



Grassi & Co., CPAs, P.C.

An Independent Firm Associated with Moore Stephens International LTD

October 12, 2010

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

Re: File Reference No. 1860-100  
Disclosures about an Employer's Participation in a Multiemployer Plan

Dear Technical Director:

We are providing the following comments regarding the Financial Accounting Standards Board's ("FASB") Exposure Draft – *Compensation – Retirement Benefit – Multiemployer Plans (Subtopic 715-80): Disclosures about an Employer's Participation in a Multiemployer Plan* (the "Exposure Draft") - issued September 1, 2010. Grassi & Co., CPAs, P.C. has a major concentration of clients in the construction and related industries and have for the past 30 years. As such, we work closely with the management team of companies within the industry to ensure their financial statements are presented accurately and are in accordance with Generally Accepted Accounting Principles. These financial statements are the life line of a contractor as it relates to obtaining credit and surety agreements. We also consult with financial institutions and sureties to assist in their underwriting of contractors' financial statements. The following comments relate to the adverse impact that the Exposure Draft will have on the industry.

We appreciate and support the FASB's efforts for transparency and increased disclosures to provide the financial statement users with additional information in their decision making process. However, we disagree with the proposed changes based on the reasons outlined in this letter. The proposed accounting standards are a major concern to the industry.

**FASB 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 obligation arising from its participation in a multiemployer plan?**

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The proposed requirement for a company to disclose the potential unfunded multi-employer pension plan withdrawal liability could cause the financial statements to become misleading. The amount of the withdrawal liability is an actuarial calculation that requires numerous assumptions (future funding, discount rates, return on assets, expected retirement dates, the projected increase in salaries and compensation). Additionally the calculation is a result of the current fair value of the underlying assets within the plan as of the date of the calculation. Based on the large changes in the fair value and performance of the plan's assets, in addition to any changes in the actuarial assumptions, the amount of the withdrawal liability calculated at the measurement date can change materially from one period to the next. This change may confuse or affect the user's decision in analyzing a company's financial situation.

On an annual basis, pension plans are required to perform a valuation of their assets and liabilities and determine the funded status. Since these calculations require a significant amount of time to compute due to the amount of data and third party information required, the multi-employer plans typically do not have the calculations completed until six to nine months after the year-end. The timely completion of a contractor's financial statement is critical and required shortly after their respective year end. Surety and bank credit agreements often have covenants that typically require financial statements to be issued within 90 days after the year-end. If the funding status of the plan is not available until some time after the contractor financial statements are required to be completed, accurate information can not be disclosed. If the contractor is forced to use outdated information from a previous period, this could result in the financial statement being misleading.

Additionally, it is not uncommon in the construction industry for companies to have a financial year end that is different than a calendar year end. These companies will be faced with additional challenges. Since most of the multi-employer pension plans will have a year-end of December 31, the valuation of the plan assets and liabilities are performed as of this date. The calculation of the unfunded status and the potential withdrawal liability for the company will not coincide with the company's year end. Interim financial reporting will also become a problem. Multi-employer plan cannot be expected to perform this analysis of the funded status of the plan for each month in the event that a contractor will require the amount of the withdrawal liability for their reporting requirements.

We also believe that the proposed requirement to disclose the expected contribution for the next annual period will be difficult, if not impossible, to determine and based on factors that are unknown at the time of the financial statement. Within the construction industry, employee related expenses such as contributions to a multi-employer pension plan fluctuate based on the amount, size and type of the contracts that are being performed in any given year. Many factors will come into play in determining the expected amount of the contribution and it is likely that the estimates will change in the next annual period. For contractors that do not have a full year's worth of backlog, the contractors would only be guessing at the amount of the contribution for the next full year. The contractor will have no way of knowing how many contracts they will sign, the type of and size of the project, or how many union employees they will be utilizing and from which

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unions. This will require companies to make projections of amounts they are not currently projecting and based on amounts that have no support. This information, if disclosed, will have little value to the reader of the financial statement and would only make the financial statement more complex and confusing to the reader.

For the reasons noted, we believe that the proposed disclosures will not result in a more meaningful financial statement, but potentially one that is misleading.

**FASB 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?**

It would be appropriate to disclose the potential liability when a contractor has a significant change in their operating activity, or one that is considering a change that would cause them to withdraw from a multi-employer plan in the near future. Prior to this proposed standard, if it is reasonably possible that a company will be withdrawing from a multi-employer plan, the company has always been required to disclose the expected withdrawal liability as a contingency. All companies that prepare financial statements in accordance with Generally Accepted Accounting Principles are required to assess all contingent liability and determine the appropriate contingent liability disclosure. Assessing the potential liability associated with the withdrawal from a multi-employer pension plan is no different. The proposed standard that would require the company to disclose a withdrawal liability even in the case where the company has not made a decision or is not required to withdraw from the multi-employer plan, does not provide the financial statement with useful information. We believe that the current standards that require a company to disclose the withdrawal liability when it is reasonably possible the amount will be paid is adequate, and does not require change.

