

NortelPensionsUK

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Dear Member

Nortel Pension Update Letter 2014

First, my apologies that this letter is a little later than usual – we have been awaiting the results of trials that took place in the US and Canada during 2014. A judgment in respect of the ‘claims’ trial in Canada was announced in December 2014 but we still await judgments on the ‘allocation’ trial. Members will appreciate that the absence of the allocation judgments means we still do not know how the proceeds of the sale of Nortel’s assets (over US\$7Bn) will be divided between US, Canada and Europe (EMEA) and hence what recoveries might be achieved for our members. We are also unable to give you a reliable estimate of when these judgments will be delivered but are hopeful we might have further information by Easter 2015. Details of what has been achieved so far are summarised below and more detail is given in the Appendix.

For completeness and ease of reference, we have included below some of the information contained in previous update letters as well as describing activities and developments over the past 12 months.

Irrespective of the outcome of the insolvency proceedings we repeat our previous assurances that members’ pensions are and will be secured in accordance with the rules of the Pension Protection Fund (PPF) and members will continue to be entitled to applicable PPF level compensation as a minimum.

The principal objective of the Trustee is unchanged and that is to secure improved benefits compared to the minimum level guaranteed by the PPF. However, this is fundamentally dependent on how successful we are in recovering funds from the Nortel insolvency proceedings both in the UK and overseas. If we manage to recover at least an estimated £700m then we will have the opportunity to try to ‘buy’ better-than-PPF benefits by purchasing annuities for members from insurance companies. If we are able to purchase these better benefits then they will be secured for members. If this cannot be achieved, then the Plan will become the responsibility of the PPF and members will continue to receive applicable PPF level compensation.

Recovery of funds from insolvency proceedings

Settlement of Plan claim against Nortel in the United States

In December 2013 the Trustee (together with the PPF) negotiated a settlement of all our claims in the US for the sum of US\$37.5m – this amount was paid in January 2014.

An additional and equal settlement sum was paid to the Joint Administrators of the EMEA estate (“JA”). Most of this additional sum is anticipated eventually to flow to the Plan as a result of our claim into NNUK.

Plan claims against Nortel Networks Limited (NNL) and Nortel Networks Corporation in Canada

The Canadian court has now delivered its judgment and the Plan/PPF has been awarded a claim against NNL for £339.75m in respect of the so called ‘funding’ guarantee.

Members should note that the actual amount the Plan would receive on this claim would depend on the ‘dividend’ that would eventually be declared by NNL, which in turn would be determined by the total admitted claims and total assets available in the Canadian estate – the latter being largely driven by the results of the allocation trial.

Prior to the commencement of the claims trial the JA settled their own claims against NNL for an admitted claim into the Canadian estate of approximately US\$125m. Again, the actual amount received will be subject to the dividend declared by the Canadian estate and the majority of this money will flow to the Plan.

Joint US/Canada allocation trial

The allocation trial was a joint hearing between the US and Canadian bankruptcy courts with proceedings in each court being relayed ‘live’ to the other court. The trial to decide how Nortel assets will be divided between the US, Canada and Europe commenced in May 2014 with the hearing of evidence being completed in late June and closing arguments being heard in mid September. We have been given no information as to when either court will deliver their judgments.

PPF Assessment and Plan Administration

During PPF Assessment our Plan Administrators, Towers Watson, will continue to be responsible for administering the Plan on a day to day basis, settling benefits as they become payable and acting as the first point of contact for any questions you may have.

Whilst we do not yet know if the Plan will eventually become the responsibility of the PPF, we are required to act and prepare as if this might happen. Accordingly, Towers Watson have continued with a number of tasks over the last year, including:

- Worked in conjunction with HMRC to ensure all of the Plan's contracted-out membership records reconcile with those held by HMRC. Good progress has been made with over 97% of the Plan's records now verified. This work needs to be undertaken irrespective of whether or not the Plan ultimately becomes the responsibility of the PPF since it will assist in the calculation of accurate Plan liabilities.
- Continued to work in conjunction with a specialist tracing bureau, to ensure up-to-date address details are held for all members in the Plan.

Investments

At the end of March 2014 our assets totalled £1.6Bn. Most assets are invested in securities designed to hedge or mitigate the impact of inflation and interest rate fluctuations on the cost of benefits.

We continue to monitor and be conscious of the significant costs that are being incurred by all parties involved in litigation activities but such costs are, unfortunately, necessary if we are to have a chance of meeting our objective of improving returns for our members. The PPF are fully supportive of this approach, and we can assure you that the litigation is being pursued as efficiently as possible and the progress of the case is kept under constant review.

