

Guidance regarding FASB Standard 715-80, Multiemployer Plan Disclosures

Introduction

On September 21, 2011, the Financial Accounting Standards Board (FASB) issued a new accounting standard for employers participating in multiemployer pension plans.

The prior standard required employers participating in multiemployer plans to disclose only their total contributions to all of the plans in which they participate. The new standard requires the following disclosures:

1. The amount of employer contributions made to each significant plan and to all plans in the aggregate.
2. An indication of whether the employer's contributions represent more than five percent of total contributions to the plan.
3. An indication of which plans, if any, are subject to a funding improvement plan or rehabilitation plan.
4. The expiration date(s) of the collective bargaining agreement(s) and any minimum funding arrangements.
5. The most recent certified funded status of the plan, as determined by the plan's "zone status" under the Pension Protection Act of 2006. If the "zone status" is not available, an employer will be required to disclose whether the plan is less than 65% funded, between 65% funded and 80% funded, or at least 80% funded.

The new disclosure requirements will be required for fiscal years ending after December 15, 2011 for publicly-traded companies. For non-publicly traded companies, the new disclosure requirements will be required for fiscal years ending after December 15, 2012.

The information required in the new disclosures can generally be found in the employer's own records, notices that the multiemployer plans were required to send to the employer, and publicly available Form 5500 information filed by the plans. Therefore, complying with the new requirement will hopefully not pose a significant burden for most employers.

FAQ and Guidance

This document is intended to assist employers and their accountants in complying with the FASB's new disclosure requirements related to participation in multiemployer pension plans. It is not presented as specific legal or accounting advice for any particular plan, employer, or accountant.

The following is a list of frequently-asked questions (FAQs) and additional guidance regarding the new disclosure requirements.

**Financial Accounting Standards Board (FASB) Standard 715-80
“Disclosure about an Employer’s Participation in a Multiemployer Plan”**

Answers to Frequently Asked Questions (FAQ)

1. What is the effective date for the new FASB disclosure requirements?

The FASB disclosure requirements take effect for annual periods ending after December 15, 2011 for publicly traded companies, and for periods after December 15, 2012 for privately owned companies.

2. If a company prepares financial statements and has them reviewed by a Certified Public Accountant (CPA) rather than audited, would the FASB standard also apply?

Yes. The FASB standards are accounting rules, not auditing rules. Reviewed financials require full disclosure footnotes, so the standard applies equally to both.

3. Our company does not participate in a multiemployer defined benefit pension plan, but does participate in a multiemployer defined contribution retirement plan. Do we need to comply with the new FASB Standard?

No. The FASB disclosure requirements do not apply to multiemployer defined contribution plans (DC plans); the new FASB rules apply only to multiemployer defined benefit pension plans (DB plans).

4. Our company’s fiscal year is not the same as the Plan year of one or more of the pension plans to which we contribute. Should we disclose the contribution amounts on the company’s fiscal year basis or the Plan year basis?

Contributions should be disclosed on the company’s fiscal year basis. So, if a multiemployer defined benefit pension plan’s year-end is June 30th, and the company’s year-end is December 31st, the company should show amounts contributed for the company’s fiscal year from its own records of contributions to that Plan for that year.

5. How much information will the company have to obtain from the Plan to comply with this update?

The “Guidance Memo for FASB Disclosure Table” section of this document reviews the information necessary to complete the table, as well as where the information may be obtained. In general, the intent of the new FASB Standard is to enable employers to simply and inexpensively prepare the disclosure from information already provided by the plans. In general, employers should keep and compile all multiemployer defined benefit pension plan notices received throughout the year and present them to their accountant for purposes of complying with the FASB standard. In most cases these notices, along with company contribution records, will provide all of the detail accountants will need to prepare the disclosure efficiently and relatively inexpensively.

6. The FASB standard says to disclose the Plan’s funded percentage, if the zone status is not available. Where can we find the funded percentage?

