RECORD OF SOCIETY OF ACTUARIES
1975 VOL. 1 NO. 4

PENSION REPORTING REQUIREMENTS AND FIDUCIARY RESPONSIBILITIES

Moderator: BLACKBURN H. HAZLEHURST. Panelists: WILLIAM A. FERGUSON, DONALD S. GRUBBS, JR., JAMES G. STEWART

1. ERISA's* 103(d) Annual Report:

   What is the status of the Annual Report Form?

   What do the IRS and Labor Department expect from this form?

   What things should the actuary keep in mind in completing this report?

   How should the actuary respond to the Section 103(d)(11) requirement to report "such other information that may be necessary to fully and fairly disclose the actuarial position of the Plan"?

2. "Best Estimate" and "Reasonable Methods and Assumptions":

   How should these requirements be interpreted?

   For two similar situations can "Best Estimate" vary in any way, for example, to reflect continuity with previous assumptions, or to reflect differing margins?

3. Individual Policy Pension Trusts:

   What special problems exist for Individual Policy Pension Trusts?

   What are the respective roles of the individual Enrolled Actuary and his employer?

   How can the volume of cases be handled responsibly by the Enrolled Actuary?

   What valuation procedures/techniques are appropriate for the smaller Pension Trust case?

4. Changes in Methods and Assumptions:

   What constitutes a "change"?

   What reports need to be filed?

   What kind of government review can be expected?

5. Communications:

*Throughout the text, the Pension Reform Act of 1974, P.L. 93-406, also entitled the "Employee Retirement Income Security Act of 1974," shall be designated with the acronym "ERISA."

What communication channel should be set up with the employees?

What communication needs to be made to terminating employees and what records need to be filed and maintained?

6. Plan Termination:

What are the reporting requirements?

How should the apparent conflict between Section 208 and Section 4044 be interpreted and resolved?

When does the termination occur?

7. Academy Services:

What kind of assistance should the Academy provide?

Would it be helpful for the Academy to promulgate procedures for interpreting government requirements such as the Section 103(d)(11) requirements?

MR. BLACKBURN H. HAZLEHURST: Mr. Donald Grubbs will open the first topic on annual reports. Mr. Grubbs is Director of the Actuarial Division of the Internal Revenue Service and Chairman of the Joint Board for the Enrollment of Actuaries.

MR. DONALD S. GRUBBS, JR.: My opinions are my own and not those of the Internal Revenue Service. The Annual Report Form, Form 5500, has many purposes. The first is to comply with the law, and the second, by design, to enable the Internal Revenue Service (IRS) and the Department of Labor to carry out their responsibilities under the Act. Who must file? Administrators of a "pension benefit plan" must file both with the Department of Labor and with the IRS, though there are some exclusions. In some cases the form has to be filed with only one of the two agencies, but a typical pension plan needs to have forms filed with both agencies. "Pension Benefit Plan" is defined rather broadly, in accordance with the Act, to include not only qualified pension plans, profit-sharing plans and stock bonus plans, but a variety of other types of programs including what may have been unfunded programs in the past and deferred compensation programs. Form 5500 must also be filed by welfare benefit plans, as defined in the Act. Most welfare plans of less than 100 employees are exempt.

With regard to a multi-employer plan, one form must be filed. Multiple employer plans also exist. Employers under common control or a controlled group of corporations file a single form. Under any other circumstances, each employer files a separate form. Form 5500K must be filed for an HR10 plan if it has less than 100 participants and includes an owner-employee.

What must be filed? A pension or welfare plan that involves an insurance contract must file Schedule A, Form 5500. Certain pension plans subject to minimum funding standards must file Schedule B, Form 5500, which is an actuarial report. If the employer has more than one plan, he must combine them on Form 5501 for submission to the IRS. For claiming deductions for contributions, Form 5504 must be filed. However, Form 5505 must be filed for HR10 plans.

