NATIONAL COORDINATING COMMITTEE FOR MULTIEMPLOYER PLANS

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Comment Letter No. 230

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Technical Director
File Reference No. 1840-100 and 1860-100
FASB
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Re: File Reference No. 1840-100 and 1860-100

Dear Sir or Madam:

Thank you for the opportunity to provide comments regarding the Disclosure of Certain Loss Contingencies Exposure Draft issued on July 20, 2010 and on the Multiemployer Plans Exposure Draft issued on September 1, 2010. While we recognize that these documents represent separate proposals, for the companies that sponsor multiemployer pension plans there is considerable overlap and interaction between the two. For this reason, we are issuing these comments in response to both proposals.

The National Coordinating Committee for Multiemployer Plans ("NCCMP") is devoted to protecting the interests of the approximately ten million workers, retirees, and their families who rely on multiemployer plans for defined benefit pension benefits. The NCCMP's purpose is to assure an environment in which multiemployer plans can continue their vital role in providing benefits to working men and women. The NCCMP is a nonprofit, non-partisan organization, whose members include plans and plan sponsors in every major segment of the multiemployer plan universe, including in the airline, building and construction, entertainment, health care, hospitality, longshore, manufacturing, mining, retail food, service and trucking industries.

Background

There are currently approximately 1,500 multiemployer pension plans in America, and these plans cover over 10 million active and retired workers. Multiemployer plans are distinct from single-employer plans in that they are sponsored by two or more companies that employ workers in a common industry and geographic area who are covered by a collective bargaining agreement. Many small companies for whom establishing a single-employer plan would be impractical are only able to offer retirement benefits to their employees through the economies of scale offered by multiemployer pension plans. In addition, in industries that have highly mobile workforces, the only practical way for the employees to receive retirement benefits is through plans that span multiple employers.

If a company decides to withdraw from a multiemployer pension plan that is not fully funded, it may be obligated to pay the plan an "exit fee" representing a portion of the underfunding. This obligation is called a withdrawal liability assessment. In certain industries such as construction and entertainment, the law contains industry specific rules governing withdrawals that recognize differences in the way those industries operate. These very rarely lead to withdrawal liability assessments, regardless of the funded position of the plan. For example, in the construction industry the criteria under which an assessment would be made for a departing employer includes the requirement that the company continues to perform the same type of work, in the same geographic area, without contributing to the plan. Since the majority of withdrawals are due to businesses partially or fully ceasing operations, in these industries, which represent more than half (824 of a total of 1,517 total plans (54%) are in the construction industry alone) of the entire multiemployer plan universe, it is a minority of withdrawals that actually lead to an assessment.

In many cases where a plan does assess withdrawal liability, the withdrawing company does not pay the full amount of the assessment. Although plans determine withdrawal liability assessments as a single-sum payment, the law permits the company to pay off the obligation over a period of time that can reach 20 years. Further, if the period of time determined under the law exceeds 20 years, the company can cease payments after 20 years, even if the initial withdrawal liability assessment has not been fully paid off. For these and other reasons, the trustees of the plan will often negotiate a lower single-sum payment amount with the withdrawing company in order to receive as much money up front as possible.

Comments on Loss Contingency Exposure Draft

The Loss Contingency Exposure Draft would expand the range of situations where companies that participate in multiemployer plans are required to disclose the potential withdrawal liability assessments from these plans. We fully agree with FASB that if a company has withdrawn from a plan, or it is probable that the company will withdraw from a plan in the near future, it is necessary and appropriate to report the withdrawal liability amounts in the financial statements. However, when a withdrawal at some time in the future is only a remote possibility, it is not appropriate to require disclosure of the potential assessment.

A very carefully reading of the proposed disclosure threshold requirements described in paragraphs 450-20-50-1C and 450-20-50-1D shows that the Loss Contingency Exposure Draft is consistent with our position regarding when the disclosure of a potential withdrawal liability assessment is required. However, we have discussed this subject with many readers, and the majority of them have come to what we believe to be an incorrect conclusion regarding when the exposure draft requires the disclosure of withdrawal liability figures. For this reason, we suggest that FASB enhance the exposure draft to clarify the disclosure threshold, particularly as it pertains to the sponsors of multiemployer plans.