We will continue to update the Q&A and other announcements on our website as and when there are significant developments to report so please take a look from time to time. If any of you would like to see a copy of the Q&A and other announcements but do not have access to the internet then please write to Towers Watson at the above address and they will send a copy to you together with any future updates.

As we pass the sixth anniversary of NNUK entering administration, I want to pay tribute to and thank all of my fellow Trustees for their perseverance and dedication in guiding us through what has turned out to be the unfamiliar and often uncharted waters of international insolvency. Please rest assured that we will all continue to diligently pursue the best possible outcome for all our members.

Yours sincerely,

David Davies
Chairman, Trustee Board
Nortel Networks UK Pension Plan

Appendix to Member Letter 2014

The Plan is a creditor of its former sponsor NNUK and a claim has been lodged with NNUK's administrators for the Plan deficit as at the date of insolvency. Note that information on court activities/decisions set out below does not impact the validity or conduct of this claim in any way.

Summary of court activities and decisions

For completeness and ease of reference, we have included much of the information provided in previous letters and announcements. New information is shown in bold text.

UK Activities – Financial Support Directions (FSDs)

- In January 2010 the Pensions Regulator (tPR) issued a Warning Notice against a number of Nortel companies in the US, Canada and Europe which, as the name suggests, warned them that tPR was considering exercising its powers under the Pensions Act 2004 to issue FSDs against them. In June 2010 the Determinations Panel (DP) of tPR determined that FSDs should be issued in respect of a number of Nortel companies (or "Targets") in the US, Canada and Europe.

The administrators for the European Targets referred this determination to the Upper Tribunal. **The proceedings before the Upper Tribunal have been put on hold pursuant to a Direction of the Upper Tribunal.**

However, in April 2011 the DP issued FSDs against four North American Nortel companies. Please refer to US Activities and Canadian Activities below for further information.

UK Activities – Ranking of FSDs under UK insolvency law

- Following the DP determination above, lawyers acting on behalf of the administrators for the European Targets became concerned that UK insolvency law was unclear about how an FSD (or a Contribution Notice (CN), which tPR can issue if an FSD is not complied with) should be treated in terms of its "ranking" in the priority order of creditor claims. Following a hearing in May 2013, the Supreme Court ruled on July 24, 2013 that FSD (or Contribution Notice) liabilities should be treated as provable debts in administrations or liquidations in England, and hence should be treated in the same manner as other unsecured claims. **The Trustee was awarded costs of £1.3m in respect of the Supreme Court activities.**

US Activities

- The issuance of a Warning Notice against the US Nortel companies was held to breach US bankruptcy proceedings, and hence tPR's regulatory proceedings in the UK were treated as null and void by the US Bankruptcy Court. This ruling was upheld by the US District Court in March 2011 and subsequently by the US Court of Appeals for the Third Circuit in December 2011. We sought permission to further appeal this ruling but the US Supreme Court decided not to grant this request and hence all avenues of appeal on this matter were exhausted. **These rulings did not impact the validity of the Trustee's/PPF's own claims against the relevant US Nortel parties ("US Parties") and in December 2013 the Trustee (together with the PPF) reached a compromise of their claims with the relevant US Parties. In exchange for releasing all our claims against the US Parties we were allowed an 'administrative expense priority claim' against Nortel Networks Inc. in the sum of US\$37.5m – this amount was paid in January 2014.**
- **An additional and equal settlement sum was paid to the Joint Administrators of the EMEA estate. It is anticipated that the majority of this additional sum will eventually flow to the Plan as a result of our claim into NNUK.**