The Plan's funded percentage may be obtainable from several sources. First, it is shown in the Pension Plan's Annual Funding Notice. This Notice is required to be sent annually to all Contributing Employers no later than 120 days after the end of the Pension Plan's fiscal year. For example, if the Pension Plan's fiscal year is the calendar year, the Annual Funding Notice must be sent to all Contributing Employers by the end of April of the following year. The Plan's funded percentage may also be obtained from the annual notice that must be sent to all Contributing Employers if the Pension Plan is determined by the Plan's actuary to be Endangered (Yellow Zone), Seriously Endangered (Orange Zone) or Critical (Red Zone) under the Pension Protection Act of 2006. That annual notice must be sent to all Contributing Employers no later than 30 days after the Plan's actuary determines and informs the Pension Plan in writing of its zone status for the current plan year. The Plan's actuary must make that determination and inform the Pension Plan in writing no later than 90 days after the beginning of the Pension Plan's fiscal year. The Notice of the Pension Plan's zone status would then be sent to all Contributing Employers no later than 120 days after the beginning of the Plan's fiscal year. No notice is sent to Contributing Employers if the Pension Plan is determined not to be in any of the categories listed above, known as the Green Zone, under the Pension Protection Act of 2006.

Contributing employers in Green Zone plans will not receive these notices, so they will have to provide items of information derived from such funding notices from other sources of information, such as inquires of the Plan Administrator, or receive them from routine notices that the Plan may decide to send all employers for purposes of FASB compliance – should the particular plan decide that that would be an economical and permissible use of plan assets.

7. The FASB disclosure standard asks us to disclose in a footnote whether our company's contributions to a Plan represent more than five percent of the total contributions to the Plan. How can we determine whether this applies to us?

Schedule R of Form 5500 lists all employers who account for five percent or more of the total contributions to a Plan for a particular Plan year. The most recent available Form 5500 for a Plan can be found at this Department of Labor website: <http://www.efast.dol.gov/welcome.html> . To locate a particular Plan's Form 5500, enter the name of the Plan or the Employer Identification Number and Plan Number, found on the Plan's Annual Funding Notice.

8. Are withdrawal liability payments and/or surcharge contributions (for Red Zone plans) included with the company's contributions (reported in column five of the FASB Disclosure Table) for the purpose of determining whether a company's contributions to a Plan represent more than five percent of the total contributions to the Plan?

Yes.

9. Our company was not a five percent contributor in the most recent Plan year, but was a five percent contributor in the immediately preceding Plan year. Do we disclose our company as a five percent contributor?

No. The FASB standard requires disclosure of the five percent contributor status only for the most recent available plan year. If your company was not a five percent contributor for that most recent

plan year, but was a five percent contributor in any preceding plan year, you are not required to disclose that fact.

10. What should a company do if a Plan Administrator fails to provide the information needed for the disclosure requirement?

Access the Plan's Form 5500 (see answer to 7 above) to try to obtain the required disclosure information, if available or feasible. If the information is not readily available, then "not available" should be noted on the Disclosure Table.

11. To whom should a company representative address questions about a particular pension plan?

Address all questions to the Plan Administrator or other contact listed at the end of the Plan's Annual Funding Notice. Contributing employers should consider asking their bargaining representative (the multiemployer plan bargaining agent - often the association) and the Plan trustees to routinely compile and distribute the required information to all contributing employers for purposes of FASB compliance. In some instances, there may be an issue as to whether this type of information and service is a permissible Plan expense - but it is worth exploring, if this information can be provided to serve the contributing employers' FASB obligations without running afoul of ERISA Plan expense rules. The plan may well decide that it will conserve plan resources by routinely providing the FASB compliance information to all contributing employers rather than respond to a great many individual employer requests for information that would be even more costly and inefficient for the plan.

12. In addition to the FASB Disclosure Table (Exhibit A), what other footnote disclosures are required of an employer who contributes to a defined benefit pension plan?

