StockShield®

Mitigating Risk for Participants in Nonqualified Deferred Compensation (NQDC) Plans

Second Quarter 2020

Substantial Wealth in Deferred Compensation Plans

Source: Plan Sponsor

Biggest Risk: Corporate Bankruptcy

<u>Participants' Rights Unsecured</u>. The right of a Participant, or any Spouse or Beneficiary, to receive a distribution under this Plan shall be an unsecured claim against the general assets of the Corporation. Neither the Participant nor his or her beneficiaries shall have any right to enter against any specific assets of the Corporation. The Participants shall have the status of general unsecured creditors to the Corporation. This Plan constitutes a mere promise by the Corporation to make benefit payments in the future.

Bankruptcy of Pacific Gas & Electric Company (1 of 2)

NON-QUALIFIED DEFERRED COMPENSATION – 2018

This table provides information for 2018 for each NEO regarding such individual's accounts in non-qualified defined contribution plans and other deferred compensation plans as of December 31, 2018.

Name	PLAN	Executive Contributions in Last FY ($)[1]	Registrant Contributions in Last FY ($)[2]	Aggregate Earnings in Last FY ($)[3]	Aggregate Withdrawals/ Distribution ($)	Aggregate Balance at Last FYE ($)[4]
G. J. Williams	SRSP	0	36,188	-88,326	0	283,899
J. Soto, Jr.	SRSP	398,535	10,745	-57,329	0	778,397
S. Malnight	SRSP	0	8,354	-1,864	0	33,163
P. Hogan	SRSP	133,735	11,475	22,396	0	848,902
	DC-ESRP	0	45,177	7,198	0	202,931
J. P. Wells	SRSP	0	18,900	-8,951	0	127,524
D. S. Thomason	SRSP	79,167	9,713	-19,070	0	242,099
	DC-ESRP	0	30,402	-5,788	0	67,916
J. R. Simon	SRSP	111,626	14,931	50,124	0	1,711,641
N. Stavropoulos	SRSP	0	15,600	-42,539	0	417,046

Bankruptcy of Pacific Gas & Electric Company (2 of 2)

"The Debtors also maintain Supplemental Retirement Savings Plans ("SRSP") for the benefit of officers and other key Employees. The SRSPs are unfunded deferred compensation plans....**The SRSP has approximately 300 active Employee participants (the "Active Participants"), and approximately 90 inactive participants, comprised largely of Retirees or those who have been terminated without cause (the "Inactive Participants")**....The balances in the SRSP as to Active Participants aggregate approximately $29,000,000, of which 85% represents funds contributed directly by the Active Participants." – PG&E Bankruptcy Filing, January 29, 2019

"The rating action incorporates Moody's expectation that full recovery for unsecured creditors is uncertain because **this class of creditors is at risk given that the unsecured debt will, in all likelihood, be in the same credit class as pre-petition wildfire claims.** Recovery levels for all classes of security will be determined by a number of factors, including but not limited to, the outcome of SB 901's customer harm threshold as calculated by the financial 'stress test', the bankruptcy court's treatment of pre-petition wildfire claims, the likelihood of legislative changes that mitigate wildfire liabilities under inverse condemnation or additional rate increases as part of a plan of reorganization." – Moody's Rating Action, January 29, 2019

Additional Examples

- Arch Coal ("little or no recovery")
- Chrysler (400 executives left with nothing)
- Eastman Kodak (4-5% recovery paid in stock in new company)
- General Motors (two-thirds "haircut" reduction)
- Nortel Networks ($31 million settlement = 97% recovery)
- Washington Mutual ($69 million of NQDC paid to creditors)

