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November 1, 2010

Technical Director
File Reference No. 1860-100
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
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Re: Expanded Disclosure Concerning an Employer's Participation in a Multiemployer Retirement Fund

Dear Sir:

Buck Consultants would like to thank the Financial Accounting Standards Board (FASB) for the opportunity to provide comments on proposed updates to disclosures required for employers that participate in multiemployer plans, contained in Subtopic 715-80, *Disclosure about an Employer's Participation in a Multiemployer Plan*. These comments are based on experience and insights gained from Buck's many years of working with multiemployer pension funds and employers who contribute to them through collective-bargaining arrangements.

We generally agree that users of financial statements should have access to additional information related to the defined-benefit multiemployer pension funds in which a company participates. This information is most useful if provided in a uniformly accurate and timely manner. Yet we respectfully submit that the costs associated with the proposed changes to disclosures related to an employer's participation in a multiemployer plan would exceed the benefits, if any, to be realized by investors.

Specifically, a key objective stated in the exposure draft is to provide an enhanced understanding of the potential for a firm's participation in a multiemployer fund to affect that employer's future cash flows. We suggest, therefore, that disclosure focused on the impact of plan participation on the company's projected cash flows is far more useful than disclosure of certain plan liabilities and assets.

We are concerned about the effective date of these requirements for public companies. We recommend the effective date be delayed for at least one year to allow companies and funds the time needed to prepare to comply with these or similar requirements. Multiemployer pension funds are dealing with a multitude of funding issues currently and their administrative staffs are concerned with the implementation of multiple new benefit and contribution arrangements aimed toward improving their overall benefits security; they have yet to focus on how to provide the additional information you propose to require for contributing employers.

Our responses to Questions 1 through 4 follow.

Question 1: *Do you agree that the proposed quantitative and qualitative disclosures will result in a more useful and transparent disclosure of an employer's obligations arising from its participation in a multiemployer plan? Why or why not? If not, what changes would you suggest to the proposed amendments?*

Our response to Question 2 discusses that the variability in the determination of withdrawal liability is so great as to render a simple recitation of the most recently available withdrawal liability amount almost useless. If FASB strongly believes that "exit" information needs to be disclosed by a participating employer that has expressed no interest in terminating that participation, then we suggest that disclosure of the potential withdrawal liability payments (usually due on a quarterly basis) and the expected duration of those payments, would allow the user of the financial statement to incorporate this hypothetical withdrawal information into an analysis of the company more effectively than the disclosure of the nominal amount of the withdrawal liability.

While we applaud the flexibility provided in the Accounting Standard Codification Paragraph 715-80-50-1A regarding the aggregation of plans, we do want to note concern that this will diminish the level of comparability in financial statements from one company to another. In addition, the "zone" status of a plan can change from year to year, and there may be a year or two thereafter for which the funds need to make benefit and contribution changes, leading some participating employers to consider a particular plan in one status, and other companies – participating in the same plan – might disclose a different zone (depending upon the relative timing of the companies' fiscal years and the plan years).

We are also concerned that the sheer volume of disclosure information proposed will discourage all but the most diligent user from extracting the most useful data. As drafted, the footnote information for a single plan could require two pages of text. For a large company that participates in several dozen multiemployer plans, even with aggregation, the footnote information just for these plans could result in 50 or more pages or more of additional text. In our comments below, we attempt to indicate the information that would best be eliminated from the footnote because its usefulness is limited or because it is available from other sources.

With regard to the specific items listed in Codification Paragraph 715-80-50-1B, we have the following comments and observations (numbered as in the Accounting Standards Update):

b. Names of plans are often very similar and in some cases, the employer may refer to the plan in some colloquial manner that is not the official plan name. We suggest the disclosure include the plan's federal employer identification number (EIN) and three-digit plan number, a unique combination that will ensure the plan is correctly identified.

c.2. We do not believe the manner in which plan benefits are determined is useful information for the financial statement user and suggest that this item be deleted.

c.5. The disclosure of funding improvement or rehabilitation plans, for a plan that is classified as endangered or critical, should include items that will affect cash flow, including changes in contribution schedules for the period of the funding improvement or rehabilitation plan. The plan provides this information to participating employers on a timely basis. However, disclosure of "remedies being considered by the plan(s)" is inappropriate for several reasons. First, such remedies would only be known to an employer who is represented on the board of trustees.