The standard states that the employer "...shall provide a narrative description both of the general nature of the multiemployer plans that provide pension benefits and of the employer's participation in the plans that would indicate how the risks of participating in these plans are different from single employer plans." FASB presents an example of a paragraph detailing these disclosures as an attachment to the standard. The language in the example is not required. Any language can be used which complies with the standard. We offer, for your consideration, the sample footnote in Exhibit C, which is based on the Implementation, Guidance and Illustrations material provided in the FASB standard (Subtopic 715-80). This sample footnote contains elements of both footnotes required by paragraphs 715-80-50-4 and 715-80-50-7.

Paragraphs a) and b) of the sample satisfy paragraph 715-80-50-4 of the standard, which calls for a description of both the general nature of multiemployer plans that provide pension benefits and how the risks of participating in those plans are different from single employer plan. Paragraph c) of the sample footnote is required by paragraph 715-80-50-7 of the standard only if plan level information about the plan is not available in the public record, such as in DoL Form 5500 disclosures. See the answer to Question 13 below.

13. Are there any other disclosures that should be made as a result of the standard?

The FASB standard imposes an additional disclosure requirement if the required information about the plan is not available from a Form 5500. It is extremely unlikely that an employer participates in a plan where the required information is not available. In fact, such circumstances would be so rare that providing a sample footnote to cover these circumstances is not practical. If this situation occurs, the person preparing the financial statements for the employer can follow the guidance in paragraph 715-80-50-7 of the FASB standard.

14. If a Plan's Board of Trustees has proposed a Funding Improvement Plan (FIP) or Rehabilitation Plan (RP), but our company has not yet agreed to a new collective bargaining agreement containing one of the FIP/RP proposed schedules, do we disclose the FIP/RP as "implemented" or "pending"?

As long as the Pension Plan's Board of Trustees has voted affirmatively to adopt a FIP or RP (which typically contains several optional contribution schedules for the bargaining parties to negotiate and a default schedule if they cannot agree), it is considered to be "implemented", even if one or more of the contributing employers has not yet agreed to a new collective bargaining agreement incorporating the details of the FIP or RP.

We want to emphasize that the question of FIP or RP status pertains to decisions, recommendations and implementation status as they relate to actions by the plan trustees, not contributing employers. The explanatory information accompanying the standard, Board Conclusion 14 (BC-14), explains that "...whether a plan has a funding improvement plan or a rehabilitation plan pending or implemented provides insight into the actions the plan's trustees are taking to improve the financial health of the plan and may affect the amount of future contributions from the employer."

15. How will the company know which plans are "individually significant" and should have separate disclosure and which plans are not "individually significant" and should be aggregated?

The accountant who prepares the company's financial statements should understand the concept of "materiality" ("individually significant") as it applies to the company's financial operations and be able to easily determine which plans should be separately disclosed and which should be aggregated. "Materiality" is a term of art in the accounting profession.

16. The FASB standard asks for disclosure of "any minimum contribution requirement(s) required by the collective bargaining agreement(s), if applicable." Would these minimum contribution requirements be different from the cash contributions we are required to make based on contribution units?

Yes. On rare occasions, a collective bargaining agreement will have a special provision requiring a company to contribute a specified minimum amount to a multiemployer defined benefit pension plan, regardless of the number of contribution units worked by the covered employees. If you are party to such an agreement, you should disclose the terms of any special minimum contribution requirements, separate from the disclosure of actual contributions made.

17. How will bonding companies and banks react to the information provided in this disclosure requirement?

The bonding companies and banks have indicated that the new standard provides them with the necessary information. The commercial banking and surety credit industry supported the final FASB Standard because, as they commented to FASB, the originally proposed disclosures were

misleading, overwhelming and not productive for their underwriting judgments of private company credit and surety assessments. They also understood that the originally proposed withdrawal liability disclosure would not lead to credible underwriting for their purposes.