In Paragraph 450-20-50-1C, the exposure draft establishes when a company must disclose a loss contingency where there is a reasonable possibility that the loss will occur. The first sentence states that this disclosure is required 'if there is at least a reasonable possibility (that is, more

than a remote possibility) that a loss may have been incurred…' Applying this principle to the sponsor of a multiemployer plan, we see that it requires disclosure if it is probable that a withdrawal from the plan has actually occurred. Paragraph 450-20-50-1C goes on to discuss 'unasserted' claims, and states that disclosure of these claims is required if (a) it is probable that the claim will be asserted, and (b) there is a reasonable possibility that the outcome will be unfavorable. Again, applying this principle to the sponsor of a multiemployer plan, it indicates that if it is probable that the company will be assessed withdrawal liability from the plan, the exposure draft would require disclosure of the potential assessment even if the withdrawal has not actually occurred.

Paragraph 450-20-50-1C deals only with cases where the loss contingency has more than a remote possibility of occurring, and it clearly establishes criteria that apply whether or not the claim has been asserted. Paragraph 450-20-50-1D focuses on loss contingencies that have only a remote possibility of occurring. In general, disclosure of these contingencies is required if the potential financial impact of these losses is severe. However, in contrast to the previous paragraph, 450-20-50-1D makes no mention of unasserted claims. It applies only to asserted claims. Thus, for the sponsor of a multiemployer pension plan, disclosure is not required under the remote criteria if the employer has not withdrawn from the plan, and more specifically if it has not received a notice from the plan asserting the assessment. This is an extremely critical point, as extending the remote criteria to instances where a claim has not been asserted could be interpreted as applying the loss contingency disclosure requirements to every company that participates in a multiemployer plan.

We have discussed this exposure draft with many readers, several of whom are members of the accounting profession, and the majority has misinterpreted the criteria described in the preceding paragraphs. Some readers have understood the Loss Contingency Exposure Draft to require that all companies participating in multiemployer plans disclose their potential withdrawal liability annually. Others have taken a slightly more limited view, stating that this disclosure is only required when the potential impact of the withdrawal is severe. Nearly all readers have missed the fact that outside of when a withdrawal has more than a remote possibility, the exposure draft only requires disclosure of assessments that have been asserted.

We very much agree with FASB in that it is necessary and appropriate for companies that are likely to pay a withdrawal liability assessment to disclose this likelihood in their financial statements. At the same time, it is equally necessary and appropriate that this requirement be limited to situations where the assessment has more than a remote chance of occurring. Requiring disclosure of withdrawal liability in cases where the likelihood of a withdrawal is remote would be inconsistent with the nature of withdrawal liability, would mislead the readers of the financial statements, and would constitute an unnecessary and unreasonable burden on the plans and the companies.

If the Loss Contingency Exposure Draft were to go into effect as it is currently written, it is possible that in time the business and accounting community would agree that the requirement to disclose withdrawal liability figures is limited to cases where a withdrawal either has occurred, or is likely to occur. We strongly urge FASB to not leave this matter to the hope that the

community will come to the correct conclusion, but to instead enhance the proposed standard to make it clear exactly when disclosure is required.

Currently the exposure draft contains a section of illustrations that clarify certain situations where the application of the standard is unclear. We suggest that FASB add two multiemployer plan withdrawal liability examples to the illustration section. One example would show a case where a withdrawal liability assessment is probable, and disclosure is required. The other example would show a case where the assessment is not probable, and disclosure is therefore not required. These examples would remove all ambiguity from the standard, leaving no danger that it is subject to incorrect interpretations in the future.

Comments on Multiemployer Plans Exposure Draft – Misleading Nature of Withdrawal Liability Disclosures

From the perspective of companies that sponsor multiemployer pension plans, The Multiemployer Plans Exposure Draft differs from the Loss Contingencies Exposure Draft in two significant respects. First, it requires the disclosure of numerous items, of which potential withdrawal liability is only one such item. Second, the only criteria that dictates when the disclosure is required is that the information be obtainable. These differences result in the scope of the Multiemployer Plans Exposure Draft being dramatically more vast than the scope of the Loss Contingencies Exposure Draft.

