

# American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W.  
Washington, D.C. 20006  
(202) 637-5000  
www.aflcio.org

## EXECUTIVE COUNCIL

**RICHARD L. TRUMKA**  
PRESIDENT

Michael Sacco  
Harold Schaitberger  
William Hite  
Fred Redmond  
Fredric V. Rolando  
D. Michael Langford  
Bruce R. Smith  
Loretta Johnson  
Laura Reyes  
Kenneth Rigmaiden  
James Grogan  
Dennis D. Williams  
Lori Pelletier  
Joseph Sellers Jr.

**ELIZABETH H. SHULER**  
SECRETARY-TREASURER

Michael Goodwin  
Clyde Rivers  
Gregory J. Junemann  
Matthew Loeb  
Diann Woodard  
Baldemar Velasquez  
Lee A. Saunders  
James Callahan  
J. David Cox  
Stuart Appelbaum  
Paul Rinaldi  
Cindy Estrada  
Marc Perrone  
Christopher Shelton

**TEFERE GEBRE**  
EXECUTIVE VICE PRESIDENT

Robert A. Scardelletti  
Cecil Roberts  
Nancy Wohlforth  
Randi Weingarten  
Patrick D. Finley  
Ken Howard  
Terry O'Sullivan  
DeMaurice Smith  
David Durkee  
Harold Daggett  
Mark Dimondstein  
Capt. Timothy Canoll  
Jorge Ramirez  
Lonnie R. Stephenson

R. Thomas Buffenbarger  
Leo W. Gerard  
Rose Ann DeMoro  
Rogelio "Roy" A. Flores  
Newton B. Jones  
James Boland  
Lawrence J. Hanley  
Sean McGarvey  
D. Taylor  
Bhairavi Desai  
Harry Lombardo  
Sara Nelson  
Eric Dean

December 7, 2015

Sent via electronic mail: [director@fasb.org](mailto:director@fasb.org)

Ms. Susan M. Cospers  
Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, CT 06856-5116

**Re: File Reference No. 2015-300 on Conceptual Framework for Financial Reporting and No. 2015-310 on Notes to Financial Statements (Topic 235)**

Dear Ms. Cospers:

On behalf of the American Federation of Labor and Congress of Industrial Organizations (the "AFL-CIO"), I am writing to comment on the Financial Accounting Standards Board's ("FASB") Exposure Drafts on Conceptual Framework for Financial Reporting ("Conceptual Framework"), and Notes to Financial Statements (Topic 235) ("Notes"), on materiality, dated September 24, 2015. We are deeply troubled by FASB's proposals to redefine materiality and we believe the proposals should be withdrawn.

The AFL-CIO is the umbrella federation for U.S. labor unions, including 56 unions representing 12.5 million union members. Union-sponsored and Taft-Hartley pension plans hold \$587 billion in assets. Union members also participate directly in the capital markets as individual investors and as participants in pension plans sponsored by corporate and public-sector employers. The retirement savings of America's working families depend, in part, on companies making effective disclosures to investors.

The existing FASB definition of materiality states that "Information is material if omitting it or misstating it could influence decisions that users make on the basis of the financial information of a specific reporting entity." (Chapter 3, *Qualitative Characteristics of Useful Financial Information*, FASB Concepts Statement No. 8). In the Conceptual Framework, FASB proposes to replace this definition to state:

Ms. Susan M. Cospers  
December 7, 2015  
Page Two

Materiality is a legal concept. In the United States, a legal concept may be established or changed through legislative, executive or judicial action.

In the Conceptual Framework, FASB observes the U.S. Supreme Court's antifraud definition of materiality — "information is material if there is a substantial likelihood that the omitted or misstated item would have been viewed by a reasonable resource provider as having significantly altered the total mix of information."

In the Notes exposure draft, FASB explains that adopting a legal definition of materiality is intended to "improve the effectiveness of disclosures in the notes to financial statements." Specifically, FASB states the new definition of materiality would promote "discretion," and could reduce or eliminate "irrelevant disclosures." The notes to the financial statements provide important context for the numbers provided by companies in their financial statements, so any changes to the definition of materiality for notes disclosure will have a major impact on financial reporting.

We strongly oppose redefining materiality based on a legal definition rather than as an accounting concept that has long been familiar to investors. A legal definition of materiality will unacceptably narrow the amount of information that is required to be disclosed. The proposed legal definition shifts the determination of materiality from information that "could influence decisions that users make" to a "substantial likelihood" that the disclosure will "significantly alter the total mix of information." In other words, information that could influence the decisions of investors would no longer need to be disclosed unless it has a high probability of having a significant impact.

We are also concerned that the proposed legal definition of materiality will insert the subjective opinions of attorneys into the disclosure decision-making process. At present, the preparers of financial statements and their auditors determine whether information is material and should be disclosed. In close questions of whether information is material, the current definition of materiality encourages disclosure. Under the new standard, lawyers will be the ultimate arbiters of what must be included in financial statements. Accordingly, the definition of materiality will be subject to significant uncertainty given that different courts may issue varying decisions.

In our opinion, the proposed legal definition of materiality appears intended to benefit the preparers of financial statements without regard for the costs imposed on the users of financial statements. If adopted, financial statement preparers will have far greater latitude to avoid making disclosures. They may cherry pick the information they choose to disclose, opting to disclose favorable information, while omitting information which may be unfavorable. Providing less information in financial statements does not make the remaining disclosure more effective. To the contrary, investors are clamoring for more, not less, information in financial statements.

Ms. Susan M. Cospers  
December 7, 2015  
Page Three

We are troubled by the manner in which FASB prepared the exposure drafts, apparently without seeking input from investors. FASB has stated that the proposals originated from the concerns of unidentified "stakeholders." According to FASB's website, it does not appear that FASB's own Investor Advisory Committee has met in recent years. We also note that FASB's Investor Advisory Committee does not include any representatives of beneficial asset owners such as pension plans. At a minimum, FASB should slow down and set up a panel of investors to solicit their views.

In conclusion, we urge FASB to withdraw the proposals and seek more input from users of financial statements. Thank you for taking the AFL-CIO's views into consideration regarding this matter. If the AFL-CIO can be of further assistance, please contact Brandon Rees at (202) 637-5152 or [brees@aficio.org](mailto:brees@aficio.org).

Sincerely,

A handwritten signature in black ink, appearing to read "HSC", is written over a light gray rectangular background.

Heather Slavkin Corzo, Director  
Office of Investment

HSC/sdw  
opeiu #2, afl-cio