Section 103 of the Act indicates that Schedule A is to be completed by the insurance company. It must be submitted by the Plan Administrator, but it must be prepared by the insurance company. If individual contracts provide coverage, the entire group of such individual contracts may be treated as a unit for parts one and two of this Form. If you have a split-funded pension plan, i.e., a plan funded with policies issued by a number of different companies, Schedule A must be completed by each of the companies.

Schedule B, the Actuarial Report, is to be submitted for all plans covered under the minimum funding requirements. As to which years filings apply, Form 5500 applies first for plan years ending December 31, 1975 or later.

When do you file? For the IRS, the general rule is that you must file within 4-1/2 months after the end of the tax year. For Department of Labor filings, if the plan year and the tax year coincide or if the plan year ends within four months prior to the end of the tax year, one has 4-1/2 months after the end of the tax year to file, otherwise forms must be filed within 4-1/2 months after the end of the plan year.

Do different forms have to be filed if filings have to be made at different dates? No. As an example, assume that a plan has a June 30 plan year and a December 31 tax year. Within 4-1/2 months after the end of the plan year, the form must be sent to the Department of Labor. At the end of the tax year, the same form can be sent to the IRS even though the material in the form is based upon plan year information.

Most of the items on Form 5500 are fairly clear. Item 9A on Form 5500 asks if the plan has terminated. It does not ask if there has been a partial termination. Item 14 on the form specifies listing certain information for each fiduciary, or each other person who rendered services to the plan and received compensation from the plan either directly or indirectly. This includes information about the actuary if the actuary was compensated by the plan. Presumably, if the actuary was compensated directly by the employer rather than by the plan he would not have to be listed here. Item 17F indicates that if 17A, 17B, 17C, 17D, or 17E is checked "yes", certain detailed explanations must be given in a format set forth in the instructions.

Question 17A asks whether the plan holds investments, general or party-in-interest, at the end of the year. For most plans the answer is yes. There are certain exceptions. Insurance or annuity contracts and real estate are not general investments. A trust that either holds securities or is wholly invested in a pooled common trust fund at a bank would need to be listed on an attached sheet along with information required in the instructions. Statements from banks typically have this information, and it would be a matter of photocopying the statement and attaching it to your report.

MR. WILLIAM A. FERGUSON: Under what circumstances would you expect to find the Enrolled Actuary listed in that section of the Annual Report Form which calls for the listing of fiduciaries?

MR. GRUBBS: The actuary is not a fiduciary unless he performs certain tasks that are listed in the regulations published by the Department of Labor.

MR. HAZLEHURST: Section 103(d)(11) requires the listing of such other

information as may be necessary to fully and fairly disclose the actuarial position of the plan. Suppose that, before the Enrolled Actuary prepared his report, he had been asked by the plan sponsor to determine the cost of a potential closing of a plant. Further assume that there is no determination that the plant will ever be closed, the information is highly confidential, and disclosure of that information could cause business damage. The closing of a plant is of significance to some of the participants and perhaps has a cost implication to all of the participants. Should the actuary disclose that?

Suppose that the actuary knows that the method of funding will lead to costs which are distinctly nonlevel, i.e., they have a significant trend line rising or a significant trend line falling. Should the actuary disclose that information on the annual report form?

More important than either of these, if the actuary does on his own initiative elect to include in the report that costs are expected to double or to be halved in the next 10 years, from the government's standpoint, does that mar the report in any way or make it unacceptable?

MR. GRUBBS: We have no regulations in this area and I honestly do not know the answers.

MR. HAZLEHURST: If there are no further comments we will proceed with item two, "Best Estimate" and "Reasonable Method and Assumptions."

MR. FERGUSON: This subject has been widely discussed and debated. The record of the Society meeting in Cincinnati contains much discussion of this topic. Therefore, I am going to give a statement of my position as of this date on the seemingly more sensitive issues relating to "Best Estimate and Reasonable Methods and Assumptions."

