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EFFECTS OF ERISA ON THE MARKETING AND ADMINISTRATION OF INDIVIDUAL POLICY RETIREMENT PLANS

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1. Can individual policy retirement plans be sold by insurance agents without their becoming fiduciaries? Is it practical for insurance companies to operate in this field if agents will usually be fiduciaries?

2. What new features in funding contracts and prototypes plans are needed to provide and administer efficiently:

   a) Defined benefit plans - split funded and fully insured - for corporations and the self-employed,

   b) Corporate plans generally, particularly as a result of the short service requirements, and

   c) Individual retirement accounts?

3. What extra costs for retirement plans are expected due to the reporting, disclosure, and actuarial valuation requirements of the Act? How can they be minimized? Will they be financed by separating the cost of plan and fund service from that of the product? How will these requirements and the responsibilities of plan termination insurance affect the volume and types of plans sold in the future?

MR. GEORGE L. POWELL*: If the agent has become a fiduciary, he probably has breached the two prohibitions set out in section 406, paragraphs (b)(2) and (b)(3), of ERISA. Paragraph (b)(2) says to the agent-fiduciary that, "Thou shalt not act on behalf of the insurance company because its interests are adverse to the plan's interests." Paragraph (b)(3) says to our agent-fiduciary that, "Thou shalt not take any consideration from a third party dealing with the plan in a transaction involving plan assets."

If the agent breaches these prohibitions and earns a commission, he can be forced to return to the plan any profit he recognizes through the use of plan assets.

The sales process for pension funding might be described as consisting of the following stages:

a. An agent identifies himself as an agent for, say, the Prudential Insurance Company of America and arranges a meeting with an employer's decision-maker to discuss pension plans.

b. The advantages of a pension plan to the decision-maker and the employer are presented in such a way as to persuade the decision-maker toward adopting such a plan.

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c. The agent then emphasizes that the selection of a proposed plan is important and points out that the plan design can favor one class of employees over another.

d. He offers to illustrate for purposes of cost and benefit analyses the benefits that could be provided by plans designed to favor various classes.

e. The agent returns with the illustrations promised and together with the decision-maker analyzes the costs and benefits. The illustrations are reviewed, care being taken to be sure that the decision-maker understands how he fares under each of the plans illustrated. The decision-maker is then asked to select the plan.

f. The requirement of a written plan is again discussed and it is pointed out that a Prudential-sponsored prototype form will provide the benefits that the decision-maker has just selected. Prudential installation services are also covered.

There will be many variations of the sales situation described. Different facts will bring different results, but it should be possible in most cases for the agent to avoid becoming a fiduciary provided that he 1)discloses the fact that he represents an insurance company and is selling insurance products and 2)discloses the facts concerning the contracts he can sell to fund the benefits desired. This includes a description of all benefits provided by the contract as well as the values which will be accumulated at various durations of the contracts.

My point is that the agent should give the plan administrator the full facts necessary to enable such a person to make an intelligent decision on the purchase of life insurance. If more than one contract or combination of contracts of the agent's company can be used to furnish the benefits, care should be taken to make a disclosure of the alternatives. The agent should take care to avoid giving the impression that he is selecting the best contract for the plan. The effort should be directed toward giving the administrator sufficient information to make a decision.

The agent's training, licensing, and continuing education are factors which will tend to cause people to see him as a quasi-professional. The fact that he presents himself as a sales agent for a life insurance company works against a reasonable person accepting him as a disinterested advisor. He clearly has potential conflicting interests if he is an advisor to a plan.

Where sufficient disclosure has been made, it would be difficult to attach fiduciary responsibility to an agent. Full disclosure should tilt the scale against the agent being a fiduciary.

On the other hand, the agent who introduces himself as a pension plan consultant and indicates that his function is to help select the best funding media for the plan is going to have a difficult time showing he was not acting as an investment advisor.

My next point assumes a direct employer-employee or principal agent relationship between the insurer and the agent-fiduciary. I believe they also apply where business is done through a general agent.

Let me first review some general legal rules. The acts of an agent within the scope of the authority delegated to him are the acts of the principal. Whatever the agent does in the lawful exercise of his delegated authority is imputed to the principal. The scope of the agent's authority is not confined to the cold words of his agency contract. The scope of authority is an aggregation of the expressed, implied, incidental,and ostensible authority of the agent.

