

November 1, 2010

Technical Director
File Reference No. 1840-100 and 1860-100
FASB
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 1840-100 and 1860-100

Dear Sir or Madam:

Background

On July 20, 2010, the Financial Accounting Standards Board (FASB) released an Exposure Draft, *Contingencies (Topic 450), Disclosure Of Certain Loss Contingencies*, which addressed the disclosure of loss contingencies in a variety of contexts including employer withdrawal liability (EWL) for a contributing employer in a multiemployer pension plan, environmental liability, warranty liability and litigation claims.

The disclosure thresholds were divided into two standards relating to the possibility of the loss contingency or its potential for a “severe impact” on the entity. These were (1) “at least a reasonable possibility (more than remote possibility) and (2) asserted claims with remote possibility of severe impact. This Exposure Draft seemed reasonable and did not change the disclosure triggers for multiemployer pension plan contributors for EWL.

On September 1, 2010, FASB released an Exposure Draft entitled *Compensation-Retirement Benefits-Multiemployer Plans (Subtopic 715-80) Disclosure about an Employer’s Participation in a Multiemployer Plan*. The comments contained herein relate to this September 1, 2010 Exposure Draft.

About the Author

I currently serve as President of United Actuarial Services, Inc. (UAS), an independent actuarial and consulting firm located in Carmel, Indiana. We have 28 employees and are one of the few actuarial firms in the country that handles multiemployer plans exclusively. We currently provide services to approximately 75 multiemployer pension funds – most of which cover participants who are employed in the construction industry.

In addition to my managerial duties, I am a consulting actuary with 24 years of pension experience. The last 16 years of my professional life have been devoted to servicing multiemployer plans.

Comments on the Exposure Draft

I heartily endorse the comments made by the National Coordinating Committee on Multiemployer Plans (NCCMP) and those of my compatriot, Michael Ewing, Research Director

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here at UAS. Rather than restate points that have already been eloquently made by others, I will simply attempt to provide the Exposure Draft Task Force with a concise statement of what I believe to be my clients' chief concerns. I will focus exclusively on the idea of requiring disclosure of allocated EWL where no withdrawal has occurred and no demand has been made.

Quite simply, this is one of the most misguided ideas to come out of the accounting community in years. If the exposure draft language is adopted as is, it will be the death knell for many small and mid-sized construction contractors (who have barely been able to keep their doors open through the recent recession) and will directly result in the loss of hundreds of thousands of jobs. This devastation will come about because these employers will be denied two things they absolutely must have in order to conduct business: credit and bonding.

The EWL rules are very complicated and they are generally not well understood, even by trustees and practitioners. Contractors, bankers, underwriters, etc. will invariably misinterpret the nature of these so-called "obligations," resulting in the denial of credit and inability to obtain bonding.

All this devastation will be perpetrated in the name of providing greater transparency and more complete information for the users of financial statements. In reality, the disclosures will confuse and mislead many more users than they will enlighten. The probability that a calculated EWL allocation will be assessed is minute (especially since employers can avoid an assessment by continuing to participate in the plan or, in the construction industry, by ceasing business within the jurisdiction of the sponsoring union). One could think of many other types of equally-improbable liabilities (such as the cost of a strike, or the loss if the entity hiring the contractor is unable to pay, etc.) yet these are not disclosed. Singling out EWL gives it an undeserved air of certainty.

At some point the Exposure Draft Task Force and the Board must examine their mission objectives and ask themselves: Are we trying to bring increased transparency to an industry or to destroy it? I strongly urge the Task Force and Financial Accounting Standards Board to abandon this poorly conceived disclosure standard. To adopt the proposed language would be tantamount to interfering in the business affairs of these employers in a way that is completely inappropriate for an organization charged with establishing accounting and reporting standards. Furthermore, it would result in personal devastation and a huge loss of good jobs at a time when this country's economy would be wholly unable to cope with such setbacks.

I am available to answer questions regarding this letter.

Sincerely,

Andrew T. Smith

Andrew T. Smith, ASA, EA
President, United Actuarial Services