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CONSTRUCTION FINANCIAL MANAGEMENT ASSOCIATION
The Source & Resource for Construction Financial Professionals
New Multiemployer Pension Plan Disclosure Requirements: What They Mean for Your Company

The Financial Accounting Standards Board (FASB) has been hard at work as it continues to look closely at substantive changes to several accounting rules. Two of them – revenue recognition and lease accounting – are still being shaped, and a third on multiemployer pension plans has been solidified into concrete guidance.

Multiemployer pension plans are particularly common in the construction industry due to the heavily unionized workforce. Typically used by an employer to provide benefits to union employees who may work for many employers throughout their careers, multiemployer pension plans enable union workers to accrue benefits in a single pension plan for their retirement. Because many contractors perform work in multiple states and jurisdictions, it’s common for them to pay employment benefits into many different unions.

The arrangement makes sense: Similar companies hire employees from the same union, which provides labor from one big pool. In turn, the companies hiring the workers from that pool contribute monies to fund the workers’ pension plans.

But, what happens if a multiemployer pension plan is found to be underfunded? Since multiple employers contribute, how does one determine who makes up the shortfall? And, what if an employer hires workers from several different labor unions and pays into several different underfunded pension plans? As you can see, it is very difficult to sort out who owes how much to which plans.

There are a large number of multiemployer benefit pension plans that are now underfunded, and sorting it out into clear accounting guidance is one of the central issues FASB has set out to address.

Untangling the Web

Under previous accounting principles, the sponsoring companies of an underfunded plan were only required to disclose their total contributions to all multiemployer plans in which they participated. In many instances, the financial statement footnotes also contained a broad statement that if the employer exited any of these plans, then it could be liable for its share of the underfunded obligation.

After several iterations and reviewing comments from interested parties, FASB has issued Accounting Standards Update No. 2011-09, Disclosures about an Employer’s Participation in a Multiemployer Plan to help users of financial statements assess the potential future cash flow implications of a company’s participation in multiemployer pension plans. FASB hopes that enhanced disclosures will provide financial statement users with a window into the financial health of all the significant plans in which an employer participates.

This raises an important question: Which plans are considered “significant?” Unfortunately, the guidance doesn’t clearly define that term. The size of contributions made to the plan is a factor, but so are other elements, such as the degree to which the plan is underfunded. An entity must use its judgment and make a reasonable determination regarding whether or not a plan is significant.

What You’ll Need to Provide

The amendments are effective for annual reporting periods for fiscal years ending after December 15, 2012, for nonpublic entities and for annual reporting periods for fiscal years ending after December 15, 2011, for public entities. Early adoption is permitted for both nonpublic and public entities. The amendments should be applied retrospectively for all prior periods presented.

Pursuant to FASB’s decisions, the new disclosures must include:

- Legal name, plan number, and employer identification number (EIN).
- The amount of employer contributions made to each
significant plan and to all plans in the aggregate.

- An indication of whether the employer’s contributions represent more than 5% of total contributions to the plan.
- An indication of which plans, if any, are subject to a funding improvement plan.
- The expiration dates of collective bargaining agreements and any minimum funding arrangements.
- The most recent certified funded status of the plan, as determined by the plan’s zone status, required by the *Pension Protection Act of 2006* (PPA). If the zone status isn’t available, an employer will be required to disclose whether the plan is:
  - < 65% funded (red zone)
  - 65-80% funded (yellow zone)
  - > 80% funded (green zone)

- A description of the nature and effect of any changes that affect comparability for each period in which an income statement is presented.

As of the end of the most recent annual period presented, you’ll also need to disclose:

- If a funding improvement plan or rehabilitation plan had been implemented or was pending.
- Whether or not a surcharge was paid to the plan.
- A description of any minimum contributions required for future periods by the collective bargaining agreements, statutory obligations, or other contractual obligations, if applicable.

And, for each annual period presented, total contributions made to all multiemployer plans must be disclosed, as well as:

- Total contributions made to all plans not considered individually significant.
- A description of the nature and effect of any changes that affect comparability from period to period for each period in which an income statement is presented, including a business combination or divestiture, changes in the contractual rate of employer contributions, and the change in the number of employees covered by the plan during each year.

When feasible, the information required by this standard should be provided in a tabular format. Information that requires greater narrative description may be provided outside the table.

**Are You Ready?**

If you’re a union contractor that participates in many different multiemployer pension plans, then you’ll want to prepare in advance to ensure you’re ready to implement this new standard.