The responsibility of the Enrolled Actuary is personal. It is the personal responsibility of each Enrolled Actuary to exert his best efforts to assure that his calculations and recommendations are made in compliance with ERISA, and, if he is a member of a professional organization, in compliance with its guides and opinions as to professional conduct.

Most Enrolled Actuaries are employees of a life insurance company or a consulting firm and it is logical that employers are concerned about the quality of the work of their employees. Tolerance limits on the quality of actuarial work have always existed within each company, even inside those companies that have stressed professional independence.

ERISA will give more visibility to this concern and, in some cases, will narrow the tolerance limits. Why will this be true? It will create reasonable assurance of compliance with ERISA and minimize the exposure to controversy and its attendant expense and possible judgement.

MR. GRUBBS: Schedule B of Form 5500, the Actuarial Report, must be signed by an individual. Thus it is the individual who must express his own opinion that it is his best estimate.

MR. HAZLEHURST: What is the responsibility of the individual actuary three years after he has left a firm within which he had prepared a report? If his work or the report is then challenged, who is supposed to have the records?

MR. GRUBBS: That is one of the questions still unanswered. There are others. In a typical consulting firm, responsibilities may be rotated from one actuary to another. For example, an actuary who has been working for a particular client may have previously certified to his best estimate and reasonable assumptions. Another actuary may be assigned the case and may have differing opinions. The definitions of "best estimate" fall into three main categories - most likely, most suited, and thirdly that definition arising from a situation in which the actuary performs several different evaluations using different assumptions, to show an employer the effect of each. Under the latter viewpoint, if the actuary had only done one valuation, clearly that is the "best" one. It is unlikely that the third view will prevail.

MR. FERGUSON: The choice of actuarial cost methods, asset valuation methods, and the period for funding past service liabilities can be made by the plan administrator within the range of acceptable practice. The responsibility of the Enrolled Actuary is to inform plan participants and the plan administrator of the consequences of the course of action being pursued.

MR. GRUBBS: This area is unclear. However, there is a relationship between method and assumptions; assumptions that may be reasonable under one method may not be reasonable under another.

MR. FERGUSON: The choice of actuarial assumptions is the responsibility of the Enrolled Actuary. He is cautioned not to be unduly influenced by the plan sponsor or other interested parties. He must be prepared to give his opinion as to the reasonableness of his selections and the resulting calculations in the light of the past experience of the plan and of reasonable expectations. It is not expected that a single set of assumptions can always be selected to the exclusion of all others. It is possible to have a range of best estimates. In addition, it is proper to consider and make allowance for factors not normally considered to be actuarial assumptions, such as the probability that the assumptions selected for the actuarial valuation will be realized in practice. For example, if an actuary is dealing with a small group and using mortality or turnover tables, the odds that plan experience will be as predicted by those tables are remote. A greater degree of conservatism to create a greater assurance that benefits will be paid is quite in order for smaller groups.

MR. HAZLEHURST: Is that limited to size or is it a matter of discretion on the part of the plan sponsor or the actuary? As an example, suppose there are two groups investing in exactly the same fund and guided by the same manager. One plan sponsor is anxious that 90% of the time the yield should be such that plan costs will not rise above what he has been quoted. The other plan sponsor may be content if he has a 50% to 60% chance that plan costs will not be above what is expected. The latter is content with that and does not want to be saddled with additional margins. Is this alternative reasonable? Who makes that decision, the actuary or the plan sponsor?

MR. FERGUSON: The actuary makes that decision, and the extent to which he can be influenced by the desires of the plan sponsor is a good question. It should be within a narrow range.

MR. GRUBBS: I would agree.

MR. FERGUSON: Another thing to take into account is the previous set of actuarial assumptions. There is merit in the idea of consistency of actuarial

assumptions. However, it is not necessary or desirable to totally ignore the basis presently being used for the computation of cost and liabilities.

An appropriate and identified allowance for inflation should be made in setting actuarial assumptions. In most situations, an explicit allowance for inflation is preferred, the primary exception being plans for which simplified calculation procedures are used, i.e., the smaller plans. Explicit allowance for inflation leads to the adoption of more realistic assumptions, particularly with regard to interest rate and salary scales. When the actuary offsets interest rates and salary scales, both lose meaning and are unrealistic to the layman who reviews the numbers.