If a company does not expressly authorize an agent to act as a fiduciary in respect to pension plan sales but its agents customarily so act, it is unlikely that the company could avoid fiduciary responsibility. This is particularly true where the company's training program, education and promotional literature, and titles used, all cast the agent in the role of a pension plan expert.

In such cases the agent's fiduciary standing very likely is imputed to the company as a matter of fact. The company, for instance,will probably not be permitted to say that it did not know its agent was acting as a fiduciary. Technically it would mean that the company would violate its duty as a co-fiduciary if it paid commissions. It would,as a co-fiduciary, be obliged in many situations to recommend and even coerce affirmative actions to benefit plan participants.

The named fiduciary also has co-fiduciary obligations. Wouldn't this require him to seek recovery of commissions earned?

These comments do not exhaust the subject of an agent as a fiduciary. They only scratch the surface. The big question is how do we cope with this problem and continue to provide the public with pension products and sorely needed expertise. Perhaps an exemption is necessary. There are many who find it difficult to even accept the idea that it could be intended that agents be held to fiduciary duties.

MR. HAROLD G. WIEBKE: Estimates of the number of workers not covered by a pension plan range up to 40,000,000, mostly in small employment. There is, then, a substantial market for individual policy plans.

ERISA clearly enlarged and enhanced the market, as evidenced by higher HR-10 limits, and the creation of IRA. ERISA has created a greater awareness of pensions, and,in spite of its disconcerting aspects, should ultimately improve penetration of the market.

The answer to the question of how to develop the market is to provide attractive products - that can survive in today's consumerist environment - on a basis that minimizes the oppressive-appearing aspects of ERISA. There are two levels of product - the funding contracts and the plan itself.

An ideal new contract in the market place might be a no-load annuity contract guaranteeing 10% interest for 10 years, with a built-in term insurance provision, and providing a 50% first year commission. There is, of course, some difficulty in providing such a product profitably.

There are certain desirable policy characteristics that many companies will seek to achieve. For corporate split-funded plans, the early participation requirements of ERISA strongly suggest the need for life policies that have a low cost upon early termination. Most likely, one, two, or three year initial term or modified premium policies will be developed. Commission recapture on

early termination, a procedure employed by some companies but contrary to the basic philosophy of many others, may receive considerably more sympathetic attention. After all, the early termination under today's plan wasn't eligible for insurance in the first place under yesterday's plan.

In the fully-insured plan field, the same need exists, but there are complications brought about by the way in which ERISA exempts such plans from the regular minimum funding standards. In particular, I refer to the level premium requirement. I believe this is an unfortunate requirement that is not necessary to preserve the basic protective objectives of ERISA. Perhaps the near future can produce changes in the law that will permit a non-level premium structure such as would exist with an initial term period of one or two years.

The regular IRA market is one in which there is considerable competition from banks, who offer time deposit facilities with attractive interest rates for the time deposit period, and who provide eye-popping illustrations of these current rates carried forward over long periods of time. Insurance company products being offered are fixed-dollar deferred annuities, variable annuities, and endowment or retirement income type insurance policies. The IRA market has brought added pressure on stock companies to introduce non-par annuities with handsome new-money-type current interest crediting, and on mutual companies to crack some difficult dividend class problems so as to reflect current investments more directly in the excess interest they allow as part of dividends.

With respect to endowment or retirement income policies, there is what I consider to be a serious problem in that the law does not permit premium payments to continue under an IRA if the premiums are not deductible. This contrasts with, say, a TSA where the individual can pay premiums on his own after he is no longer eligible for salary reduction. An individual who includes a significant element of his insurance program in an IRA contract may ultimately be faced with very unhappy choices when he ceases to qualify for an IRA deduction. If he has become uninsurable, or insurable at a rating, he must either cease premium payments and hence give up his insurance (which he cannot replace or can replace only at a great premium disadvantage) or he must effect a distribution at significant tax penalty in order to continue premium payments. There is also a problem with respect to level premium vs. reductions in the amount of deductible contributions, because the law does not provide the same "permissible excess contribution" that is available in HR-10 through three-year-averaging.

It does not appear that product design can effectively solve these problems; a change in the law seems desirable to enable endowment and retirement income policies to function better in this market.

