Conclusions of the NCCMP Retirement Security Review Commission

Sheet Metal and Air Conditioning Contractors’ National Association

April 19, 2013
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

• Commission Recommendations Fall into Three Categories
  – Provisions to strengthen the current system
  – Proposal for alternative plan design structure
  – Measures that target deeply troubled plans
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
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.
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 active to inactive 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
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???

Call: (202) 737-5315
E-Mail: nccmp@nccmp.org