Before making any business or financial decision, a company will weigh all options and consider all potential liabilities. Decisions are made by management that benefit the financial strength of the company. If the amount of the withdrawal liability were such that the potential change in the company's operations would result in a financial hardship, management would consider other options. A financially strong company would never decide to withdraw from a plan if it would not make economic sense. In these situations, it is reasonably possible that the company may never withdraw from the multi-employer plan and the company would never incur the loss associated with the withdrawal liability. We believe that the proposed disclosure of the withdrawal liability is speculative. Requiring a company to disclose a liability in the current period based on an event that may or may not occur in the future is unrealistic. This type of speculation should not be included in ANY financial statement.

The rules regarding withdrawal liability are located within the Multi-employer Pension Plan Amendments Act of 1980. These rules include a so called "Construction Industry Exclusion" that modifies the conditions under which a contractor would be liable for a withdrawal liability. Under

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these rules, a withdrawal occurs only if the employer ceases to have an obligation to contribute under the plan and continue to perform work in the jurisdiction of the collective bargaining agreement, or return to do the same type of work in the jurisdiction within five years without resuming the contributions to the plan. Based on these rules, a contractor could go out of business and never incur the withdrawal liability. Additionally, a contractor can decide to stop performing work altogether within one jurisdiction and never incur a withdrawal liability to the related plan. Under the proposed requirements of the exposure draft, the contractor would be required to disclose the amount of the withdrawal liability when more likely than not it will never be incurred. For this reason, we believe the construction industry and related industries should be excluded from the disclosure requirements under the Exposure Draft.

Contractors have expressed concerns that the proposed disclosure requirements will have an unnecessary negative impact on their ability generate the appropriate level of financing. Reporting a withdrawal liability for a company that does not intend to withdraw from a multi-employer plan could lead the user of the financial statement to misunderstand the disclosure. Since the liability would not represent an actual liability until the company withdraws from the plan, the end user of the financial statement may misinterpret this disclosure to imply that the liability is more imminent and the contractor's financial position weaker than it actually is. This situation may cause the company significant difficulty in obtaining the necessary financing or surety agreements, severely undermining their ability to secure work and keep their workforce employed. Financial institutions might decide to discontinue lending to the construction industry altogether. The cost of lost profits associated with a contractor that does not have the required financing is immeasurable and can be devastating to an already struggling industry and could send ripples across the larger national economy.

By including disclosures in a financial statement for all contingent liabilities without regard for the realization of the liability being paid, will not provide useful information to the reader. How will the reader be able to arrive at a conclusion regarding the amount disclosed? Additionally, if the contingent liability amount is accompanied by a disclosure that states the contingency is remote, the reader of the financial statement will be confused. The proposed disclosure of a withdrawal liability in the situation when it is remote that the amount will ever be paid will be misleading to the end user of the financial statement.

For the reasons noted, we believe that the proposed disclosures will not provide users of financial statements with useful decision-making information; on the contrary, it is our position that the proposed disclosures will have extremely negative ramifications in how contractors' financial statements are interpreted and, as a result, adverse impact on the industry at large.

**FASB Question 3 – What implementation costs, if any, will an employer face in applying the proposed disclosures?**

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Multi-employer pension plans typically have thousands of employers contributing funds annually. The proposed standard would require these plans to provide information to the contributing employers each year to comply with the disclosure requirements. The plans will incur tremendous costs associated with compiling the information, presenting this to the contributing employers and addressing questions regarding the assumptions and required data. The costs of providing this information will either be absorbed by the plans--which would result in fewer benefits to the participants--or passed along to the contributing employers. In a time when companies are struggling to reduce costs and maintain declining profits, additional costs associated with disclosures that could potentially render the financial statements misleading is counter productive.

From an auditor's standpoint, any significant disclosure will require audit procedures to determine that information and amounts are complete and accurate. The proposed disclosure requirements will require an increase in the amount of time required to ensure the accuracy of the disclosures. The auditor will be required to assess the assumptions regarding the amount of the withdrawal liability. Most of this information is not readily available and will need to be provided by the plan administrator. Since the work to prepare the disclosure requirement will likely be prepared by a valuation expert of the multi-employer plan, it will become extremely difficult and time consuming for the auditors of the employer to perform the required audit procedures related to the assumptions. For each situation, the auditor must determine if the information provided by the plan's valuation expert will provide sufficient evidence or if the auditor will require an independent valuation analysis. This will require additional time, effort and expense. Additionally, it is common for companies to contribute to several multi-employer plans at the same time. The amount of time required to perform audit procedures for the proposed disclosures is multiplied by the number of plans.

The costs associated with the proposed standards will become excessive to all parties involved. All of the work will be required for a disclosure of a contingent liability the company may never incur. From a cost/benefit standpoint, the cost to provide this information will significantly outweigh the benefit of the disclosures.

We appreciate the opportunity to provide comments and voice our concerns and the concerns of the construction industry regarding this Exposure Draft. Please feel free to contact us if you require any additional information or clarification or would like to open a dialogue about this very important issue.

Sincerely,

GRASSI & CO. CPAs, P.C.



Louis C. Grassi, CPA, CFE  
Managing Partner