

VIA ELECTRONIC MAIL
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November 1, 2010

Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 1860-100—Compensation-Retirement Plans-Multiemployer Plans (Subtopic 715-80)

Dear Technical Director:

Thank you for the opportunity to provide comments on the Exposure Draft of the proposed Accounting Standards Update to *Compensation-Retirement Benefits-Multiemployer Plans (Subtopic 715-80)* (“Proposal”) applicable to disclosures regarding an employer’s participation in a multiemployer defined benefit pension plan (“Plan(s)”).

Rigging International, a member of the Sarens Group, is a heavy construction contractor with headquarters in Alameda, California. We are a contributing employer to a multiemployer defined benefit plan on behalf of certain of our employees and would be directly affected by the changes in the Proposal.

We do not support the changes contained in the proposed amendments contained in the Exposure Draft of this Proposal. We believe the current reporting requirements are sufficient to provide the users of the financial reports with information regarding a company’s participation in a Plan. If, however, the Board feels compelled to make changes, we have suggested several alternatives in this comment letter to those contained in the Proposal. We believe these alternatives achieve the Board’s stated objectives and would more fairly balance the interests of reporting companies and users of financial reports.

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?

Comment: No. It is our position that the additional disclosures contained in Section 715-80-50-1B of the Proposal will not necessarily provide more useful information and will likely cause confusion regarding the actual obligations arising from an employer’s participation in a multiemployer defined benefit pension plan. The volume and type of information an employer would be required to disclose



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under the terms of the Proposal would result in the production of a substantial amount of additional verbiage in its financial statements regarding information that most users would find useless. This is especially true in situations where an employer participates in a number of different Plans and would be reporting the information separately or in aggregate as determined by the requirements. Many of our members employ members of various construction trades unions in different geographic areas around the country. Each of these differing unions and those in different geographic areas has their own Plan. While the requirements of the Proposal are certainly burdensome for an employer whose employees are part of only one or two Plans, the situation becomes almost incomprehensibly oppressive for those companies employing workers from multiple trades in different areas. Even the ability to aggregate those Plan's which are in a similar condition does not lessen the burden. The same information for each and every Plan needs to be gathered, evaluated, compiled, reviewed, prepared in draft, and then ultimately in final form.

Gathering all of the information required by the Proposal will take considerable time each year—even if the most recently available information from each Plan is used. The availability of the most recent reports from each Plan will differ depending on the Plan's fiscal year end and the reporting company's fiscal year end. If, for example a Plan and the company share the same fiscal year end, the most recently available information from the Plan that the company will have to use in its financial reports will be the Plan's previous fiscal year end numbers since the Plan will not have all of the information required by the Proposal until months after the company is required to prepare its financial reports. Since the economic condition of a Plan changes almost daily due to employer contributions, investment returns, benefit payments and interest rate changes, the timing difference of the information provided from the Plan in the company's financial reports makes all of the information essentially useless because it does not accurately reflect the current condition of the Plan or the company's potential future obligations to the Plan. As such, it is difficult to see how the requirements of the Proposal achieve the Board's objective of improving the usefulness of the information.

Notwithstanding the timeliness (and, hence, usefulness) of the information available from the Plans to be used by reporting companies, many of the specific provisions of the Proposal call for speculation (guessing), legal conclusions and irrelevant information. Sections 715-80-50-1B (k) and (l) are dependent on so many different factors that any quantitative or qualitative information provided would be pure conjecture. All Plans in the construction industry call for an hourly contribution amount based on the number of hours an employee works or gets paid. To provide an amount for expected contributions in any future period, an employer would have to guess how many workers that would be participants in a particular Plan would be employed and then guess how many hours they might work. This is very difficult in the construction industry—especially in the current economy where many jobs are getting postponed or cancelled.

Sections 715-80-50-1B(c)(1), (4), and (m)(1)-(3) involve legal determinations based on the particular Plan language, employer circumstances and prior legal determinations. Any information provided by a company relative to these proposed provisions would be problematic and likely involve numerous disclaimers so as to render it useless.

Section 715-80-50-1B(c)(3) is irrelevant and likely raises a legal issue. Trustees of Plans have a fiduciary duty to act solely in the best interests of the Plan beneficiaries. As such, no trustee “represents” any particular employer even if a trustee is an employee of a contributing employer. Acting in the



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interest of anyone other than the beneficiaries would constitute a breach of fiduciary duty and invite liability to the trustee. This provision should be stricken.

The Board has set its objective as improving the transparency regarding a reporting company's participation in a multiemployer defined benefit plan.¹ We believe that the salient information regarding an employer's participation in a Plan can be accomplished in a more useful manner and have provided this in the section "Proposed Alternatives" below.

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?

Comment: No. As more fully discussed in our Comment Letter to File Number 1840-100, we do not believe disclosing any estimate of a company's withdrawal liability when such company has not decided to cease its obligation to contribute to a Plan will provide users with decision-useful information.