MR. HAZLEHURST: If implicit offsetting assumptions are used, should the actuary disclose the rate or rates of inflation consistent with his implicit offsetting assumptions?

MR. FERGUSON: It seems appropriate to use the guidelines issued by the Academy on this subject, which in the last draft of those guidelines required such disclosure.

The position of the Enrolled Actuary serving a number of plans is also important. Can the changes he makes or the positions he takes be different with regard to different plans at the same time? While it is recognized that the opinions of an Enrolled Actuary will change from time to time, an Enrolled Actuary should use the same approach to setting actuarial assumptions for various plans and have reasons to justify differences.

We have heard a lot of talk about gains and losses being the measure of whether or not actuarial assumptions are reasonable. Actuarial assumptions should be selected with due consideration of the long-term nature of the plan. Gains and losses should be expected, and in particular, assumptions should not be selected with the objective of having zero gains and losses over the short term.

Perhaps it is appropriate that the actuary approach each assignment as if he were to be called upon to defend his position to the government, to his peers in the various professional organizations, and even in a court of law. If an actuary keeps these things in mind and conducts himself in a way to prepare himself for this kind of defense, he will be discharging his responsibilities adequately.

MR. HAZLEHURST: Let us go to topic three, Individual Policy Pension Trusts.

MR. JAMES G. STEWART: The large corporate plan generally has at its disposal the resources to deal with many of the requirements of the new legislation either directly, using their own employees, or contracting specific services. On the other hand, at Connecticut General the typical pension trust plan is a defined benefit plan involving five participants. Given this small size and the resources associated with this size, expenses must be kept to fairly modest levels. More sophisticated techniques are employed only when special attention is required. Outside specialized services are minimized due to cost consideration.

Some of the characteristics of the pension business at Connecticut General pre-ERISA include the following. First, the business was case intensive and much of ERISA's reporting requirements relate to the case. Although there were participant reporting requirements, the amount of work that had to be done rose only moderately as case size rose.

Second, in the pre-ERISA era, our service to pension trust customers was not well controlled by the home office. In some cases, the agent was providing a great deal of the service, in other instances, the home office, and in others, an independent third party. This nonuniformity is not desirable in the post-ERISA environment.

Third, we had to solve the data problems. Whether maintained in the field or kept by a plan administrator, our records were less than adequate, often wrong, and generally unacceptable in the new environment. Fourth, the typical side fund deposit determinations must be restructured. Traditionally, a recommended level of annual deposit was calculated at the time each individual contract was issued. Only rarely was a recheck made to assess the continuing appropriateness of the level initial deposit. We had no mechanism for verifying the level of side funds associated with each case.

Fifth, very important at this point, cost recovery must be accomplished differently. Historically, our life insurance rate structures included some provision for the expenses incurred in administering this type of business. As reporting requirements changed and the increased level of expense required to service such business became apparent, we saw that the expense provisions built into the rates were not sufficient to meet the necessary outlays. We were not and are not satisfied that we could build into future rate structures a proper charge for what is at present an ill-defined level of service. Most of our coverage is written on a guaranteed cost basis which enhances the problem. We had to decide very early what our response to the additional requirements would be. Our solution was to create a pension service corporation as a subsidiary of our parent company. In general terms, we identified all of the services which are unique to the pension trust business and put the expenses associated with these services on a fee basis to be charged separately to our customers. Our subsidiary now enters into a contract with the plan administrator, which specifies which services we will provide and the cost. This commitment to our policyholders required additional large expenditures to develop a qualified staff as well as the machinery to perform these services.

