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JUSTICE MATTERS

WLUFA

Process for Conversion of WLU Plan to the UPP

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Pension Conversion Process

- Conversions from a single employer plan (SEPP) to a 'jointly sponsored pension plan' (JSPP) are *regulated*
- Regulatory structure
 - Notification of membership, bargaining agents
 - Differences in benefits, costs, financial risks
 - Member consent (consent by trade union)
 - Trade union expenses properly paid from prior plan
 - Approval by Regulator (Financial Services Regulatory Authority)

■ Also, a *collective bargaining* process

Regulatory Process - Overview

■ Notices

- Two notices to members, one about the Prior Plan and a second about the JSPP
 - Prior Plan administrator is responsible for both notices
 - Contributions, benefits, funding, surplus (Prior Plan)
- Separate notices to be provided to actives and to deferreds/retirees/others entitled to benefits
- Single notice to trade union
 - Compares contributions, benefits, funding and discloses surplus in Prior Plan

Process – Union Due Diligence

- Notices, *together with other disclosures*, are part of an assumed due diligence process by a faculty association
 - Supported by legal and actuarial expertise
 - Union has legal right to access plan documents, valuations, filings with the Regulator
 - Detailed comparison Prior Plan vs JSPP
 - Key for the consent process (described below)

Process – Union Due Diligence

- Faculty Association legal and actuarial costs are properly paid from the Prior Plan fund
 - 80.4(21) If a trade union that represents members of the single employer pension plan is entitled to vote on the conversion and transfer of assets on behalf of the members, the trade union is entitled to be reimbursed from the pension fund its reasonable fees and expenses, of the type that are prescribed, relating to the vote.

Regulatory Process - Overview

- Notice – JSPP
- Contents must include
 - Differences in contributions, benefits between prior Plan and JSPP
 - JSPP benefit particulars (early retirement, indexation, bridging, etc.)
 - Benefit payable as of notice date under JSPP
 - Funding metrics for JSPP
 - JSPP governance, esp. re ‘plan administrator’

Regulatory Process - Overview

- Consent
 - **At least** 2/3 of active members
 - **No more than** 1/3 of retirees + deferred members object
- Trade union may consent on behalf its members
 - Normally, trade union holds a ratification vote

Regulatory Process - Overview

■ Minimum Standards

- 3 key minimum standards on conversion protect accrued DB benefit
 - Commuted value of accrued benefits for active members is not less under the JSPP than under the Prior Plan
 - Benefits for retirees and deferred vested members under the JSPP are 'at a minimum, the same' as under the Prior Plan
 - Transferred members get credit in the JSPP for their period of membership in the Prior Plan, for purposes of eligibility for membership and benefits under the JSPP

Regulatory Process - Overview

- Regulatory approval
 - Required for transfer of assets and past service liabilities
 - Employer is responsible for application
 - Regulator confirms notice, consent, asset transfer agreement, compliance with minimum standards

Overview of Pension Conversions

- Collective bargaining process
 - WLUFA CAs
 - FT provides for eligibility for Wilfrid Laurier University Pension Plan membership as of first day at Art. 29.1.1
 - Contract Teaching Faculty and Part-time Librarians – optional membership at Art. 24.6.2 with hours or earnings
 - On/off switch for conversion
 - This is reflected in the current Plan as well (see Article 2)

Overview of Pension Conversions

- Collective bargaining process
 - In order to turn on the conversion switch, trade union must agree to conversion
 - Agreement in CA coincides with trade union consent for the conversion in the regulated process
 - In general, employers prefer to secure consent from a trade union than to get it directly from active members
 - Bargaining may address issues that follow – but nothing is automatic

Collective Bargaining

- Collective bargaining issues – CA amendment and consent requirement create bargaining power for issues such as
 - Pension plan membership
 - Pensionable Earnings
 - Prior Plan provisions governing past service
 - Grandparenting prior plan provisions
 - Surplus
 - Hybrid transition issues

Collective Bargaining

■ Membership – PBA

- PBA establishes *eligibility for membership* as a minimum standard, i.e. PBA does require that membership be mandatory
- A single employer pension plan may require
 - 24 months of continuous full-time employment, or
 - 24 months of less than full-time continuous employment **if** the employee has either earned at least 35% of the YMPE **or** worked for 700 hours in each of the 2 consecutive calendar years prior to membership

