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Technical Director
Financial Accounting Standards Board
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As a Trustee with almost twenty years of experience serving on a Multiemployer Defined Benefit Pension Trust I find your proposed standards that will require employers participating in multi-employer pension funds to disclose their “exposure” to unfunded liabilities no matter how remote the possibility as just another a charade to further undermine defined benefit plans. Since the passage of the 2006 Pension Protection Act which should have been called “The Bill To End Defined Pension Plans,” Taft-Hartley Pension Trust Funds have wrestled with one illogical regulation after another. After contorting our figures to fit the single employer format imposed on the multiemployer plans we all are looking unattractive as hell and you now want us to show-off our new underwear.

The ballooning unfunded situation you cite as a reason for making this accounting standard change is largely a result of;

- 1) The 2006 Pension Protection Act that shortened the amortization periods to 401(k) defined contribution periods of fifteen years, when in fact multiemployer defined benefit pension funds pool their risks to operate on fifty year time horizons, (from the time they draw the first dollar of contribution until they pay out the last dollar of benefit) and
- 2) The unprecedented 2008 collapse of the financial markets.

These purported multiemployer unfunded liabilities are grossly inflated for several reasons first being the Pension Protection Act a law largely designed for single employer defined contribution plans, and the speculative elements involved in computing unfunded liabilities. In fact President Obama just signed a Pension Funding Relief bill that has made the first adjustment to the misguided Pension Protection Act’s amortization schedule. But now your proposed change in the standards will further magnify the confusion in the misleading information it will create, distorting the overall potential magnitude of the problem by requiring significantly more employers to report potential withdrawal liability without regard to any practical probability.

No Employer or Labor Trustee in the construction industry is going to want to hinder a signatory company that needs to qualify for surety bonding and/or operating loans by forcing them to list improbable hypothetical liabilities on their financials. Multi-employer Pension Trustees have wide latitude in defining how to compute their unfunded liability in time periods, interest rates, partial or complete withdrawals and other assumptions that are used in their calculations. Most funds use low interest rate instruments like government T-Bills or PBGC rates for their basis to ensure departing employers pay a “withdrawal penalty” and their full share of any possible unfunded liabilities. The vast majority of union contractors have remained in these Multiemployer Trust Funds decade upon decade regardless of transient funding shortfalls. Any unfunded liability is simply a theoretical paper loss, as long as that employer does not withdraw. These funding problems are eventually worked out in the collective bargaining process which may take several contract and business cycles (eight to twelve years) to resolve, through favorable investment returns, lowered benefits or increased contributions.

The current arrangement allows Trustees to collect all monies “potentially” owed by the few companies that choose to withdraw but the hypothetical potentiality of that calculation makes the number generated purely speculative and can have wide swings from year to year. Trustees have traditionally leaned to the conservative side to compute the largest possible liability to ensure the funding levels are met. This proposed rule will not bring more transparency but confusion and tremendous pressure on Trustees to select at their discretion assumptions that will tend to hide the full extent of the “potential” unfunded liability because this proposed accounting standard will turn the tables forcing Trustees to choose between “penalizing” the companies that have chosen to remain in the Trust Fund with unlikely liabilities on their financials or change their criteria for computing the Trust’s unfunded liabilities. It is a straightforward guess which way both Labor and Employer Trustees in the construction industry will choose but this proposed arrangement does not yield the transparency you seek but further exasperates the situation for the companies that remain in these Trust Funds and will make it more difficult for Trustees to collect a fair-share from employers leaving the Trust. Please reconsider this death-nail of a standard for Multiemployer Defined Pension Benefit Trust Funds you are contemplating.

Sincerely

Pat McGinn

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