LM–30 Filer Number: No changes are proposed for this item.

Item 2—Period Covered: No changes are proposed for this item.

Item 3—Contact Information of Reporting Person: Requires filers to provide their email address if they have one. This entry would not have been possible in 1963 when the existing regulation was drafted. Today, an email address is an important part of a person's contact information.

Item 4—Labor Organization Identifying Information: Combines Items 4 and 5 of the existing Form LM–30. It also requires filers to report whether they held their position in the union at the end of the reporting period. As an enforcement and compliance assistance matter, it is important to know whether the filer can still be reached at the union, and whether the filer may need to file Form LM–30 the following year.

Item 5—Signed: No changes are proposed for this item.

Payer Summary Schedule: As stated above, this schedule was created to provide a single place on the first page of the report where the filer's total transactions, benefits, and interests are reported. This schedule also allows a person reviewing the report to skip directly to a payer of interest. This schedule contains information that could be derived from the existing Form LM–30 but not in one place.

Payer Detail Page

Schedule 1—Payer Identifying Information: Combines Items 6, 8, and 13 of the existing Form LM–30. It also requires reporting of the telephone number, web site address, state of incorporation or registration, and state business identification number of each payer. This additional contact information will make it easier for a person reviewing the report to identify the payer. Finally, it requires the filer to indicate whether he or she was associated with the payer at the end of the reporting period. As an enforcement and compliance assistance matter, the Department needs to know whether the filer may be required to file a report the following year. In addition, union members have an interest in knowing whether the filer has severed his or her relationship with the payer or whether the relationship still exists, as they may wish to raise the matter within the union if the relationship still exists.

Schedule 2—Filer's Interest in, Payments or Loans From, or Transactions or Arrangements with the Payer: Combines Items 7, 12, and 14 of the existing Form LM–30. The schedule requires filers to list their interests, payments, loans, transactions, or arrangements. The schedule also requires reporting of the date and recipient of each reportable interest, payment, loan, transaction, or arrangement, which may or may not have been included by filers under the existing regulation. Finally, a column was created for filers to indicate the subsection(s) that requires the disclosure of each transaction, benefit, or interest. This function was partially accomplished in the existing regulation by the division of the form into Parts A, B, and C. The Department believes that this schedule with discrete columns and rows replacing narrative boxes will alleviate confusion on the part of filers and people reviewing the reports.

Schedule 3—Payer's Dealings with Union, Trust, or Employer: Combines and simplifies information reported in Items 9, 10, and 11 of the existing Form LM–30. For instance, filers no longer need to report the full address of a trust or employer; only a file number or zip code is required.

The current instructions provide little information to the filer about how to report the value of particular holdings or transactions. To remedy this omission, the revised instructions provide a comprehensive list of ways in which the value of an interest or transaction must be reported. The filer is told that he or she must report the exact value of an interest or transaction, if known or easily obtainable by the filer; otherwise, the filer is instructed to enter a good faith estimate of the fair market value and explain the basis for the estimate in the space provided on the form. The list is adopted from the regulations addressing the disclosure requirements of federal employees. See 5 CFR 2634.105(t).

The revised instructions identify for the filer different ways by which ''fair market value'' may be determined:

- The purchase price
- Recent appraisal
- Assessed value for tax purposes, adjusted to reflect market value if the assessed value is computed at less than 100% of that market value
- The year end book value of non-publicly traded stock, the year-end exchange rate of corporate stock, or the face value of corporate bonds or comparable securities
- The net worth of a business partnership or business venture
- The equity value of an individually-owned business or any other recognized indication of value (such as the sale price on the stock exchange at the time of the report or, for transactions, the sale price on the stock exchange at the time of the sale).

Recently, a labor organization has asserted to the Department that the current Form LM–30 can require ''the public disclosure of highly confidential and proprietary commercial information about arm's length business transactions between'' companies owned by union officers and employers with whom the union has negotiated a collective bargaining agreement, and that if confidential information were subject to the reporting requirements, ''it would have a potentially devastating impact on the [labor organization].'' The public is asked to comment on whether Form LM–30 may require the disclosure of sensitive information, whether highly confidential and proprietary commercial information should be protected, and the potential harm to union members or the public, if any, from the nondisclosure of such information. See 68 FR 58386–88 (description of how union should handle confidential information when completing Form LM–2); SF 278, p. 16 (Public Financial Disclosure Report for senior government officials and employees) (excluding information to the extent that it is considered confidential as a result of a privileged relationship established by law).

Continuation Pages

Labor Organizations in Which the Reporting Person is an Officer or Employee—Continuation Page: This continuation page allows filers to report all of the unions in which they are employed. This schedule will ease the burden on filers who are employed by or are officers of multiple unions. These individuals will no longer need to file multiple reports.

Payer Summary Schedule—Continuation Page: This continuation page allows filers to report additional payers if the five lines provided on the first page are not sufficient. The existing Form LM–30 does not contain a summary schedule.

Schedule 2—Filer's Interest in, Payments or Loans From, or Transactions or Arrangements with the Payer—Continuation Page: This continuation page allows filers to report additional interests, payments, loans, transactions, or arrangements. This replaces the continuation pages for Parts A, B, and C on the existing Form LM–30.

Schedule 3—Payer's Dealings with Union, Trust, or Employer—Continuation Page: This continuation page allows filers to report additional dealings of a payer that would trigger a reporting requirement. This replaces the

continuation pages for Parts A, B, and C on the existing Form LM–30.

Additional Information Schedule: This schedule allows filers to provide additional information or explanations about other items in the form. For instance, filers who cannot assign a value to an item in Schedule 3 must enter N/A in Column E and explain the situation in this schedule. This is similar to additional information items found on other OLMS forms, but the existing Form LM–30 does not contain such an item.

Regulatory Procedures

A. Executive Order 12866

The proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this proposed rule is not an ''economically significant'' regulatory action under section 3(f)(1) of Executive Order 12866. Based on a preliminary analysis of the data, the rule is not likely to: (1) Have an annual effect on the economy of $100 million; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; or (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. As a result, the Department has concluded that a full economic impact and cost/benefit analysis is not required for the rule under Section 6(a)(3) of the Order. However, because of its importance to the public the proposed is a significant regulatory action and was reviewed by the Office of Management and Budget.

The burden imposed by the revision of the Form LM–30 is addressed in the Paperwork Reduction Act section, below. The Paperwork Reduction Act section also describes what the Department believes are the substantial benefits of this rulemaking.

Prior to issuing this proposal, the Department sought the involvement of those individuals and organizations that will be affected by the Proposed Rule, including officers and employees of labor organizations that would be subject to the rule.

B. Small Business Regulatory Enforcement Fairness Act

For similar reasons, the Department has concluded that this proposed rule is not a ''major'' rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include a Federal mandate that might result in increased expenditures by State, Local, and tribal governments, or increased expenditures by the private sector of more than $100 million in any one year.

D. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism and has determined that the rule does not have federalism implications. Because the economic effects under the rule will not be substantial for the reasons noted above and because the rule has no direct effect on States or their relationship to the Federal government, the rule does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

E. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires agencies to prepare regulatory flexibility analyses, and to develop alternatives wherever possible, in drafting regulations that will have a significant impact on a substantial number of small entities, including ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' The rule revises the reporting obligations of union officers and employees, who, as individuals, do not constitute small business entities. Accordingly, the Proposed Rule would not have a significant economic impact on a substantial number of small business entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to that effect. Therefore, under the Regulatory Flexibility Act, 5 U.S.C. 605(b), a regulatory flexibility analysis is not required.

F. Paperwork Reduction Act

Summary: This proposed rule modifies the annual financial disclosure report that section 202 of the Act requires to be filed by labor organization officers and employees who have certain holdings, receive certain payments or income, or engage in certain financial transactions or arrangements. The revised paperwork requirements are necessary to reduce the errors and deficiencies in the reports that are filed under section 202, and increase the transparency of the financial practices of union officers and employees, which the Act requires to be public information. More accurate reports and increased transparency will allow union members to view the information needed by them to monitor their union's affairs and to make informed choices about the leadership of their union and its direction. Accurate disclosure and increased transparency promotes the unions' own interests as democratic institutions and the interests of the public and the government. Financial disclosure deters fraud and self-dealing, and facilitates the discovery of such misconduct when it does occur. The revised financial disclosure form will promote increased compliance with the statute by clarifying the form and instructions, offering numerous examples to guide filers, deleting exemptions that permit filers to decline to disclose financial matters made reportable by the Act, and organizing the information in a more useful format.

Published at the end of this notice are the proposed Form LM–30 and instructions that will implement the new reporting requirements. The electronic versions of the current Form LM–30 and instructions are available for download from the Department's web site at *www.olms.dol.gov.* The proposed Form LM–30 and instructions will also be made available via the Internet. Pursuant to the Paperwork Reduction Act of 1995, the information collection requirements contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget for approval.

Background: The Form LM–30 is used by officers and employees of labor organizations, as the LMRDA defines that term. See 29 U.S.C. 402(i). The Act requires public disclosure of certain financial interests held, income received, and transactions and arrangements engaged in by labor organization officers and employees, who must file the reports, and their spouses and minor children. Subject to certain exclusions, these interests, incomes, transactions, and arrangement comprise: (1) Payments or benefits from, or holdings in, an employer whose employees the filer's union represents

or is actively seeking to represent; (2) transactions involving holdings in an employer whose employees the filer's union represents or is actively seeking to represent; (3) holdings in, income from, or transactions with a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent; (4) holdings in, income from, or transactions with a business that deals with the filer's union or a trust in which the filer's union is interested; (5) transactions or arrangements with an employer whose employees filer's union represents or is actively seeking to represent; and (6) payments from an employer or labor relations consultant. See 29 U.S.C. 432.

The Current Form: The existing Form LM–30 consists of four sections. The first section calls for identifying data. This section gathers information about the filer, including the filer's name and address, the name and address of the labor organization in which the filer is an officer or employee, the filer's position with the organization, and the fiscal year covered by the report.

The second section, Part A of the current form, generally requires reporting of holdings in, transactions and arrangements with, and income and loans from the employer whose employees the filer's labor organization represents or actively seeks to represent. For each holding, transaction, arrangement, income, or loan, the filer is required to disclose its nature, value, and date of receipt.