Rollover IRA's have created a new market that can be met with conventional single premium deferred annuities (again, with pressures to develop new-money-type interest results). The ERISA requirement that vested benefits cannot be paid as a single sum cash settlement unless elected by the participant should result in the purchase by plan trustees of single premium deferred annuities for the benefit of terminating participants.

As regards needed new features in prototype plans, I would say that the new features needed are those that conform prototypes to ERISA requirements. In other words, we need prototype plans or their equivalent. I don't believe there is anything more important. To be able to deliver an attractive,

viable pension product to small businesses, it is essential to eliminate as much complexity as possible, both for reasons of understandability and economy. Prototypes can do this. In my view, not having prototype plans is tantamount to not enabling many businesses to provide sound pension benefits, and hence is a disservice to the public. I am belaboring this point at this time because the Internal Revenue Service has not removed its "freeze" on filing prototype plans and we hear stories that there are some negative feelings about prototypes, at least certain types. The industry has not moved quickly in this area to carry to the IRS a solid case for something that is good for the public, good for the IRS, and good for the industry. Efforts along these lines are now being made, and I hope they will be successful.

Incidentally, with respect to existing plans that are individually designed, if these plans can be amended by adopting prototypes, once again there would be advantages to the public, IRS, and industry. It is my understanding that many companies see the use of prototypes for existing plans as the only real hope for effectively and efficiently bringing about conformance on a timely basis.

I repeat, we need prototypes.

MR. PAUL D. HALLIWELL: "Individual Policy Retirement Plans" usually means "Very Small Employee Pension Plans." The most common form of this type of plan found today is the "Split-Funded" pension plan. The majority of these plans seem to involve less than 15 participants.

Aside from special planning considerations or drastic administrative relief under the Act, the future of these plans has been dealt a severe, if not fatal, blow. Today more than ever, the consultant must carefully weigh the options available to his inquiring client. All too many consultants -- actuarial and insurance -- in the past automatically recommended defined benefit pension plans to their clients in order to book a piece of business compatible with their own services. It may be a great disservice to overlook defined contribution plans, IRA's or non-qualified plans even though to do so results in the loss of a more valuable piece of business.

The administrative and financial hardships of the Act on these small plans simply may outweigh the potential benefits to the participants or the employer. Annual costs for the complete servicing of a small plan may run $1,500 to $2,500 per year. The near-term charges for such "one-shot" services as completion of the EBS-1 form, document redrafting, filing, and communications could easily involve several thousand dollars.

It is important that we realize, and that we impress upon our public, that the total administrative effort required to handle a 5 life case is virtually identical with that required for a 5,000 life case. In fact, from the consultant's or insurance company's point of view, it may actually require more time and service. The small client often requires a turn-key operation. He has no inhouse staff to keep track of all the nitty gritty details. He will often require more coddling, a greater degree of explanation, and, of course, the refined skill of a technical salesman, or better, a selling technician.

Mr. Paul J. Fasser, Jr., Assistant Secretary of Labor for Labor-Management Relations, at a recent public oversight hearing, stated that "we must remain mindful of the other major statutory objective, to maintain a climate in which

employee benefit plans may thrive. If the costs of compliance with the law are so high, and the restrictions of the law so tight, that institutions which maintain plans decide to drop them, we will have furthered neither statutory purpose."

It is interesting to look at the most recent determination letter statistics on corporate retirement plans issued by the IRS. In the four-year period from July 1, 1970 thru June 30, 1974, the IRS approved 198,754 plans. Of these plans 183,430 or 92.3% covered fewer than 26 participants. In fact, only 2.2% of the new plans approved in this period covered more than 100 participants. Without immediate administrative relief as many as nine times the previous number of covered plans will be required to meet all of the rigid and expensive requirements of the Act.

Some of the immediate areas for concern and action are:

1. Documentation - Most plans will require extensive and probably complete revision and restatement. While the complete concern is seldom that of the insurer (the local attorney typically reviews specimen documents submitted by the insurer), nevertheless the client will, one way or another, incur at least $1,000 in expenses before compliance is achieved. Alvin Lurie, Assistant Commissioner of OEPEO, held out a major form of relief in this area last April 16. The IRS will be preparing specimen language for at least certain benefit provisions and just possibly may make available IRS prototype plans. Of course, unless they are considerably more sophisticated than the IRA instrument prepared by the IRS, they will be virtually useless.

