

National Finishing Contractors Association

September 20, 2010

Mr. Russell G. Golden
Technical Director
Financial Accounting Standards Board
Norwalk, CT 06856-8116

RE: File Reference No. 1840-100
File Reference No. 1860-100

Dear Mr. Golden:

The National Finishing Contractors Association (FCA) wishes to comment on two Exposure Drafts issued by FASB, one dated July 20, 2010 and one dated September 1, 2010.

National FCA is an international trade association representing union contractors engaged in painting, glazing, drywall finishing, sign and display and floor covering.

National FCA is a member of the Campaign for Quality Construction, which has already submitted comments to FASB related to the July 20, 2010 Exposure Draft. National FCA, however, wishes to provide further comments relevant to the specific segment of the construction industry that National FCA represents.

Our comments are focused strictly on reporting requirements by employers who participate in defined benefit multiemployer plans.

It is not clear from examining these two Exposure Drafts whether or not the threshold for requiring the reporting of unfunded vested benefits attributable to contributing employers has changed. Prior to the issuance of the Exposure Drafts, it was clear that, pursuant to FAS No. 87, if a withdrawal from a multiemployer plan was not either *probable* or *reasonably possible*, the only item required to be reported on the employer's financial statements was the amount of the contributions required by the collective bargaining agreement. Clearly, with the Exposure Draft dated September 1, 2010, this reporting requirement will significantly change. What is unclear is whether or not the amount of withdrawal liability attributable to an employer continues to be reported only if withdrawal from a multiemployer plan is either probable or reasonably possible. The alternative to this is that there is no threshold reporting level and in all cases, if an employer participates in a multiemployer plan, the amount of withdrawal liability attributable to that employer must be reported.

The reason for the confusion is that the first Exposure Draft on Subtopic 450 seemed to continue the threshold disclosure level of "reasonably possible" or "probable" with the addition of paragraph 450-20-50-1C. However, the Exposure Draft on Subtopic 715 seems to state at paragraph 715-80-50-1B that disclosure of withdrawal liability has to be made under any circumstance.

If this threshold standard has changed and there is no threshold for reporting withdrawal liability, then the Exposure Drafts, if adopted, would put almost all of our members in an untenable situation. We make this statement for the following reasons:

1. Almost all of our members are in the building and construction industry and subject to the special building and construction industry rule provided in ERISA §4203(b).

Unlike many other employers who contribute to defined benefit plans and who, based upon economic or other reasons, either substantially downsize their operations or go out of business, and are therefore subject to partial or complete withdrawal, our contractors are not in such circumstances. The only way our contractor members will withdraw from a multiemployer plan

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is by becoming non-union or by negotiating out of their collective bargaining agreement the obligation to contribute to the plan. Both of these choices are made by the contractor; they control their own destiny. Withdrawal liability is only relevant if the defined benefit itself terminates where there is a mass withdrawal. Other than footnoting the fact that the employer contributes to a multiemployer defined benefit plan, there is no purpose served by identifying withdrawal liability attributable to the employer, especially in light of the point made in paragraph 2 below.

2. The unfunded vested benefits attributable to a contributing employer are not known until long after the employer's audit report has been completed. A typical calendar year employer will have its audit report completed by April or May of the year following the close of the calendar year. In contrast, the unfunded vested benefits attributable to that employer will not be known until probably September or October of the year following the reporting year. An example of this is: the employer's audit report for calendar year 2009 the employer will be completed in April or May of 2010. If that employer were to withdraw from a multiemployer plan during 2010, the withdrawal liability would be based upon 12/31/09 Pension Fund results. The Actuaries will not have that information until September or October 2010. The latest withdrawal liability estimates that the employer would have would be based upon 2008 results. Results from one year to the next can vary by more than 100%. The Exposure Draft issued September 1, 2010, contains the following in proposed paragraph 715-80-50-1(B) m, describing information to be reported:

1. *The amount that is required to be paid on withdrawal from the plan as of the most recent date available, if that information is obtainable.*
2. *If the amount required to be paid on withdrawal is not obtainable, information about the employer's relative participation in those plans (such as percentage of total contributions to such plans or percentage of participants covered by such plan(s)).*

Subparagraph 2 would require, in the example cited above, that the information for withdrawals in 2009, not 2010, be reported. This can be very misleading, and is simply not reflective of what would occur if the employer actually withdrew during 2010. In the circumstances cited, the information required to be reported in subparagraph 3 is probably more helpful, but in fact, that information can only be reported if the information required by subparagraph 2 is not obtainable.

3. The information needed to provide the disclosures required by the Exposure Draft issued September 1, 2010 can only come from the Pension Fund. This places greater and costly administrative burdens on defined benefit pension plans that are struggling to cope with the recent years' financial crisis and additional administrative burdens placed upon them by Congress with recently enacted pension legislation.

It appears that these Exposure Drafts are not compatible with the concept of withdrawal liability in the construction industry and the procedural requirements of ERISA for computing and assessing withdrawal liability.

Sincerely,



National Finishing Contractors Association