

Update On Retiree

In our emergency contract talks with GM in 2009, the CAW agreed to the establishment of a health care trust fund to provide post-retirement health benefits. Over the last year, the CAW has been engaged in a lengthy legal process to formally establish the trust fund. This article is an update on our progress so far.

Remember that in 2009, GM filed for bankruptcy in the United States. GM Canada was also effectively bankrupt. However, we managed to avoid an actual legal bankruptcy here, in part through those emergency negotiations.

At that time GM needed urgent financial support to survive. No private lenders or investors stepped forward. The only source of funds to continue operations was government. In exchange for their substantial investments in GM (which totalled \$10 billion from the Canadian and Ontario governments), governments demanded a number of changes to reduce GM Canada's costs.

The government required the formation of a Health Care Trust (HCT), in order to reduce GM Canada's all-in labour costs going forward. Government also established a maximum cap on GM's contributions to the trust – in part because the company was also committing to a huge payment (\$3.28 billion) into the GM-CAW pension plan. So according to our final contract with GM, which was ratified strongly by CAW members in May 2009, the company will make \$1.8 billion in contributions to the trust fund. Together with expected investment returns, these funds will be used to pay for health care benefits for current retirees and surviving spouses (and also for current active members when they retire). A similar trust fund will be established to pay for retiree health costs for CAW members, retirees, and surviving spouses at Chrysler (which also went through a government-supported restructuring).

The transfer of responsibility for retiree health benefits to the Health Care Trust (HCT) must be approved by the Court. The Court will consider all the circumstances, including GM's 2009 bankruptcy and restructuring.

The establishment of the health care trust also requires

changes to the federal government's tax laws, so that the investment income earned by the trust will not be taxed (since it is used to pay for health benefits). A trust like this has never been established before in Canada, so this is uncharted terrain both for government policy and for the courts – hence the long process in getting it going.

The HCT is similar to the VEBA funds that were set up by the UAW and the Big Three in the U.S., although there are some important differences. The Canadian HCTs will be better financed (most of GM's HCT contributions are paid via an up-front cash contribution, with the remainder consisting of interest-bearing loans), thus offering better protection for future benefits. Another important difference between Canada and the U.S. is that under the class-action legal process that formally transfers benefit responsibility to the HCT, retirees in Canada cannot be ordered by the courts to join the trust (as is the case in the U.S.). This makes it essential that the HCT be set up in a way that wins participation from the retirees.

The company and the CAW have hired their own legal representatives as the HCT process winds its way through the courts. CAW retirees are also represented by their own independent Steering Committee, their own lawyer, and their own actuary and financial advisors. They are participating actively in the legal process to establish the HCT, to protect retirees' interests.

As we emphasized during the ratification process, the creation of the HCT represents a trade-off for workers and retirees. On one hand, the HCT represents a safe, independent pool of capital to support retiree health care in the event GM ever again becomes insolvent. (Until now, retiree health benefits had no independent financing, so if the company went broke, benefits were lost completely.) The funds in

Health Care Trust

the HCT can only be used to provide post-retirement benefits; they are safe from creditors if GM ever goes bankrupt. Thanks to the government-supported restructuring effort, the GM HCT will start life with a very healthy up-front injection of cash (\$1 billion); the rest of the obligation (\$800 million) will be paid off with interest over the next eight years. And by separating the cost of retiree health benefits from GM Canada's active labour costs, we enhance the case for future investment in GM's Canadian facilities, cementing GM's continued presence here (crucial for both active members and retirees).

At the same time, as part of that trade-off, we do take on new risks with the HCT. While the trust provides additional protections to retirees against a future GM bankruptcy, its initial funding level is lean (reflecting the restrictions imposed on GM Canada's obligations as it went through the bankruptcy restructuring). The trust fund's ability to continue paying benefits at the current level is not guaranteed, and depends on many factors including: Investment returns, the level of healthcare costs in the future, the level of healthcare utilization, the lifespan of GM-CAW retirees, and administration expenses. Future reductions in post-retirement health benefits are certainly possible. On the other hand, if investment returns are strong and healthcare costs grow more modestly, then benefit levels could be maintained or conceivably even improved.

The CAW is structuring the HCT to be as successful as possible. It will be governed by an independent Board of Trustees (including independent experts in fields such as health care, asset management, and actuarial science). The Board will hire its own staff, select its own investment managers and set benefit levels that are sustainable given the fund's financial condition.

All retiree members of the HCT will continue paying \$15 plus applicable taxes (if they are 65 or over) or \$30 plus applicable taxes (if they are under 65), per month, in order to be eligible for benefits. Surviving spouses pay \$15 per month. This revenue is paid to the HCT (not to GM). This amount may also change in the future, if the Trustees so determine.

For our active members, health care benefits while they are working continue to be paid directly by the company (as at present). Active workers' health contributions (\$30 per month) are retained by the employer to help offset the cost of active benefits. When they retire, however, the responsibility for health benefits shifts to the HCT – and the monthly premiums are diverted to the HCT, too.

There's no doubt the HCT is a brand new development for our Union. It represents a creative way to try to secure health benefits for our current and future retirees, while enhancing the financial viability and continuing operations of GM in Canada. The government assisted the process – both by changing the tax laws to allow the creation of a health trust (which has never been done before in Canada in this form), and also through its substantial financial assistance to GM Canada (totalling \$10 billion).

In our 2009 emergency bargaining, the CAW squeezed out maximum possible contributions from GM to the fund (given government restrictions on the company's obligations as it came out of its government-financed bankruptcy restructuring), at a moment when the company's survival in Canada was very much in doubt. The HCT is certainly preferable to the previous "pay as you go" system of financing retiree benefits if GM ever enters financial crisis again. So the trade-off makes sense – all the more so in light of the massive injections that were simultaneously made to GM's pension fund.

We have been encouraged by GM's financial and sales progress since the restructuring, and by the success of GM's Canadian-made vehicles and powertrain products. But we also recognize that GM, and the whole auto industry, are still very fragile. The government-mandated Canadian footprint for GM provides us with some badly-needed security for our plants, and our jobs, over the next few years. Finalizing and implementing the HCT will be important to ensure GM Canada's financial viability, and hence its presence in Canada, over the longer-run.

We hope to finalize the establishment of the HCT in the next few months, and we will provide further information updates as the legal process continues to unfold. 🍁