18. Did the FASB standard change the requirements with respect to withdrawal liability?

No. *The FASB standard (paragraph 715-80-50-2) states that the employer shall apply the provisions of “Topic 450” with regard to withdrawal liability. Topic 450 refers to the section of the FASB codification dealing with contingencies. **FASB’s guidance regarding contingencies has not been changed by this accounting standards update.***

*Contingencies are treated by the accounting rules as follows: A contingency is either “**probable**,” “**reasonably possible**,” or “**remotely possible**.” The person preparing the entity’s financial statements must make the judgment as to which of these degrees or descriptions of likelihood is applicable for each material plan for that employer.*

*Generally, a contingency is considered “**probable**” if it is **likely** to occur in the next year. In that case, the contingency - **withdrawal liability**, would have to be calculated for the upcoming year and an accounting entry for that amount would be made which would result in a loss on the income statement for the withdrawal liability and a liability entered on the balance sheet for the amount due. (In accounting terminology the withdrawal liability is “recognized,” or, said to be recognized “above the line.”)*

*If the multiemployer DB plan withdrawal liability contingency is determined to be merely “**reasonably possible**,” then all that is required is a footnote disclosure. So, if it is only “reasonably possible” that an employer will incur withdrawal liability for any of the multiemployer defined benefit pension plans in which it participates during the coming year, then that amount must be calculated, but shown only in footnote disclosure – not fully recognized above the line.*

If such withdrawal liability is only “remotely possible,” then no disclosure in a footnote or otherwise is required.

19. How much disclosure is FASB requiring for post-retirement health & welfare benefit obligations?

*Companies must disclose contributions made to health and welfare plans **only if those plans provide post-retirement benefits**. Contributions should be disclosed for the years presented in the financial statements. Note that **total** contributions to all health and welfare plans providing post-retirement benefits should be disclosed; there is no requirement to detail the contributions by plan. There is also no requirement to separate the contributions allocated specifically to post-retirement benefits.*

20. Is the FASB going to pursue some type of disclosure of retiree health and welfare fund liability in the near future?

FASB representatives have stated that it is unlikely that the FASB would revisit the issue any time soon.

Guidance Memo for FASB Disclosure Table

To simplify the administrative process in a cost efficient manner when completing the FASB Disclosure Table (Exhibit A), the following guidance is provided as to where the necessary information may be located.

Column One: Pension Trust Fund

The legal name of the Pension Trust Fund is found in the Annual Funding Notice, or on the monthly contribution reports.

Column Two: Pension Plan Employer Identification Number (EIN) and Plan Number (PN)

The Pension Trust Fund EIN and PN are found in the Annual Funding Notice. Once obtained, these numbers will not change from year-to-year.

Column Three: Pension Protection Act (PPA) Zone Status

The Pension Plan's Zone status is found in the Annual Funding Notice. Note, however, that a more recent zone status notice may have been sent to the company if the plan is in Endangered (Yellow Zone) or Critical (Red Zone) status.

Column Four: Funding Improvement Plan (FIP) or Rehabilitation Plan (RP) / Pending or Implemented

If a Plan is in the Green Zone (neither Endangered nor Critical), then this does not apply.

A company should mail a written inquiry (See Exhibit B) to the Pension Trust Fund, or the company's authorized bargaining representative, and ask if an FIP or RP has been implemented (i.e., adopted by the Plan's Board of Trustees), or whether the FIP/RP is pending adoption by the Board of Trustees. (Note: It is possible that a notice of the adoption of the FIP/RP may have been sent to the company.)

The written inquiry should also request any available details of an agreed upon FIP/RP. But those details of the pending FIP or RP options are not required in the disclosure.

Column Five: Contributions of Entity (i.e. paid by Company)

The contribution information is the same information required in past financial statements. This information should be available from the company's accounting department or its external auditor.

Column Six: Surcharge Imposed

The Plan Administrator is required to send a notice to the company if a critical status surcharge contribution is being imposed. As mentioned above, the company should determine to whom that notice would have been sent. If the company is unable to determine whether the surcharge has been imposed, then the question should be included in the written inquiry (Exhibit B) suggested in Column Four above.

Column Seven: Expiration Date of Collective Bargaining Agreements (CBA)

The expiration date of each collective bargaining agreement may come from a company's Human Resources or Labor Relations Department, or from the company's authorized bargaining representative.