Part A of the current form excludes certain financial matters from reporting. The instructions advise the potential filer that he or she should not report (i) holdings of, transactions in, or income from bona fide investments in registered securities; (ii) holdings of, transactions in, or income from other securities if they are of ''insubstantial value or amount'' (defined as holdings or transactions of $1,000 or less and income of $100 or less from any one security) and occur under terms unrelated to the filer's status in the labor organization; (iii) transactions involving purchases and sales of goods and services in the regular course of business at prices generally available to any employee of the employer; and (iv) ''payments and benefits received as a bona fide employee of the employer for past or present services, including wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan; and payments for periods in which such employee engaged in activities other than productive work, if the payments for such period of time are: (a) Required by law or a bona fide collective bargaining agreement, or (b) made pursuant to a custom or practice under such a collective bargaining agreement, or (c) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization.''

The third section of the current form, Part B, generally requires reporting of ''an interest in or derived income or other economic benefit with monetary value, including reimbursed expenses, from a business (1) a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with the business of an employer whose employees your labor organization represents or is actively seeking to represent, or (2) any part of which consists of buying from or selling or leasing directly or indirectly to, or otherwise dealing with your labor organization or a trust in which your labor organization is interested.'' The filer must identify the name and address of the business involved, describe the type of organization the business deals with (employer, labor organization, trust), enter the nature of the dealings between these two parties and the value of these dealings, enter the interest held or income received by the filer, and the dollar amount of such income or interest.

Part B of the current form also excludes certain financial matters from reporting. Filers are instructed that they are not required to report any of the interests, transactions, or income identified in exclusions (i) and (ii) of Part A. As discussed, these non-reportable financial matters are (i) holdings in, transaction in, and income from bona fide investments in registered securities and (ii) insubstantial holdings in, transactions in, and income from other securities occurring under terms unrelated to the filer's status in the labor organization.

The fourth section of the current form, Part C, generally requires reporting of any payment of money or other thing of value received from any employer (other than an employer whose employees the filer's union represents or is actively seeking to represent) or from any labor relations consultant to an employer. For each interest or transaction to be reported under Part C, filers must identify the name of the employer or labor relations consultant and the nature and amount of the payment.

Part C of the current form also excludes certain financial matters from reporting. The instructions identify the following as items that are not required to be reported: (i) Payments of the kind referred to in section 302(c) of the Labor Management Relations Act (LMRA); (ii) bona fide loans, interest or dividends from banks, other bona fide credit institutions, and insurance companies; and (iii) interest on bonds or dividends on stock, provided such interest or dividends are received, and such bonds or stock have been acquired, under circumstances and terms unrelated to the recipient's status in a labor organization and the issuer of such securities is not an enterprise in competition with the employer whose employees the filer's labor organization represents or actively seeks to represent.

In the ''General Instructions'' filers are informed: ''You do not have to report any sporadic or occasional gifts, gratuities, or loans of insubstantial value, given under circumstances or terms unrelated to the recipient's status in a labor organization.'' This exclusion applies to financial matters reportable under Part A, B or C.

In the instructions to the current Form LM–30, the information collection burden is reported to average 35 minutes per response.

Overview of Changes to Form LM–30: The proposed Form LM–30 and instructions will define terms used in the form, provide examples to assist the filer in identifying reportable financial events, and will remove certain exclusions that permitted filers to avoid reporting certain financial matters.

The revised instructions define: *Actively seeking to represent, arrangement, benefit with monetary value, bona fide employee, bona fide investment, dealing, directly or indirectly, filer/reporting person/you, income, labor organization, labor organization employee, labor organization officer, legal or equitable interest, minor child, payer, publicly traded securities, substantial part*, and *trust in which a labor organization is interested.* These definitions clarify that certain holdings, payments, income, transactions or arrangements are reportable, and that others are non-reportable.

The definition of the term ''labor organization'' will clarify that when determining whether an employer is one ''whose employees the filer's labor organization represents or actively seeks to represent,'' or whether a business is ''dealing with [the filer's] labor organization,'' the term ''labor organization'' will not be limited to the particular local, intermediate, national or international labor organization that the filer serves as an officer or

employee, but rather will also include any parent or subordinate body of the filer's labor organization.

Similarly, in defining ''bona fide employee,'' the revised Form LM–30 would require the reporting of payments received by union officers from an employer for work performed for the union. A typical example involves a ''no docking'' arrangement where an employer allows a union steward or other officer to resolve grievances, often on an occasional ''as-needed'' basis, without a loss of pay. In other instances, a union official is paid by an employer while working full time on union business. In a related area, the definition of ''labor organization employee'' clarifies that individuals who perform work for, and under the control of, the union must file a Form LM–30. Individuals who receive payments from an employer, either under a ''union leave'' or ''no docking'' policy, for work performed for, and under the control of, the union, will come under this definition, as may some workers previously denominated ''independent contractors.''

The definition of the term ''minor child'' would require union officers to report financial matters involving a child until the child reaches 21 years of age. The definition of the term ''substantial part'' would require reports of income from a business where a business's receipts from an employer whose employees the filer's labor organization represents or is actively seeking to represent constitute 5% or more of its annual receipts. The definition of ''minor child,'' and the two other definitions discussed above, will likely increase the holdings, payments, income, transactions or arrangements that are reported.

The proposed instructions also eliminate some exemptions in the current form. These exemptions operate to make nondiscloseable financial matters that the statute requires to be reported. The elimination of these exemptions will thus tend to increase the holdings, payments, income, transactions or arrangements that will be reported.

Part A of the current instructions exempts from reporting:

(iii) Transactions involving purchases and sales of goods and services in the regular course of business at prices generally available to any employee of the employer.

(iv) Payments and benefits received as a bona fide employee of the employer for past or present services, including wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan; and payments for periods in which such employee engaged in activities other than productive work, if the payments for such period of time are: (a) Required by law or a bona fide collective bargaining agreement, or (b) made pursuant to a custom or practice under such a collective bargaining agreement, or (c) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization.

The Department proposes to limit the scope of exemption (iii) Exemption (iii) is a statutory exemption that applies by its terms to financial matters reportable under section 202(a)(5), not to section 202(a)(1) or 202(a)(2). See 29 U.S.C. 432(a)(1), (2), (5). The Department's proposal adheres to the statutory design and thus ends the exemption for reports due under section 202(a)(1) and 202(a)(2), but continues it for reports due under section 202(a)(5). Similarly, the first part of exemption (iv) (up to the semicolon) is created by statute. It applies to reports due under section 202(a)(1) and 202(a)(5). See 29 U.S.C. 432(a)(1), (5). The Department proposes to eliminate this exemption for reports due under section 202(a)(2). Further, the portion of the exemption that excludes payments for periods in which such employee engaged in activities other than productive work will also be removed.

Part C of the current instructions contains the following exemptions:

(ii) Bona fide loans, interest or dividends from national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions.

(iii) Interest on bonds or dividends on stock, provided such interest or dividends are received, and such bonds or stock have been acquired, under circumstances and terms unrelated to the recipient's status in a labor organization and the issuer of such securities is not an enterprise in competition with the employer whose employees your labor organization represents or actively seeks to represent.

The Department proposes to eliminate these two exemptions.

Hour and Cost Burden Estimates for the Revised Form: The following table describes the information sought by both the existing form and instructions and the proposed form and instructions, where on each form the particular information is sought, if applicable, and the amount of time estimated for completion of each item of information. The time estimates include the additional time burdens associated with the Department's proposed eliminated and curtailed administrative exemptions, and the proposed definitions.

Burden description	Current form	Proposed form	Time
Maintaining and gathering records	N/A	N/A	10 minutes.
Reading the instructions to determine whether filer must complete the form.	N/A	N/A	15 minutes.
Additional reading of the instructions to determine how to complete the form.	N/A	N/A	30 minutes.
Reporting LM–30 file number	Item 1	Item 1	30 seconds.
Reporting covered fiscal year	Item 2	Item 2	30 seconds.
Reporting filer's name, address, and contact information.	Item 3	Item 3, A through I In addition to the information sought on the existing form, the proposed form seeks filer's e-mail address and full middle name.	2 minutes.
Reporting name, file number, and address of filer's union or unions.	Item 4	Item 4, A through E Proposed form provides continuation page in which to report this information for an additional union.	2 minutes.

Burden description	Current form	Proposed form	Time
Reporting position in union	Item 5	Item 4, F through H In addition to the information sought on the existing form, the proposed form asks whether filer is an officer or employee and whether filer is with the union at end of reporting period. In addition, the proposed form provides continuation page in which to report this information for an additional union.	1 minute.
Reporting name, trade name, and address of (1) an employer whose employees the union represents or is actively seeking to represent, (2) a business that deals with such an employer, or the union, or a trust in which the union is interested, or (3) any employer or labor relations consultant.	Item 6 or Item 8 or Item 13	Schedule 1 In addition to the information sought on the existing form, the proposed form asks for a contact name, telephone number, web site address, state of incorporation or registration, state business ID number, and whether filer has an association with the business, employer, or labor relations consultant (called a payer on the proposed form) at the end of reporting period.	5 minutes.
Reporting the employer, union, or trust that the business deals with.	Item 9a (referring back to Item 4) or Item 9b/9c and Item 10.	Schedule 2, Items A and B The proposed form requires less information than the existing form by requiring only name and file number or zip code rather than complete address information for employers and trusts.	1 minute.
Reporting the nature of the dealings between the employer, union, or trust and the business.	Item 11a	Schedule 2, Item C	3 minutes.
Reporting the value of the dealings between the employer, union, or trust and the business.	Item 11b	Schedule 2, Item D In addition to the information sought on the existing form, the proposed form requires a total of the values.	3 minutes.
Reporting the nature of the interest held by the filer, the payment, income, or loan received by the filer, or the transactions and arrangements engaged by the filer.	Item 7a or Item 12a or Item 14a	Schedule 3, Items A through D In addition to the information sought on the existing form, the proposed form calls for the relevant reporting section, date of the financial matter, and whether person involved in the financial transaction was the officer, employee, spouse, or minor child.	4 minutes.
Reporting the value of the interest held by the filer, the payment, income or loan received by the filer, or the transactions and arrangements engaged by the filer.	Item 7b or Item 12b or Item 14b	Schedule 3, Item E In addition to the information sought on the existing form, the proposed form requires a total of the values.	2 minutes
Signature, date and telephone number	Item 15	Item 5	1 minute.
Completing payer summary schedule	N/A	Beyond the information sought on the existing form, the proposed form requires listing each payer, which of four classifications describes the payer (employer, business, etc.), the total value from Schedule 3, Item E, and the total of the values for all payers.	5 minutes.
Checking responses	N/A	N/A	5 minutes.
Total Burden Hour Estimate Per Filer			90 minutes.

