1860-100
Comment Letter No. 220

JOINT INDUSTRY BOARD OF THE ELECTRICAL INDUSTRY
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October 26, 2010

Technical Director
File Reference 1860-100
FASB
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

RE: Multi-Employer Plan Disclosures

Dear Sirs:

I am the Chairman of the Joint Industry Board of the Electrical Industry (hereinafter JIB). The JIB is the Administrator of numerous defined benefit, defined contribution and welfare plans negotiated between Local Union No. 3 IBEW, AFL-CIO and over 450 employers. The JIB administers over $8 Billion in assets for these plans. All of the plans are Taft Hartley funds with separate Boards of Trustees. I am writing to you at the request of both management and union trustees of those plans to express our joint concerns regarding the proposed Multi-Employer Plan Disclosures.

Let me begin by saying that, while we are in favor of full disclosure of relevant information and transparency, we feel that the proposed regulations do not accomplish that end and in fact, can have a detrimental effect on industry.

1. Construction Industry Exemption

The majority of our contributing employers are engaged in the construction industry and, therefore, are exempt from withdrawal liability in most cases. In the construction industry the workforce is transient. Workers are hired as needed and are then laid off when the job is completed, so that the employer's workforce can vary depending on the amount of work it has. Disclosure of the information required by the regulations paint an incorrect and false picture of an employer in the construction industry. As a result of this misinformation, a private employer may be denied a line of credit or bonding on a job for a perceived liability that does not exist. The disclosure of such a non-existent liability can have a detrimental effect on the employer's credit worthiness resulting in a loss of jobs and the loss of future contributions to the funds.

2. Five Year "Free Look" Period

The regulations will apply to every employer from day one even though a new employer in a multi-employer plan may be able to withdraw during the first five years of participation in the plan and not incur any withdrawal liability.

The disclosure of such non-existent liability can have a detrimental effect on new start-up companies and companies entering into a multi-employer defined benefit plan because of the potential negative effect on the employer's credit worthiness resulting in a loss of jobs and the loss of future contributions to the funds.

3. Information Disclosures Untimely

Since the information disclosed will not be current, it therefore can be misleading, making a company's financial position either appear less favorable than it really is or more favorable than it really is. For example, the Pension Trust Fund of our largest pension fund has a September 30th end of fiscal year. Our year-end financial statements are not finalized by our auditors for approximately six to seven months after that date. Once the year end is completed, then our actuaries can complete the withdrawal liability calculations. Therefore, an employer on a calendar year would be making a disclosure on his 2010 year end returns using withdrawal liability calculations based on a September 30, 2009 valuation, computed fifteen months prior to his/her disclosure. Therefore, such an employer can be severely under reported or over reported for their year end of December 31, 2010.

4. Costs on Employers

The construction industry plans we administer have approximately 350 employers, a large portion of which are small shops with less than 10 employees in a plan with over 12,000 participants. For most of our employers, because of their small size, their withdrawal liability would be minimal, if anything, even if the construction industry exemption did not exist. The vast majority of the employers are privately owned companies. It will cost each employer approximately $1,500 a year to have their withdrawal liability calculated. Not only will this be an unnecessary financial burden on the employer, there will be additional administrative time and expense incurred by the plan in providing the necessary payroll data to the actuary for each employer and providing this information to each employer.

5. Employers' Participating in Several Multi-employer Defined Benefit Plans

Often, as in the case of our contributing employers, an employer may be contributing to more than one multi-employer defined benefit plan. In the electrical industry, the employers not only participate in the plans we administer, but they also contribute to multi-employer defined benefit plans administered on a national level, such as the National Electrical Benefit Fund (NEBF). There are over a million participants in the NEBF. Each employer will have to pay to each defined benefit fund administrator the cost of their withdrawal liability calculation when, due to the size of the plan, the actual exposure is slight. This again places a greater financial burden on employers.

6. Relevance of Information

In addition to the financial information required by the regulations concerning withdrawal liability, there is a litany of additional information required, some of which can be relevant to someone reviewing a company's financial statement and other information which is not relevant or can be simplified. The employer's accountant, who is preparing the employer's tax return, will have difficulty providing accurate and useful information regarding the employer's exposure to significant risks and uncertainties arising from its participation in the plan, how benefit levels for participants are determined, consequences the employer will face if it ceases contributions to the plans, funding improvement plans or rehabilitation plans, description of nature and effect of any changes in the plan, number of employer's retired employees who are participants in the plan (in the construction industry, which is transient, this can be a large number even for a small company) and trends in contributions. Not only will the employer's accountant not have this information, the information provided by the Plan is technical and difficult for someone not specializing in employee benefits to understand and, therefore, it can be misinterpreted by the accountant or the person reading the financial statement since they may not have an expertise in multi-employer benefit plans. The regulations also have different standards based upon "materiality", but no clear cut definition of "materiality".

Although the goal you are seeking to achieve is a good one, we believe that there are other less burdensome and more relevant ways to achieve that goal other than as set forth in your current proposal, such as statements required by the Pension Protection Act, disclosure of known contribution increases,

disclosure of adopted funding improvements and withdrawal liability disclosure only if an employer is withdrawing.

7. Post Retirement Benefits

The extension of these requirements to other post-retirement benefits, such as welfare plans, does not make sense if those post-retirement benefits are not vested and can be changed as needed.

8. Conclusion

In conclusion, although we are in favor of disclosure and transparency, it is our position that these regulations go beyond what is necessary and put an undue burden and cost on employers and defined benefit plans. In most cases, the information will not be current enough to present accurate information at the time it is being reviewed. Moreover, since withdrawal liability has very limited, if any, applicability to the construction trades, the proposed disclosures will put additional, unnecessary costs on employers and plans. They may also deter employers from participating in multi-employer defined benefit plans, since information can unintentionally be misstated by corporate accountants or misunderstood by an individual reading the financial statements of a company, thereby making it more difficult or even impossible for an employer to get financing or a bond unless they pay a higher cost to get it. This burden, especially on privately held companies, is unfair.

I respectfully request that the implementation of these regulations be delayed until such time as they can be revised to require only relevant disclosure information, which will not unnecessarily alarm the uninformed who are not familiar with the unique conditions and rules applicable to the construction industry.

Yours truly,

Dr. Gerald Finkel