Collective Bargaining

■ Membership – PBA

- A multi-employer pension plan may require
 - 24 months of less than full-time continuous employment if the employee has either earned at least 35% of the YMPE or worked for 700 hours in each of the 2 consecutive calendar years prior to membership, or an equivalent basis approved by the Superintendent
- UPP is a multi-employer plan
 - So, PBA minimum standards rule regarding membership changes on conversion

Collective Bargaining

■ WLU Plan

- Currently provides for immediate mandatory membership for full-time and optional elective membership for part-time with 2 years of required hours or earnings

■ Conversion

- May replicate current membership rules for FT and PT, with multi-employer adjustment
- Or, WLUFA may try to bargain mandatory immediate membership for PT

Collective Bargaining

- Membership (UPP)
 - FT employees – immediate, mandatory members
 - FT status defined in CA
 - ‘Other than Continuous FT Employees’ – if hours/earnings in 2 years, optional members
 - ‘Regular FT Contract Appointments’ are treated as FT employees –status must be bargained
- UPP membership rules allow for continuity of status quo or extension of mandatory immediate membership to PT

Collective Bargaining

- Pensionable Earnings
 - UPP - subject to bargaining to accommodate particularities of compensation arrangements and past practices

Collective Bargaining

- Contributions:

- UPP: set out in Plan document, subject to change depending on funded position

Collective Bargaining

- Bill 124

- Bill 124 permits wage adjustment to offset higher member contributions to JSPP where s.80.4 of the PBA applies
 - Higher employer contribution rates?

Collective Bargaining

- Prior Plan Provisions Governing Past Service
 - UPP
 - Can bargain past service enhancements (funded by the employer)
 - Confirm that pre-conversion benefit based on post-conversion earnings

Collective Bargaining

- Grandparenting prior plan provisions for future service:
 - UPP: subject to Joint Sponsor agreement (limited scope)

Collective Bargaining

- Surplus
 - Excess assets remaining in the prior plan are surplus assets, subject to PBA
 - Notice must state surplus amount, proposed allocation or method of allocation
 - Surplus issues should be identified and bargained
- WLU Plan – no surplus as at April 30, 2019

Collective Bargaining

■ Hybrid Issues - UPP

- UPP may assume administration of past service hybrid benefits, duplicate required accounting
 - Interest rate on money purchase component to reflect UPP Fund returns (pre and post retirement)
 - Continued availability of buybacks of pre-conversion service per WLU Plan provisions? But period of buyback is UPP service
 - Additional voluntary contributions would likely cease on conversion

Collective Bargaining

■ Hybrid Issues – UPP

- Conversion factor for money purchase benefits
 - Not subject to future collective bargaining after conversion
- Commutation rights – eligibility for a commuted value (CV) transfer
 - The UPP follows PBA minimum standards – CV transfers are only available on termination until a member is eligible for a reduced or unreduced pension
 - WLU Plan permits commutation up to retirement
 - There may be some room to extend commutation rights for pre-conversion service past UPP commutation limit

Plan Text - UPP

- Plan Text has 2 parts
 - Future service – standard terms
 - Past service – reflects Prior Plan terms and any ‘grandparented’ terms of Prior Plan that may continue to apply after conversion (i.e. commutation)
- Plan Text revisions are the responsibility of the Joint Sponsors
 - Coordination between FA and Employee Sponsor Committee is key

Employee Sponsor Committee

- In addition to approving UPP Plan Text changes for a new University, the Employee Sponsor Committee must also
 - Approve a Participation Agreement between the UPP Board of Trustees and the new University
 - Enter into an asset/liability transfer agreement with the new University
- FAs are not parties to the Participation Agreement or the Asset Transfer Agreement
 - Importance of coordination between FA and ESC

Steps in Conversion Process

- Education, comparative analysis, mandate
- Collective Bargaining
- Joint Sponsors – approval in principle
- Consent Process and University BoG Approval
- University agreements with Joint Sponsors
- Operational arrangements - UPP
- Regulatory Application and Approval
- Transfer of assets and ‘closing’

Supplementary Plan Arrangement

- Existing SRAs may be based on existing Prior Plans, and provide benefits in excess of ITA limits for registered pension plans
 - JSPPs do not administer SRAs for past or future service
 - Since JSPP benefits are different, SRA whose benefits are integrated with or cross-reference Prior Plan may need to be changed
 - Funding must be reviewed, bargained
 - DC SRAs not affected