Although the effective date for the disclosure requirements is almost a year away for nonpublic entities, it’s a good idea to begin gathering that information sooner rather than later due to the increased amount of information to be disclosed.

It’s likely that plan administrators will revise their processes for providing much of this information, but it may take some time before the information becomes fully available. Contractors that plan ahead for the new requirements will find compliance a smoother and less resource-intensive process than those that don’t.

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**Don’t miss the Sample Disclosure on the next page.**
The following illustrates a sample footnote disclosure that addresses the new standard’s requirements.

Entity A contributes to a number of multiemployer defined benefit pension plans under the collective bargaining agreement terms that cover its union-represented employees. The risks of participating in these multiemployer plans differ from those of single-employer plans in the following respects:

- Assets contributed to the multiemployer plan by one employer may be used to provide benefits to employees of other participating employers.
- If a participating employer stops contributing to the plan, then the unfunded obligations of the plan may be borne by the remaining participating employers.
- If Entity A chooses to stop participating in some of its multiemployer plans, then it may be required to pay those plans an amount based on the underfunded status of the plan, referred to as a withdrawal liability.

Entity A’s participation in these plans for the annual period ended December 31, 20X0, is outlined in the table above. The EIN/Plan Number column provides the EIN and the three-digit plan number, if applicable. Unless otherwise noted, the most recent PPA zone status available in 20X0 and 20X9 is for the plan’s year-end at December 31, 20X9, and December 31, 20X8, respectively.

The zone status is based on information that Entity A received from the plan and is certified by the plan’s actuary. Among other factors, plans in the red zone are less than 65% funded, plans in the yellow zone are between 65-80% funded, and plans in the green zone are more than 80% funded.

The FIP/RP Status Pending/Implemented column indicates plans for which a financial improvement plan (FIP) or rehabilitation plan (RP) is either pending or has been implemented. The last column lists the expiration dates of the collective bargaining agreements to which the plans are subject.

The number of employees covered by Entity A’s multiemployer plans decreased by 5% from 20X9 to 20X0, affecting the period-to-period comparability of the contributions for years 20X9 and 20X0. The significant reduction in covered employees corresponded to a reduction in overall business. There have been no significant changes that affect the comparability of 20X8 and 20X9 contributions.

**Footnotes A-D**

**A:** Entity A is party to two significant collective bargaining agreements, Agreements D and E, which require contributions to Fund 37. Agreements D and E expire on December 31, 20X2, and December 31, 20X3, respectively. Of the two, Agreement D is more significant because it covers 70% of Entity A’s employee participants in Fund 37. Agreement E is significant because its participants are involved in multiple projects that Entity A is scheduled to start in 20X4.

**B:** Fund 46 used the special 30-year amortization rules provided by the *Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010* (PL 111-192, Section 211) to amortize its losses from 2008. The plan recertified its zone status after using the amortization provisions of that law.

**C:** Plan information for Fund 61 is not publicly available. Fund 61 provides fixed monthly retirement payments on the basis of the credits earned by the participating employees.
To the extent that the plan is underfunded, the future contributions to the plan may increase and be used to fund retirement benefits for employees related to other employers that have ceased operations. Entity A could be assessed a withdrawal liability if it ceases to participate in the plan.

Fund 61’s financial statements for the years ended June 30, 20X0, and June 30, 20X9, indicated total assets of $62 million and $51 million, respectively; total actuarial present value of accumulated benefits of $120 million and $110 million, respectively; and total contributions for all participating employers of $9 million and $8 million, respectively.

The plan’s financial statements for the plan years ended June 30, 20X0, and June 30, 20X9, indicate that the plan was less than 65% funded for both years.

D: Plan information for Fund 73 is also not publicly available. Fund 73 provides fixed monthly retirement payments on the basis of the credits earned by the participating employees.

However, in the event that the plan is underfunded, the monthly benefit amount can be reduced by the plan trustees. Entity A is not responsible for the underfunded status of the plan because Fund 73 operates in a jurisdiction that does not require withdrawing participants to pay a withdrawal liability or penalty. Entity A is unable to provide additional quantitative information on the plan because it is unable to obtain that information without undue cost and effort.

The collective bargaining agreement of Fund 73 requires contributions on the basis of hours worked and has a minimum contribution requirement of $1 million each year.

Entity A was listed in its plans’ Forms 5500 as providing more than 5% of the total contributions for the following plans and plan years:

- Fund 34 – 20X9 and 20X8
- Fund 37 – 20X8
- Fund 40 – 20X8
- Fund 43 – 20X9 and 20X8

At the date the financial statements were issued, Forms 5500 were not available for the plan years ending in 20X0.