Canadian Activities

- The issue of a Warning Notice by tPR against the relevant Canadian Nortel companies was also held to have infringed the equivalent 'automatic stay' imposed in Canadian insolvency processes. tPR appealed this decision to the Canadian Appeal Court and the original judgment was upheld. tPR then sought leave to appeal to the Canadian Supreme Court and this was refused in January 2011. Again, these decisions did not prevent the Trustee and PPF from asserting their claims as part of the normal Canadian insolvency procedures. **The claims trial in the Canadian insolvency court commenced in July 2014 with the hearing of evidence being completed in late July and closing arguments being heard in mid September. The Trustee (together with the PPF) made a number of claims including claims relating to certain guarantees that were in place prior to Nortel going into administration in 2009. The court delivered its judgment in December 2014 and the Trustee/PPF was allowed a claim for £339.75m in respect of the so called 'funding' guarantee. As regards this judgment, we are pleased to have succeeded on the larger of the two guarantees but disappointed to lose on other issues. The Trustee and the PPF have now sought leave to appeal the disallowance of the second guarantee (the 'insolvency' guarantee) and, on a contingent basis, the amount of the funding guarantee.** Members should note that the actual amount the Plan may receive on such claims would depend on the 'dividend' that is eventually declared by Nortel in Canada on unsecured claims which in turn would be determined by the total admitted claims and total assets available in the Canadian estate – the latter being largely driven by the results of the allocation trial mentioned below.
- **The Joint Administrators of the EMEA estates also had a number of claims against NNL but settled these for an admitted claim of approximately US\$125m just before the trial of those claims commenced. Again, the actual amount received by the relevant EMEA estates will be subject to the dividend declared by the Canadian estate. However, the majority of such money will flow to the Plan, as EMEA's largest creditor.**

Allocation Trial

- The allocation trial was a joint hearing between the US and Canadian bankruptcy courts with proceedings in each court being relayed 'live' to the other court. The trial commenced in May 2014 with evidence completing in late June and closing arguments in mid September. Each party (including ourselves) put forward theories as to how the proceeds of business and intellectual property sales (over US\$7Bn) should be divided between the US, Canada and Europe. We have been given no information as to when either court will deliver its judgment but remain committed to participating in any discussions which may lead to a negotiated settlement between the various parties.

Bondholder Interest

- Nortel's bondholders collectively have claims against Nortel US/Canadian companies for a principal sum totalling US\$4.1Bn. An outstanding issue is whether or not the bondholders are entitled to interest which might be considered to have accrued since Nortel went into bankruptcy proceedings in January 2009 ("post petition interest"). The amount of any such interest that may be payable (if any) will be impacted by the result of the allocation trial and the laws concerning post petition interest in US and Canadian bankruptcy proceedings. Members will appreciate that this issue might impact the level of recoveries flowing to the Plan.
- In August 2014 the Canadian bankruptcy court ruled that post petition interest was not payable in Canada. The bondholders have now sought leave to appeal this decision.
- In August 2014 the US Debtor estates, the bondholders and others made a joint proposal to the US Bankruptcy Court in respect of post petition interest. A hearing to consider this proposal was held in November 2014 and a judgment approving the proposal was handed down by the US Bankruptcy Court in December 2014. The proposal puts a cap of US\$1.01Bn on post petition interest that may be payable but, as noted above, the amount actually payable (if any) will be largely determined by the result of the allocation trial. The US Bankruptcy Court's decision to approve this proposal has now been appealed by the Canadian Monitor acting on behalf of NNL.

Administrative Information

Equitable Life. Members who used Equitable Life for their AVCs may be aware that regulatory administration issues led to the establishment of the Equitable Life Payment Scheme ("ELPS") which makes payments to policyholders who are judged to have suffered a loss. Further information is available on the ELPS website

<http://equitablelifepaymentscheme.independent.gov.uk/index.htm>. If you have not been contacted and believe you may be entitled to compensation you should check your eligibility with ELPS directly on 0300 0200 150

Compensation Cap. In our last update letter we referred to the proposed changes to the operation of the Compensation Cap ("Cap") under PPF rules. We can now advise that the Pensions Act 2014 included provisions increasing the Cap by 3% for each complete year in excess of 20 years' pensionable service. However, we still await details of how the Cap changes will be applied in various circumstances and this is not expected before April 2015. We will write to the very small number of members affected by this change when the necessary regulations have been formalised. Please note that changes will not be backdated and refer to the FAQ document on our website for more information on operation of the Cap.

Changes to Pension Rules in April 2015. Members will be aware of budget changes announced in 2014 that will lead to considerable flexibility for holders of Defined Contribution (DC) pension pots from April 2015. As far as members are concerned, this will only apply to AVCs that are still invested with external providers (e.g. Equitable Life, Winterthur Life, London Life or MGM). You may wish to check the flexibility available to you with your external provider and you may also wish to take the opportunity to check if your 'expression of wish' statement still meets your needs. Once we reach April next year you will be able to obtain some guidance as to your choices which will be provided free of charge by the Pensions Advisory Service (TPAS) over the phone or face to face with some Citizens Advice Bureaux (CAB). Members may also have read about transferring from Defined Benefit (DB) schemes (such as our Plan) to DC schemes. This option is not available within the PPF or during PPF assessment and it is unclear what flexibility (if any) members may have if the Plan does not become the responsibility of the PPF.