Multiemployer Pension Plans

HOW WE GOT HERE AND WHERE ARE WE GOING?

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About Multiemployer Plan Liabilities

- Multiemployer Pension Funds under ERISA
  - Defined contribution going in
  - Defined benefits coming out
  - Subject to pension guarantees, funding rules, ERISA vesting requirements

Multiemployer Pension Funds

- Employer Responsibilities
  - Contributions must meet minimum funding
  - Original ERISA design – pay share of underfunding if plan terminates, based on employer's share of last 5 years' contributions – incentive to exit earlier.
  - 1980 amendments – replace termination liability with "exit fee" called "withdrawal liability"

1980 Amendments Not Enough

- 1980 Rules were insufficient because:
  - Insolvent employers didn't pay liability
  - Full funding limitations required plans to improve benefits during the 1990's boom years
  - Vesting rules prevented plans from reducing benefits when assets lost value in 2000-2001

Pension Protection Act

- 2006 PPA
  - Created new full funding limits for multis
  - Imposed new funding requirements
  - Established “red zone” and “yellow zone” and permitted limited benefit reductions along with contribution increases to the extent appropriate

More About Withdrawal Liability

- In almost all cases, Employer's share of plan's unfunded liability ("UVBs") is equal to the employer's share of contributions (excluding previously-withdrawn employers). Lookback period can be as short as 5 years or as long as 25 years.
- Employer's liability is payable in installments

More About Installment Payments

- Annual payment is product of
  - Highest three-year base units over past 10 plan years
  - Highest contribution rate per base unit over past 10 years
- Base unit is the measurement of contributions (hours, days, weeks, shifts, tons of coal)
- How long will it take to pay off the liability using that annual payment and plan’s funding interest rate?
- Payment period is limited to 20 years, unless there is a mass withdrawal

Issues Confronting Employers in Severely Underfunded Plans

- If employer is subject to 20-year cap, each contribution increase increases withdrawal liability payment, unless workforce has been shrinking faster
- Liability "multiplier" per dollar of contributions keeps increasing as other employers withdraw without paying their full share
- Minimum funding penalties become possible or probable
- As more money goes to pensions, less is available for wages
- More and more of the contribution buys less and less for current employees
- Accounting standards, rating agencies, and creditors are bringing more focus to contingent liabilities

NCCMP Proposal

- Two key features from employer perspective:
  - Plans facing insolvency can reduce benefits
  - Mandated contribution increases are excluded from withdrawal liability payment calculation
- Will these changes keep employers from withdrawing prematurely?
- Fundamental problem is the existence of orphan participants and the risk of their numbers increasing from future bankruptcies

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