Footnotes:

The company is required by the FASB Standard to provide a Footnote for (a) comparative purposes that describe changes between two years; (b) a footnote that discloses if a company is a five percent or greater contributing employer to an individual fund in the most recent year, and (c) if it is probable or possible that a company will withdraw from the fund as a contributing employer.

A sample footnote is provided in Exhibit C to assist a company in the completion of the Disclosure Table.

Exhibit A

FASB Disclosure Table

An illustration of the FASB Disclosure Table is provided on page 11 of FASB standard 715-80. A copy of this table is provided below.

Pension Fund	EIN/Pension Plan Number	Pension Protection Act Zone Status		FIP/RP Status Pending/Implemented	Contributions of Entity A			Surcharge Imposed	Expiration Date of Collective-Bargaining Agreement
		20X0	20X9		20X0	20X9	20X8		
ABC Fund 34	32-1899999	Red as of 9/30/2009	Yellow as of 9/30/2008	Yes	\$ 1,883,000	\$ 2,309,000	\$ 2,226,000	Yes	12/31/20X3
ABC Fund 37	52-5599999 - 002	Green	Yellow	No	3,342,000	3,609,000	3,586,000	No	12/31/20X2 to (a) 12/31/20X3
ABC Fund 40	92-3499999	Yellow	Yellow	No	5,798,000	6,435,000	6,374,000	No	12/31/20X5
ABC Fund 43	82-4299999	Red	Red	Pending	3,539,000	3,234,000	3,218,000	Yes	12/31/20X4
ABC Fund 46 (b)	82-6899999	Green	Green	No	778,000	816,000	833,000	No	12/31/20X3
ABC Fund 49	52-6199999	Yellow	Yellow	No	534,000	547,000	491,000	No	12/31/20X2
ABC Fund 52	72-8599999 - 001	Red	Green	Implemented	1,349,000	1,134,000	1,050,000	No	12/31/20X5
ABC Fund 55	82-2999999	Green	Green	No	1,224,000	1,046,000	1,151,000	No	12/31/20X4
Plans for which plan financial information is not publicly available outside Entity A's financial statements									
ABC Fund 61 (c)	N/A	N/A	N/A	N/A	418,000	482,000	491,000	N/A	12/31/20X2
ABC Fund 73 (d)	N/A	N/A	N/A	N/A	1,872,000	1,764,000	1,693,000	N/A	12/31/20X2
Other funds					147,000	160,000	169,000		
Total contributions:					\$ 20,884,000	\$ 21,536,000	\$ 21,282,000		

Exhibit B**Sample inquiry letter to Plan Administrators for information necessary to complete columns 4 and 6 of the FASB Disclosure Table:**

To: Administrator, ABC Pension Fund

From: Company XYZ

Re: Funding Improvement Plan or Rehabilitation Plan

In connection with the preparation of our December 31, 2011 financial statements, we are requesting certain information about Company XYZ's participation in the ABC Pension Fund (the Plan), in accordance with Financial Accounting Standards Board (FASB) Standard 715-80, "Disclosure about an Employer's Participation in a Multiemployer Plan."

We understand that the Plan is currently in Endangered or Critical status. Can you please confirm whether or not the Board of Trustees has proposed a formal Funding Improvement Plan or Rehabilitation Plan? If so, can you please provide any details regarding the proposed Funding Improvement Plan or Rehabilitation Plan?

[If you know the plan is in Critical status and a Rehabilitation Plan contribution schedule has not yet been agreed to under a new collective bargaining agreement, add the following:]

We understand that because the Plan is in Critical status, our company may be subject to a contribution surcharge if we have not yet negotiated a new contribution schedule under the Rehabilitation Plan. Can you please confirm whether a contribution charge has been assessed to our company?

Thank you for your assistance. If you have any questions, please contact me at _____.