The recordkeeping estimate of ten minutes reflects that the majority of financial books and records required to complete the report are those that respondents would maintain in the normal course of conducting business, personal, and union affairs, and thus should only take two minutes to maintain and gather. The other eight minutes has been estimated to be necessary to maintain and gather the books and records that would not ordinarily be maintained, including those concerning the dealings between a business and the filer's union, a trust in which the filer's union is interested, or an employee whose employees the union represents or is actively seeking to represent.

These figures also assume that the use of an electronic form, which is more efficient than completion of a form by hand, will reduce the burden. In addition, burden is decreased by the proposed revised Form LM–30's elimination of multiple form filings from the same filer for the same fiscal year resulting from the current form's inadequate provision for those filers who are officers and/or employees of more than one relevant labor organization.

The Department estimates that the clarification of the Form LM–30, the defined terms, the addition of examples that illustrate reportable and nonreportable transactions, and the removal of the administrative exemptions will increase the number of

individuals who file the Form LM–30. Using the best data available, the Department estimates that there are 204,634 union officers and employees. Further, based on the submittal of approximately 61 reports annually, the Department estimates a current filing rate of 0.03% (61 / 204,634 × 100 = 0.03%). Due to the reform proposed herein, as well as increased compliance assistance and enforcement initiatives, the Department estimates that the filing rate will increase to approximately 1%, or 2,046 reports filed annually. Thus, the annual reporting and recordkeeping hour burden for all filers will be 184,140 minutes (90 × 2,046 = 184,140) or 3,069 hours (184,140 / 60 = 3,069). The Department believes this estimate is consistent with the opinion of some stakeholders that relatively few union officers and employees would be engaged in covered transactions. The Department's own research also revealed little concrete evidence of the number of union officers and employees that would have to file. The Department acknowledges the considerable uncertainty in this estimate and requests comment on the number of reports that should be filed under the current requirements and that may be filed as a result of the new requirements.

Using FY 2003 data taken from annual financial reports filed by labor organizations, the Department estimates that the average annual salary earned by union officers and employees is $17,596. This data does not, however, permit the derivation of an hourly wage, as the number of part-time officers and employees is unknown, and employees who receive in the aggregate $10,000 or less are not reported. Assuming the $21.85 mean hourly earnings of those engaged in white collar occupations (based on National Compensation Survey: Occupational Wages in the United States, July 2003, Bureau of Labor Statistics, U.S. Department of Labor, August 2004), the Department estimates that the annual reporting and recordkeeping cost burden for all filers will be $ 67,058 (3,069 × 21.85), or $32.78 per filer (67,058 / 2,046).

In addition, the Department estimates that all union officers and employees will spend 15 minutes reading the revised form and instructions to determine whether they are required to file a report. By deducting the 2,046 estimated filers whose preliminary review of the form has already been counted from the estimated 204,634 union officers and employees, 202,588 officers and employees remain who will review the form but determine that they are not required to file a report. The annual reporting and recordkeeping hour burden for these officers and employees will be 3,038,820 minutes (15 × 202,588 = 3,038,820) or 50,647 hours (3,038,820 / 60 = 50,647). Using the $21.85 hourly wage, the Department estimates that the annual reporting and recordkeeping cost burden for non-filing union officers and employees will be $1,106,637 (50,647 × 21.85 = 1,106,637), or $5.46 per non-filing union officer or employee (1,106,637 / 202,588 = $5.46).

The resulting total annual reporting and recordkeeping hour burden will be 53,716 (50,647 + 3,069 = 53,716). The total annual reporting and recordkeeping cost burden will be $1,173,695 (53,716 × 21.85 = 1,173,695).

G. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, the Department has evaluated the environmental safety and health effects of the rule on children. The Department has determined that the final rule will have no effect on children.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The Department has reviewed this rule in accordance with Executive Order 13175, and has determined that it does not have ''tribal implications.'' The rule does not ''have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

I. Executive Order 12630 (Governmental Actions and Interference With Constitutionally Protected Property Rights)

This rule is not subject to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, because it does not involve implementation of a policy with takings implications.

J. Executive Order 12988 (Civil Justice Reform)

This regulation has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The regulation has been written so as to minimize litigation and provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

K. Environmental Impact Assessment

The Department has reviewed the final rule in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 U.S.C. part 1500), and the Department's NEPA procedures (29 CFR part 11). The final rule will not have a significant impact on the quality of the human environment, and, thus, the Department has not conducted an environmental assessment or an environmental impact statement.

L. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

This rule is not subject to Executive Order 13211, because it will not have a significant adverse effect on the supply, distribution, or use of energy.

Text of Proposed Rule

In consideration of the foregoing, the Office of Labor-Management Standards, Employment Standards Administration, Department of Labor hereby proposes to amend part 404 of title 29 of the Code of Federal Regulations as set forth below.

PART 404—LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS

1. The authority citation for part 404 is revised to read as follows:

Authority: Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 4–2001, 66 FR 29656 (May 31, 2001).

§ 404.1 [Amended]

2. Section 404.1 is amended by:

a. Redesignating existing paragraph (b) as new paragraph (h) and adding a new sentence at the end;

b. Add a new paragraph (b);

c. Redesignating existing paragraph (c) as new paragraph (g) and by adding new text at the end;

d. Redesignating existing paragraph (d) as new paragraph (c);

e. Redesignating existing paragraph (a) as new paragraph (d);

f. Adding a new paragraph (a);

g. Adding paragraphs (e), (f), (i) and (j).

The additions and revision read as follows:

§ 404.1 Definitions.

(a) *Benefit with monetary value* means anything of value, tangible or intangible, including any interest in personal or real property, gift, insurance, retirement,

pension, license, copyright, forbearance, bequest or other form of inheritance, office, options, agreement for employment or property, or property of any kind.

(b) *Dealing* means to engage in a transaction (bargain, sell, purchase, agree, contract) or to in any way traffic or trade with another individual or entity.

* * * * *

(e) *Income* means all income from whatever source derived, including, but not limited to, compensation for services, fees, commissions, wages, salaries, interest, rents, royalties, copyrights, licenses, dividends, annuities, honorarium, income and interest from insurance and endowment contracts, capital gains, discharge of indebtedness, share of partnership income, bequests or other forms of inheritance, and gifts, prizes or awards.

(f) *Labor organization* means a labor organization under 29 CFR 401.9 and includes the local, intermediate, or national or international labor organization that employed the filer of the Form LM–30, or in which the filer held office, during the reporting period, and any parent or subordinate labor organization.

(g) * * * within the meaning of any law of the United States relating to the employment of employees.

(h) * * * An officer is (1) a person identified as an officer by the constitution and bylaws of the labor organization;

(2) Any person authorized to perform the functions of president, vice president, secretary, or treasurer;

(3) Any person who in fact has executive or policy-making authority or responsibility; and

(4) A member of a group identified as an executive board or a body which is vested with functions normally performed by an executive board.

(i) *Minor child* means a son, daughter, stepson, or stepdaughter under 21 years of age.

(j) *Trust in which a labor organization is interested* means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

§ 404.4 [Removed and reserved]

3. Section 404.4 is removed and reserved.

§ 404.7 [Amended]

4. Section 404.7 is revised to read as follows:

§ 404.7 Maintenance and retention of records.

Every person required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management Standards may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, financial and investment statements, contracts, correspondence, and applicable resolutions, in electronic and paper format, and any electronic programs by which they are maintained, available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

Signed at Washington, DC this 19th day of August, 2005.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

BILLING CODE 4510–CP–P

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF LABOR-MANAGEMENT STANDARDS
WASHINGTON DC 20210

FORM LM-30 LABOR ORGANIZATION OFFICER AND EMPLOYEE ANNUAL REPORT

FORM APPROVED
OFFICE OF MANAGEMENT AND
BUDGET No. XXXX-XXXX
EXPIRES: XX-XX-XXXX

This report is mandated under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or440.

For Official Use Only

E

PLEASE READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THE REPORT.

1. LM-30 FILE NUMBER: ☐☐☐ — ☐☐☐

2. PERIOD COVERED:

	MONTH	DAY	YEAR
FROM	☐☐ /	☐☐ /	☐☐☐☐
THROUGH	☐☐ /	☐☐ /	☐☐☐☐

3. CONTACT INFORMATION OF REPORTING PERSON:

A. FIRST NAME	B. MIDDLE NAME	C. LAST NAME
D. MAILING ADDRESS (LINE 1)		
E. MAILING ADDRESS (LINE 2)		
F. CITY	G. STATE OR COUNTRY	H. ZIP CODE
I. E-MAIL ADDRESS		

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME
B. MAILING ADDRESS (LINE 1)
C. MAILING ADDRESS (LINE 2)
D. CITY, STATE, ZIP
E. FILE NUMBER
F. OFFICER ☐ EMPLOYEE ☐
G. REPORTING PERSON'S OFFICIAL/PROFESSIONAL TITLE
H. WITH UNION AT END OF REPORTING PERIOD? YES ☐

PAYER SUMMARY SCHEDULE

A. NAME	B. VALUE
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2.	
3.	
4.	
5.	
TOTAL FROM CONTINUATION PAGES (IF ANY)	
TOTAL FROM ALL PAYERS	

THE UNDERSIGNED DECLARES, UNDER PENALTY OF PERJURY AND OTHER APPLICABLE PENALTIES OF LAW, THAT ALL OF THE INFORMATION SUBMITTED IN THIS REPORT (INCLUDING THE INFORMATION CONTAINED IN ANY ACCOMPANYING DOCUMENTS) HAS BEEN EXAMINED BY THE SIGNATORY AND IS, TO THE BEST OF THE UNDERSIGNED'S KNOWLEDGE AND BELIEF, TRUE, CORRECT AND COMPLETE.

