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November 26, 2019

TO: Board of Trustees
U.A. 467 Defined Benefit Pension Plan

From: Richard K. Grosboll, Trust Counsel

RE: New Proposal from the U.S. Senate/Multiemployer Pension Recapitalization and Reform Plan
(SERIOUS POTENTIAL ISSUES FOR DEFINED BENEFIT PLANS)

[This is preliminary report because the Proposal being summarized was released only a few days ago (on Wednesday, November 20, 2019), and as result there has been little analysis at this early stage. Moreover, as noted below, there is a 12-page White Paper that was issued by two Senate Committee Chairs but no legislative proposal. We anticipate having more information at a future meeting. I cannot envision this type of measure passing the House as there will be significant opposition from the multiemployer employee benefits community.]

On Wednesday, November 20, 2019, Senators Chuck Grassley (R-Iowa). Chairman of the Senate Committee on Finance, and Lamar Alexander (R-Tenn.), Chairman, Senate Committee on Health, Education, Labor and Pensions, released a proposal for new legislation to rescue struggling multiemployer defined benefit pension plans and the multiemployer section of the Pension Benefit Guaranty Corporation ("PBGC"). The proposal was in the form of a 12 page single-spaced White Paper. It does not appear that a specific Senate Bill has been proposed yet. The proposal, which is called the "Multiemployer Pension Recapitalization and Reform Plan", includes several changes intended to get the pension system past its current crisis and to provide stability moving forward, but with many problematic areas About 125 multiemployer plans are in so-called "critical and declining" financial status, most projected to be insolvent in the next two decades, with the Central States Pension Fund and the United Mine Workers Pension Fund projected to be insolvent within next few years. The multiemployer section of the PBGC is projected to be insolvent by 2026.

With that background, the proposal has more substance than the Butch Lewis Act, which was summarized in a separate memo at the last Trust meeting. But, this proposal would have a significant impact on your Plan and other similar Plans. In fact, the proposal, which is unlikely to get support in the House of Representatives, would have serious consequences for your Plan. One important aspect of the proposal will impact your Plan, as it includes a proposal to increase the PBGC premium from $29 per Participant to $80 a Participant. That is a significant increase in costs for each multiemployer defined benefit pension plan (175% increase). But, there is also a variable-rate premium payable to the PBGC equal to one percent of a Plan's unfunded current liability with respect to Participant benefit levels (1% of the current unfunded liability divided by the number of Participants). In no case will the cap be higher than $250 per Participant. This variable premium has to be fleshed out more. I hope to have more information for the meeting.

Another part of the proposal would have very serious impacts on your Plan, . Under the proposal, Plans are required to withhold co-payments from retirees equal to a fixed percentage of benefit payments and transmit the premiums to PBGC on a monthly basis, with the c-payments waived for certain benefits (disabled and certain older retirees). The co-payment rates are based on the Plan's zone status and on whether the Plan received a Partition. By way of example, a Plan in Endangered Status would have a 3% Co-Payment. A Critical Status Plan would have a Co-Payment of 5%. A Declining Status Plan would have a 7% Co-payment. A Partition Plan would have a 10% Co-Payment. Although labeled as "co-payments", they represent a REDUCTION IN BENEFITS FOR RETIREES (the co-payments are reduced from retirees pension benefits).

The proposal has several key components

A. **NEW PREMIUM STRUCTURE.** According to a newly-released White Paper, the first step is a New premium structure, in which, in addition to participating employers paying into the system, each retiree would also pay a "co-payment" of up to 10% based on funded status and the age and health of the retiree (with elderly and disabled retirees exempt). This increase would be less than the alternative amount of benefit cuts workers would otherwise experience. As noted above, a plan in endangered status would have its retires pay a co-payment of 3%. For those in critical status, the percentage co-payment would be 5%.

   There is also language imposing a $2.50 per month premium on both the employer and unions (total of $5 per month) for each covered active employee.

   Retirees over 80 years old and disability retirees would have no co-payments. There is to be a phaseout of co-payments between ages 75-80.

B. **PARTITIONING**. The proposal intends to make it easier for troubled plans to use "partitioning" to shift a portion of the liabilities to the PBGC so that the remaining portion of the Plan becomes financial health. Both the Central States Pension Fund and the United Mine Workers Pension Fund, two of the largest multiemployer pension plans in serious trouble, would qualify for partitioning. Partitioning carves out pension benefit liabilities owed to Participants who have been "orphaned" by employers who have exited the Plan without paying their full share of those liabilities. Removing orphan liabilities allows the original Pension Plan to continue to provide benefits in a self-sustaining manner by funding benefits with contributions from current participating employers.

C. **TIGHTEN FUNDING RULES.** The plans proposes to tighten funding rules capping the discount rate used for minimum funding calculations at the lesser of the 24-month average of the 3rd segment rate plus 2% or 6%, but apply a 5-year phase in. The most recent 24-month average is 4.33% so the 6% would apply now. The White Paper includes language criticizing multiemployer plans for using too high of rates. More specifics have to be learned about this proposal.

   There would also be changes in the definitions of the zone statuses.

D. **FINANCIAL BAILOUT.** The proposal provides for a partial bailout, using the phrase "transfer of a limited amount of federal taxpayer funds to PBGC" of an unspecified amount, paired with a number of internal plan governance reforms to protect taxpayers and increased disclosure requirements to provide participants, contributing employers and government regulators with more information. The amount of the federal bailout will, of course, be an important issue, and likely determine whether the Proposal has any chance of being adopted.

E. **INCREASE THE MAXIMUM GUARANTEED MONTHLY BENEFIT/PBGC Fee Increase.** The proposal seeks to increase the multiemployer PBGC maximum guaranteed monthly benefit, which is only $1,073 to about $1,670 per month, and funds these enhancements through a significant increase in employer premiums from $29 to $80. Raising the maximum guaranteed monthly pension is a positive development but **THE CHANGE FROM $29 TO $80 PER PARTICIPAINT PREMIUM IS A SIGNIFICANT PREMIUM INCREASE.**

F. **HYBRID PENSION PLAN CALLED A COMPOSITE PLAN.** The proposal permits a multiemployer pension plan to establish a new hybrid pension plan, called a "composite" plan, on a prospective basis. Under this approach, the Plan pools employer contributions for investing but only provides benefits to participants based on the contributions and any associated gains on their investments. More details have to be learned about this part of the proposal.

The proposal also references that it will make the withdrawal liability rules and calculations simpler and easier to understand. There are many questions and uncertainties about the proposal at this very early stage. We will keep you updated as there are new developments.

cc: Fund Manager/Plan Advisors