2. Reporting and Disclosure - The EBS-1 deadline is now officially August 31, 1975. Not including the preparation of a satisfactory participant summary, this form seems to require at least three hours of diligent energy to complete for even the simpliest and cleanest case. The cost? Perhaps $250 to $350. Certainly it entails too much to be buried without accurate cost accounting. Moreover, most plans will have to refile a new EBS-1 in conjunction with their amended plan. It is conceivable that, even with the majority of the plans already in receipt of their EBS-1's, a blanket exemption could be granted the smaller plans. Perhaps the use of the old 4573 form or the new 5301 form would suffice; or perhaps it would be permitted to use the 4848 Schedule A form. It might be very wise to take a wait-and-see position for as long as possible before completing these forms. Clients, industry spokesmen, and practioners perhaps should write to their Congressmen on this matter.

3. Actuarial Reports - Most individual policy pension plans with a side fund have been valued using the individual level premium method of funding. It seems reasonable that this method will be permitted to stand alone for minimum funding standards and thus avoid the necessity of preparing periodic dual valuations on the entry age normal method in order to test for full funding. In any event, however, the contents of most of these reports will have to be expanded and assumptions used critically reassessed. The selection of actuarial assumptions is a most critical element in the pension liability formula. The recent Exposure Draft Recommendation prepared by the American Academy of Actuaries through the Committee on Actuarial Principles and Practices recommended that "the assumptions selected should represent the actuary's best judgment of future events affecting the related

actuarial present value." Furthermore, "the actuary should give consideration to the reasonableness of each actuarial assumption independently on the basis of its own merits and to the combined impact of all the assumptions."

This seems to say that such common practices as using liberal age and service cut-offs for turnover, lack of salary projections, and failure to recognize explicitly vesting and other ancillary benefit costs will not be in conformity with the Committee's recommendations. A very real problem in communications will arise when the actuary begins to talk in terms of these new assumptions.

The annual plan cost to the employer probably will increase substantially as a result of assumption changes and improved participation standards. A plan with an age 30 and 5 year service cut-off participation requirement (a common provision) will have to be amended to conform with ERISA. The new participants could quickly swell the cost and impose a real conflict of interest on the consulting agent. He would stand to make a windfall profit from the commissions on the new participants. The employer's interests might be best served by setting up separate age and service requirements for the death benefit coverage, perhaps at the old participation requirements.

If a salary scale is used to project pension benefits, it should also be used to project the levels of future ancillary benefits including the insurance. This could create customer relation problems in that, for perhaps the first time, he will see the full relative cost of benefits that have been underplayed in prior cost illustrations.

The actuarial report should perhaps be enlarged to include most of the foreseeable participant disclosure requests. This would include benefit projection as well as vested calculations.

Perhaps new computer systems will have to be created to handle the valuation problems. Actuaries will be more directly involved in the transition period until their staff can grasp the new techniques. The home office actuary will have to question more carefully the usual information gathering form sent in from the field. In the past, many assumptions were set directly from these forms in which the agent might typify turnover as "heavy," or the side fund earnings assumptions to be "6%." I believe that the actuary will have to use more of his own judgment on these smaller plans.

In any event, the cost of producing actuarial reports has to rise.

Perhaps some of the additional burden can be laid squarely on the shoulders of the agent or the broker on the case -- or can it? If the agent specializes in pensions, he certainly would be, or could be, qualified to handle much of the administrative work. But will he, and should he, act as a consultant in these matters? ERISA may prevent pension consultants from receiving insurance commissions. Many agents have never charged a fee and those that have often have charged very little -- certainly not enough to survive on alone. A few of the larger firms operating in this fashion could continue to survive on a fee basis only, but many small agencies could not. Commissions for them must remain an essential part of their compensation. As such, they may be prevented from acting in a consulting capacity. Even if they can continue in their dual role, I doubt if they would be willing to handle additional work without additional compensation. Many individual policy pension plans are a real "loser" after the initial year's windfall profit. A 5% renewal commission (with an occasional new policy) seems not to be

worth the aggravation involved in the continuing administration of these plans even under pre-ERISA conditions. Today it seems unthinkable.

Perhaps the insurance companies do not feel that it is their province or duty to offer a truly turnkey operation. Perhaps the employer or his auditor should be responsible for more and more work. But remember, these are small companies usually serviced by small accounting and legal firms. They have no knowledgeable Plan Administrator to keep them on the track. Without complete guidance by the insurance company or "its consultant," they will surely miss something sometime. The check-off list of things to do is mind-boggling.