5. SIGNED:_____ ON ____/____/____ DATE (____) _____ TELEPHONE

PAYER DETAIL PAGE

LM-30 FILE NUMBER: ☐☐☐ — ☐☐☐

PAYER: _____

TOTAL NUMBER OF PAYERS: _____

SCHEDULE 1 - PAYER IDENTIFYING INFORMATION

A. LEGAL NAME OF PAYER			I. TELEPHONE NUMBER
B. CONTACT FIRST NAME	C. CONTACT MIDDLE NAME	D. CONTACT LAST NAME	J. WEB SITE ADDRESS
E. MAILING ADDRESS			K. STATE OF INCORPORATION/REGISTRATION
F. CITY	G. STATE	H. ZIP CODE	L. STATE BUSINESS ID#
M. DID YOU HAVE AN ASSOCIATION WITH THE PAYER AT THE END OF THE REPORTING PERIOD?			YES: ☐ NO: ☐

SCHEDULE 2 - FILER'S INTEREST IN, PAYMENTS OR LOANS FROM, OR TRANSACTIONS OR ARRANGEMENT WITH THE PAY

A. DATE	B. O/E/S/C	C. SUBSECTION(S)	D. DESCRIPTION OF INTEREST, PAYMENT, LOAN, TRANSACTION, OR ARRANGEMENT	E. VALUE
			TOTAL FROM CONTINUATION PAGES (IF ANY)	
			TOTAL VALUATION OF PAYMENTS, LOANS AND INTERESTS	

SCHEDULE 3 - PAYER'S DEALINGS WITH UNION(S), TRUST(S), OR EMPLOYER(S)

A. NAME OF UNION, TRUST, OR EMPLOYER	B. U/T/E	C. FILE NUMBER	D. DESCRIPTION OF DEALINGS	E. VALUE
			TOTAL FROM CONTINUATION PAGES (IF ANY)	
			TOTAL VALUE OF DEALINGS	

FORM LM-30 (REVISED 2005)

LABOR ORGANIZATIONS IN WHICH THE REPORTING PERSON IS AN OFFICER OR EMPLOYEE - CONTINUATION PAGE

LM-30 FILE NUMBER ☐☐☐ — ☐☐☐

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME
B. MAILING ADDRESS (LINE 1)
C. MAILING ADDRESS (LINE 2)
D. CITY, STATE, ZIP
E. OFFICER OR EMPLOYEE?
F. OFFICIAL TITLE OF REPORTING PERSON
G. FILE NUMBER
H. WITH UNION AT END OF REPORTING PERIOD? YES ☐ No ☐

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME
B. MAILING ADDRESS (LINE 1)
C. MAILING ADDRESS (LINE 2)
D. CITY, STATE, ZIP
E. OFFICER OR EMPLOYEE?
F. OFFICIAL TITLE OF REPORTING PERSON
G. FILE NUMBER
H. WITH UNION AT END OF REPORTING PERIOD? YES ☐ No ☐

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME
B. MAILING ADDRESS (LINE 1)
C. MAILING ADDRESS (LINE 2)
D. CITY, STATE, ZIP
E. OFFICER OR EMPLOYEE?
F. OFFICIAL TITLE OF REPORTING PERSON
G. FILE NUMBER
H. WITH UNION AT END OF REPORTING PERIOD? YES ☐ No ☐

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME
B. MAILING ADDRESS (LINE 1)
C. MAILING ADDRESS (LINE 2)
D. CITY, STATE, ZIP
E. OFFICER OR EMPLOYEE?
F. OFFICIAL TITLE OF REPORTING PERSON
G. FILE NUMBER
H. WITH UNION AT END OF REPORTING PERIOD? YES ☐ No ☐

PAYER SUMMARY SCHEDULE - CONTINUATION PAGE

LM-30 FILE NUMBER ☐☐☐ — ☐☐☐

A. PAYER NAME	C. VALUE
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CONTINUATION PAGE

FORM LM-30 (REVISED 2005)

SCHEDULE 2 - FILER'S INTEREST IN, PAYMENTS OR LOANS FROM, OR TRANSACTIONS OR ARRANGEMENT WITH THE PAYER - CONTINUATION PAGE

LM-30 FILE NUMBER ☐☐☐ — ☐☐☐

PAYER NUMBER: _____

A. DATE	B. O/E/S/C	C. UBSECTION(	D. DESCRIPTION OF REPORTABLE INTEREST	E. VALUE

SCHEDULE 3 - PAYER'S DEALINGS WITH UNION(S), TRUST(S), OR EMPLOYER(S) - CONTINUATION PAGE

LM-30 FILE NUMBER ☐☐☐ — ☐☐☐

PAYER NUMBER: _____

A. NAME OF UNION, TRUST, OR EMPLOYER	B. U/T/E	C. FILE NUMBER	D. DESCRIPTION OF DEALINGS	E. VALUE

ADDITIONAL INFORMATION SCHEDULE

LM-30 FILE NUMBER: ☐☐☐ — ☐☐☐

A. SCHEDULE/ITEM	B. ADDITIONAL INFORMATION

FORM LM-30 (REVISED 2005)

CONTINUATION PAGE

Public reporting burden for this collection of information is estimated to average 90 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. Reporting of this information is mandatory and is required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), for the purpose of public disclosure. As this is public information, there are no assurances of confidentiality. If you have any comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, please send them to the U.S. Department of Labor, Employment Standards Administration, Office of Labor-Management Standards, Division of Interpretations and Standards, Room N-5605, 200 Constitution Avenue, NW, Washington, DC 20210.

INSTRUCTIONS FOR

FORM LM-30 LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORT

GENERAL INSTRUCTIONS

I. WHY FILE

The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA or Act), requires public disclosure of certain financial transactions and financial interests of labor organization officers and employees and their spouses and minor children. *See* 29 C.F.R. 404.1-404.9 (reports by officers and employees of labor organizations). The purpose of disclosure is to publicly identify an actual or potential conflict between the personal financial interests of a union officer or employee (sometimes referred to as a *filer* in these instructions) and his or her obligations to the union and its members. *Labor organization, labor organization officer, labor organization employee,* and other important terms are defined below.

The LMRDA includes a comprehensive statement of the basic rights of union members, including equal voting rights, freedom of speech and assembly, and other basic safeguards for union democracy, among other protections; establishes financial reporting and disclosure requirements for unions, union officers and employees, employers, and labor relations consultants; regulates union trusteeships; details procedural requirements for the conduct of union elections; and establishes a fiduciary duty on union officers, employees, and other representatives.

Pursuant to Section 202 of the LMRDA, and subject to certain exceptions, every labor organization officer or employee (other than an employee performing exclusively clerical or custodial services), who has, directly or indirectly, held any legal or equitable interest in, received any payments from, or engaged in any transactions or arrangements (including loans) with certain businesses or employers or labor relations consultants during the fiscal year must file a detailed report with the Secretary of Labor (Secretary). *See* Part II of these instructions for a detailed discussion of the types of financial matters that must be reported. No report need be filed unless the filer, or filer's spouse or minor child, held a covered interest, received a covered payment, or engaged in a covered transaction or arrangement during the reporting period.

The Department's Office of Labor-Management Standards (OLMS) has developed a comprehensive program to assist officers, employees, and members of labor organizations with LMRDA compliance, including the completion of the Form LM-30. Much of the information is available on the OLMS web site: www.olms.dol.gov. For additional contact information, *see* the final page of these instructions.

The Secretary, under the authority of the LMRDA, has prescribed the filing of the Labor Organization Officer and Employee Report, Form LM-30, for officers and employees of labor organizations to satisfy their reporting obligation. The reporting requirements of the LMRDA and of the regulations and forms issued under the Act relate only to the disclosure of specified transactions and interests. The reporting requirements do not address whether such transactions and interests are lawful or unlawful. The fact that a particular transaction or interest is or is not required to be reported is not indicative of whether it is or is not subject to any legal prohibition; this must be determined by provisions of law other than those prescribing the reports. Failure to report a covered interest or transaction may subject the filer to civil or criminal penalties, or both. *See* Part VI of these instructions.

II. WHO MUST FILE AND WHAT MUST BE REPORTED

You must file Form LM-30 if at any time during your past fiscal year:

(1) You were an officer or employee of a labor organization (other than an employee performing exclusively clerical or custodial services) as defined by the LMRDA, and
(2) You or your spouse or your minor child, directly or indirectly, held any legal or equitable interest, received any payments, or engaged in any transactions or arrangements (including loans) of the types described in the six subsections of Section 202 of the LMRDA.

As discussed in detail below, and subject to certain exceptions, reportable interests, payments, transactions and arrangements include:

(1) Payments or benefits from, or interests in, an employer whose employees your union represents or is actively seeking to represent
(2) Transactions involving interests in, or loans to or from, an employer whose employees your union represents or is actively seeking to represent
(3) Interests in, income from, or transactions with a business a substantial part of which consists of dealing with an employer whose employees your union represents or is actively seeking to represent
(4) Interests in, income from, or transactions with, a business a substantial part of which consists of dealing with your union or a trust in which your union is interested
(5) Transactions or arrangements with an employer whose employees your union represents or is actively seeking to represent
(6) Payments of money or other thing of value from any employer or labor relations consultant to an employer.

Interests held by, payments received by, and transactions and arrangements involving a minor child must be reported until the child turns 21. If the child reaches the age of 21 during the fiscal year, disclosable matters must be reported for that portion of the fiscal year before the child's 21st birthday. If you are divorced from your spouse during the fiscal year, disclosable interests and transactions must be reported for that portion of the fiscal year prior to the divorce.

In order to complete the form, you must report your own covered holdings and transactions and make reasonable efforts to report the covered holdings and transactions of your spouse and minor child and must consult them or their financial adviser before completing the form.

You do not have to report any sporadic or occasional gifts, gratuities, or loans of less than $25 in value, given under circumstances or terms unrelated to the recipient's status in a labor organization.

DEFINITIONS

For the limited purposes of completing Form LM-30, the following definitions apply:

Actively seeking to represent means that a labor organization has taken steps to become the bargaining representative of the employees of an employer, including but not limited to:

- Sending organizers to an employer's facility;
- Placing an individual in a position as an employee of an employer that is the subject of an organizing drive and paying that individual subsidies to assist in the union's organizing activities;
- Circulating a petition for representation among employees;
- Soliciting employees to sign membership cards;
- Handing out leaflets;
- Picketing; or
- Demanding recognition or bargaining rights or obtaining or requesting an employer to enter into a neutrality agreement (whereby the employer agrees not to take a position for or against union representation of it employees), or otherwise committing personnel or financial resources to seek representation of employees working for the employer.