Second, many remedies are considered by the board, and often several serve merely as "bookends" to present extreme situations for trustees to consider, and are then discarded as either ineffectual or impractical. Finally, disclosure of such remedies and the impact on the company could compromise the position of the company and/or the union in subsequent collective bargaining sessions.

We suggest that the disclosure be limited to the following:

- information related to the current zone status of the plan (regularly conveyed to all employers via a notice statutorily required by the 120th day of the plan year);
- the general contours of any formal funding rehabilitation plan or improvement plan that has been adopted by the plan trustees and presented to the bargaining parties (primarily, the range of choices available to those parties that relate to future contribution requirements); and
- any specific measures that have been agreed to by the employer in collective bargaining as a consequence of the remedial plan.

The summary of the rehabilitation plan or improvement plan is included in the plan's annual report filed with the Department of Labor and, in certain situations, may also be obtained directly from the fund or regulatory agencies upon request.

e. This information is readily available from the plan's financial statements. Requiring each employer to report this is overly burdensome and redundant.

f. While an employer will know the amount it contributes to the plan, it will not know the contributions of other employers. Total contribution information is obtainable from the plan financial statements. We suggest the disclosure be limited to the contributions required to be made to the plan, along with an indication as to whether any of those contributions were not made and are considered delinquent by the plan.

i. Information related to the number of retired participants that a particular employer has in a plan is not likely to be available for several reasons. First, many plan participants work for more than one employer within a multiemployer plan. Assignment of a particular retired participant to a specific employer is generally not needed for the plan to operate properly and there is no standard methodology for the plan to assign an employer to a participant, whether or not retired. Second, this information is of little use to the users of the company's financial statements since the existence of retired participants of a particular employer will have no impact on the plan's future contribution requirement or other cash flows. Finally, since it is the plan that must maintain contact with the retired participant, not the employer, the company will generally not know which of its former employees are still receiving plan benefits.

An employer's influence on plan policy and the consequences of its participation are determined mostly by whether it is directly or indirectly represented at the plan trustee level, the relative size of its active employee population within the plan and its resulting contribution requirement as a percentage of the total. We suggest the disclosure required by the proposed update should be limited to these quantitative measures.

m. Please see our response to question 2 for more detail on this. As indicated above, we suggest disclosures related to withdrawal or potential withdrawal from a multiemployer plan based on potential cash flow requirements, rather than liability amounts.

Question 2: *Do you believe that disclosing the estimated amount of the withdrawal liability, even when withdrawal is not at least reasonably possible, will provide users of financial statements with decision-useful information? Why or why not?*

While information regarding cash flow implications of multiemployer plan participation is useful, the disclosure of estimated withdrawal liability amounts, which are likely to be outdated, can be misleading. The proposed update calls for the disclosure of funding improvement or rehabilitation plan information. That information is objectively determinable, as compared to withdrawal liability estimates that can vary significantly from year to year.

When considering the term 'withdrawal liability', there are several issues that would cause the results of disclosing that amount to vary in a significant way among companies. For example, the triggers for incurring withdrawal liability under construction industry plans differ greatly from the triggers for non-construction industry plans. Currently, withdrawal liability is not automatically calculated for employers in a multiemployer plan but, rather, calculated only upon formal request by the employer. Calculation of withdrawal liability is often not based upon the same assumptions as are used for the annual actuarial valuation, so separate calculations would be required in many instances, and reporting across every fund will vary because each fund and actuary work to select a set of assumptions and methods which are most appropriate for that fund. Essentially requiring a multiemployer plan to make these calculations for each of its contributing employers (which can be in the hundreds or even thousands) is a major and costly task.

