

Key theme

Corporate (private) post employment benefits

Title

A study of retirement benefit reductions

Author(s)¹

Tsuyoshi Kasahara,

Naohide Nagasawa

Abstract²

Since the bursting of Japan's bubble economy the stock market has been mired in long-term stagnation, with the investment environment in recent years deteriorated to the point of negative investment yields. This has caused funding shortfalls at corporate pension plans, and many plan sponsors have been lowering retirement benefits. Subject to the consent of plan participants and beneficiaries, the law permits retirement benefit reductions in circumstances of, *inter alia*, "materially deteriorated financial performance."

As a matter of fact, retirement benefit reductions have been the subject of several lawsuits. One example is a motion by NTT to obtain a court ruling to the effect that the Ministry of Health, Labor and Welfare acted unlawfully in its earlier refusal to approve retirement benefit reductions that NTT had attempted to implement with regard to its plan beneficiaries. In this case, the court denied the request of NTT. In its ruling, the court judged that because NTT was continuing to post profits, it was not in circumstances of, *inter alia*, "materially deteriorated financial performance." However, since NTT and the plan beneficiaries who consented to let NTT implement the retirement benefit reductions did apply for the reductions with the Ministry of Health, Labor and Welfare, it would appear that their judgment that NTT was in circumstances of, *inter alia*, "materially deteriorated financial performance" relied on an entirely different set of criteria. Since the law provides no quantitative indicators of what constitutes circumstances of, *inter alia*, "materially deteriorated financial performance," judgment criteria abound.

Corporate pension schemes involve a variety of stakeholders, including the management, employees, and plan beneficiaries, as well as the supervisory authority, shareholders, and pension actuaries, whose respective judgment criteria conceivably differ.

This paper discusses the judgment criteria for circumstances of, *inter alia*, "materially deteriorated financial performance" from various viewpoints in the light of the reasons why the implementation of retirement benefit reductions is permitted under the law, and in the process re-affirms the principles of protection of right to benefits and proposes measures to enable the survival of the defined benefit pension system.

¹ Include affiliation(s) and contact details for corresponding author

² Maximum 300 words

Submit in English

Do not include graphics or diagrams

Define unfamiliar abbreviations and acronyms in full with first use