As many of our member companies employ workers in the construction industry, the construction industry proviso to the Employee Retirement Income and Security Act ("ERISA") allows that such employers do not incur withdrawal liability unless they terminate their obligation to contribute to a Plan and continue operating their business in the same geographic area.² As such, incurring withdrawal liability requires a volitional act by the company. Unless a company has taken affirmative steps to terminate its obligation and incur withdrawal liability, there should not be a requirement to disclose in its financial reports any such estimate. To do so would invite confusion on the part of users who may incorrectly believe that such a liability actually exists for the company. Such confusion or misunderstanding would very likely lead to unnecessary significant adverse consequences for such companies in the form of alleged breach of loan covenants and surety bond covenants. The potential likelihood of such negative consequences to financially sound companies arising from this aspect of the Proposal should be avoided—especially now when this country needs every single employer to remain in business. Accordingly, Section 715-80-50-1B(m)(1)-(3) should be stricken and Section 715-80-50-2 should be modified to apply only to a company that has taken affirmative steps to cease its obligation to contribute to a Plan and actually incur such legal liability.

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

Comment: The costs to companies and Plans to implement the Proposal will be substantial. Each Plan will have to increase the number of employees employed by its administrator to produce the information required for each contributing employer since much of this information is not currently produced. This comes at a time when Plan trustees have directed administrators to reduce staff and cut operational expenses to improve the financial condition of the Plan. Many Plans will seek to pass these

¹ Board Comment 4, p.13 of the Exposure Draft [(1) Information about the multiemployer plan; (2) Information about the employer's participation in the plan; and (3) Information about cash flow implications arising from the employer's participation in a multiemployer plan.]

² ERISA Section 4203(a), 29 U.S.C. Section 1983(a).



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expenses on to the contributing employers. Each employer will have to either add the tasks of gathering, organizing, preparing and reviewing the information required to be disclosed under the Proposal to the duties of current employees or add staff to perform these activities. This will increase expenditures for wages, benefits, payroll and other taxes and training expenses. The increased disclosure requirements will also increase each company's annual accounting and legal expenditures as they determine exactly what needs to be disclosed and the language of the disclosure provisions and additional time needed to prepare the company's financial reports. In addition, there will be resource expenditures for supplies, equipment and materials and ancillary expenses in telephone, facsimile, computer data storage etc. All of this adds to overhead and decreases profitability for each company—at a time when companies are struggling during the worst recession in 75 years.

Question 4: Are there any significant operational issues that the Board should consider in determining the appropriate effective date for the final amendments?

Comment: The contemplated effective date of December 15, 2010 for public companies and December 15, 2011 for non-public companies for this Proposal is completely unreasonable. The Comment Period closes on November 1st and the stated effective date is six weeks afterward. There has not been adequate notice to Plans and affected companies.

Even assuming Plans and companies know of this Proposal (I am sure that many do not despite the number of comment letters submitted on this Proposal), many, many Plans are not currently set up to provide contributing employers with the necessary information required by this Proposal. Many Plans have hundreds of contributing employers. Preparing and distributing the information required on such short notice would likely overwhelm the current capacity of many Plans. Many companies are not set up to effectively respond to the requirements of this Proposal for their 2010 fiscal year end financial reports—especially where their fiscal year end is the calendar year. As discussed above, many Plans and companies have drastically reduced staff during this recession and do not have the economic resources to add staff and cover the increased expenditures to produce the information that would be required by this Proposal. If passed in its present form, this Proposal should not be effective until 2012, at the earliest, in order to give Plans and companies sufficient time to prepare for the increased burden imposed by the Proposal.

Proposed Alternatives

While we don't believe that any changes to the current accounting standards should be made, if the Board is determined to do so, then there should be a balanced, economically reasonable approach to the requirement to provide additional information regarding a company's participation in a Plan. To this end, we suggest the following as an alternative to the present Proposal:

1. Modify Proposal Section 715-80-50-1A to require disclosure of only the specific information called for in Section 715-80-50-1B.
2. Modify Proposal Section 715-80-50-1B to require only the following:
 - A. Name of each Plan to which the company has a contribution obligation;
 - B. The fiscal year end for each Plan;



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- C. Reported funded status information (percentage and dollar values) as required by the Pension Protection Act for each Plan for the two most recent Plan years;
 - D. Total annual contributions by company to each Plan for the current reporting period and immediately preceding reporting period;
 - E. A description of any changes affecting comparability from period to period arising from a business combination or divestiture;
 - F. The amount of withdrawal liability for each Plan that the company has notified of its termination of contribution obligation to such Plan(s).
3. Effective date of Proposal:
- A. Public companies: January 1, 2012
 - B. Non-public companies: January 1, 2013

We believe the Proposal as currently drafted would not further the Board's objectives and will cause irreparable harm to our member companies and others. We urge you to consider the alternatives presented in this comment letter. We are interested in working with you to create a more balanced and useful accounting standard.

Sincerely,



Michael E. Glennon
Vice President, Operations
Rigging International