Any disclosure of withdrawal liability would be based on information from at least a year in the past, and therefore applicable to an event that can no longer occur. Some employers may also have more current information available than others, depending upon the plans' fiscal years vs. the employer's fiscal year. The liability measurement dates could vary considerably among employers having the same fiscal year. Most importantly, the levels of volatility in investment markets can cause even the most recent estimates to become outdated, especially for the many plans that use market-based discount rates to determine vested benefit liabilities, while other plans use dampening techniques to reduce investment volatility. These factors could result in an employer providing misleading and/or outdated information to users of financial statements. A company that may have been subject to withdrawal liability in the prior year could, in actuality, have no obligation for the year in which the disclosure is actually being made.

A more useful and timely indicator of employer liability would be to disclose the employer's known contribution obligations for the current year and years beyond that, including contributions required under the same schedule(s) that was/were in effect for the prior year. A disclosure of whether the contributions have been modified as a result of annual updates to a Funding Improvement Plan (Endangered Status Plans), a Rehabilitation Plan (Critical Status Plans), or newly negotiated bargaining agreements could also be disclosed. This information is much more current in nature and gives a fair representation of expected cash flow requirements to the plan from the employer.

For employers that have already incurred (or are highly likely to incur in the near future) withdrawal liability, the information about the liability should obviously be disclosed, as is currently required under Topic 450: *Disclosure of Certain Loss Contingencies*. This information might include not just the total estimated or actual withdrawal liability, but also the amounts of statutory payments required from the employer to the plan and the period over which these payments are required to be made.

Question 3: *What implementation costs, if any, will an employer face in applying the proposed disclosure?*

We provide an analysis of the estimated cost for each material plan that an employer sponsors:

(1) Cost of withdrawal liability estimate – while some multiemployer plans will provide estimates free of charge, many plans charge for estimates – typical charges run up to about $5,000 – though the average is probably about half of that. (If the update is adopted, we believe that the vast majority of plans will charge for estimates.) Plans are required by law to provide the estimates – however, the time frame is an issue – the administrator has six months from the request to provide the estimate, and the estimate is for the PRIOR year, which in turn represents the employer's share of the unfunded vested benefits at the end of the second prior year. So, for example, a plan must respond to request made on September 1, 2010 for a calendar year plan no later than March 1, 2011 – this a marginally acceptable date for most company's calendar year-end financial statements. Moreover, that response would generally be the withdrawal liability as if the employer withdrew in 2009, because the 2010 determinations are unlikely to be available at the time the of the request. This could mean that the employer's share of the unfunded vested benefits as of December 31, 2008 is the best information available – applicable to withdrawal in 2009. This is arguably a very out-of-date figure for a December 31, 2010 financial statement. In many cases, the fiscal year of the multiemployer plan will not coincide with the fiscal year of the company – this could make the numbers even more out-of-date in some cases. (Withdrawal liability numbers will only be available as of the fiscal year-end of the plan.) Of course, many plans will voluntarily provide more up-to-date estimates, and many will provide it in less than the six month statutory maximum. Some plans might not even comply with the statutory maximum. In most cases, the company has relatively limited leverage to "force" the plan to provide what the company might need for its financial statements.

If more up-to-date figures are deemed necessary, significant additional work would be needed by an actuary hired by the company – based on asset and other information the plan is required to provide within reasonably short time frames – this could easily cost another $5,000 to $15,000 per plan, depending on complexity, assuming that the company can get access to the relatively limited number of actuaries who would have the expertise to develop such figures. However, we expect that few companies or their auditors would deem this to be necessary (or even have the wherewithal to do the calculation).

Recall that money in multiemployer trust funds has been earmarked by law specifically for the benefit of fund participants and beneficiates and the routine administrative expenses for providing such benefits. Your proposal would place an onus on fund resources that is not contemplated by ERISA and for which fund assets and recourses cannot be used.

Should our general suggestions on withdrawal liability disclosure be included in the final rules (see responses to Questions #1 and #2, but we summarize here as well) – i.e., disclosure focused on the annual withdrawal liability payments (which are the only statutory obligation of the company, are relatively easily calculable by the company without having to rely on the pension plan, and would not tend to change dramatically from year to year) - as opposed to the nominal withdrawal liability (which is not a statutory obligation of the company, generally is not calculable by the company without the cooperation of the fund, and can vary dramatically from year to year - though we note that the number of years of required payments may also vary dramatically from year to year depending on the nominal withdrawal liability) – the cost of the calculations would be lower (and could clearly be done with internal company resources) as well as being within the timing control of the company.

