

However, it is a well-known fact that some of the oldest and best managed plans are company run. To protect these plans a grandfather clause to this provision is recommended. In these special cases moderate investment restrictions may be desirable. For example, only 4 or 5 percent of assets should be invested in any one security; liquidity reserves for all accrued liabilities for those retired under the plan may be desirable. The remainder of the fund might be invested in any assets subject only to the 4- or 5-percent rule. These moderately restrictive rules would be sufficient to protect employees in these special cases and at the same time impose no investment penalty on most of the so-called company or union run plans.

3. As a further safeguard of employee interests, investments in securities of the sponsor or trustee of a pension plan (or a profit-sharing plan which is intended primarily to finance pension benefits) should not be permitted. Although some such investments have been successful in isolated cases in the past, there is no economic justification for them. Such investments are always subject to potential abuse and the possibilities of self-dealing. This provision would include any securities and/or real estate and should apply to all plans whether company or union sponsored. Although the Federal Government would probably have no jurisdiction over State and municipal plans, the same principles should apply and they should refrain from purchasing securities of their own taxing districts.

There is one and only one possible exception to this provision. That is the unusual case of a company that for some reason does not have cash to meet funding requirements. In such cases companies have been known to contribute securities of some form. Although we do not believe such contributions are in either the company's or the employee's best interest, it is better than no contribution at all. In order to maintain qualified status such securities should be liquidated in not more than 5 years, and if a reinsurance scheme were to be developed, in no case should such securities be included as admitted assets.

4. As another measure for improving the effectiveness of the dual system of sponsor-trustee control, we would urge that each fund be required to report annually to the Department of Labor a complete listing of its security holdings. This would represent only minimum interference with the carrying out of investment programs while providing the necessary data for monitoring investment performance. Competition among investment managers would be encouraged thereby, and this would enhance the operation of the system rather than detract from it, as some have suggested. Experience with the New York State Disclosure Act which requires such reporting and the voluntary disclosures of some funds indicate that this places no undue burden on the fund or trustees. This information would also serve to improve the level of debate regarding the potential dangers of concentrating control over corporate enterprises in the hands of trustees.

These recommendations have been made with the expectation that they will strengthen the private pension plan movement by increasing the security of employees covered under these plans and by encouraging a free and dynamic system of pension fund investment which will reduce pension costs and be reasonably free of any possibilities of self-dealing or malfeasance.