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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AGC Representative to RSRC

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
  - Proposals must protect retirement income security for participants
  - 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 <u>and</u> 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 ceases, 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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