Where do I feel the future lies for the typical smaller pension prospect? Well, unless major relief is to be granted very soon, IRA's and Defined Contribution Plans qualified through the prototype vehicles offer the only viable options. Along this line of thinking, I feel that the banking industry and the mutual fund industry are at least one step beyond the insurance industry. This does not mean that the insurance industry cannot compete in this marketplace. After all, most banks and mutual funds cannot begin to compete when it comes to pension marketing and technical expertise. If an insurance company feels that asset management is the principal objective in seeking this type of client and designs products accordingly, and at the same time finds ways in which to adequately compensate their field force, there is no question that the insured interests in this area will be guaranteed. The last objective mentioned may well be the most difficult of all to solve.

Defined Benefit Pension Plans should perhaps consider offering only normal and deferred vested benefits, thus avoiding the problem associated with the pre-retirement spouses' benefit required by ERISA. How this benefit will integrate with the typical 100 times insurance plans, I don't know. As a transition policy, plans in existence now will probably have to maintain two types of vesting formula and requirements. Many older split-funded plans were cash value or reserve oriented. New plans require that (except for cash-out options) vested benefits be of the deferred monthly income type. This transition itself will require considerable time and expertise in administration and communications.

A few years ago a very popular plan came into existence -- the "Target Plan." As a final thought, it seems to me that the highly-leveraged plans of this type are dead. ERISA groups these beautiful amalgams with Defined Contribution Plans, thus limiting the cost to 25%. Many of these plans currently exceed this level and will have to be amended to conform. Amendments can take two directions -- reduce the benefits or transform to a pure Defined Benefit Plan. Note that I said to transform - not terminate and start anew!

One more postscript. The Pension Benefit Guaranty Corporation on May 6th told the House Appropriations Sub-Committee that the annual rate of plan terminations has increased to 4,000 per year compared to approximately 1,200 prior to ERISA enactment. This could be the prelude to even greater numbers of terminations in the next few years. Most of these terminations will be among the smaller employers, although many of these terminations are no doubt being accompanied by the establishment of a simplier and less administratively complex plan.

MR. ROGER A. BUCKMAN: Insurers typically provide pension trust customers service beyond that which would typically be afforded to a regular individual policyholder. The label "qualified" causes insurers to provide such additional services as reporting the PS-58 cost of insurance, providing level annual

deposit amounts for side fund deposits, or providing profit-sharing or money purchase allocations and maintenance of employee accounts. This is often extended to assistance in plan, trust, and amendment drafting, cost proposals for plan improvements, assistance in preparation of annual tax forms and initial filings, and, where applicable, the Department of Labor forms, preparation of employee booklets, sample announcement letters, and annual communications of plan benefits to plan participants. The cost of providing these services was generally loaded into the premiums for the insurance products used to fund the plan.

In recent years, with an increased number of Federal requirements and an increasing level of sophistication amongst pension clients, the amount of work required to maintain a qualified plan has increased dramatically. Also, an increasing number of insurance customers, consultants, and banks have entered this arena. As a result, competition has increased the quality and level of service provided by insurers.

With the increased level of services now required, insurers are finding it more difficult to continue to load these expenses into the insurance pricing.

With the passage of ERISA, the roles played by the various parties involved with a pension plan have become more formalized by use of such terms as "fiduciary" and "party-in-interest." The fiduciary sections of ERISA seem to say that all transactions with a plan are "prohibited transactions" unless specifically allowed, rather than implying that all transactions are allowed unless specifically excluded. As a result, many insurers are reevaluating the services they typically provide to pension trust customers. It is no longer prudent to provide a service as a favor or an accomodation to a client or agent, unless it can be done well, since ERISA provides for stiff penalties for failure to act prudently.

As a result of this changing environment, many insurers are reevaluating their roles as purveyors of plan administration services. Many are defining administrative parameters which must be met if a plan is to be serviced by them, the rationale being that plans that fit within certain administrative bounds can be efficiently and profitably administered.

There seems to be a trend in the insurance industry today towards the treatment of plan administration services as a saleable product, just as a life insurance contract is. This allows plan services to be offered to pension trust clients on a direct fee basis, so that they become in essence a profit center within the pension department. Many companies are establishing separate entities to handle these services, while others are setting up separate areas within the insurance company to isolate these functions.

