CNELTD Steering Committee Report November 26, 2009

The meeting between the Steering Committee, KM and Segal was mostly focused on a discussion with our Actuaries (Segal).

Just a personal note before the actual report: having been involved in the Legal Steering Committee for the last few months now, one of the realities of the 'legal world' that has struck me and which makes writing these reports difficult is that facts evolve, positions change, information is learned and uncovered. We could choose to only publish items which are 100% certain or we can choose to publish where things stand at a given point in time. Please review these minutes with this in mind and please do not blame me if some positions or directions change when I publish the next report.

Information from Actuaries: Tom Levy, Ron Olson and John Halls from Segal

1. Calculation of actuarial amounts for wage replacement

A brief overview was provided of how actuarial tables will be applied to calculate our claim values. The calculation to be performed by Mercer (Nortel's Actuaries) will be based on the 1987 GLTD table with modifications which have not been communicated to Segal yet. Multiple requests have been made to Mercer to obtain these details over the last 2 weeks (over the last month at time of publication of this report).

In the meantime, the actuaries provided an overview of the actuarial process, acknowledging that some modifications are expected. The basis for the actuarial calculations is provided in the following table.

http://www.soa.org/library/research/transactions-of-society-of-actuaries/1987/january/tsa87v3913.pdf

The actuarial table is based on a large body of actual data from disabled persons. After about 2 years with a group our size (about 400 people including the CAW people on LTD) about 2-3% of people would be expected to have died or recovered (and no longer be receiving the benefits). The mortality rates are generally pretty low for people under age 65, although they are higher for disabled people. The recovery rates are harder to qualify because the criteria for being disabled change from being unable to perform a person's own occupation or any occupation. Thus, one of the roles of the actuaries is to ensure that the final calculation is based on the definitions of disability according to our Nortel plans.

The following provides a simplified view of how the calculations would be done

- Use each person's current age; calculate the expected wage replacement benefit for each future age (on a year per year basis) until the person turns 65.
- Account for the probability of the benefit being paid. About 2 to 3 % of members are expected to no longer be receiving benefits per year due to death or return to the work place. The exact value remains to be confirmed. For each individual person the probability of getting the benefit each year is multiplied by the amount of the benefit.
- Discount the resulting amount to the present value based on discount rate which is expected to be pretty low (~3%/year). This exact value also remains to be confirmed.
- Example
    a. $100/month LTD benefit, $1200 per year from current age until 65
    b. Look in tables for each year, for a disabled person of age x, determine what is the chance of that person is still on LTD at each age (accounts for either return to work or died as there is no difference in terms of whether or not a person is still getting LTD payments)
        i. Obtain expected amount for each year until 65 and add them up.
        ii. Discount to get a present value. So for a 45 year old, payment at, lets say 64 is reduced to get to today's value.

Please note that this example does not account for handling of cost of living increase that is included for those of us who chose to raise our LTD benefit when the Flex Benefit program started in the mid 1990's. That aspect will be taken into account in the actual calculation.

The group of Nortel Disabled employees consists of about 60% females and 40% males. The mortality rate for females is slightly lower than for males at each age, but as both rates are very low, there is not a large discrepancy based on the sex of the disabled person. As a group we can choose whether to calculate the claim based on a "sex distinct" basis, which assumes the females live longer than identically-situated males, and thus the females get slighter more benefits. Alternately, we can choose to calculate the claims on a "unisex basis", so identically-situated males and females would receive the same claims. The Legal Steering Committee will work with the CNELTD membership to make this decision. The actuaries did not indicate there was any urgency in making such decision but you might want to start thinking about it. The actuaries also pointed out that the mortality rates are so low before the age of 65 that there will be very little difference in value collected regardless of the approach chosen.

Individual differences with respect to causes of disability are not reflected in the claims.

Both the actuaries and Susan indicated that a good "educated guesstimate" of the average LTD wage replacement benefit for the Nortel employees currently on LTD is between $2,000 and $3,000 per month. So, if we take the average of $2,500 per month, that would be $30,000 per year in LTD benefits (which would be the amount of LTD benefits received from Nortel, and does not include CPP or QPP Disability income one might receive as well). The yearly total 'cost' to Nortel for the group of 404 people for this year would be $ 12,120,000 and would decrease each year as people retire, return to work or pass away.

We once more requested an update wrt progress in defining how the wage replacement benefits were likely to be received. The position they are taking is that a lump sum will be the ultimate result. That position has been presented to the CRA but they have not reached to the point where an official tax ruling has been requested.

2. Medical coverage

The Monitor has just recently granted the actuaries and lawyers with the permission to start exploratory discussions with Sun Life wrt the feasibility of establishing some form of medical coverage for us and the pensioners. Some options were discussed as being the most common:

- 'All claim recovery program': once your claims exceed a certain amount (eg. $10000) over your lifetime, the plan starts paying a certain percentage (eg 80 or 90 %) until there is no money left in the plan.
- 'Grand fathered program': part of the cost is paid from investment income on the medical claim along with monthly premium paid by all participants.

The first goal is to understand whether Sun Life is willing to establish any kind of plan. Otherwise, another option requiring investigation is whether we (LTD/pensioners) could establish our own plan. We will be looking for updates wrt those discussions in the upcoming weeks.

