

# Remarks to ABA LMRDA Workshop, November 7, 2009

John Lund, PhD  
Deputy Assistant Secretary for Labor-  
Management Standards  
U.S. Department of Labor

## Regulatory update

- Form LM-2/3: Final rule published October 13, 2009
- Form T-1/subsidiary organizations
- Intermediate labor organizations
- Form LM-30
- Labor Rights Poster
- Sign up on the OLMS mailing list at

<http://www.dol.gov/esa/olms/org/olms-mailinglist.htm>

## Changes to Form LM-2

- On October 13, 2009, the Department published a rule (74 FR 52401) withdrawing regulations published on January 21, 2009; these regulations did require additional itemization of five categories of financial information, including receipts, for labor unions who file Form LM-2, used by labor organizations with \$250,000 or more in annual receipts.
- The Department determined that the January 21 changes to Form LM-2 were issued without an adequate review of its experience under relatively recent revisions to the Form LM-2 in 2003 and because the Department failed to adequately assess the increased burden placed on labor organizations by the January 21 rule.

## Form LM-2/3 Final Rule

- The October 13 final rule does not affect a labor union's continuing obligation to file detailed annual financial disclosure reports, as prescribed by the 2003 rule for Form LM-2 filers, thereby ensuring disclosure of financial information to union members, the Department, and the public as required under the LMRDA.
- The Department fully recognizes and supports the importance of union reporting and disclosure to the union members and to the public, but it also believes that the LMRDA requires a balancing of transparency with the need to maintain union autonomy without overburdening unions with reporting requirements. The January 21 rule did not adequately consider this balance.

## Form T-1

- OLMS is considering whether to rescind the Form T-1.
- The Form T-1 is an annual financial disclosure report to be filed by labor unions about certain “trusts” in which they are interested, as defined in section 3(I) of the LMRDA.

## Form T-1

- If the Department were to propose elimination of the Form T-1, consideration would be given to re-establishing “subsidiary organization” reporting on Form LM-2.
- A subsidiary organization is a separate entity that is a wholly owned, wholly controlled, and wholly financed by a single labor organization.
- The subsidiary organization reporting was required prior to the development of trust reporting.

## Intermediate labor bodies

- OLMS is reconsidering a statutory interpretation adopted in 2003 extending LMRDA coverage to intermediate bodies that do not include any private sector local labor organization, as long as the parent body national or international union to which it is subordinate includes at least one private sector labor organization.

## Form LM-30: Issues under consideration

- Union stewards as union “employees” and whether employer-paid union leave or “no docking” payments are reportable on the LM-30
- What constitutes a *de minimis* payment to a union officer or employee (e.g. what should the threshold be for recordkeeping and reporting); what is reportable concerning a “widely attended gathering”
- Loans from financial institutions
- Payments to union officers or employees from trusts and labor organizations
- Suggestions for changes to the format of Form LM-30



## Labor Rights Poster (E.O. 13496)

- This Executive Order requires the Secretary to create the form and content of a notice to be posted by Federal contractors and subcontractors informing their employees of their rights under Federal labor laws
- After publishing a NPRM August 3, 2009, proposing an employee notice of rights under the National Labor Relations Act and related provisions for implementation and enforcement, a total of approximately 88 comments were received. The Department is reviewing and considering the comments in preparation for developing a final rule.