How can the volume of cases be handled responsibly by the Enrolled Actuary? We have established valuation techniques which are fairly standardized, yet which we believe are properly responsive to unusual situations. We, the actuarial staff, furnish to the administrative people (1) specific rules for selection of assumptions, (2) procedures to be followed to apply evaluation methods adopted, and (3) procedures for carrying through the funding tests. The administrative people feed the appropriate data into a computer which has been programmed to produce an actuarial valuation and certain other data to be used by the actuarial staff, along with a model valuation report. The valuation and supporting documents are reviewed by the actuarial staff to see if the standardized procedures are appropriate for the case in question, and to see if the results are reasonable in view of the case characteristics.

The actuarial staff then clears issuance of the certification. The certification follows a basic standard pattern with a spectrum of variable sections to accommodate different circumstances. Any negative statements in the certification are accompanied by a resume of steps necessary to rectify the defects. We believe this process facilitates economical performance of actuarial valuations and certifications for the large number of small benefit plans.

At first, we will be employing simplified valuation procedures. These

procedures provide for a single discount valuation, which does not directly reflect the impact of turnover, mortality, or salary scales. The use of a single discount factor seems appropriate tc us for the typical small case because average employee turnover and average mortality patterns do not seem realistic for the typical plan which has an average size of five participants. In many cases, as much as one-half of the cost will be applicable to one or two individuals. Because of this and the degree of control exercised over salaries by the principals of a plan, salary projections are not appropriate for the typical case and will not be used explicitly. As the case size grows, each case should be examined to verify the reasonableness of these assumptions. The normal funding method is the aggregate cost method; however, we now are using individualized evaluations to establish the appropriate amount of assets for each participant.

MR. GRUBBS: With regard to the side fund, some people have asked if the actuary of the insurance company should know what the side fund is if the insurance company is not holding the fund. This is no different than the consulting actuary's situation in that he ordinarily relies upon a statement prepared by a bank trustee or by an accountant. The actuary can state that he is relying upon a statement from the XYZ bank regarding the side fund.

MR. FERGUSON: Doesn't the use of the individual aggregate cost approach give rise to difficult cost patterns when older people are participants in new plans?

MR. STEWART: Yes, but very often in a small corporation there are one or two highly paid individuals and the pension plan has been established in some circumstances to provide for the retirement benefits for these people. We feel that it is very important in order to maintain the viability of the plan over the long run to make sure that the appropriate amount of assets will be accumulated for the retirement of the particularly high-paid individuals. Whether we will be able to continue to use this in practice remains an open question at this point.

MR. HAZLEHURST: The next topic is changes in methods and assumptions.

MR. GRUBBS: Section 412 of the Internal Revenue Code states that, if the funding method of a plan is changed, the new funding method shall become the funding method used to determine cost and liabilities under the plan only if the change is approved by the Secretary or his delegate. "His delegate" is the IRS. The Section further states that, if the plan year for a plan is changed, the new plan year shall become the plan year for the plan only if the change is approved by the Secretary or his delegate.

The term "funding method" is not always clear. Putting it into the context of the Act, the term is a synonym for "actuarial cost method," which is specifically defined in the Act. In some instances the Act uses the term "funding method" and in other places "actuarial cost method." Section 3 of the Act defines certain actuarial cost methods and lists them.

The purpose of this provision is not to decide whether the methods are valid but to prevent manipulation, i.e., to prevent the situation in which an employer might use one method one year and the next year use another to raise his maximum deductible contribution. This is the kind of situation which Congress intended to be avoided, and it is in that framework that review can be expected. Note that this section does not refer to changes in assumptions, but in methods and plan year.

Suppose a change is made at the beginning of the first year to which the funding standard account applies. Is that subject to approval or not? There is no interpretation on that point.

What reports need to be filed with respect to a change in method or a change in plan year? After the fact, changes will be recorded on Form 5500. Before the fact, approval will be needed and presumably a form for that purpose, will be available.

MR. FERGUSON: When we have to get the permission of the Internal Revenue Service with respect to changes in methods, does that imply an advance approval, or may we make the change and simply file and indicate that subsequent changes may be necessary if the IRS objects?