The topic of expected future medical costs was addressed but needs to be pursued again as the average annual medical benefits quoted by the actuaries seemed low based on the data we have received from a subset of our CNELTD membership. So, if you haven't provided me (Johanne.berube1@sympatico.ca) with your Drug and Medical/Dental claim, I encourage you to do so. We will then be better equipped when discussing these topics with the actuaries. We want to know the total Drug & Medical Claims amounts paid by Sun Life per year, and also the total amount submitted.

3. Pension:

Future pension accrual

Future pension accrual will be handled pretty much like the accrual of monthly wage but instead of a fix amount, it will be an estimate of what will be earned as additional pension each year. It will be calculated separately and included in each disabled employees' claim against the estate.

The current assumption is that future accrual will be based on existing pension tables and that the % obtained of that value will be based on the % of return obtained as an unsecured creditor.

Accrued Pension Fund

Pension amounts already earned will be treated the same for disabled employees as for other former employees. With regard to pension benefits, for pension amount that has already been vested in the plan, we are considered deferred pensioners. We will benefit from whatever solutions the NRPC group is able to work out with the government.

There is ongoing discussion underway wrt the possibility of delaying the wind up of the plan.

For Ontario residents: under the present laws, sometime next year, the Ontario government would step in and wind up the plan which is believed to be currently funded between 65 and 70%. This number might be slightly higher for Ontario residents as explained below. Since we are not retired, our option will be to get the value of whatever is owed to us from the pension plan and place it in an RRSP or in an annuity from an insurance company upon plan wind up.

Pension Benefit Guarantee Fund.

In ONTARIO, the pensioners are working to see if the government will agree to honour the Ontario Pension Benefit Guarantee Fund (PBGF).

An example was used to demonstrate how the PBGF works.

Example: You are entitled to a pension payment of $3000.00. At wind-up, the plan is 70% funded.

The PBGF would guarantee that you receive the full first $1000.00 of your monthly pension payment. The plan funds would cover the first $700.00 (70%), and the government would top-up that amount by $300.00 (30%). The remaining $2000.00 would be paid through the plan at 70%, with no top-up from the government. You would receive $1400.00 of this $2000.00. In total, you would receive a monthly pension of $2400.00 vs. the $3000.00 payment to which you are entitled. Any indexing would apply only to the funded benefits, not to the PBGF benefits.

There are two options for the future of the pension plan. First, the plan may be wound-up, in which case it is likely that an application would be made to the PBGF. If individuals such as us on LTD, are not retired at that point, we will have the option to take out the value of the pension and transfer this amount to a locked-in RRSP or annuity from an insurance company. If the PBGF is successfully engaged, it will protect the first $1000.00 of the pensions of those to whom the PBGF applies.

The second option is some type of continuing plan, which would avoid or at least defer and hopefully minimize some of these effects. The NRPC and the lawyers are working hard on this option.

The Quebec Government has a different plan which would involve taking over the pension fund for Quebec employees and running it for 5 years (until the market values go up), and paying people monthly, and then it would be wound up after 5 years. The Quebec Government would go in as a creditor to get the pension money the Quebec employees had in the pension fund.

Ongoing LTD payments

The funding for 2010 has not been secured yet and the expiry of the stay is December 18th. It was stated that everyone is pretty confident that the funding will be granted though no official agreement has been reached yet.

Other topics unrelated to the actuaries, addressed during the meeting:

Clarification was obtained wrt the source of the funds associated with the 9 former executives who filed a claim for receiving special retirement compensation outside of the pension plan. These funds are not from the H&WT and not related ot the H&WT in any way. The funds were obtained from an annuity contract from Sun Life. Those payments stopped on Jan 15th though the payments kept being sent to Nortel.

We confirmed that the Retiree Insurance Benefits come from the assets in the H&WT. <u>The LTD wage replacement and Survivor Income Benefits (SIB) also come from these assets. All benefits come from the H&WT, but the Health Benefits are paid on a flow through basis, not from the assets.</u>

Many members of the CNELTD would like to know the monthly aggregate amounts being paid for our LTD wage replacement and health benefits, as well as our actuarial values. This information would be very useful when dealing with politicians and government departments. KM re-iterated that they are not at liberty to release this information because of the non-disclosure agreement . As such they advised us that specific government department or the agencies we are working with could approach the Monitor or Nortel themselves to attempt to obtain the necessary information. This would be a more efficient way to get the information.

We were advised that any effort on our part to convince the government that laws were broken wrt the H&WT and taxation could easily backfire and that we need to consider carefully before pursuing this avenue. While some of us are suspicious of how the Trust was managed over the years, if our group is successful at highlighting a tax problem and the CRA makes retroactive changes that result in unpaid taxes or source deductions, this could have the effect of creating a secured creditor claim, who would have priority over unsecured creditors. Ultimately, this would reduce the pot of money available to pay unsecured creditors (including our group). Caution should be exercised. Similarly, if other creditors hear that the H&WT was not a legitimate trust, they could argue that the assets in the trust should be shared by all claimants (including the junk bond holders) , rather than being divided among the beneficiaries in the H&WT. In other words, what we say to the media and to politicians could inadvertently reduce the value of our claims considerably.

Regards,

Johanne