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Via Email: director@fasb.org

Russell G. Golden
Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

**Re: Exposure Draft: Disclosure of Certain Loss Contingencies
Contingencies (Topic 450)
File Reference Number: 1840-100**

Dear Mr. Golden:

The Financial Accounting Standards Board (FASB) issued the above referenced Exposure Draft on Topic 450, Disclosure of Certain Loss Contingencies concerning proposed changes to the accounting standards for reporting certain loss contingencies that would affect companies that participate in multiemployer plans. FASB has invited all interested parties to comment on questions it presented in the above referenced Exposure Draft.

We represent many multiemployer pension plans, many of which are funded by businesses in the building and construction industry. We, therefore, write to you concerning the Exposure Draft on Topic 450, Disclosure of Certain Loss Contingencies, specifically amendments to codification subtopic sections 715-80-35 and 715-80-50 with emphasis on the implications such changes will have on businesses in the building and construction industry.

Currently those sections require disclosure of loss contingencies only if it is “either probable or reasonably possible” that a withdrawal from a multiemployer pension plan will result in an employer having an obligation to the plan for a portion of the unfunded vested benefits. The proposed changes to these sections would significantly expand the information that companies that sponsor multiemployer plans must disclose in their financial statements. The new standards would require all companies to report their potential withdrawal liability assessments annually, but the information would likely not be timely available. As explained in our comments below, we believe the current standard is perfectly adequate and should be retained.

The following are our respective comments in response to the eight questions presented in the Exposure Draft on the proposed changes to the accounting standards concerning disclosures of loss contingencies with respect to withdrawal liability obligations to multiemployer plans. If a question and comment is not listed below, we have no comment on it.

Questions / Comments

Question 1: Are the proposed disclosures operational? If not, please explain why.

Comment on Question 1: Yes. The proposed disclosures require the calculation of any loss contingencies, and is, therefore, operational. We believe the loss contingencies can be calculated, but not without additional cost and expenses to both employers and plans. However, we do not believe the disclosures can be done in a timely manner to be included in current financial statements.

Question 4: Is the proposed effective date operational? If not, please explain why.

Comment on Question 4: Yes. The implementation of the proposed disclosures requires the calculation of any loss contingencies by a certain date, and is, therefore, operational. However, we believe it would take a multiemployer plan at least one year to gear up to provide the necessary information in a reasonably efficient manner, and, therefore, if implemented we believe the proposed effective date would be burdensome. Instead of December 15, 2010, we would suggest a date one year after any changes are finalized.

Question 5: Do you believe that the proposed disclosures will enhance and improve the information provided to financial statement users about the nature, potential magnitude, and potential timing (if known) of loss contingencies?

Comment on Question 5: No. We believe the proposed disclosures on contingent withdrawal liability will not enhance and will not improve the information provided to financial statement users about the nature, magnitude, and potential timing of such contingencies. In fact we believe it will have the opposite effect, and may well distort the marketplace, especially in the building and construction industry.

As we understand the proposed changes, virtually every contributing employer will have to go through the significant expense and delay of getting an estimate of its liability from the multiemployer plan each year whether or not there is any likelihood that the employer will withdraw or if it does, whether it will have any withdrawal liability. We believe this additional cost and delay is unnecessary and in some cases may actually be harmful.

We are particularly concerned about the proposed changes' affect on the building and construction industry. As you are aware, ERISA §4203(b) provides for special withdrawal liability rules for an employer who has an obligation to contribute to a multiemployer plan for work in the building and construction industry. In such cases, withdrawal liability only occurs if the employer ceases to be bound under its union contract and continues to perform work in the jurisdiction for which contributions were previously required or resumes such work on a non-union basis within 5 years. Thus if a building and construction employer merely closes its doors and does no more work, it does not incur any withdrawal liability.

Whereas an employer can unilaterally decide to cease its business, which in the building and construction industry will not lead to any liability, it cannot unilaterally terminate its union contracts, many of which have been in effect for very long periods of time. Thus especially in the building and construction industry we believe that in most cases the possibility of incurring withdrawal liability are remote, and until that contingency becomes "either probable or reasonably possible" the extra burden of computing a remote contingency each year is not worth the effort.

Bonding in the construction industry is very important. We are very concerned that if union contractors are required to disclose extremely remote contingencies that non-union contractors do not have, it will adversely affect their competitiveness in the industry. The same may also be true for obtaining bank financing. Thus especially in the building and construction industry we believe the proposed new rules could profoundly disturb the existing marketplace for no good reason.

As a practical matter, computing an employer's share of a plan's withdrawal liability is not a matter that can be done simply or quickly. Generally, in the building and construction industry withdrawal liability is calculated under the presumptive method set forth in ERISA § 4211(b). Withdrawal liability is always calculated as of the last day of the plan year before the date of withdrawal. Thus for calendar year plans, if an employer withdraws in 2010 its withdrawal liability will be calculated based on December 31, 2009 plan numbers, including the liability pool for that year as well as the reallocated pool for that year.

Generally before such calculations can take place the administrator must close its books, which it, assuming a calendar year-end, cannot do until December contributions and year-end investment reports are calculated. Especially for plans with alternative investments (i.e. not just stocks and bonds) this process can take quite some time. Then, the plan's auditor must audit the plans records maintained by the administrator, which also takes time. Next, the actuary takes the audited financial numbers and the plan participation information and calculates the total plan withdrawal liability. Typically, in our experience, this whole process can take up to nine months or more. Thus a calendar year plan's withdrawal liability is not even calculated until September of the year after the plan year ended on the previous December 31st.

Only after the withdrawal liability for the plan as a whole has been calculated, can it be apportioned to the contributing employers. This task is not typically done for employers not contemplating withdrawing from the plan, and will add additional costs and administrative burdens to multiemployer plans if this now must be done for each contributing employer each year.

Question 7: The amendments in this proposed Update would defer the effective date for nonpublic entities for one year. Do you agree with the proposed deferral? If not, please explain why.

Comment on Question 7: Yes. If the proposed changes are implemented, we agree with the proposed deferral for nonpublic entities and urge that the deferred effective date be applied to public entities as well so that the multiemployer plans can prepare for the new administrative burden being imposed on them.

Summary Comment

We believe the existing rules requiring disclosure of loss contingencies only if it is "either probable or reasonably possible" that a withdrawal from a multiemployer pension plan will result in withdrawal liability are perfectly adequate. Therefore we suggest that you withdraw the proposed changes to sections 715-80-35 and 715-80-50.

Very truly yours,



Richard C. Johnson

RCJ/mds