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
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Re: Comments of the International Brotherhood of Electrical Workers
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 International Brotherhood of Electrical Workers ("IBEW") 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 IBEW is one of the largest labor unions in the United States, representing hundreds of thousands of electrical workers in many different industries. One of the principal industries represented by the IBEW is the inside and outside 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 employees that move from employer to employer and job to job depending upon the construction market in a particular area. The IBEW works closely with its management counterparts, the National Electrical Contractors Association
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One of the NECA (“NECA”) and the electrical contractors themselves. The IBEW, along with NECA, sponsor the National Electrical Benefit Fund (“NEBF”), which is the third largest multiemployer plan in the nation and which principally operates in the construction industry. There are also numerous multiemployer plans sponsored by local affiliates of the IBEW and NECA covering construction industry employees throughout the country.

The Financial Accounting Standards Board’s (“FASB”) Proposed Accounting Standards Updates are of grave concern to the IBEW. Although they do not apply to the IBEW directly, they do affect the following groups and individuals whose interests are closely connected with the IBEW: IBEW local unions that contribute to multiemployer plans as employers themselves on behalf of their employees; employees represented by the IBEW whose employers may be unnecessarily driven away from multiemployer defined benefit pension plan participation; multiemployer pension plans sponsored by the IBEW and NECA and their local counterparts which are sure to be faced with increased costs and administrative burdens and which, at the very time that continued participation in the plans is so critical due to the financial crisis, may be faced with employers withdrawing from the plans and other employers refusing to agree to begin participating in the plans; and employers which engage in collective bargaining with the IBEW who may be hesitant to begin or continue participation in a multiemployer defined benefit pension plan.

**Loss Contingencies Disclosure Comments**

The IBEW wishes to comment on the Loss Contingencies Disclosure, particularly as it relates to the disclosure of possible withdrawal liabilities. The IBEW recognizes and applauds FASB’s general efforts to require more complete disclosure and transparency, but believes that FASB must find the appropriate balance between requiring disclosure of a speculative loss that will provide meaningful information to potential investors and requiring disclosure of a speculative loss that will provide misleading information to potential investors. In the IBEW’s view, if the Loss Contingencies Disclosure does reflect a marked change in what is required to be disclosed with regard to potential withdrawal liability, FASB has not found the appropriate balance.

The first comment is that it is not clear whether the Loss Contingencies Disclosure reflects any change from the prior Accounting Standards and the IBEW 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 situations involving a “remote possibility”. One interpretation of this is that all employers must disclose potential withdrawal
liability because there is always a remote possibility of withdrawal. If this is the case, should not FASB require disclosure of a whole host of situations where there is a remote possibility of a liability. FASB could spend the next year brainstorming about all the possible losses, however remote or unlikely, that employers should disclose. Although the IBEW strongly urges against such a standard, there needs to be clarity and if that is the case, just say that all employers must disclose possible withdrawal liability. 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 IBEW 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, issues such as the employer’s 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, and other factors should all be considered. The IBEW 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.

In addition to the need to balance meaningful and misleading disclosures noted above, FASB also should make an attempt to balance the burden on plans and employers with the benefit to potential investors. There is no question that there will be a significant burden placed on employers (particularly with respect to the Exposure Draft on Compensation – Retirement Benefits – Multiemployer Plans), but there will also be the unintended consequence of added
administrative burdens to multiemployer plans if changes are not made to the Loss Contingencies Disclosure. The multiemployer plans will be inundated with requests for withdrawal calculations and the plans will have to determine how to assist the contributing employers while still acting in the best interests of plan participants and beneficiaries. These burdens and their associated costs will be real. The question is what benefit will be gained. While there will be disclosures, as noted above, those disclosures will be misleading and inherently capable of misinterpretation, at best, and utterly meaningless, at worst. Currently, if there is a reasonable probability of a withdrawal, an employer must disclose the liability. That is meaningful information, but it is already required to be provided. The information about some remote possibility of withdrawal, particularly without consideration of industry, plan rules, contribution history, etc., will not provide useful information in the IBEW’s view. If that is the case, FASB has not established a rule that correctly balances the burdens and benefits.

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 continued participation or out of business entirely. Again, this evidently was not 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 IBEW’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 IBEW 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?

The IBEW 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: [Signature]

David Potts-Dupre