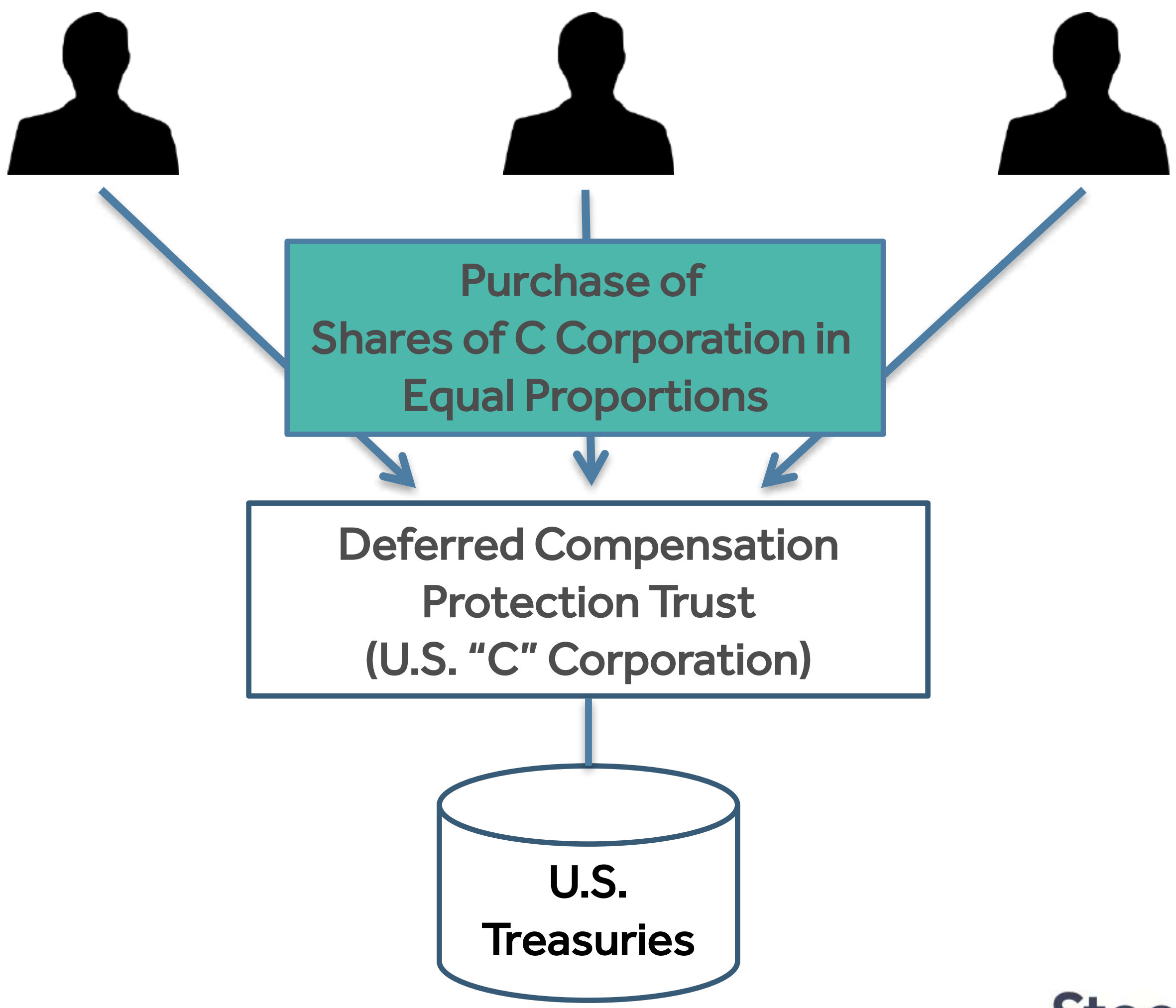
ArchCoal

I have deferred income in previous years into the Deferred Compensation Plan. What will happen to these funds? Will the program continue post the Chapter 11 filing?

- Deferred Compensation Plan participants are not protected in the event of a Chapter 11 filing. Any funds contributed to the Plan prior to the Chapter 11 filing are unsecured, and the amount of recovery, if any, will be determined in connection with the company's approved Plan of Reorganization at the time of emergence from Chapter 11.
- We expect little or no recovery of funds contributed to the Deferred Compensation Plan prior to the Chapter 11 filing. The company match to participant accounts is expected to receive the same treatment in the Chapter 11 case.

Mechanics of a Deferred Comp Protection Trust

20 Holders of Large NQDC Balances



Formation of a Deferred Comp Protection Trust

- Each of 20 investors has an NQDC account balance of at least $1 million (each NQDC plan sponsored by a different company in a different industry)
- For 5 years, each of the 20 contributes $10K per year in the Deferred Compensation Protection Trust (DCPT)
- The DCPT has a fixed life of 5 years and buys 5-Year Treasury securities with the capital contributions
- At the end of the 5-year period, the DCPT provides a payout based on the number of bankruptcies of NQDC sponsors

Calculating the Cost of Protecting NQDC

Example Payouts (Assuming 5-Year Term & $10K/per year)

Zero Bankruptcies

$50K Invested (X 20 Participants = $1,000,000 Aggregate)
$50K Returned (X 20 Participants)
Zero Cost

One Bankruptcy

$50K Invested (X 20 Participants = $1,000,000 Aggregate)
$1,000,000 Paid to One Participant in Bankrupt NQDC Plan
$0 Refunded to 19 Participants in Non-Bankrupt Plans
Cost ≈ 1% Per Year

Two Bankruptcies

$50K Invested (X 20 Participants = $1,000,000 Aggregate)
$500,000 Paid to Two Participants in Bankrupt NQDC Plans
$0 Refunded to 18 Participants in Non-Bankrupt Plans
Cost ≈ 1% Per Year

Important Legal Information

This presentation is neither an offer to sell nor an offer to buy any security. The information contained in this document is intended for use by Institutional Investors in the United States only. It is not intended for use by non-U.S. entities or retail investors. Past performance does not guarantee future results. Any discussion of risk management is intended to describe efforts to mitigate risk but does not imply the elimination of risk. An investment in the Deferred Compensation Protection Trust is not liquid during the Protection Period, and the investor may lose the entire investment. The content contained herein is current as of the date of issuance and is subject to change without notice. The content in this document does not take into account individual investor circumstances, objectives or needs. No determination has been made regarding the suitability of any securities, financial instruments or strategies for any particular investor. The content is provided on the basis and subject to the explanations, caveats and warnings set out herein. The content does not purport to provide any legal, tax or accounting advice.