We are deeply concerned that the Multiemployer Plans Exposure Draft will provide misleading information to the readers of the financial statements, and will create an unnecessary and unreasonable burden both on companies and on the multiemployer plans themselves. Further, while we recognize that potential withdrawal liability from a multiemployer plan does have a role in companies' financial statements, we believe that this role is far better addressed by the Loss Contingencies Exposure Draft than it is by the Multiemployer Plans Exposure Draft.

While the Multiemployer Plans Exposure Draft contains numerous disclosure items, the most troubling of these items is the potential withdrawal liability amount described in 715-80-50-1B(m)(2). As discussed previously, this disclosure is appropriate when either the company has withdrawn from the plan, or is likely to withdraw from the plan. In this sense, withdrawal liability is similar to the litigation contingencies discussed in the Loss Contingencies Exposure Draft. Expanding the withdrawal liability disclosure requirements beyond cases where the assessment is probable is comparable to requiring that companies disclose the impact of a lawsuit that has not been initiated, and is unlikely to be initiated. This approach clearly makes no sense in the context of lawsuits, and for the same reason it makes no sense in the context of withdrawal liability.

Many people have compared the accounting treatment of multiemployer plans with the treatment of single-employer plans. While it is not necessarily unreasonable to consider such comparisons, it is important to also consider the inherent differences between the two types of plans. For example, it is very common for the sponsors of single-employer plans to contribute the ERISA minimum required contribution amount to the plan each year. Under the Pension Protection Act of 2006, the minimum required contribution is designed to be sufficient to fully fund the plan

over a 7-year period. In this way, any unfunded liability in the plan will result in cash contributions on the part of the sponsoring company over a fairly short period of time. The key point is that the unfunded liability of the plan results in short-term contributions of cash, which would have otherwise been available to the company for other purposes were it not for the pension funding shortfall. Had the funding shortfall not existed, the company could have used the cash to invest in other areas of the business, to draw down existing debt, or to distribute to the owners as profit.

In contrast to single-employer plan sponsors, the companies that participate in multiemployer plans determine their contributions to the plan under a very different system. The first step in this process is for the sponsoring companies and the union to negotiate a wage package that is part of a collective bargaining agreement. This wage package will ultimately include all aspects of employees' compensation, not just their paycheck wages. Just as employees in non-bargained jobs expect to receive a raise each year, each bargaining cycle will typically include an increase in the overall wage package. The aggregate amount of the wage package increase is determined entirely by market forces. The union will seek to achieve the highest possible amount for its members, while the employers will not allow the rate to rise to the point where they are not competitive. What is important is that the condition of the pension plan does not affect the amount of the total wage package.

After the employers and the union agree to the increase in the overall wage package, the next step is to allocate this increase into several buckets. These buckets include the rate of pay that employees receive in their paychecks, the amount contributed to the health and welfare fund, and the amount allocated to the pension plan. It is at this point that the condition of the pension plan becomes very important. If the pension plan is well funded, it is likely that a modest amount of the overall wage increase will be allocated to the plan, and this increase may be accompanied by an increase in the pension benefit level. If the plan is underfunded, it is likely the bargaining parties will allocate a larger portion of the increase to the pension plan, and there will probably not be a benefit increase. In cases where the plan is severely underfunded, it is possible that the entire increase in the wage package could be allocated to the pension plan. In the most extreme instances, not only does the entire increase in the wage package go to the pension plan, but the employees actually experience a decrease in their paycheck amounts as their existing paycheck wages are diverted to pay for the pension funding shortfall. The latter examples reflect the requirements of the Pension Protection Act of 2006 which, under certain circumstances, may necessitate the bargaining parties to adopt contribution levels necessary to comply with a formally adopted "Funding Improvement" or "Rehabilitation" plan. This is especially true if the plan is facing a funding deficiency. Adoption of a contribution schedule that is consistent with such a plan is essential if the contributing employers are to avoid the imposition of additional contributions and excise taxes should the plan suffer such a deficiency.

In comparing the way companies fund single-employer plans with the way companies fund multiemployer plans, it is absolutely vital to understand one concept. If a single-employer plan is underfunded, this underfunding represents an amount of money that would have been available to the plan sponsor for any purpose it wished, had it not been for the underfunding. When a multiemployer plan is underfunded, it does not impact the total amount of money that the sponsoring employers will spend on their employees, it only affects how this total is allocated.

