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FASB Approves Changes to GAAP, Enhancing Disclosures of Participation in Multiemployer Defined Benefit Pension Plans

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The Financial Accounting Standards Board (the "FASB") announced July 27, 2011 the approval of a revised accounting standard enhancing disclosures in financial statements regarding employers' participation in multiemployer defined benefit plans. The rules are aimed at ensuring "that shareholders in companies that participate in these plans, workers who depend on them for their retirement benefits, as well as lenders and others, will have more information regarding the employers' pension commitments and the financial health of the plans." Although the new requirements are significantly less onerous than those originally proposed by the FASB in its September 2010 Exposure Draft, there are still important new disclosures of which contributing employers to such plans should be aware.

Background

As discussed in our earlier client alert on this subject, FASB Issues Exposure Draft Outlining New Employer Disclosures Related to Multiemployer Defined Benefit Pension Plans, the disclosures in financial statements under U.S. Generally Accepted Accounting Principles (known as "GAAP") required of employers who contribute to multiemployer defined benefit pension plans are significantly more limited than the financial disclosures required to be made by employers maintaining single employer defined benefit plans or retiree health coverage. Prior to these new changes taking effect, absent some nonroutine event (*e.g.*, withdrawal), an employer's financial statement footnotes must only set forth the fact of participation and list the total contributions to all multiemployer defined benefit pension plans for the particular year. In addition, the balance sheet must only record liability for contributions earned but unpaid, and the income statement must only include contributions paid or accrued during the year.

New Standard

On July 27, 2011, the FASB issued a press release announcing that it approved a new standard enhancing these disclosure requirements.

Specifically, an employer will now be required to disclose in financial statement footnotes the following information regarding its participation in multiemployer defined benefit pension plans:

- Amount of employer contributions made to each “significant” plan and to all plans in the aggregate.
- Whether the employer’s contributions represent more than five percent of total contributions to the plan.
- Which plans, if any, are subject to a funding improvement plan.
- The expiration date(s) of collective bargaining agreement(s) and any minimum funding arrangements.
- The most recent certified funded (*i.e.*, “zone”) status of the plan under the Pension Protection Act of 2006 (or, if not available, whether the plan is less than 65% funded, between 65% and 80% funded, or greater than 80% funded).
- A description of the nature and effect of any changes affecting comparability for each period in which a statement of income is presented.

As expected, in light of hundreds of comments it received on its original Exposure Draft, the FASB decided not to require (as originally proposed) disclosure of withdrawal liability or some other proxy for an employer’s share of a multiemployer defined benefit pension plan’s underfunding. Notably, it appears that the enhanced disclosures will not apply with respect to retiree health benefits provided under multiemployer plans.

Effective Dates

Public entities must comply with the enhanced disclosure rules for fiscal years **ending** after December 15, 2011 (meaning that public entities on the calendar year will need to disclose in the 2011 financial statements). In contrast, nonpublic entities will not be required to include the new disclosures until fiscal years ending after December 15, 2012.

Next Steps

The new standard is expected to be finalized in September 2011. Once finalized, employers contributing to these plans will want to become familiar with the new requirements, gather data as it becomes available and prepare to enhance their reporting.

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Please contact your employee benefits attorney at Proskauer if you would like more detailed guidance on this subject.

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