The recognition of plan services as a product allows for a more honest approach to the pricing of insurance products, since there is no need to bury plan service expenses into the insurance premium structure. This results in a more competitive life insurance product and also increases the degree of equity between clients, since clients are now free to choose those products (which include plan services) which best satisfy his needs.

At Continental, in prior years, we typically provided a full range of plan administration services to our group pension clients, with expense recovery through the group dividend formula. We did not provide extensive plan services for our pension trust clients, although we did occasionally do a quick valuation as a favor to a client or agent. Any services provided in the

the pension trust area were on an informal basis.

With ERISA on the horizon, about two years ago, our management decided to "unbundle" those services which are typically related to insurance contracts from those typically related to pension plans. The basic intent underlying this decision was to establish a formal, standardized approach to the providing of plan services to our pension customers. It also recognized that pension administrative services are a salable product, just as a life insurance contract is. We wanted to define precisely the conditions under which services would be provided - (a) what services would be provided, (b) how they would be provided, (c) to what type of customer they would be provided, and (d) how would we recover the expenses of providing such services.

Once this decision had been made, we undertook development of a computer system to provide such services. Since we were already providing plan services for our group customers, our new computer system was directed towards our block of pension trust customers. Even before the system was ready, we began to support new cases on a manual basis. Once we initiated this on a formal basis, we completely stopped all assistance on an informal basis. As the computer system became usable, we offered the services to all of our pension trust clients. We will move our group customers onto this system during 1976, as such plans are amended to conform to ERISA. Thus, by 1977, all of our corporate plans will be provided a uniform type of administrative support on a formal basis.

We have chosen to create an administrative entity separate from our insurance administration departments. This entity is not a part of the insurance company, but rather is a subsidiary company which provides only plan administration services to pension clients on a direct fee basis. The basic fee structure varies by the number of participants (our typical pension trust client is a small corporation with 5 to 7 employees) and is higher for plans which have been individually drafted than for prototype plans sponsored by Continental. Assistance in preparation of the annual tax forms is offered for an additional fee, although this service is currently under review.

The basic services provided include an annual valuation (with the actuarial certification), contribution allocation, reports which show projected pension benefits, social security benefits, life insurance benefits, amount of insurance to be applied for on the current anniversary, the current and cumulative PS-58 costs of insurance, current dividends and cash values, vested benefits, and separate reports for each participant showing his specific benefit information. During the plan year, we will assist in the computation of vested termination benefits as the need arises. Additional services, such as preparation of cost proposals, are available upon request for a separate fee. We are currently analyzing the requirements for "unbundling" our HR-10 and Tax Sheltered Annuity business.

The increased reporting and disclosure requirements will create substantial administrative costs for small plans. Between these increased costs and the ominous spectre of the PBGC, many small employers may well adopt IRA's rather than corporate or HR-10 plans. If future legislation significantly increases the IRA contribution ceilings, it would seem to place small corporate plans and HR-10 plans in jeopardy.

The plan termination provisions of ERISA have gotten quite a bit of publicity - all negative. Because of this, we will probably see a sharp decline in the number of defined benefit plans written in the near future. The installation

of target benefit plans, which combine features of a defined benefit plan and a defined contribution plan, should increase, since they are treated as individual account plans for purposes of Title IV of ERISA.

There is another possibility, which allows the establishment of a small corporate plan without all of the potential negatives mandated by ERISA. This is the rediscovery of the fully-insured retirement income contract. Use of such a contract should enable a plan to meet the definition of an "insurance contract plan," which is afforded special privileges under ERISA.

These include the following:

1) the accrued benefit is the policy cash value, thus eliminating the need for special calculations.

2) plan termination procedures are greatly simplified, since the asset allocation priorities do not pose a problem and there would likely not be a need to hire an enrolled actuary to do a special set of calculations; further, it seems possible that such plans would be exempted from PBGC coverage and premium.

3) such plans would not be required to hire an enrolled actuary to certify an actuarial report every few years.

Insurers who have a good retirement income product may be in a good position to continue the sale of small corporate defined benefit plans. Others may have a more difficult time overcoming the negative aspects of ERISA and may have to sell defined contribution plans or IRA's until the dust settles.