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July 29, 2019

By E-mail to OIRA submission@omb.eop.gov

Office of Information and Regulatory Affairs
Attn: OMB Desk Officer for DOL-OLMS
Office of Management and Budget
Room 10235
725 17th Street NW
Washington, DC 20503

Re: RIN 12450AA09 Labor Organization Annual Financial Reports for Trusts in
Which a Labor Organization Is Interested, Form T-1

Dear Officer:

These comments are filed with the Department of Labor (the “Department”) on behalf of the National Association of Letter Carriers, AFL-CIO (the “NALC”), a labor organization with annual receipts in excess of \$250,000, in response to the request for comments by the Department’s Office of Labor-Management Standards on the proposed rule (“Proposed T-1 Rule”) to establish a form for certain labor organizations to file annual financial reports (“Form T-1”) concerning “trust[s] in which [the] labor organization is interested,” as defined in Section 3(l) of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. §402(l). 84 Fed. Reg. 25130 (May 30, 2019).

The NALC submits these comments to the Department and requests that the Department create an exception to the T-1 reporting requirements for labor organization sponsored fraternal benefit societies governed by state insurance laws. The NALC requests the opportunity to supplement these comments and to respond to any questions the Department may have concerning these issues. As summarized herein, the Proposed T-1 Rule does not consider the unique nature of the fraternal benefit societies sponsored by labor organizations under the rigorous regulatory scheme of state insurance laws, coupled with the stringent requirements of the state insurance commissioners that oversee these insurance organizations. The Proposed T-1 Rule simply does not consider the extensive amount of regulation, supervision, reporting, disclosure and other compliance requirements applicable to fraternal benefit societies.

The United States Letter Carriers Mutual Benefit Association (the “MBA”) was established in 1891 for the benefit of NALC members and their families. The MBA is the insurance issuer sponsored by the NALC, and has more than \$224 million of life insurance



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policies and annuity contracts currently in force on its members. In 1892, the MBA was granted a license in the state of Tennessee as a fraternal benefit society, and as such, the MBA is subject to regulation, examination, and supervision by the Department of Commerce and Insurance of the state of Tennessee under Title 56 of the Tennessee Code. The Tennessee state insurance law contains provisions regulating, among other things, the types of insurance benefits a fraternal benefit society may issue to its members, the types of investments it can invest in, how its assets must be managed, and standards for determining the adequacy of its reserves maintained to satisfy its policyholder obligations.

With respect to reporting, fraternal benefit societies are required to file with the Tennessee Commissioner of Commerce and Insurance (the “Commissioner”) “a true statement of its financial condition, transactions and affairs” on a quarterly and annual basis in a form approved by the National Association of Insurance Commissioners for fraternal benefit societies, plus any supplemental information required by the Commissioner, together with a valuation of its certificates in force for the prior year, as certified by a qualified actuary. Tenn. Code Ann. §56-25-602. They are further required to maintain a Certificate of Authority to sell insurance issued by the state and renewed annually. Tenn. Code Ann. §56-25-603. Fraternal benefit societies are also subject to examination by the Commissioner. Tenn. Code Ann. §56-25-604. Moreover, these societies are subject to liquidation or receivership by the Commissioner if certain deficiencies set forth in the state insurance law are determined to exist. Tenn. Code Ann. §56-25-606.

Tenn. Code Ann. Sec. 56-1-602 provides in part that all records of the Tennessee Department of Commerce and Insurance (“TDCI”) are available to the public, free from any charge. Accordingly, TDCI records of fraternal benefit societies -- such as Annual and Quarterly Statements of financial condition of the MBA, the MBA’s audited financial statements, actuarial reports, and the TDCI’s Reports of Examination of the MBA -- are available to MBA members.

In the Proposed T-1 Rule, the Department includes an exception from the labor organization’s Form T-1 requirements for trusts that are established as a political action committee (“PAC”), organizations exempt under Internal Revenue Code Section 527, trusts that are employee benefit plans that file a Form 5500 under the Employee Retirement Income Security Act of 1974 (“ERISA”),¹ federal employee health benefit plans subject to the Federal Employees Health Benefits Act (“FEHBA”), and for-profit commercial banks established or

¹ With respect to the request in the Proposed T-1 Rule for “comment on whether to retain such Form T-1 exemptions tied to ERISA,” 84 Fed. Reg. 25130, the NALC submits that the Department should retain the Form 5500 exemption as described in the Proposed T-1 Rule in the proposed form.



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operating pursuant to the Bank Holding Act of 1956, 12 U.S.C. 1843, recognizing the existing reporting requirements for those entities and the level of transparency that exists with those entities. *See* 84 Fed. Reg. 25149 (May 30, 2019). Fraternal benefit societies, such as the MBA, are subject to just as much, if not more, state government reporting requirements, oversight and control as these other entities and, accordingly, should also be excepted from the Proposed T-1 Rule. As set forth above, fraternal benefit societies are subject to the full panoply of stringent requirements set forth in the Tennessee Code and regulations promulgated by the Commissioner, and are subject to review and renewal of their Certificate of Authority on an annual basis. Fraternal benefit societies, such as the MBA, must also file detailed financial reports with the TDCI on a quarterly and annual basis and are subject to annual actuarial and auditing requirements, as well as periodic examination by the Commissioner in order to monitor the society's compliance with the vast array of statutory and regulatory requirements and mandates, and detailed information about the MBA's finances and operations are available to the public through the TDCI.

If finalized, the Form T-1 regulations should be revised to create an exception for fraternal benefit societies licensed and governed by state insurance law. The MBA is already subject to the significant reporting and disclosure requirements under the Tennessee state laws and regulations, as well as under the other jurisdictions where the MBA is licensed to engage in the business of insurance. Due to the stringent and extensive regulation of the Commissioner and other state insurance departments, and the availability of records and information for NALC members regarding the MBA, there simply is not the "information gap" or "reporting gap" present that the Proposed T-1 Rule states it is intended to address. The additional requirements contemplated by this proposed rulemaking are inappropriate and unnecessary with respect to fraternal benefit societies such as the MBA.

The NALC very much appreciates the Department's consideration of these comments.

Respectfully submitted,

/s/ Lisa M. Gomez

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