The total amount spent on employee compensation is determined by the market, and is independent of the funded position pension plan.

For the reasons discussed in the previous paragraphs, the funded position of a single-employer plan represents a true liability of the sponsoring employer, while the funded position of a multiemployer plan does not. When we say that forcing all employers that participate in multiemployer plans to disclose their potential withdrawal liability figures is misleading to readers, this comparison is what we are talking about. The readers will assume that the withdrawal liability amounts represent some additional debt that the company will need to pay in the future. The reality is that once you understand how companies fund multiemployer pension plans, it is clear that the funded position of the plan does not represent any additional cost to the employers. Rather, it represents reduced wages and diminished health and welfare benefits to the employees. Unfortunately, since few readers of financial statements have expertise in multiemployer plan funding, disclosing the withdrawal liability figures will create more than a remote likelihood the reader will be misled regarding the implications of such a disclosure.

The one exception to the preceding analysis of multiemployer plan funding is when a company withdraws from a plan. In this case, the driver of the cost ceases to be the collective bargaining process, and instead becomes the assessment of withdrawal liability. Once it becomes reasonably possible that a company will withdraw from a multiemployer plan, it is no longer misleading for the financial statements to include this figure. Now the withdrawal liability estimate represents an amount that the company would not have had to pay had it not been for the withdrawal. At this point, the Loss Contingency disclosure requirements take effect and the readers of the financial statements have a clear and appropriate understanding of the company's obligation.

Comments on Multiemployer Plans Exposure Draft – Availability of Withdrawal Liability Information

In addition to our concern that requiring that all companies disclose their withdrawal liability estimates annually, we are also very concerned that this requirement would place an unreasonable burden on both the companies and on the multiemployer plans themselves.

Many multiemployer pension plans are national in scope, and have several thousands of contributing employers. Under current law, each employer is entitled to receive an estimate of its withdrawal liability each year, although in practice a very small percentage of companies actually make such a request. If the accounting requirements dictate that all companies must request estimates of their potential withdrawal liability annually, it is unlikely that the multiemployer plans will be able to comply with this request with their current staff levels. In the short term some plans may simply be unable to provide the necessary information, and in the long term many plans will need to increase their administrative staffs to meet the demand. In an environment where pension plans are struggling to recover from the recent financial market crisis, forcing them to take on a significant administrative burden will have significant consequences.

While employers are entitled to receive withdrawal liability information from the fund under the PPA as amended by the Worker, Retiree, and Employee Relief Act of 2008, it is inconceivable that this information will be provided to employers free of charge. The exception to this statement is if the information can be derived from a formula for which the fund can provide general information and the contributing employers, knowing their own contributions, can then determine their own estimated liability. The statutory basis for requiring plans to recover the costs for developing the requested information includes: 1. that it is analogous to FAS 87 and 88 which the Department of Labor has determined is inappropriate to be paid from plan assets; 2. that WRERA permits plans to charge for "costs associated with" the development of this information; and 3. the prohibition against payment from plan assets for costs other than to pay benefits or to pay the reasonable costs of administration. Responding to a request from a contributing employer for information needed for the sole purpose of its own financial reporting requirements with no benefit to the plan participants, which, but for the WRERA language, can only be viewed as a service to a party in interest. We have asked the Department of Labor to provide clarification of this matter.

Just as many multiemployer plans have a large number of participating employers, many large companies participate in dozens of plans, and some participate in hundreds of plans. These companies will face a very large administrative burden if they are required to request, interpret and report their potential withdrawal liability assessments from all the plans in which they participate. When judged together, the burden placed on the company will not justify the additional information that is made available to the readers of the financial statements.

The timing of the information is also problematic. Multiemployer pension plans almost universally undertake a valuation of their assets and liabilities on an annual basis. Due to the fact that these valuations are complicated and time consuming, the results of the calculations are typically not available until six to nine months after the measurement date. For example, in the case of a plan that measures its assets and liabilities as of January 1, the results would likely be available sometime between July and September of that year.