Arrangement means any agreement or understanding, tacit or express, or any plan or undertaking, commercial or personal, by which the filer, spouse, or minor child will obtain a benefit, directly or indirectly, with an actual or potential monetary value.

Note on the definition: The term "arrangement" encompasses both personal and business transactions, including an unwritten understanding. For example, if an employer's representative during the reporting period solicits a union officer to accept a job with the employer, the filer must report the solicitation, unless the filer rejects the offer. A standing job offer must be reported because it carries the potential of monetary value to the filer. Another example of a situation requiring a report would be one in which a covered employer provides insider information about a stock or other investment opportunity, unless the filer rejects the advice and takes no steps to act on it.

Benefit with monetary value means anything of value, tangible or intangible, including any interest in personal or real property, gift, insurance, retirement, pension, license, copyright, forbearance, bequest or other form of inheritance, office, options, agreement for employment or property, or property of any kind. *See income.*

Bona fide employee is an individual who performs work for, and subject to the control of, the employer.

Note on the definition: A payment received as a bona fide employee includes wages and employment benefits received for work performed for, and subject to the control of, the employer, as well as compensation for work previously performed, such as earned or accrued wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan, leave for jury duty, and all payments required by law. Compensation received under a "union-leave," or "no-docking" policy is not received as a bona fide employee. Under a union-leave policy, the employer continues the pay and benefits of an individual who works full time for a union. Under a no-docking policy, the employer permits individuals

to devote portions of their day or workweek to union business, such as processing grievances, with no loss of pay. Union-leave and no-docking payments are not received as a bona fide employee of the employer; they are received as a representative or employee of the union and thus, such payments must be reported.

Bona fide investment means personal assets of an individual held to generate profit not acquired by improper means or as a gift from an employer, a business that deals with the filer's union or a trust in which the filer's union is interested, a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent, or a labor relations consultant to an employer. *See publicly traded securities.*

Dealing means to engage in a transaction (bargain, sell, purchase, agree, contract) or to in any way traffic or trade.

Directly or indirectly means by any course, avenue, or method. *Directly* encompasses holdings and transactions in which the filer, spouse, or minor child receives a payment or other benefit without the intervention or involvement of another party. *Indirectly* includes any payment or benefit which is intended for the filer, spouse, or minor child or on whose behalf a transaction or arrangement is undertaken, even though the interest is held by a third party, or was received through a third party.

Note on the definition: Filers must disclose any benefits received by them (or their spouse or minor child) from a third party where the third party is acting on the behalf, or at the behest, of an employer or business where the benefit would have to be reported if made by it directly to the filer (or their spouse or minor child).

Filer/Reporting Person/You means any officer or employee of a labor organization who is required to file Form LM-30.

Note on the definition: These terms are used synonymously and interchangeably throughout the instructions and when referring to reportable interests, income, arrangements or transactions these terms include interests, income, arrangements or transactions involving the union officer's or employee's spouse or minor child.

Income means all income from whatever source derived, including, but not limited to, compensation for services, fees, commissions, wages, salaries, interest, rents, royalties, copyrights, licenses, dividends, annuities, honoraria, income and interest from insurance and endowment contracts, capital gains, discharge of indebtedness, share of partnership income, bequests or other forms of inheritance, prizes, or awards. *See benefit with monetary value.*

Labor organization means the local, intermediate, or national or international labor organization that employed the filer, or in which the filer held office during the reporting period, and any parent or subordinate labor organization of the filer's labor organization.

Labor organization employee means any individual (other than an individual performing exclusively custodial or clerical services) employed by a labor organization within the meaning of any law of the United States relating to the employment of employees.

Note on the definition: An individual who is paid by the employer to perform union work, either under a "union leave" or "no docking" policy, is an employee of the union for reporting purposes if the individual performs services for, and under the control of, the union. *See* discussion above, under the definition of *bona fide employee.* A hired individual is an employee of the union if the union has the right to control the manner and means by which the work product is accomplished. Among the other factors relevant to this inquiry are the skill required to perform the job; the source of the instrumentalities and tools; the location of the work; the duration of the relationship between the union and the individual; whether the union has the right to assign additional projects to the individual; the extent of the individual's discretion over when and how long to work; the method of payment; the individual's role in hiring and paying assistants; whether the work is part of the individual's regular business; the provision of employee benefits; and the tax treatment of the individual.

Labor organization officer means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body. An officer is 1) a person identified as an officer by the constitution and bylaws of the labor organization; 2) any person authorized to perform the functions of president, vice president, secretary, or treasurer; 3) any person who in fact has executive or policy-making authority or responsibility; and 4) a member of a group identified as an executive board or a body which is vested with functions normally performed by an executive board.

Note on the definition: Under this definition, an officer thus includes a trustee appointed to oversee the union. A steward may not be identified in the union constitution as an officer, but may perform executive duties, and thus be an officer.

Legal or equitable interest means any property or benefit, tangible or intangible, that has an actual or potential

monetary value for the filer, spouse, or minor child without regard to whether the filer, spouse, or minor child holds possession or title to the interest. *See* definition of *income* and *benefit with monetary value*.

Minor child means a son, daughter, stepson, or stepdaughter less than 21 years of age.

Payer means:

1) An employer whose employees the filer's labor organization represents or is actively seeking to represent;

2) A business a substantial part of which consists of dealing with an employer whose employees the filer's labor organization represents or is actively seeking to represent;

3) A business that deals with the filer's labor organization or a trust in which the labor organization is interested; or

4) Any employer or any person who acts as a labor relations consultant to an employer.

Publicly traded securities means bona fide investments in 1) securities traded on a registered national securities exchange under the Securities Exchange Act of 1934, 2) in shares in an investment company registered under the Investment Company Act of 1940, or 3) in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, and income derived from such securities. The American Stock Exchange, Boston Stock Exchange, Chicago Board Options Exchange, Chicago Stock Exchange, International Securities Exchange, National Stock Exchange (formerly the Cincinnati Stock Exchange), New York Stock Exchange, Pacific Exchange, and Philadelphia Stock Exchange are registered with the Securities and Exchange Commission (SEC) under the Securities Exchange Act of 1934. The NASDAQ stock market is not a registered national securities exchange. As registration status may change, the filer should seek current information.

Note on the definition: Public investment companies comprise certain mutual funds, closed end funds, and unit investment trusts. Interstate public utility holding companies are engaged, through subsidiaries, in the electric utility business or in the retail distribution of natural or manufactured gas. A filer may determine whether an exchange is registered with the SEC by making inquiries with the exchange or by consulting the SEC. A list of registered exchanges is maintained by the SEC on its web site. A filer may determine whether an investment company or public utility holding company is registered with the SEC by making inquiries to the companies, checking any prospectus, or consulting the SEC. A list of registered public utility companies is maintained by the SEC on its web site. The SEC maintains a web site with general information about securities and how the public may contact the Commission for assistance: www.sec.gov.

Substantial part means 5% or more. Where a business's receipts from an employer whose employees the filer's labor organization represents or is actively seeking to represent constitute 5% or more of its annual receipts, a substantial part of the business consists of dealing with this labor organization.

Trust in which a labor organization is interested means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

There are additional selected LMRDA definitions at the end of these instructions.

Each of the six statutory subsections is discussed below, with statutory exceptions and examples.

A1 *Payments or Benefits from, or Holdings in, an Employer Whose Employees Your Union Represents or is Actively Seeking to Represent*

You must complete Form LM-30 if you or your spouse or your minor child, directly or indirectly, held a stock, bond, security, or other interest, legal or equitable, in, or derived any income or any other benefit with monetary value (including reimbursed expenses) from, an employer whose employees your labor organization represents or is actively seeking to represent.

Exceptions

You are not required to report:

- Payments and benefits received as a bona fide employee of the employer. *See* definition of *bona fide employee.*
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. *See* definition of *publicly traded securities.*

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. *See* definition of *publicly traded securities.*

Example 1
You are a union officer and truck driver who is paid for five days of work by the employer, even though you only drive a truck one day a week and spend the rest of the week handling union member grievances or other union-related work. You must report the income and benefits received from the employer for the time spent performing union work under this subsection.

Example 2
You are an officer of a union that represents Widget Company employees. To help prepare for your retirement, you purchase 5,000 shares of Widget Company stock over a registered stock exchange. You need not report the shares under this subsection, under the exception for bona fide investments in publicly traded securities.

Example 3
You are an officer of a union that represents Widget Company employees. Your wife owns 5,000 shares of Widget Company stock that Widget's CEO gave her on Mother's Day two years ago. This stock is traded on a registered stock exchange. You must report the shares under this subsection because the holding of this interest is reportable regardless of when it was obtained and, as a gift, the exception for bona fide investments in publicly traded securities does not apply.

Example 4
You are a full-time officer of a union that represents employees of several different employers. One of the employers pays your expenses on a trip with management officials to a plant in another part of the country to view some new equipment that the employer is considering purchasing. You must report the travel expenses under this subsection.

Example 5
You are an employee of a union that represents actors. You own a production company whose employees are represented by your union. You must report your interests in the production company under this subsection.

Example 6
You are an employee of a union and your spouse works as a producer for a dinner theater that employs actors represented by your labor organization. Your spouse works 40 to 50 hours a week, producing shows and is paid a yearly salary. You do not have to report these earnings under this subsection because the payments are received as a bona fide employee of the theater company.

Example 7
You are a union officer and you receive payments under an ERISA qualified pension plan. The payments relate to your past employment for an employer whose employees your labor organization represents. These payments are received as a bona fide employee of the employer, and you do not have to report these payments under this subsection.

A2 *Transactions Involving Loans from and Holdings in an Employer Whose Employees Your Union Represents or is Actively Seeking to Represent*

You must complete Form LM-30 if you or your spouse or your minor child, directly or indirectly, engaged in any transaction involving any stock, bond, security, or loan to or from, or other legal or equitable interest in, the business of an employer whose employees your labor organization represents or is actively seeking to represent.

Exception

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. *See* definition of *publicly traded securities.*
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. *See* definition of *publicly traded securities.*

Special Note: A2 covers situations where a union officer or employee or his or her spouse or minor child held an interest during the reporting year but sold, transferred or otherwise liquidated it prior to the end of the fiscal year. Such an interest must be reported under this subsection.

