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September 20, 2010

SUBMITTED VIA ELECTRONIC FILING

Russell G. Gordon
Technical Director
File Reference No. 1840-100 and File Reference No. 1860-100
Financial Accounting Standards Board
401 Merrit 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: Comments of the National Electrical Benefit Fund

File Reference No. 1840-100, "Disclosure of Certain Loss Contingencies" and File Reference No. 1860-100, "Disclosure about an Employer's Participation in a Multiemployer Plan"

Dear Mr. Golden:

This office represents the National Electrical Benefit Fund ("NEBF") and these comments are being submitted on two Proposed Accounting Standards Updates – the "Disclosure of Certain Loss Contingencies" ("Loss Contingencies Disclosure") and the "Disclosure about an Employer's Participation in a Multiemployer Plan" ("Multiemployer Plan Disclosure"). The NEBF is a nationwide multiemployer defined benefit pension fund established by the International Brotherhood of Electrical Workers ("IBEW") and the National Electrical Contractors Association ("NECA"). It is the third largest multiemployer plan in the country with over 10,000 contributing employers, the vast majority of which work in the electrical construction industry. It is common in the construction industry for employers to participate in multiemployer pension plans to ensure continued accrual of pension benefits for

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employees that move from employer to employer and job to job depending upon the construction market in a particular area.

Although the Financial Accounting Standards Board's ("FASB") Proposed Accounting Standards Updates do not apply to the NEBF directly, they do directly and substantially affect the NEBF and the NEBF's contributing employers. In addition to the administrative and financial burden the Updates will have on multiemployer plans, the biggest concern is that employers currently participating in the plans may withdraw from the plans and other employers may refuse to agree to begin participating in the plans, resulting in further financial stress on those plans.

Loss Contingencies Disclosure Comments

Before discussing whether the issue of providing withdrawal liability estimates provides meaningful information, the NEBF is very concerned with the burden and expense that may be laid at its feet. Withdrawal liability calculations require information that only the plan has. Currently, the NEBF is willing to provide a withdrawal liability calculation for an employer, but the NEBF charges a fee for this service. It is costly to ask the NEBF's actuaries to provide even a single calculation, let alone calculations for the over 10,000 employers that participate. If the NEBF were saddled with that expense, or put another way, if the plan participants were saddled with that expense, the NEBF's unfunded liability would constantly be on the rise and it would be next to impossible to get out of the current situation. It would be unconscionable to require plan participants to pay this expense, which would not be a one-time cost, but would have to be recalculated annually. If the plan participants are not saddled with that expense, the contributing employers will be, which certainly will not help their financial picture. Even if the NEBF does charge employers, there will still be a tremendous burden on the NEBF and its actuaries to perform the required calculations.

The NEBF recognizes and applauds FASB's general efforts to require more complete disclosure and transparency, but believes that FASB must determine whether the benefits of the modifications outweigh the detriments. The NEBF believes the benefits to be gained are far outweighed by the competing detriments.

It is not clear whether the Loss Contingencies Disclosure reflects any change from the prior Accounting Standards and the NEBF would request that FASB's intent in this regard be made crystal clear. Currently, employers are required to disclose potential withdrawal liability when there is a "reasonable probability" that the expense will be incurred. It appears that the standard is being modified to a "remote possibility". One interpretation of this is that all

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employers must disclose potential withdrawal liability because there is always a remote possibility of withdrawal. Although the NEBF strongly urges against such a standard, there needs to be clarity and if that is the case, say it. If, on the other hand, that is not the case, clarify what the standard is and how to apply it.

Assuming for the moment that the standard eventually adopted will not require all employers to disclose potential withdrawal liability, the NEBF urges that FASB clarify that the employer should take into consideration such factors as what industry the employer works in and how withdrawal liability is handled in that industry, the likelihood that the particular employer will actually incur withdrawal liability based in its contribution history and the circumstances and rules of the multiemployer plan to which it contributes, and the actual likelihood that the employer will withdraw from the plan in the foreseeable future.

I understand that FASB has indicated that it will not take into account industry specific rules regarding withdrawal liability, such as the construction industry proviso that reduces withdrawal to a limited set of circumstances. While FASB might not be willing to issue separate guidance depending upon the industry involved, it should be made clear that each employer should take into consideration industry rules in determining whether a withdrawal is a remote possibility. Withdrawal itself means different things in different industries and the rules that apply to those industries must be taken into account in deciding whether a withdrawal is remotely possible.

Similarly, such issues such as the employers contribution history, whether a withdrawal would result in a de minimus amount of withdrawal liability, whether the plan has adopted a \$50,000 or \$100,000 de minimus standard, whether the plan has other features or rules in place that could eliminate or drastically reduce the withdrawal liability should all be considered. The NEBF asks that FASB clarify that the employer is permitted to take every possible factor into consideration in determining whether there is a remote possibility of a withdrawal or the imposition of withdrawal liability.

While it is not FASB's role to encourage participation in multiemployer plans, the result of the Loss Contingencies Disclosure will be to discourage participation in multiemployer plans. That is not the role of FASB either. If the Loss Contingencies Disclosure is not modified, it is likely that few employers will voluntarily choose to begin participating in a multiemployer defined benefit pension plan. Employers and other groups have expressed legitimate concerns that disclosing the possibility of withdrawal liability will hinder the ability of employers to obtain necessary bonds or letters of credit. If that is the result of Loss Contingencies Disclosure, it may drive employers who are currently participating in multiemployer plans away from

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continued participation. Again, this may not be of concern to FASB, but these kinds of issues should be taken into account in determining whether the need for this disclosure outweighs the negative consequences. In the NEBF's view, the negative consequences could be dramatic and the positive consequences would be minimal.

Multiemployer Plan Disclosure Comments

These comments relate to the first and second questions asked by FASB. As is clear from the above discussion, the NEBF does not believe that disclosing the estimated amount of the withdrawal liability, where withdrawal is not at least reasonably probable, will provide users of financial statements with decision-useful information. Instead, it will provide misleading and meaningless information which might discourage someone from investing in a financially secure company.

All of the comments above relate directly to this point and need not be repeated here. What does need to be emphasized is the burden on both employers and plans to provide the information required by the Multiemployer Plan Disclosure. More comprehensive disclosure and increased transparency are worthwhile goals, but much of the information requested is not necessary, not useful and difficult, if not impossible, to provide. The following information would be useful and reasonable to provide:

- 1. The funded status of plans in which the employer participates.
- 2. The existence of any adopted funding improvement and rehabilitation plans.
- 3. The existence of any known contribution increases negotiated between the employer and the union.
- 4. The estimated withdrawal liability if withdrawal is reasonably probably in the near future.

To require disclosure of possible rehabilitation or funding improvement plans before they are finalized would be misleading. Similarly, forecasting future trends in contributions would be like forecasting the weather – the employer may be right some of the time, but would anyone want to rely on that forecast? The request for "quantitative information about the employer's participation in the plan" is difficult and ambiguous with regard to the construction industry. Employees move from employer to employer on a regular basis. Is the employer to report on current employees only? How does the employer deal with retired employees who may have worked for 50 companies during the course of their career? Which employer lists that retiree? What value is this information?

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The NEBF hopes FASB takes these and all other submitted comments seriously and takes a hard look at whether the purported value of the Loss Contingencies Disclosure and the Multiemployer Plan Disclosure outweighs all the serious and potentially devastating consequences.

Sincerely,

POTTS-DUPRE, DIFEDE & HAWKINS, CHTD.

By:

David Potts-Dupre