A company that reports its finances on a calendar year basis will typically gather the necessary financial information for a given year during the first quarter of the following year. In the case of withdrawal liability information, the most current available information is almost certain to be over a year out-of-date. As a concrete example, in preparing financial statements as of December 31, 2009, the most recently available withdrawal liability information is likely to be as of December 31, 2008. If the plan year of the multiemployer plan and the fiscal year of the reporting company are not synchronized, the reported data could be even less current.

Withdrawal liability calculations frequently vary significantly from year-to-year. For this calculation, the plan typically uses the market value of the plan's assets, as opposed to the smoothed actuarial value of assets that is used for cash funding purposes. Due to volatility of the equity markets, particularly in recent years, withdrawal liability information that is a year old is likely to be a very poor representation of the current exposure. Just in the past two years, the S&P 500 index returned -37% in 2008, and +26% in 2009. If the financial disclosure as of December 31, 2009 contained a withdrawal liability estimate as of December 31, 2008, it would

dramatically overstate the potential assessment. In this way, the withdrawal liability figures are likely to provide investors with a highly inaccurate understanding of the company's current exposure to a withdrawal liability assessment.

Comments on Multiemployer Plans Exposure Draft – Suggested Alternative Approach

Our primary conclusion is that it is inappropriate to require that a company disclose withdrawal liability estimates unless there is more than a remote possibility that it will withdraw. However, we also acknowledge that investors feel that they need more information regarding withdrawal liability than the financial statements currently provide. We suggest that FASB consider an alternative approach that would provide investors with information that is more meaningful than hypothetical withdrawal liability assessments, without placing an unreasonable burden on the companies and the plans.

As discussed in the Background section of these comments, under Federal law companies have the option of paying off their withdrawal liability assessments over time, rather than in a single payment. The annual payment that the company would make to the plan is not a function of the amount of the assessment, but rather it is a function of the company's historical contribution rate and employment level in the plan. These payments would then continue until the assessment is fully amortized. Thus, the amount of the assessment determines the duration of the payments, while the company's historical contribution rates and employment levels in the plan determine the amount of these payments. Further, if the withdrawal liability assessment is not fully amortized after 20 years, the company ceases to make payments at that time, and the withdrawal liability assessment is never fully amortized. Note that the amount of these payments are fixed at the point of withdrawal, and do not increase subsequent to this event.

With this legal structure in mind, we suggest that FASB revise the Multiemployer Plans Exposure Draft to replace the disclosure of the withdrawal liability assessment amount with the disclosure of the annual payment amount that would be required in the event of a withdrawal. This amount is more relevant to investors, as it represents the actual amounts of payments that the company would make to the plan in the event of a withdrawal. While the notion of a withdrawal liability assessment is necessarily speculative, as companies very rarely actually pay this amount upon withdrawal, the annual payment amount is concrete, as companies very often pay off their assessments in this exact way. Further, the determination of the annual payment amount is reasonably simple, and does not require that companies obtain any information from the plan. Companies can easily perform this calculation on their own with minimal effort. Lastly, as this figure has a straight forward calculation that is based on readily available information, auditors will be able to verify the accuracy of the results.

An example of a statement that would satisfy this proposed disclosure requirement is as follows:

"The employer is currently contributing $X per year to the ABC Pension Plan. In the event that the employer were to withdraw from the Plan and be assessed withdrawal liability, the required annual payment would be $Y. The annual payment would remain at that level until the assessed withdrawal liability, if any, is fully amortized, or for 20 years, if less."

Comments on Multiemployer Plans Exposure Draft – Other Disclosure Items

Our most significant concerns on the Multiemployer Plans Exposure Draft relate to the disclosure of withdrawal liability figures. As discussed in previous sections, this requirement will provide misleading information to the readers of the financial statements, and will create an unreasonable burden on companies and plans. However, our concerns on this exposure draft are not limited to this one item.