Example 1
You are a union officer and after the beginning of the fiscal year, you are allowed to participate in the purchase of stock options at a preferred rate for a new business enterprise launched by the employer. Three weeks before the end of your fiscal year, you exercise the options to purchase the stock and then immediately sell it to realize a gain of $25,000. This transaction must be reported under this subsection even though you no longer own the stock.

Example 2
You are a union employee and your minor child receives 100 shares of stock as a high school graduation gift from an employer whose employees your union represents. She immediately sells it to assist with college expenses. Both transactions, the receipt and the sale, must be reported under this subsection.

Example 3
You are a union officer, and like all employees of the employer whose members your union represents, you hold an ownership interest in the business of the employer pursuant to an investment plan in which all employees participate. This is a payment or benefit received as a bona fide employee and the interest is not reportable under section A1. In this fiscal year, you sell this interest to the employer. The sales transaction is reportable under section A2.

Example 4
You are a union officer and your spouse receives a loan from an employer whose employees your union represents. The loan must be reported under this subsection.

Example 5
You are a union employee. Your spouse is a partner of a package delivery company. The company receives a loan from Easy Credit Limited that was arranged with the assistance of an employer whose employees are represented by your union. The loan must be reported under this subsection.

A3 *Holdings in or Transactions with a Business that Deals with an Employer Whose Employees Your Union Represents or is Actively Seeking to Represent*

You must complete Form LM-30 if you, your spouse or your minor child, directly or indirectly, held an interest in, or received any income or other benefit with monetary value (including reimbursed expenses) from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees your labor organization represents or is actively seeking to represent.

Exception

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. *See* definition of *publicly traded securities*.
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. *See* definition of *publicly traded securities.*

Example 1
You are a union officer. You own a small machine parts business. The employer of the employees your union represents purchased a large quantity of machine parts from your business. The employer's purchases represented 10% of the total receipts of your machine parts business that year. You must report, under this subsection, your interest in the machine parts business and the dealings between the business and the employer.

Example 2
You are an officer of an international union. Your wife owns an accounting firm and last year 20% of the receipts of her firm were from an employer whose employees are represented by a local union that is subordinate to your international union. You must report, under this subsection, your wife's interest in the accounting firm and the dealings between her business and the employer.

Example 3
You are a union officer and part owner of a copier supply company. Your union represents employees of employers A, B, and C. Last year 3% of the company's receipts were from employer A, 2% were from employer B, and 4% were from employer C. You must report under this subsection because a total of 9% of the company's receipts was from employers whose employees your labor organization represents. You must report your interests in the copier supply company, and its dealings with each of the employers.

Example 4
You are the business manager of a local union that represents stage technicians. You have a business supplying lighting and other equipment to companies producing shows and conventions within the jurisdiction of your local. These companies employ members of your union, and 5% or more of your business is derived from these companies. You must report, under this subsection, your interest in your business and its dealings with the companies that hire the union members.

Example 5
You are the president of a union that represents employees of a trucking company. In addition to his full time job, your spouse moonlighted part-time last year and earned $9,000 cleaning business offices on Sundays. Once a month, the trucking company paid your spouse $80 to clean its office space, for an annual total of $960, about 10% of his company's business. You must report the $9,000 in income under this subsection, as well as the dealings between the cleaning business and the trucking company.

Example 6
You are an employee of a union that has a collective bargaining agreement with trade show contractors. You were a seasonal employee of a company that received 5% of its receipts last year from leasing fork lifts to these contractors. You must report, under this subsection, your income and other benefits with monetary value (including reimbursed expenses) received from the company and the dealings between the company and the contractors.

Example 7
You are the treasurer of a union that has a collective bargaining agreement with trade show contractors. You are the owner of a company that gets 100% of its income from providing laborers to those contractors for handling empty crates. You must report, under this subsection, your ownership interest in the company and its dealings with the trade show contractors.

Example 8
You are a union employee. Your spouse is an employee of a law firm that received 10% of its income last year from an employer whose employees your union represents. You must report, under this subsection, your spouse's income and other benefits with monetary value (including reimbursed expenses) received from the law firm, and the dealing between the law firm and the employer.

A4 *Holdings in or Transactions with a Business that Deals with Your Union or a Trust in which Your Union is Interested*

You must complete Form LM-30 if you or your spouse or your minor child, directly or indirectly, held an interest in, or received any income or other benefit with monetary value (including reimbursed expenses) from, a business any part of which consists of buying from, selling or leasing to, or otherwise dealing with, your labor organization or a trust in which your labor organization is interested.

Exception

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. *See* definition of *publicly traded securities*.
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. *See* definition of *publicly traded securities.*

Example 1
You are an officer of a district council. Your spouse owns and operates a small catering business. Your union purchases catering services from your spouse's business during the fiscal year. You must report, under this subsection, your spouse's ownership interest in the catering business, and its dealings with the union.

Example 2
You are a union officer. You work part time for a business that did maintenance work on the heating and air conditioning system at the union hall. You must report, under this subsection, your income and other benefits with monetary value (including reimbursed expenses) received from the maintenance business, and its dealings with the union.

Example 3
You are a business manager of a local union. You work on a contract basis for a plumbing supply

company that sold tools and other supplies to the union and its training funds. You must report your income and other benefits with monetary value (including reimbursed expenses) received from the plumbing supply company under this subsection, and the dealings between the supply company, and the union and the training funds.

Example 4
You are an officer of a national union. You and your spouse own a printing company that prints the union newsletters for a local union of the same national union. You must report, under this subsection, your and your spouse's ownership interest in the printing company and its dealing with the union.

Example 5
You are an officer of a joint board and run a snow plowing business. The joint board is subordinate to an international union. The international union contracted with the business to plow the parking lot of its headquarters. You must report your interest in the snow plowing business under this subsection, in addition to the business's interest with the international union.

Example 6
You are the president of a local union and a partner in a company that was hired to resurface the union's parking lot. You must report, under this subsection, your interest in the business and its dealings with the union.

Example 7
You are an employee of a national union. Your wife works for a travel agency that handles all the travel arrangements by officers and employees of the national union. In addition to your wife's income and other benefits with monetary value (including reimbursed expenses) received from, the travel agency, she also receives rebates from hotels for bookings made for the union. You must report your wife's interest in the travel agency, her income from that business, and the value of the rebates she received under this subsection, as well as the dealings between the travel agency and the union.

Example 8
You are the president of a local union and your 19-year old son works for a business that produces customized t-shirts, caps, and jackets. Your local union buys logo items from his business. You must report your son's income and other benefits with monetary value (including reimbursed expenses) received from this business under this subsection, and the dealing between the business and the union.

Example 9
You are a business representative of a local union that represents shipyard workers. You and two other business representatives own a company that does medical testing of local members, which is paid for by a health benefit plan that is a trust in which your local is interested. You must report your interest in the medical testing company under this subsection, and the dealings between the testing company and the health benefit plan.

Example 10
You are an employee of a union. Each year your union holds an annual workers' summer school at a private university whose space and services are rented by the union. You go to the summer school as an instructor and bring your wife and two minor children. At no extra charge to you, the university provides accommodations for you, your wife, and minor children, rather than the single room typically provided instructors. The use of the additional space and its fair market value must be reported under this subsection, in addition to the dealings between the university and the union.

Example 11
You are the president of a local union and own a building, which has numerous tenants, including your local. The ownership and income received from the operation of the building and the dealings between you and the union must be reported under this subsection.

Example 12
You are a national union president and a trustee of a jointly administered health care trust that insures union members through a health insurance company. Premiums for insurance coverage of union members are paid by the trust to the health insurance company. You are a member of the board of directors of the health insurance company, which pays you an annual fee and reimburses expenses for your attendance at board meetings. In your capacity as a trustee of the health care trust, you recuse yourself from all decisions concerning the health insurance company. As the health insurance company is doing business with a trust in which your union is interested, you must report your annual fee and reimbursed expenses under this subsection. The dealings between the health insurance company and the trust must also be reported.

Example 13
You are an employee of a national union and your spouse works for a law firm that represents a local union that is affiliated with your national union. You must report, under this subsection, your spouse's income and other benefits with monetary value (including reimbursed expenses) received from the law firm, and the dealings between the law firm and the local union.

Example 14
You are a director of a registered investment company that offers investment opportunities to unions or trusts in which unions are interested. Your union has invested several thousand dollars in fixed income or equity funds managed by the company. You receive no gratuities, compensation, or reimbursement for your duties as a director, but you are insured against personal liability for your actions as a director under a policy paid for by the company. The investment company paid for this insurance coverage. You must report the payment under this subsection, and the dealings between the investment company and the union.

A5 *Transactions or Arrangements with an Employer Whose Employees Your Union Represents or is Actively Seeking to Represent*

You must complete Form LM-30 if you or your spouse or your minor child had any direct or indirect business transaction or arrangement with any employer whose employees your labor organization represents or is actively seeking to represent.

Exceptions

You are not required to report:

- Payments and benefits received as a bona fide employee of the employer. *See* definition of *bona fide employee*.
- Purchases and sales of goods or services at prices generally available to any employee of the employer.
- Holdings of, transactions in, or income from, bona fide investments in publicly traded securities. *See* definition of *publicly traded securities*.
- Holdings of, transactions in, or income from, bona fide investments in securities that are not publicly traded provided any such holding, or transaction, or income is of insubstantial value or amount and occurs under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial. *See* definition of *publicly traded securities.*

Special Note: You must report special discounts, special rates and other special treatment that you or your spouse or your minor child receives from an employer whose employees your labor organization represents or is actively seeking to represent. *See* definitions of *labor organization* and *actively seeking to represent*. A filer who purchases an item at a reduced price generally available to employees of the employer must nevertheless report the discount, and may not claim the exemption, unless the filer is an employee of the employer providing the discount.

Example 1
You are an officer of an international union affiliated with a local union that represents employees at an automobile plant. The employer permits you to participate in an executive purchase plan under which management executives are permitted to purchase vehicles produced by the employer at a discount and at a lower interest rate. The transaction must be reported under this subsection.

Example 2
You are an employee of a union that represents employees at Acme Warehouse. At your request, Acme allows your neighbor to store his company's inventory at a rate below the customary storage rate. Your neighbor, in turn, shows his gratitude by allowing you to use his luxury box at a sporting event. You must report this arrangement.