MR. GRUBBS: If I were a consulting actuary I would be hesitant to make the change and have the employer make contributions if I did not get a determination until after the end of the year as to whether the minimum funding requirements had been met, unless I was quite confident that there was no problem in meeting the minimum funding requirements.

MR. HAZLEHURST: Mr. Ferguson, would you like to open the discussion on communications?

MR. FERGUSON: To a very significant extent the disclosure requirements of ERISA reflect good business practice. The plan sponsor should take this opportunity to review his entire program of communications with employees and develop a plan of action, which will both comply with ERISA and maximize favorable employee relations.

ERISA requirements include summary plan descriptions which must be prepared by May 30, 1976 on all plans as they then exist. A summary of the annual report must be provided to participants 210 days after the end of the plan year. Upon request, and at reasonable charge, we must provide a summary plan description, a full plan description, the EBS-1 form, annual report form, terminal report if there has been one, a bargaining agreement, a trust agreement, a contract and any other instruments that are part of an agreement. We must be prepared to provide a statement of accrued benefits, vested accrued benefits, or the date as of which the benefits will become vested at least once every 12 months. This can be incorporated into the total benefit statements mentioned earlier. We have some unknown responsibilities as to communication in Section 104(C), which provides that the Secretary may by regulations prescribe a communication to retired employees. We have new requirements regarding communication with participants with the joint-and-survivor option. If a claim for benefits is desired, the participant must be given reasons for that denial with reference to the plan sections, and appeals procedures should be carefully outlined.

MR. GRUBBS: The regulations on notification of interested parties indicate that when approval of a plan amendment is requested the administrator must notify interested parties specifying certain information. That notification does not need to be made individually if it is feasible to put it on a bulletin board available to the employees.

The question arises as to who is an interested party. Most people assume that any participant in the plan, retired persons, and terminated vested persons, are interested parties; but it goes considerably beyond that. If a plan does not cover all employees, it is possible that the coverage provisions are

discriminatory in favor of the highly compensated. For example, persons who are not covered under the plan might have an interest in contesting whether the coverage provisions are reasonable or whether they comply with the Act. Employer is viewed rather broadly in that we consider with respect to coverage not only employers of a particular corporation, but companies under common control. Plans meeting the 70-80% coverage tests are excluded.

MR. HAZLEHURST: Mr. Grubbs, by that do you mean 70-80% for the entire affiliated corporation group?

MR. GRUBBS: Yes. For example, 70% of the employees of all of the related companies if you had a number of companies under common control. It is permissible to discriminate in favor of employees who are not highly compensated, but not stockholders or officers of the company. If your particular plan does not include anyone who is a stockholder, officer or highly compensated, it would not be necessary to notify employees who are not participants. We had to come to grips with the question of what is highly compensated. We have indicated that a highly compensated individual is one who is in the top 1/3 in compensation of all employees of the employer.

MR. HAZLEHURST: Suppose that you are amending the pension plan of the ABC Company of Miami. It is in turn a subsidiary of ABC America which has 49 other subsidiaries in 49 other locations. You have indicated previously that unless your group in Miami was large enough to meet the 70-80% test for the entire affiliated group, you would need to notify all employees in all of the 49 corporations of the proposed amendment to the plan and this extends to retired employees and to vested terminations. What about the people who are terminated, without vesting, but are still in the period during which they can recapture something if they are reemployed? Are they supposed to be notified?

MR. GRUBBS: I do not believe so.

MR. HAZLEHURST: The next topic for discussion is plan termination.

MR. GRUBBS: If a plan termination is contemplated, the first and major report to file is a notice of intent to terminate filed with PBGC. This notice is required by Section 404(1)(A) of ERISA and must be filed within 10 days of the proposed effective date. In July, proposed regulations were issued which outlined the required content of this notice. Although the plan administrators are responsible for the report, the report includes several items which might be of interest to actuaries. Some of these items are (1) copies of the most recent actuarial and financial statements, (2) a statement of any material changes in plan assets or liabilities since the statements, the number of participants, the amounts of benefits payable for each of the classes of participants specified by regulations and (3) a statement of whether the plan assets are sufficient to satisfy all vested benefits. After the submission of this report, PBGC will determine whether the plan assets are sufficient.

