League of American Orchestras

Engaging · Sustaining · Transforming

November 1, 2010

Technical Director
FASB
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Via email: *director@fasb.org*

Re: File Reference No. 1860-100

The League of American Orchestras is pleased to comment on the Financial Standards Accounting Board (FASB) exposure draft, Compensation – Retirement Benefits – Multiemployer Plans Subtopic 715-80: *Disclosure about an Employer's Participation in a Multiemployer Plan*. The League leads, supports, and champions America's orchestras and the vitality of the music they perform on behalf of its diverse membership, which encompasses nearly 900 member symphony, chamber, youth, and collegiate orchestras of all sizes. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers, board members, volunteers, staff members, and business partners.

Nonprofit orchestras in the United States offer their employees – both musicians and administrative staff – a range of retirement benefits including both defined benefit and defined contribution plans. Among their defined benefit plan participation, orchestras engage in both single-employer and multiemployer plans. More than 80 U.S. orchestras with budgets ranging from just under $800,000 to more than $95 million participate in the American Federation of Musicians and Employers' Pension Fund, a multiemployer plan, as a component of employee compensation, and many other orchestras contribute to that plan by virtue of electronic media compensation agreements.

Orchestras understand that the motivation behind the proposed disclosure requirements is to increase transparency regarding employers' risks and commitments in participating in multiemployer plans. Orchestras participating in multiemployer pension plans have been undertaking intensive efforts to fully understand the impact of the Pension Protection Act and the 2008 economic downturn on pension liability. While we share the goal of improved public transparency, we are concerned that several aspects of the proposed disclosure requirements will place an unreasonable burden on both employers and plan administrators, and that proposed disclosure regarding withdrawal liability will paint an inaccurate picture of financial health, with the unintended consequences of weakening the financial position of organizations participating in multiemployer plans.

Proposed Withdrawal Liability Disclosure

We do not believe that requiring disclosure of the estimated amount of the full withdrawal liability, when withdrawal is not at least reasonably possible or probable, will provide users of financial statements with decision-useful information. Requiring employers to report the potential cost of complete withdrawal from the plan, even if withdrawal is not probable or possible, would inaccurately portray a weak financial picture of employing organizations, producing a harmful impact on the employer's perceived financial position before donors and lenders.

The exposure document invites comments as to whether "any of the provisions in this proposed Update (are) different for nonpublic entities (private companies and not-for-profit organizations)." As FASB considers the intention of the proposed disclosure requirements, we point out that the financial statements of nonprofit cultural organizations are reliant on building confidence among both traditional financial lending institutions and philanthropic donors. Reporting a withdrawal liability that is not, in fact, probable or possible would inaccurately portray many nonprofit orchestras participating in multiemployer pension plans as on the verge of a significant financial outlay that, in many cases, would severely damage both their financial stability and capacity to serve their communities. This false perception could, in turn, have a detrimental impact on the capacity of orchestras to raise the necessary financial contributions to support their charitable purpose. **We believe that the costs – both direct and indirect – of the proposed withdrawal liability disclosure far outweigh any potential public benefit.**

We support the alternative approach to withdrawal disclosure recommended by a number of plan administrators, which would replace the proposed disclosure of the full withdrawal liability assessment with a disclosure of the annual payment amount that would be required in the event of a withdrawal. Compared to reporting the lump-sum liability of full withdrawal, reporting the annual payment an employer would make in the case of withdrawal is a disclosure standard that is proportionate, responsible, and an accurate representation of the financial reality for employers. Orchestra employers would expect plan administrators to provide the necessary calculation of the annual payment amount that would be required in the event of a withdrawal.

<u>Increased Reporting Burden</u>

Obtaining, analyzing, and reporting the detailed information about pension plan participation, as proposed by FASB, could prove significantly challenging to nonprofit orchestras. While we are unable to assess the estimated cost of meeting enhanced disclosure requirements, orchestras report that attempting to gather the requested information will likely prove excessively burdensome, particularly at a time in which administrative resources are stretched to the margins as nonprofit orchestras seek to direct their limited resources to serving their communities.

Multiemployer plans have likewise signaled that they lack sufficient resources to respond to the volume of employer inquiries that will ensue from the proposed disclosure requirements, and that new fees may be assessed to employers to offset the cost. We urge FASB to re-consider the disclosure requirements in light of this potential new financial burden to plans and participating employers, and derive a set of disclosure measures that will both portray an accurate picture of plan liability and not place an undue burden on reporting employers. To this end, a number of multiemployer plans have proposed the following disclosures as being both reasonable and appropriate:

1. The contributions for the current reporting period

2. The estimated contributions for the next reporting period

3. The terms of the current contribution agreement, including the basis for determining the contribution amounts

4. The terms and expected impacts of funding improvement or rehabilitation plans that the multiemployer plan trustees have adopted

5. The annual payment amount that would be required in the event of a withdrawal

The Background section of the exposure draft states, ”the proposed amendments are largely based on information that would be available to the employer from its contractual arrangement with the plan or that the employer would be able to obtain from the plan with reasonable effort and at reasonable costs. The Board also considered information that U.S. plans are currently required to provide to participating employers if the employer requests such information under the Pension Protection Act of 2006 or other regulations.” Orchestra employers report that the information that would be required by the proposed disclosure has not historically been readily accessible, and that the relatively recent implementation of the plan disclosure requirements of the Pension Protection Act has not established a sufficient track record to suggest that the FASB-proposed new employer disclosure information will be readily available to inform reports by employers.

Thank you for this opportunity to comment.

Sincerely,

President and CEO