A6 *Payments of Money or Other Thing of Value from Any Employer or Labor Relations Consultant*

You must file Form LM-30 if you or your spouse or your minor child received, directly or indirectly, any payment of money or other thing of value (including reimbursed expenses) from any employer or any labor relations consultant to an employer.

The types of payments that must be reported under this subsection include, but are not limited to, any payment from an employer or a labor relations consultant working for an employer for the following purposes:

- Not to organize employees

- To influence employees in any way with respect to their rights to organize
- To take any action with respect to the status of employees or others as members of a labor organization; and
- To take any action with respect to bargaining or dealing with employers whose employees your organization represents or seeks to represent.

Special Note: If you received a payment or other thing of value, including reimbursed expenses, from an employer whose employees your union represents or actively seeks to represent, or a business that consists in substantial part of dealing with such an employer, or a business that has any dealings with your union, the payment should be reported under sections A1 - A5. Section A6 covers payments and other things of value, including reimbursed expenses, from businesses and employers that are not covered by the more specific provisions of sections A1 – A5. Thus, for example, if a transaction concerns a payment to you from the employer whose employees your labor organization represents or actively seeks to represent, or a business that deals with such an employer or your labor organization, the payment should be reported under the appropriate subsection in sectiona A1 – A5.

Exception

You are not required to report:

Payments of the kinds referred to in Labor Management Relations Act (LMRA) section 302(c), summarized below:

(1) any money or other thing of value payable by an employer to
a) an employee acting openly for the employer in matters of labor relations or personnel administration, or
b) any officer or employee of a labor organization who also is an employee or former employee of such employer, as compensation for or by reason of, his service as an employee of such employer;
(2) money or other thing of value payable in satisfaction of a judgment, arbitral award, settlement or release of any claim in the absence of fraud or duress;
(3) with respect to the sale or purchase of an item at the prevailing market price in the regular course of business;
(4) with respect to deductions in payment of labor union dues from wages by written assignment;
(5) with respect to money or other thing of value paid to a trust fund established by the representative of an employer's employees for the sole benefit of these employees, their families and dependents for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance;
(6) with respect to money or other thing of value paid by any employer to a trust fund established by the representative of the employer's employees for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs;
(7) with respect to money or other thing of value paid by any employer to an individual or pooled trust fund for providing scholarships for the benefit of employees, families, and dependents, child care centers, or financial assistance for employee housing;
(8) with respect to money or other thing of value paid by any employer to a trust for defraying the costs of legal services; or
(9) with respect to money or other thing of value paid by any employer to a labor-management committee.

Example 1
You are a union officer and an attorney. Employers whose employees your labor organization does not represent or actively seek to represent often hire your law firm. One of those employers gives you a special gift of a three-week all-expense-paid trip to France as a reward for winning a major lawsuit. You must report the trip and its value under this subsection.

Example 2
You are a union officer and you receive payments under an ERISA qualified pension plan. The payments relate to your employment for an employer whose employees your labor organization does not represent or actively seek to represent. You do not have to report these payments.

Example 3
You are an officer of a national union. Your spouse is hired as a senior executive of an employer on the understanding that your union will not seek to organize that employer. You must report all the income and benefits your spouse receives from the employer under this subsection.

Example 4
You are a local union president. An employer outside of the jurisdiction of your local offers your 20-year old daughter a paid summer internship on the understanding that you will seek to have your members go on strike against an employer who is one of their competitors. You must report all the

benefits your daughter receives as part of the internship under this subsection.

III. WHEN TO FILE

You must file Form LM-30 within 90 days after the end of your fiscal year. If, however, you were an officer or employee for only a portion of the fiscal year, you may limit this report to that portion of the fiscal year.

IV. WHERE TO FILE

You must mail the completed Form LM-30 to the following address:

U.S. Department of Labor
Employment Standards Administration
Office of Labor-Management Standards
200 Constitution Avenue, NW, Room N-5616
Washington, DC 20210

V. PUBLIC DISCLOSURE

Pursuant to the LMRDA, the U.S. Department of Labor is required to make all submitted reports available for public inspection. Union officer and employee reports for the year 2000 and later may be viewed and downloaded from the Office of Labor-Management Standards (OLMS) Web site at http://www.union-reports.dol.gov. Copies of reports can also be ordered at the same Web site. Form LM-30 reports may also be examined at, and copies purchased from, the OLMS Public Disclosure Room at the address listed in Part IV of these instructions.

VI. OFFICER OR EMPLOYEE RESPONSIBILITIES AND PENALTIES

The labor organization officer or employee required to file Form LM-30 must sign the completed report and is personally responsible for its filing and accuracy. Under the LMRDA, this individual is subject to criminal penalties for willful failure to file a required report and/or for false reporting. False reporting includes making any false statement or misrepresentation of a material fact while knowing it to be false, or for knowingly failing to disclose a material fact in a required report or in the information required to be contained in it or in any information required to be submitted with it.

The reporting labor organization officer or employee is also subject to civil prosecution for violations of the filing requirements. Section 210 of the LMRDA (29 U.S.C. 440) provides that "whenever it shall appear that any person has violated or is about to violate any of the provisions of this title, the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate."

The officers and employees responsible for filing Form LM-30 are also subject to criminal penalties for false reporting and perjury under Sections 1001 of Title 18, 1746 of Title 28, and 1621 of Title 18 of the United States Code.

You, your spouse, and minor child and any individuals or entities associated with the covered interests and transactions may be required to provide additional information to the Department concerning reported or reportable interests.

VII. RECORDKEEPING

The labor organization officer or employee required to file Form LM-30 is responsible for maintaining records in the electronic or paper format used by the filer, spouse, or minor child that must provide in sufficient detail the information and data necessary to verify the accuracy and completeness of the report. The records must be retained for at least 5 years after the date the report is filed. Any record necessary to verify, explain, or clarify the report must be retained, including, but not limited to, vouchers, worksheets, receipts, applicable resolutions, and any electronic programs used to complete, read, and print the report and the underlying records.

VIII. COMPLETING FORM LM-30

Read the instructions carefully

OLMS encourages all filers to complete Form LM-30 electronically. Form LM-30 is available on the OLMS Web site at www.olms.dol.gov. You can complete the form electronically or print a copy and complete it manually.

Information Entry. If you are not completing the report online, entries should be typed or clearly printed in black ink. Do not use a pencil or any other color ink.

Entering Dollars. In all items dealing with monetary values, report amounts in dollars only; do not enter cents. Round cents to the nearest dollar. Enter a single "0" in the space for reporting dollars if you have nothing to report.

Continuation Pages. If you are completing this report in paper format and there is not enough space to report all the required information and amounts, print and use the continuation pages available online. Copies of these pages may also be obtained from any OLMS office.

Enter the requested identifying information at the top of each continuation page. Totals from any continuation pages must be entered on the line provided in the schedules.

FORM LM-30 PAGE 1, ITEMS 1-5

1. **LM-30 FILE NUMBER** — Enter the five-digit file number that OLMS assigned you if you have previously filed Form LM-30. If you have never previously filed Form LM-30, leave Item 1 blank. OLMS will notify you of your assigned file number, which should be used on all future reports.

2. **PERIOD COVERED** — Enter the beginning and ending dates of the fiscal year covered by this report. Normally these dates will be identical to the dates for which you file Federal income tax returns. Your report should never cover more than a 12-month period. For example, if your 12-month fiscal year begins on January 1 and ends on December 31, do not enter a date beyond the 12-month period, such as January 1 to January 1; this is an invalid date entry. Where an officer or employee designates a new fiscal year before the end of the previously defined fiscal year, the officer or employee must file reports both for the partial year, and for the one-year period beginning on the date of the change in the fiscal year.

3. **CONTACT INFORMATION OF REPORTING PERSON** — Enter the following contact information:
   - **A – C.** Your full name (first, middle, last name).
   - **D – H.** Your complete address where mail should be sent including any building and room number.
   - **I.** Your e-mail address. If you do not have an e-mail address, enter "none" in the space provided.

4. **LABOR ORGANIZATION IDENTIFYING INFORMATION** —
   - **A — D.** Enter the full name of your labor organization including local number, if any. Enter the complete business address of the labor organization where mail should be sent including any building and room number.
   - **E.** Enter your labor organization's OLMS file number. If you cannot obtain the file number, go to http://www.union-reports.dol.gov or contact the nearest OLMS field office listed at the end of these instructions.
   - **F.** Specify your status in the labor organization by checking the appropriate box indicating whether you are an officer or an employee.
   - **G.** State your official or professional title with the labor organization. Official titles include, but are not limited to, president, vice-president, secretary, treasurer. Professional titles include, but are not limited to, business agent, bookkeeper, office secretary, shop steward, etc.
   - **H.** Check "Yes" if you were an officer or employee of the labor organization at the end of the reporting period. Check "No" if you were no longer an officer or employee.

5. **SIGNATURE** — Sign and date the completed Form LM-30. Enter the telephone number you use to conduct official business. You do not have to report a private unlisted telephone number.

GENERAL INSTRUCTIONS FOR PAYER INFORMATION

PAYER SUMMARY SCHEDULE

BEFORE COMPLETING THIS SUMMARY SCHEDULE, COMPLETE A PAYER DETAIL PAGE FOR EACH PAYER FROM WHICH YOU OR YOUR SPOUSE OR YOUR MINOR CHILD RECEIVED A REPORTABLE PAYMENT OR LOAN, ENGAGED IN A REPORTABLE TRANSACTION OR ARRANGEMENT, OR IN WHICH A REPORTABLE INTEREST IS HELD.

A. Name — Enter the legal name of each Payer as it appears in Schedule 1, Item A on the Payer Detail Page. If you are completing this report in paper format and you need additional space to complete this item, enter the additional information on the Payer Summary Schedule Continuation Page.

B. Value — Enter the total amount received directly or indirectly from the Payer, or the value of the interest held in the Payer, during the fiscal year. This is the total from Schedule 3, Column E of the Payer Detail Page for this Payer.

PAYER DETAIL PAGE

You must complete a Payer Detail Page for each Payer from whom you received a reportable payment, loan, or interest, or in which you held a reportable interest, or with whom you engaged in a reportable transaction or arrangement, as described in Part II of these instructions. At the top of each Payer Detail Page enter your file number, the number of the Payer, which should correspond with its listing in the Payer Summary Schedule, and the total number of Payers. The form does not require the reporting of any personally identifiable information relating to you, your spouse, or minor child, except as explicitly noted. Do not include information such as social security or loan numbers.