As required by ERISA, a second report must be sent from PBGC and the plan administrator to the trustee. This report specifies among other things, the benefits payable to each participant, the present value of the benefits payable by PBGC, and all the actuarial assumptions used in these calculations. A third report required by the Internal Revenue Code notifies the Secretary of the Treasury of the plan termination. The time limits for this report will be prescribed by regulations.

What do we mean by a termination? It is quite possible that there will be situations which for one purpose are considered terminations and for another purpose are not considered terminations. Suppose the plan is amended to cease benefit accruals, but otherwise continue the plan as usual, i.e., continue to fund the plan, continue to pay benefits, and continue to operate the trust. Is that a termination? Suppose contributions cease to the plan, with or without ceasing benefit accruals. Does this constitute a termination? Another component of termination is terminating a trust, and still another component is the distribution of assets.

Clearly, if you have done all of these, you have terminated the plan, but whether any particular one constitutes a termination is subject to regulations.

Another item on the agenda is discussion of the apparent conflict between Section 208 dealing with mergers and Section 4044 dealing with the distribution of assets on plan termination. Section 208 specifies that a pension plan may not merge or consolidate with or transfer assets or liabilities to any other plan after the date of enactment of this Act, unless each participant in the plan, would, if the plan then terminated, receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer. This paragraph shall apply in the case of a multi-employer plan only to the extent determined by the Pension Benefit Guaranty Corporation. First let me clarify the phrase "...benefit he would have been entitled to receive." Does it refer only to the benefit that would be payable from the assets of the plan if it were terminated, or does it also include the benefit he would have been entitled to receive based upon the guarantees of the Pension Benefit Guaranty Corporation? It does not include the benefit guaranteed which might be in excess of those provided by the plan assets. Section 4044 sets up six priority categories, and establishes who is to get the benefits under the plan. Suppose two plans are to be merged, one very well funded, and another with virtually no assets but substantial liabilities. If the two are merged into a single plan, and if after the merger the combined assets were distributed, participants in the higher priority categories might be the only individuals receiving their accrued benefit. There may be previous participants in the fully funded plan who would have had their benefits protected if the plan had been terminated before the merger. However, now they might not have their benefits protected. Section 208 stipulates that you cannot merge and allow that to happen, but Section 4044 says that you must distribute assets according to the schedule indicated. What does this mean? There are three possible interpretations. One might be to say that Congress intended that the merger provisions in Section 208 were to override in this conflict situation, and that we are going to be sure that those benefits preserved prior to the merger are preserved after the merger. Another possible interpretation might be to say that Congress felt that the allocation under Section 4044 was more important and therefore that the merger provisions in Section 208 were limited in their applicability to being carried out to the extent that they are not inconsistent with Section 4044. The third possible interpretation is that you have to meet both of these situations and if you happen to be in a situation where you could not comply with both, you simply could not merge. We expect to come out with some guidance very shortly on this matter.

Is a merger of companies going to be held up because the pension plans cannot be merged? One simple answer to this is that companies can be merged without merging pension plans. Both pension plans can continue to operate or the pension plans can be amended so that they would have identical

provisions and yet continue to operate separately.

The limitations imposed on the 25 highest paid employees are still effective. If those requirements are in a plan, they are part of plan provisions, they determine what the accrued benefit is, and therefore they do not conflict with the other requirements. They limit the accrued benefit by definition.

MR. HAZLEHURST: Mr. Stewart would you like to introduce Academy Services?

MR. STEWART: Historically, actuaries have had an examination syllabus and a body of literature as a foundation for our work. This has been supplemented by the committees which have been established by the Academy and the Society.