Item (c)(1) under Paragraph 715-80-501B asks for 'the extent to which, under the terms and conditions of the plan(s), the employer can be liable to the plan(s) for other participating employer's obligations'. We are unsure how a company will be able to provide a meaningful response to this question. Under ERISA, each employer is liable for the entire obligation of the plan, regardless of the extent to which this obligation is attributable to their own employees. The terms and conditions of the plan have no bearing on this requirement, as it has been established under Federal law. Providing any information beyond the general statement that the employer is liable for the entire obligation of the plan would require that the employer speculate as to the possibility that other employers will become insolvent. Further, even if the company does anticipate that other employers in the plan will become insolvent, for reasons discussed previously the resulting funding shortfall will affect the allocation of the employees' wage package, and not the total compensation cost of the company. All of these facts lead us to believe that there is no instance where a company will provide the readers with useful information under this item.

Item (c)(2) under Paragraph 715-80-501B ask the company to describe how benefit levels are determined under the plan. The legal documents that describe how plans determine benefits are frequently lengthy documents that routinely approach and exceed 100 pages. Under ERISA, all plans are required to publish summary plan descriptions that contain condensed descriptions of how benefits are calculated. However, these documents still often exceed 25 pages. We are concerned that any attempt to answer this question with a reasonable degree of thoroughness will add reams of paper to companies' financial statements, particularly if they participate in a large number of multiemployer plans. Further, while we do not believe that this information will mislead investors, we do question the value of this information. We certainly acknowledge investors' interest in any liabilities arising from a multiemployer plan, but we do not see why information such as the plan's vesting period or early retirement eligibility criteria would be of any interest. In short, this item would add considerably to the disclosure burden, and would provide little, if any, value to the readers of the financial statements.

Item (c)(3) asks whether the employer is represented on the Board of Trustees. While this information may be of passing interest, a trustee is bound by ERISA and the LMRA to act in the sole and exclusive interest of plan participants and may not consider the interests of the employer in any actions taken relative to operations of the fund.[1] Consequently, we suggest that this reporting requirement be deleted, lest it imply a different standard of conduct is appropriate.

Item (c)(4) under Paragraph 715-80-501B asks for the consequences an employer may face if it ceases contributing to the plan. The only possible consequence of which we are aware is the imposition of withdrawal liability. As withdrawal liability is covered both by the Loss Contingency requirements, and elsewhere in the Multiemployer Plans Exposure Draft, this item appears to be unnecessary.

Item (c)(4) under Paragraph 715-80-501B asks for information regarding the effect of funding improvement or rehabilitation plans. We agree with FASB that this is relevant information that companies should disclose in their financial statements. Our only concern is the use of the phrase '….remedies being considered….'. While it is appropriate for companies to disclose the effects of any funding improvement or rehabilitation plans that have been adopted, it is very much unreasonable to expect them to discuss plans that are under consideration. The trustees' discussions of potential improvement or rehabilitation plans are generally not publicly disclosed, nor are they relevant until they become incorporated into an adopted acceptable funding improvement or rehabilitation plan. If a particular company has any knowledge of what is under consideration, it is likely due to informal discussions with trustees, or due to the fact that the company is represented on the board of trustees. In any event, it is not relevant as Boards are under no obligation to approve any plan other than the default schedule.

Item (e) under Paragraph 715-80-501B asks for the assets and accumulated benefit obligations of the plan(s). This information is publicly obtainable, as plans are required to produce funding notices each year that are provided to all participants and bargaining parties, as well as to the Department of Labor. However, in accordance with the earlier discussion of the principles of multiemployer plan funding, it would be very misleading for this information to appear on the

[1] (See U.S. Supreme Court NLRB v. AMAX COAL CO., 453 U.S. 322 (1981) 453 U.S. 322
Read more: http://supreme.vlex.com/vid/nlrb-v-amax-coal-19980451#ixzz107sy3Axh Employer-selected trustees of a 302 (c) (5) trust fund are not "representatives" of the employer "for the purposes of collective bargaining or the adjustment of grievances" within the meaning of 8 (b) (1) (B). Pp. 328-338.
(a) The duty of the management-appointed trustee of a 302 (c) (5) fund is inconsistent with that of an agent of the appointing party. Given the established rule of the law of trusts that a trustee has an unwavering duty of complete loyalty to the beneficiary of a trust, to the exclusion of the interests of all other parties, and the use in 302 (c) (5) of such terms as "held in trust" and "for the sole and exclusive benefit of the employees . . . and their families and dependents," it must be inferred that Congress intended to incorporate the law of trusts, unless it has unequivocally expressed a contrary intent. Nothing in 302 (c) (5)'s language reveals any intent that a trustee should or may administer a trust fund in the interest of the party that appointed him, or that an employer may direct or supervise the decisions of the trustee he has appointed. And the LMRA's legislative history confirms that 302 (c) (5) was designed to reinforce, not to alter, a trustee's established duty. Pp. 328-332.