Exhibit C

Sample FASB Disclosure Table Footnote:

Company XYZ contributes to (a number of/or exact number) of multiemployer defined benefit pension plans under terms of Collective Bargaining Agreements that cover a number of its employees. The risks of participating in these multiemployer plans are different from single employer plans in the following aspects:

- a) Assets contributed to the multiemployer plan by one company may be used to provide benefits to employees of other participating companies.
- b) If a participating company stops contributing to the plan, the unfunded obligations of the plan may be borne by the remaining participating companies.
- c) If Company XYZ stops participating in some or all of its multiemployer plans, and continues in business, Company XYZ could be required to pay an amount, referred to as withdrawal liability, based on the unfunded status of the plan. Company XYZ has no intention of stopping its participation in any multiemployer plans.

Company XYZ's participation in these plans for the annual period ending December 31, 2010, is outlined in the table above. The "EIN/Pension Plan Number" column provides the Employee Identification Number (EIN) and the three-digit plan number, if applicable. Unless otherwise noted, the most recent Pension Protection Act (PPA) zone status available in 2010 and 2009 is for the Plan's year-end at December 31, 2009, and December 31, 2008, respectively. The zone status is based on information that Company XYZ received from the Plan and is certified by the Plan's actuary. The "FIP/RP Status Pending/Implemented" column indicates plans for which a Financial Improvement Plan (FIP) or a Rehabilitation Plan (RP) is either pending or has been implemented. The last column lists the expiration date(s) of the Collective Bargaining Agreement(s) to which the plans are subject. There have been no significant changes that affect the comparability of 2008 and 2009 contributions.

NOTE: The following sentence should be added to the footnote if Company XYZ contributes 5% or more of total annual Plan contributions:

- For the year ended December 31, 2010, Company XYZ contributed ____% of total annual contributions for the ABC Pension Plan.

NOTE: The following sentence should be added to the footnote if Company XYZ's withdrawal from a multiemployer plan is "reasonable possible": (A probable withdrawal would require adjustment of the financial statements for any anticipated withdrawal liability.)

- As of December 31, 2010, Company XYZ's withdrawal from the ABC Pension Plan is possible if certain conditions continue to exist.

Background

In September of 2010, the Financial Accounting Standards Board (FASB) issued an exposure draft proposing new financial disclosure requirements for employers who contribute to multiemployer pension and health plans. The original FASB proposal required the disclosure of a significant amount of information — including an estimate of withdrawal liability — for employers participating in multiemployer pension plans.

At its July 27, 2011 Board meeting, the FASB made its final decision regarding a significantly reduced financial disclosure for employers participating in multiemployer plans. The revised FASB proposal eliminates the withdrawal liability disclosure and all disclosures for retiree health and welfare plans, as well as a number of other items that would be extremely burdensome for both employers and the plans to which they contribute. The revised disclosure focuses on contributions to the plans, the plans' funding zones, and other information that should be available from the employer's records, eliminating the need to request special calculations and other information from the plan administrators.

The FASB's July 27, 2011 press release summarizing the final decision regarding multiemployer plan disclosures is posted on the FASB website. The final new accounting standard, documenting the decision reached at the July 27th meeting was issued in September 2011. The new standard is effective for fiscal years ending after December 15, 2011 for public companies, and one year later for non-public companies.

Beginning in the fall of 2010, Horizon Actuarial Services worked closely with a coalition of employers, financial statement users, and plan trustees to meet with, and educate, the FASB about the special nature of multiemployer plans and the need for a more workable financial disclosure. The FASB's decision to simplify the disclosure requirements is a significant victory for multiemployer plans, contributing employers and participating unions.

The coalition that advised the FASB included Larry Beebe, CPA (Bond Beebe of Bethesda, Maryland); Cary Franklin, Actuary/FSA (Horizon Actuarial Services of Los Angeles, CA); James K. Estabrook, Esquire (Lindabury, McCormick, Estabrook & Cooper of Westfield, NJ); John McNerney, General Counsel (MCAA of Rockville, MD); and Richard J. Sawhill, Executive Vice President (ARCA/MCA of Ontario, CA).

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