This seems to be a good time to review the charges of the various committees, both of the Society and the Academy, and to consolidate and streamline where appropriate. The purpose of any realignment would be to achieve a structure which could respond quickly and responsibly to the issues. I feel a need for a vehicle which would better define and centralize a particular area so that individuals could funnel opinions, objections, suggestions, etc.

MR. FERGUSON: Last May the Academy established a committee to explore what services the Academy might provide to Enrolled Actuaries. The recommendations that were contained in the initial report related both to the services that might be provided to Enrolled Actuaries and to the question of whether or not Enrolled Actuaries should be admitted to some class of membership in the Academy. The committee unanimously thinks it is a good decision for the Academy to permit Enrolled Actuaries who are not members of the Academy to come into a special class of membership and for the Academy to develop a package of services for the Enrolled Actuary. We feel that Enrolled Actuaries need a technical communication providing a technical actuarial interpretation of some of the problems that only an actuary faces and plan to have that as a part of the package of services. That communication could take the form of a newsletter and would also serve as a medium for the exchange of ideas. There is intention to help resolve the questions with regard to terminology, and to hopefully have a textbook on actuarial matters specifically designed for the Enrolled Actuary. We hope to get under way various committees to monitor and publish statistics. This would include economic indicators as well as information with regard to more actuarially oriented statistics such as the incidence of disability and recovery. The idea is to create a statistical base for all of those things that the Enrolled Actuary would like to have at his fingertips in making decisions as to what the future will hold.

We hope that attitude surveys will be part of the survey services offered. Prudence demands that you know what your peers are doing in similar circumstances, and we struggled with the idea of creating a computerized data bank of information with the facility to draw off statistical summaries. The cost involved, the possible legal complications, and the difficulty of making it work seemed just too great, so we settled for the idea of a periodic attitude survey, which would be followed up from time to time so that we could not only get the status of attitudes, but the trend in attitudes. Other possibilities include a catalog of reading material, available computer software, etc. - anything of interest really, to Enrolled Actuaries. There would be no endorsement of any software packages, simply a description of the package and its availability.

A final recommendation, which was included largely at the suggestion of a number of small consulting firms, was that the Academy consider the sponsor-

ship of an insurance program to offer coverage against errors and omissions, liability coverage including the fiduciary responsibilities under ERISA and also coverage to meet the bonding requirements.

What I'm giving you is a summary of the recommendations that the task force committee made to the Board. The Board agreed, in principle, that a package of services should be developed and indicated that they intend to pursue the development of that package, but there's no assurance that the final package will include any or all of these things. I feel though that the package will contain most, if not all, of the items above.

MR. HAZLEHURST: We have a very short time for questions or comments on any subject that we have discussed.

MR. WILLIAM E. COFFEY, JR.: I would like to hear the panel's comments regarding "best estimate" assumptions in the case of, say, a dollar per month plan which contains a Social Security offset. If "best estimte" assumptions are used with an adequate provision for inflation, there would only be a minimal cost for the plan. This would seem to conflict with the minimum funding requirements of ERISA.

On the other hand, if inflation and anticipated increases in Social Security benefits are ignored in the "best estimate" assumptions, you are implicitly assuming that future plan improvements will keep pace with inflation. Since these improvements are not contained in the present plan provisions, plan contributions would not seem to be deductible.

MR. GRUBBS: There are no regulations in this area, but in general it is appropriate to reflect future change in Social Security. An assumption as to change in the taxable wage base should be made.

MR. HARRY D. MORGAN: Mr. Grubbs, you talked about the problems of merging of plans. Let us look at the other side of the coin, i.e., the separation of assets upon the sale of a subsidiary. In the past, Company A may have purchased Company B and elected to cover the employees of Company B under a single plan. Now Company B is to be sold. It appears as though the assets must be spun off for Company B, based on the plan termination allocation, and might not at all reflect the actual contributions that had been going in over the years for Company B. Do you have any comments?

MR. GRUBBS: A publication which is going to be out very shortly will give guidance on certain problems and will be very helpful to you on that issue.