financial statements of the sponsoring employers. The funded position of the plan affects the allocation of future wage packages, not the amount of future wage packages. Including this information on the financial statements of the sponsoring employers will create the false impression that this amount represents an additional future cash outlay of the company. Any reader who is sufficiently experienced with multiemployer plans to properly understand the implications of these figures will also be able to easily obtain them from other sources.

Items (f) under Paragraph 715-80-501B asks for the employer's contributions to the plan as a percentage of the total contributions to the plan. While we do not have a strong objection to this item, we do question its value. For example, if a company discloses in its financial statements that it provides health and welfare benefits through a particular insurance carrier, why would there be any reason to also disclose what percentage of the total premiums paid to the insurance carrier came from the company? This information adds no value to the financial statements. We have similar concerns about Item (i) under this Paragraph. We question the value to the disclosing party or those for whom it is intended. In addition to the administrative burden on the companies and the plans, question how that information is to be determined. Recalling that multiemployer plans are, by definition, found in industries characterized by mobile workforces, the exposure draft is unclear as to how these groups are to be counted. For example, would one count and report retirees who had any hours of service with the employer, or would the service have to be sufficient to constitute creditable service? Would you count only employees who worked any time during the reporting period, or only those working with the employer at a particular point in time (s "snap shot")? Similarly would the employer count any retiree who ever had service with the employer, or only those whose last service was with the employer. In any of these situations, employers are unlikely to know the circumstances anticipated. Similarly, most plans do not accumulate or track the kind of information requested. Furthermore, taking the question about reporting these numbers as of a particular point in time, it is difficult to comprehend how that information would be beneficial, especially if the employer is a construction firm in a northern tier state whose fiscal year coincides with the calendar year. If the point in time selected is either the first or last day of the year, it is entirely likely they would have no employees due to the weather. Clearly additional consideration and thought must be given to this topic and to the value of the information to be divulged rather than simply requesting it because it seemed like a good idea at the time.

Item (g) under Paragraph 715-80-501B asks for the terms of the current agreement to contribute to the plan, including the basis for determining contributions. This is relevant information to the readers of the financial statements, and we agree with its inclusion in the disclosure requirements. Items (j) and (k) under this Paragraph ask for the amount of contributions for the current reporting period, and an estimate of the contributions for the next reporting period. These are also relevant pieces of information, and we agree with their inclusion in the disclosure requirements.

Item (l) under Paragraph 715-80-501B asks for known trends in contributions, including the impact of any surplus or deficit. Any information that the company knows about future contribution trends will be due to either the current contribution agreement, as disclosed in Item (g), or due to the adopted funding improvement or rehabilitation plan, as disclosed in Item (c)(5).

As such, the response to this item will duplicate the information contained in other responses. Going beyond the information contained in these other disclosure items would be highly speculative on the part of the company, and therefore inappropriate to include in the financial statements.

Recommendations

Our final conclusion is that the following disclosures are reasonable and appropriate for the sponsors of multiemployer pension plans. Note that the first 5 disclosure items fall under the Multiemployer Plans Exposure Draft, while the 6th disclosure item falls under the Loss Contingencies Exposure Draft.

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
6. If it is reasonably possible that the company will be assessed withdrawal liability, the amount of this potential assessment

Disclosure of these six items will provide the readers of the financial statements with a thorough understanding of the impact that participation in the multiemployer plans has on the finances of the company, without unnecessarily burdening either the company or the plans. To the extent that the exposure drafts go beyond these items, the required information will be highly misleading to investors and lenders, and will place extraordinary burdens on companies and plans alike. We strongly urge FASB to consider reducing the list of disclosure items consistent with our recommendations.

We greatly appreciate your consideration of our comments, and we look forward to providing any additional information that you may request and welcome the opportunity for a further discussion of this issue to assist you in finalizing reasonable disclosure information.

Best regards.

Randy DeFrehn
Executive Director