October 29, 2010

Technical Director
File Reference No. 1860-100
Financial Accounting Standards Board
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To Whom it May Concern,

We appreciate the opportunity to comment on the Proposed Accounting Standards Update addressing Disclosure about an Employer’s Participation in a Multiemployer Plan. Our specific comments follow:

We understand the proposed disclosures are intended to increase the available information related to various facets of an employer’s participation in a multiemployer plan. While some of the proposed disclosures should provide additional information that may be considered useful by financial statement users, we believe the quantitative disclosures called for by the proposed accounting standards update, and particularly those related to withdrawal liability amounts, will result in inappropriate interpretation and use of the information.

The FASB notes investors have requested more information about the commitments an employer has made to a multiemployer plan and the potential effects of participation on an employer that is involved in a multiemployer plan, including the potential effects of withdrawals from the plan. We appreciate the goals to attempt to provide quantification of risks and to place the burden on providing the information upon the employers participating in these plans. In most situations relevant to financial reporting risk should be appropriately managed by financially responsible organizations and this is best addressed once amounts are ascribed to the appropriate elements of risk. However, certain situations are not well-suited to such assessment. Attempting to use the withdrawal liability amounts proposed to provide a measure of an employer’s risk is inappropriate and represents flawed measures of realistic consequences of participation in these plans.
The amounts do not properly represent an employer's share of the funded status of a plan. As noted in the background information and basis for conclusions included in the FASB proposal, the FASB is aware of comments addressing the withdrawal liability amounts do not provide representational faithful information. In addition, these amounts are subject to wide variability in amount. As the market value of plan assets is often used in the determination withdrawal liability amounts often vary significantly from one determination date to another. Further, in substantially all cases the information is outdated and generally a year old. The amounts to be disclosed are likely to provide investors with a highly inaccurate understanding of a company's current exposure to a withdrawal liability assessment.

Withdrawal liability rules provide for unique application for certain industries. For example, the construction industry exemption generally results in a construction contractor not paying withdrawal liability if it ceases activity in the work jurisdiction of the plan, as well as in other situations. Other unique special industries rules also apply such that the information cannot be considered consistent and are therefore less relevant. In addition, in practice the application of withdrawal liability rules often limits the payment by the employer to a maximum of twenty years' payments. Amounts based on such more realistic outcomes would represent a better disclosure than reflecting summaries of the funded status of all funds in which an employer participates.

Further, the withdrawal liability disclosures proposed are most likely to be wrongly interpreted by financial statement readers as essentially liabilities rather than disclosures to provide an understanding of potential commitments. The nature of the disclosures and the inclusion of significant amounts, which represent summaries of the funded status for in many cases several plans in an employer's financial statements of amounts that are not likely or probable of assessment to or payment by the employer are likely to be assessed improperly to significantly negatively impact an employer's financial position.

Unfortunately, while withdrawal liability information called for by the proposal may be available information it is not appropriate for the use now planned. Notwithstanding the clear illustrations of the inapplicability of the disclosures the proposal notes the Board, however, believes that the withdrawal liability is the best available information to allow users to ascertain the employer's relative share of the funded status. Information considered the best available is not necessarily suitable, and in this case it is not. The International Accounting Standards Board is also grappling with the issue of how to appropriately allocate the funded status of a multiemployer plan to the participating employers. Merely because government regulations in the United States include withdrawal liability provisions does not create the rationale that it is an appropriate method for financial statement reporting. This matter should be resolved in a manner that brings convergence among different jurisdictions' reporting standards.
One of the stated primary goals of the proposed changes is to provide information about any effects on the employer's cash flows from its participation in the multiemployer plan(s). It seems best for the FASB to focus on disclosures that reflect more likely outcomes such as the cash flows over a twenty year period as a maximum.

The proposed rules provide an employer shall disclose the information required by paragraph 715-80-50-1B separately for pension and other postretirement benefit multiemployer plans. While this appears to apply to health and welfare plans significantly more detailed guidance is needed to appropriately address such disclosures if they are to be required.

The effective date for the new disclosures is too soon and does not provide enough time for most employee benefit plans, which are generally not staffed in a manner to provide for the additional effort needed to be expended in so short a time. The provisions should be placed on hold for a time period similar to the International Accounting Standards Board's extension of their related project to allow for refinement of relevant disclosures and, ultimately, we request the Board reconsider this proposed requirement and not require the additional disclosures.

We appreciate your consideration of our comments. We are available to discuss any of these comments with you at your convenience.

Sincerely yours,

Mark Erlich
Chairman

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