(2) Paragraph 715-80-50-1B information – In some situations, and for some of this information, the information required may be within the expertise of internal company resources. We focused only on rough estimates/projections of costs if a qualified outside consultant were hired by the employer to process all this information and prepare a summary, assuming that such qualified consultants would even be available to handle the potential large amount of new work. Our total estimate (excluding withdrawal liability calculations) is $8,000 to $20,000 per material plan. There might be a lower per-plan cost for multiple plans, if the assignment allows for economies of scale. On the other hand, some employers might contribute to 20 or more multiemployer plans and could see additional first year set-up costs in the $30,000 to $50,000 range.

Question 4: *The Board plans to require that the amendments in the final Update be effective for public entities for fiscal years ending after December 15, 2010. Are there any significant operational issues that the Board should consider in determining the appropriate effective date for the final amendments?*

There are several significant operational issues in determining the appropriate effective date for the final amendments. While some contributing employers have already done much of the work that will be required, many others have not yet begun the process of centralizing data regarding multiemployer plans and will need significant lead time to provide the required information. We believe that most companies have not yet begun this process and will need **at least one year** to prepare to provide this information. In the case of participation in plans that do not respond quickly to requests, the time required may be even longer.

In many companies, data regarding multiemployer plans is decentralized. It is not uncommon for a company to participate in many plans but have no centralized list of all of the plans. Many employers, particularly large employers in unionized industries, may participate in dozens of multiemployer plans with responsibility for "managing" the relationship with these plans handled at the local level. Even after a list of plans is gathered centrally, it often requires a significant time commitment to make the list usable. For example, it is not uncommon for bargaining agreements to refer to multiemployer plans by an obsolete name that was changed many years ago as a result of subsequent plan mergers. Before usable financial data can be gathered, the list of plans needs to be corrected to map the names in bargaining agreement to current names. Once the plan names have been determined, the plans often have difficulty in determining which contributing employers are part of the controlled group. This is complicated by the fact that it is not uncommon for a plan to have an employer listed under a corporate name that hasn't been used for many years. We have seen the process of determining a usable list of plans, and then requesting data from those plans, take many months for a company to accomplish.

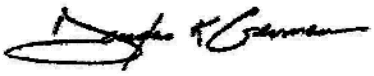
Once the company has assembled the list of multiemployer plans and requested data from the plans, each plan may take up to 180 days to respond to such request. While many plans respond more quickly, others take the full 180 days allowed by law (or, in some cases, even longer). Critical data provided by the plan could be inaccurate. For example, if one or more entities were acquired in asset sales with an agreement under ERISA Section 4204, it is common for the plan to incorrectly includes contributions from years that would be excluded under Section 4204 and thus overstate the withdrawal liability – possibly significantly. A careful review of data provided by the plan is often required to ensure that the correct entities and contributions are included in the calculation.

The collection and processing of the data outlined in the exposure draft would require a great deal of time of people with familiar with the technical nature of these plans and further time to ensure relative completeness and accuracy. Companies that participate in a large number of multiemployer defined benefit plans (some companies contribute to over 100 such plans) will probably need to add and/or train staff to prepare this information. To the extent that companies wish to rely on an outside consultant to assist in this process (usually an experienced multiemployer actuary); we believe the current availability of such outside resources is very limited.

Likewise, most multiemployer plans do not have the staff available to respond to the volume of requests that this amendment would produce. Some large plans have hundreds or even thousands of contributing employers. To handle data requests would require a significant expansion of staff at a time when these plans are financially constrained and, again, their funds and resources are statutorily earmarked for other purposes. Significant lead time will be needed for the plans to add and train such staff.

Buck appreciates the opportunity to provide input to the FASB on this important issue, and would be happy to discuss any of these items further. Please contact Doug German at (314) 606-8374 or Douglas.German@buckconsultants.com if you have any questions or would like to discuss these comments.

Sincerely,



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