Schedule 1

Payer Identifying Information

A. Legal Name of Payer. Enter the legal name of the Payer including any alias, trade name, or "Doing Business As" designation, if applicable.
B-D. Contact Name. Enter the full name (first, middle, last name) of the contact person at the Payer to whom mail should be sent.
E.-H. Mailing Address. Enter the complete address where mail should be sent including any building and room number.
I. Telephone Number. Enter the telephone number of the contact person at the Payer, including the area code.
J. Web site Address. Enter the web site address of the Payer. If the Payer does not have a web site, enter "none."
K. State of Incorporation/Registration. Enter the state where the Payer is incorporated or the state where the Payer's registered agent is located.
L. State Business ID Number. Enter the business ID number of the Payer.
M. Association with Payer at End of Reporting Period. Indicate whether a continuing business or financial relationship existed between you (or your spouse or your minor child) and the Payer at the end of the reporting period. For example, if the Payer is a business in which you had an interest at the end of the reporting period, check "yes." If, for example, the Payer was an employer with whom you have no further relationship, check "no."

Schedule 2

Filer's Interests In, Payments or Loans From, or Transactions or Arrangements with the Payer

A. Date. Enter the date each payment, or loan was received, or each transaction was completed. If the reportable event is an arrangement, enter the date the arrangement was made. The date of interests or other holdings should be the date of receipt of the interest.
B. Officer or Employee, Spouse, or Minor Child. State whether the payment, loan, transaction, arrangement or interest was paid to, engaged in, or held by, the "O" (officer), "E" (employee), "S" (spouse) or "C" (minor child).
C. Subsection(s). *Before* completing this Column, carefully read sections A1 through A6, the exceptions, and the related examples in Part II of these instructions. (*See also, LMRDA Section 202 (a)(1)-(a)(6) [29 USC 432(a)(1)-(a)(6)]).* In this Column, enter the section, A1, A2, A3, A4, A5 or A6, under which the payment, loan, or interest is reported. For example, if you are reporting a $500 payment your minor child received for entertaining at an employee picnic for a company whose employees your union represents, you would mark "A1" in this Column. Generally only one section should be listed; however, if you received income or other benefits from a business that dealt both with an employer whose employees your union represents and with your union itself, you would enter both "A3" and "A4."
D. Description of Interest, Payment, Loan, Transaction or Arrangement. Give a detailed description of the interest, payment, loan, transaction, or arrangement.

Interest. For each interest held, identify the nature of the interest (*e.g.*, common stock, preferred stock, bonds, options, etc.) Give the total number of shares or other units held during the fiscal year. State the total cost of the acquired interest, and the manner by which you (or your spouse or your minor child) acquired the interest (*i.e.*, employee stock purchase plan, purchase on an over-the-counter market, gift, etc.) If the interest was disposed of during the fiscal year, describe the manner by which you (or your spouse or minor child) disposed of the interest (*e.g.*, sale on market, gift, exchange, etc.)
Payment or Income. Identify the nature of the payment, income, or benefit of monetary value (*e.g.*, continuing use of an automobile for personal purposes, gift of a computer, payments for services not excluded above).
Loan. Identify the terms and conditions of the loan. Include the dollar value of the remaining obligation, if any as of the end of the fiscal year (*e.g.*, unpaid balance of a loan, rentals due under the lease, amount due under a contract, etc.).
Transaction Identify the nature of the transaction, the property involved (e.g. stock, bonds, rental of property located at X address), the terms and conditions of the transaction (e.g. discount purchase of goods, sale and lease back one year, etc), and names and addresses of intermediate parties involved in any indirect transactions.
Arrangement Identify the nature of the arrangement and provide sufficient detail to identify the date, persons involved, and information as to conditions, if any, of the arrangement and the anticipated date on which the benefit will be obtained.

E. Value. This section should be completed as indicated in Schedule 2, Part D.

Schedule 3

Payer's Dealings with Union(s), Trust(s), or Employer(s)

Only filers who entered section A3 or A4, in Schedule 2, Column C, are required to complete Schedule 3.

A. Name of Union, Trust, or Employer. If the Payer has engaged in buying from, selling or leasing to, or otherwise dealing with your union, with a trust in which your union is interested, or with an employer whose employees your union represents or is actively seeking to represent, enter the legal name of each such union, trust, or employer.
B. Union, Trust, or Employer. Indicate whether the entity listed in Item A is a union ("U"), trust ("T"), or employer ("E").

C. File Number or Address. If the union, trust, or employer has filed reports with OLMS, enter its file number, if known. If you do not have a file number for the union, trust, or employer, enter its complete address in the Additional Information Schedule.

D. Description of Dealings. Describe in detail the nature of the purchases, sales, leases, or other dealings between the Payer and the union, trust, or employer whose employees your union represents or actively seeks to represent. For example, if the Payer and Union A arranged a payroll service in the amount of $45,000 for union members, you might describe the dealing as follows: "One payment for payroll services for Union A members." Unclear and nonspecific descriptions will result in a deficient report. If you need additional space to describe the business dealings, use the continuation pages.

E. Value. Enter the exact value of the purchase, sale, lease, or other dealings between the business and the union, trust, or employer whose employees the union represents or is actively seeking to represent, if known or easily obtainable by the filer, spouse, or minor child; otherwise, enter a good faith estimate of the fair market value and explain the basis for the estimate in the space provided. The fair market value may be determined by:

- The purchase price
- Recent appraisal
- Assessed value for tax purposes, adjusted to reflect market value if the assessed value is computed at less than 100% of that market value
- The year end book value of non-publicly traded stock, the year-end exchange rate of corporate stock, or the face value of corporate bonds or comparable securities
- The net worth of a business partnership or business venture
- The equity value of an individually-owned business or any other recognized indication of value (such as the sale price on the stock exchange at the time of the report or, for transactions, the sale price on the stock exchange at the time of the sale.

If the value is not known and cannot be estimated, enter N/A and explain the situation on the Additional Information Schedule. Enter the total from any continuation pages in the space provided and then total Column E.

Additional Information Schedule

A. Schedule/Item. Enter the schedule or item to which the additional information applies.

B. Additional Information. Enter the additional information for each schedule and item listed in Column A.

SELECTED SECTIONS AND DEFINITIONS FROM THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AS AMENDED (LMRDA) AND THE LABOR MANAGEMENT RELATIONS ACT, 1947, AS AMENDED (LMRA)

LMRDA § 3 [29 U.S.C. §402]. Definitions

For the purposes of titles I, II, III, IV, V (except section 505), and VI of this Act-

(a) "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(b) "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

(c) "Industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(d) "Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, or receivers.

(e) "Employer" means any employer or any group or association of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in an industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(f) "Employee" means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.

(g) "Labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(h) "Trusteeship" means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(i) "Labor organization" means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it -

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection, other than a State or local central body.

(k) "Secret ballot" means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(1) "Trust in which a labor organization is interested" means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or

more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(m) "Labor relations consultant" means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(n) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.[...]

LMRDA § 202 [29 U.S.C. §432]. Report of Officers and Employees of Labor Organizations

(a) Filing; contents of report

Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the Secretary a signed report listing and describing for his preceding fiscal year--

(1) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer;
(2) any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent;
(3) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent;
(4) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;
(5) any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and
(6) any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in Section 186(c) of this title.

(b) Report of certain bona fide investments

The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) of this section shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934 [15 U.S.C. §78a et seq.], in shares in an investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1et seq.], or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935 [15 U.S.C.A. §79 et seq.], or to report any income derived therefrom.

(c) Exemption from filing requirement

Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under subsection (a) of this section unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

LMRA §302(c) [29 USCS § 186(c)]. Exceptions.

The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): Provided, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital

care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, (B) child care centers for preschool and school age dependents of employees, or (C) financial assistance for employee housing: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal services shall be furnished: (A) to initiate any proceedings directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended [29 USCS §§ 151-158, 159-169], or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.)

LMRA § 501 [29 U.S.C. 501]. Fiduciary responsibility of officers of labor organizations

(a) Duties of officers; exculpatory provisions and resolutions void

The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization. A general exculpatory provision in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy.

(b) Violation of duties; action by member after refusal or failure by labor organization to commence proceedings; jurisdiction; leave of court; counsel fees and expenses

When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) of this section and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in any district court of the United States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown, which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(c) Embezzlement of assets; penalty

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

If You Need Assistance

The Office of Labor-Management Standards has field offices located in the following cities to assist you if you have any questions concerning LMRDA reporting requirements.

Atlanta, GA
Birmingham, AL
Boston, MA
Buffalo, NY
Chicago, IL
Cincinnati, OH
Cleveland, OH
Dallas, TX
Denver, CO
Detroit, MI
Grand Rapids, MI
Guaynabo, PR
Honolulu, HI
Houston, TX
Kansas City, MO
Las Vegas, NV
Los Angeles, CA
Miami (Ft. Lauderdale), FL
Milwaukee, WI
Minneapolis, MN
Nashville, TN
New Haven, CT
New Orleans, LA
New York, NY
Newark (Iselin), NJ
Philadelphia, PA
Pittsburgh, PA
St. Louis, MO
San Francisco, CA
Seattle, WA
Tampa, FL
Washington, DC

Consult local telephone directory listings under United States Government, Labor Department, Office of Labor- Management Standards, for the address and telephone number of the nearest field office. Copies of labor organization annual financial reports, employer reports, labor relations consultant reports, and union officer and employee reports filed for the year 2000 and after can be viewed and printed at http://www.union-reports.dol.gov.

Copies of reports for the year 1999 and earlier can be ordered through the web site. Information about OLMS, including key personnel and telephone numbers, compliance assistance materials, the text of the LMRDA, and related Federal Register and Code of Federal Regulations (CFR) documents, is also available on the Internet at: http://www.olms.dol.gov.

For questions on Form LM-30 and/or the instructions, call the Department of Labor's toll-free number at: 1-866-4-USA-DOL (1-866-487-2365) or e-mail olms-public@dol.gov.

If you would like to receive via email periodic updates from the Office of Labor-Management Standards, including information about the LM forms, enforcement results, and compliance assistance programs, you may subscribe to the OLMS Mailing List from the OLMS web site: http://www.olms.dol.gov.

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