

## DOL Announces Forms LM-10, LM-30 & LM-2 COVID-19 Non-Enforcement Policy for Filings Extended to June 30, 2020

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Groom Law Group obtained a non-enforcement policy from the Department of Labor's Office of Labor-Management Standards ("OLMS") that may, as a practical matter, extend the reporting deadline for calendar year Form LM-10, Form LM-30, and Form LM-2 filers from March 30, 2020 to June 30, 2020. **Groom Law Group's March 24, 2020 letter to DOL** requesting the non-enforcement policy resulted in DOL issuing its revised **COVID-19 Advisory on March 25, 2020**. Initially, DOL issued its first COVID-19 **Advisory on March 17, 2020**. The March 17<sup>th</sup> Advisory required reporting entities to contact OLMS, describe their circumstances necessitating additional time, and provide a reasonable date certain by which the self-identified filer would submit the report. Groom Law Group's letter to OLMS raised issues with the requirements of self-identification and substantiation given these unprecedented times. Consequently, OLMS March 25, 2020 revised Advisory states:

Labor unions, labor union officers and employees, surety companies, labor relations consultants, and employers affected by COVID-19 or natural disasters must make a good faith effort to file **required public disclosure reports**. The failure to file a timely and complete report is an ongoing violation of the LMRDA. OLMS has jurisdiction to file a civil enforcement action concerning a failure to meet reporting requirements. OLMS will not, however, pursue a civil enforcement action with regard to a delinquent or deficient report when these reporting violations are attributable to COVID-19 and the reporting deadline was prior to June 30, 2020. Any such reports must be filed by June 30, 2020, absent further notice from OLMS.

OLMS administers a comprehensive reporting and disclosure program under the Labor Management Reporting and Disclosure Act that requires very detailed annual financial reports. Employers (including plan service

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providers), who make certain payments to a union, its officers employees, shop stewards, or other representatives (including multiemployer trustees appointed by a union), report those payments on a Form LM-10. Unions generally report on a Form LM-2. Union officers and employees who receive certain payments from employers file a Form LM-30. OLMS must receive these reports within 90 days following the end of the employers, individual's, or union's fiscal year. For calendar year filers, those LM reports are due March 30, 2020, but for OLMS's March 25, 2020 COVID-19 non-enforcement policy.

The March 17, 2020, advisory was insufficient in the face of the ongoing global health crisis. The advisory required employers to self-identify as being unable to timely file and substantiate the reasons that they could not do so. However, the reasons they cannot file also limit an employer's ability to self-identify and substantiate those reasons. For example, an employer may depend on third parties to obtain information enabling the employer to determine if it is required to file a Form LM-10. Those third parties and employers may be subject to state mandated closures or "stay-at-home" orders that limit their ability to obtain and transmit required information. Moreover, an essential business that remains open during the crisis likely has more immediate concerns.

GROOM