AGC Webinar on
Multi-Employer Pension Plan Reform
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Overview of AGC Activities

• AGC appointed a member to National Coordinating Committee of Multiemployer Plans’ Retirement Security Review Commission (RSRC)

• AGC participating along with Construction Employers for Responsible Pension Reform

• AGC Multiemployer Pensions Technical Advisory Committee

• AGC Lobbying Activities
AGC Principles for Reform

• Eliminate withdrawal liability going forward
• Eliminate or reduce existing liability within a defined period of time
• Shared risk
• Allow flexibility to adapt to economic and market conditions
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Conclusions of the NCCMP Retirement Security Review Commission

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Background

• Core Principles
  • Proposals must protect retirement income security for participants
  • Proposals must reduce or eliminate the financial risk to the sponsoring employers
Background

• Commission Overview
  • First meeting in August 2011
  • Includes Over 40 Organizations
    • International unions
    • Employer trade groups
    • Individual large companies
    • Multiemployer plans
  • Guest speakers have included:
    • economists, policy researchers, investment professionals, actuaries, and representatives of non-US plans
Background

• Core Principles
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  • Proposals must reduce or eliminate the financial risk to the sponsoring employers
Background

- Commission Recommendations Fall into Three Categories
  - Provisions to strengthen the current system
  - Measures that target deeply troubled plans
  - Proposal for alternative plan design structure
Background

• Commission Recommendations Are Additional Tools for Plans
  • Plans are not required to adopt any new provisions
  • Trustees of many plans need more flexibility to address challenges
  • Plans that do not need assistance may choose to not use any or all of the proposed provisions
Provisions to Strengthen the Current System

• Allow Certain Yellow Zone Plans to Elect to Be in Red Zone
  • Must be projected to enter red zone in next 5 years
  • Allows early access to all red zone tools
  • Plan would be considered critical for participant notice purposes
  • Surcharges would not apply
  • Use is optional for plans
Provisions to Strengthen the Current System

• Extend certain red zone tools to All Yellow Zone Plans
  • Excise tax protection
  • Ability to accept lower contribution rates
  • Greater ability to improve benefits if experience allows
  • Ability to adjust benefits would remain limited to red zone plans
Provisions to Strengthen the Current System

• Establish Permanent Funding Relief Provisions
  • Provisions would trigger following a sharp market decline
  • 30-year amortization of losses
  • 5-year amortization extension
  • Enhanced asset smoothing
  • Use of these relief measures would be optional for plans
Provisions to Strengthen the Current System

• Other Technical Enhancements
  • Change beginning point to certification date for FIP
  • Equalize PBGC pre-retirement survivor benefits
  • Resolution to ‘Revolving Door’ problem
  • Allow Plan to dictate terms re: CBA renewals while in a zone
  • Address Conflicts in application of Reorganization rules
  • ‘Do Nothing’ yellow zone plans
  • Contribution Increases required for FIP/RP disregarded for Withdrawal Liability purposes
Provisions to Strengthen the Current System

• Mergers and Alliances
  • Encourage PBGC to facilitate mergers
  • Allow Stronger plans to ally with weaker plan without taking on legacy costs
  • Similar provisions introduced in both Pomeroy / Tiberi and Casey bills
Provisions to Strengthen the Current System

• Allow plans to harmonize normal retirement age with Social Security
  • Non-retired participants only
  • Participants within 10 years of normal retirement protected
  • Available to all plans, regardless of funded position
  • Use of provision is optional – no obligation for plans to change
Provisions For Deeply Troubled Plans

• Current Rules
  • For the minority of plans facing inevitable insolvency
    • Benefits will be cut to PBGC maximum guarantee level
      • Approximately $13,000 per year for full career employee
    • Ability of PBGC to support even this benefit level is in doubt
Provisions For Deeply Troubled Plans

• Commission believes that if all of the following are true:
  
  A. A plan has taken all reasonable measures to improve funding
  
  B. Insolvency is still inevitable
  
  C. It is possible to avoid insolvency and preserve benefits above the PBGC maximum guarantee level

• Then the trustees should have the authority to suspend a portion of the accrued benefits
Provisions For Deeply Troubled Plans

• Key Considerations
  • Preserving benefits above PBGC guarantee is preferable to insolvency
  • Will allow some plans to survive for future generations
  • Troubled plans may choose to use this tool based on their individual circumstances and philosophy
Provisions For Deeply Troubled Plans

- Criteria for accessing Benefit Suspension Tool:
  - Insolvency projected within 15 years (increases to 20 years if inactive to active ratio exceeds 2:1)
  - After application of suspensions, plan is projected to be solvent
  - Plan has taken all reasonable measures to avoid insolvency
Provisions For Deeply Troubled Plans

• Suspension Limitations
  • Benefits must be preserved to at least 110% of PBGC guarantee
  • Suspensions must be no more than is necessary to avoid insolvency
  • Any future benefit increases must be accompanied by a comparable restoration of suspended benefits
Provisions For Deeply Troubled Plans

• Approval Process
  • PBGC approval is required
  • Application must describe:
    • Measures taken to improve funding
    • Summary of proposed suspensions
  • PBGC has 180 days to consider application
    • Trustee due diligence will be granted great deference
    • PBGC inaction will be a deemed approval
Alternative Plan Design Structure

• Commission Believes that Current Available Options Do Not Meet Needs of All Groups
  • Defined Benefit Plan – Employers unwilling to accept market risk
  • Defined Contribution Plan – Highly inefficient vehicle for retirement security
  • Parties should have ability to develop new models
Alternative Plan Design Structure

- Flexible Benefit Plan
  - Operate like current defined benefit plan
  - Absence of withdrawal liability
  - Funding standards more conservative than current system
  - Trustees have increased ability to adjust past benefits in event of funding distress
  - Design to include appropriate protections for vulnerable populations
Alternative Plan Design Structure

• Key Concepts
  • For most plans, withdrawal liability not a significant source of contribution income
  • Goal of flexible plans is to focus on benefit security from:
    • willingness of employers to enter and remain in plans
    • Prudent and conservative management by the trustees
Alternative Plan Design Structure

• Transition
  • Flexible benefit provisions apply prospectively only
  • Current rules remain in effect for legacy costs
    • PPA zone statuses
    • Minimum funding standards
    • Withdrawal liability
    • Benefit protections
Alternative Plan Design Structure

• Transition
  • Accruals in current plan would cease, and accruals in new plan would begin
  • Future benefit adjustments only apply to flexible plan accruals
  • New and old plan can have same provisions
  • Contribution rates allocated between legacy benefits and future benefits
  • Longer amortization allowed in legacy plan to ease transition
Next Steps

- Finalize details of Flexible benefit construct
- Determine Legislative vs. Regulatory Paths
- Drafting of proposed language
- Education of Congressional Committee Members and Staff and Regulators
- PPA rules sunset at the end of 2014 – another election year
  - Target for Congressional Action 2013
Questions

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