DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 404

RIN 1215–AB74
RIN 1245–AA01

Labor Organization Officer and Employee Reports

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

ACTION: Final rule.

SUMMARY: The Office of Labor-Management Standards of the Department of Labor (Department) is revising the Form LM–30 Labor Organization Officer and Employee Report and its instructions upon review of the comments received in response to its August 10, 2010 Notice of Proposed Rulemaking (NRPM). The Form LM–30 implements section 202 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), the purpose of which is to require officers and employees of labor organizations (unions) to publicly disclose possible conflicts between their personal financial interests and their duty to the labor union and its members. The rule revises the Form LM–30 and its instructions, based on an examination of the policy and legal justifications for, and utility of, changes enacted in the Form LM–30 Final Rule (2007 rule), published on July 2, 2007. The principal revisions are: Union leave and no docking payments are not required to be reported on the Form LM–30; union stewards and others representing the union in similar positions are not covered by the Form LM–30 reporting requirements; the requirement to report certain bona fide loans is limited, as is reporting of payments from certain trusts, unions, and employers in competition with employers whose employees are represented by an official's union; and the scope of reporting required of officers and employees of international, national, and intermediate body unions is revised. This rule also establishes a new form and instructions, as well as regulatory text concerning certain reporting obligations. This rule largely implements the Department's proposal in the NPRM, with modifications of several minor aspects of the layout of the form and instructions.

DATES: This rule is effective on November 25, 2011, and it is applicable to Form LM–30 filers with fiscal years beginning on or after January 1, 2012. For filers with fiscal years beginning prior to January 1, 2012, the Department will accept either the Revised Form LM–30 published with this rule, the pre-2007 Form LM–30, or the 2007 Form LM–30.

FOR FURTHER INFORMATION CONTACT: Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, *olms-public@dol.gov,* (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The Regulatory Information Number (RIN) identified for this rulemaking changed with publication of the Spring 2010 Regulatory Agenda due to an organizational restructuring. The old RIN (1215–AB74) was assigned to the Employment Standards Administration, which no longer exists; a new RIN (1245–AA01) has been assigned to the Office of Labor-Management Standards.

I. Background

A. Introduction

This final rule, which revises the Form LM–30 and its instructions, is part of the Department's ongoing effort to effectively administer the reporting requirements of the LMRDA. The Form LM–30 Labor Organization Officer and Employee Report is designed to provide for the disclosure of payments to, and interests held by, union officers and employees, when such payments and interests pose an actual or potential conflict of interest. In developing the proposed rule and considering and responding to the comments submitted on the proposal, the Department has kept in mind that a fair and transparent reporting system for union officers and employees must consider the interests of unions, their members, and the public, and must balance the benefits served by disclosure with the burden placed on reporting individuals and labor organizations.

The Form LM–30 implements section 202 of the LMRDA, 29 U.S.C. 432. Under section 202,[1] union officers and employees (collectively, union officials) are required to file reports if they, or their spouses or minor children, engage in certain transactions or have financial holdings that may constitute a conflict of interest with their union responsibilities. The Act requires public disclosure of certain financial interests held, transactions engaged in, and income received. Subject to certain exclusions, these interests, transactions, and incomes include:

1. Payments or benefits with monetary value from, or interests in, an employer whose employees the filer's union represents or is actively seeking to represent;
2. Transactions involving any stock, bond, security, or loan to or from, or other interest in, an employer whose employees the filer's union represents or is actively seeking to represent;
3. Income or any other benefit with monetary value from, or other interest in, a business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with an employer whose employees the filer's union represents or is actively seeking to represent;
4. Income or any other benefit with monetary value from, or other interest in, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with the filer's union or a trust in which the filer's union is interested;[2]
5. Business transactions or arrangements with an employer whose employees the filer's union represents or is actively seeking to represent; and
6. Payment of money or any other thing of value from any employer not covered under the above categories, or payment of money or other thing of value from a person who acts as a labor relations consultant to an employer.

The Form LM–30 had remained essentially unchanged from 1963 until 2007. In 2005, the Department published a Notice of Proposed Rulemaking that proposed far-reaching changes to the form. 70 FR 51165 (Aug. 29, 2005). After a notice and comment period, the Department issued the 2007 final rule. 72 FR 36105 (July 2, 2007). The 2007 rule brought significant changes to the LM–30 and its instructions and represented, in some instances, a sharp departure from the Department's previous interpretations of section 202. The rule completely revised the layout and overall structure of the Form LM–30, lengthening the form from two to nine pages with the creation of

[1] Unless otherwise stated all references to statutory provisions, *e.g.,* ''section 202,'' are to provisions in the LMRDA. 29 U.S.C. 401–531.

[2] These trusts are defined by section 3(l) of the Act as:

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.

Unless otherwise specified, references to ''trust'' in this preamble are to these statutorily defined trusts, which are sometimes referred to as ''section 3(l) trusts.''