The membership of the association of independent, self-employed actuaries and economic mathematicians in the Federal Republic of Germany has grown from 17 two years ago to 19 at the present time.

All members are owners or partners of firms of consulting actuaries, and they are mainly engaged in the field of companies' pension plans. Expert opinions and calculations on companies' pension plans are, however, also prepared by actuaries employed by insurance companies, insurance brokers, and auditing firms, which are not members of the German IACA-group. IACA-members are not permitted to advertise their services, contrary to other consulting firms. To enable IACA-members with smaller offices to offer their clients a service comparable to that of a large consulting firm, we started issuing a joint information paper in 1977 for distribution to our clients.

Before coming to the actuarial items, some general data:

During the past two years

- the average rate of increase in gross income was 5 to 6%
- the rate of increase in cost of living index was 3 to 4%

The rate of interest on capital fell from 7% to 5.5 or 6%, depending on the term of fixed interest bonds. For the first time since many years, the yield of many sound shares is higher than the fixed rate of interest of bonds. This is also due to the change of the corporation tax law.

The most important changes during the past two years concerning the public and the private pension plans are briefly mentioned below:

A. Compulsory Pension Schemes

1. Flexible Retirement Age

An increasingly larger portion of male employees are making use of the possibility to retire upon completion of the age of 63. This is also correlated to the continuously high unemployment rate of approx. 4% of all employees. Female employees retire after the age of 60 at more than 90%.

2. Dynamization and Financing

The dynamization of the pension rights was up to now linked to the average gross income of all assureds in the preceding three years. This resulted in an increase in pension rights by 11% as of January 1, 1976, and by 9.9% as of January 1, 1977. Current pensions were increased likewise by the same percentages as of July 1, 1976 and as of July 1, 1977. Thus the respective increases were considerably higher than growth of the gross income.

The state insurance institutions have considerable liquidity problems as they work to a great extent on the pay as you go system. Therefore, the following changes in law were resolved:

a) The next increase of the current pensions will be postponed by half a year from July 1, 1978 to January 1, 1979.

b) The increase of the base for the calculation of new pensions as of January 1, 1978 was limited to a rate of 7.2%, and thus less than originally provided for by law.

c) In future contributions to the compulsory pension insurance will be made by the public unemployment insurance for all unemployed assureds, as the periods of unemployment will be considered similar to normal contribution time when computing the pension later.

According to latest findings, these measurements are, however, not sufficient, and further revisions in the law are being proposed to help reach a consolidation. The main issue is that during the next three years the pension rights and the current pensions shall only be increased by 4.5% and 4% respectively, even if the increase of the gross income will be greater, and that the system of linking the pensions to the development of the gross income shall only be reinstated in 1982.

For the ensuing years, revisions with a still larger impact have been announced, aiming at an equalization for pension rights of males and females.

B. Companies' Pension Plans

1. Maximal Scope

For all persons under social insurance coverage with a gross income up to the social insurance premium ceiling (1978 = DM 44 400.– p.a.), the increases in the social insurance pension right were greater than the increases in gross income because of the time lag in connection with the 3-years-average-income. At the same time, the relation between net income and gross income has further deteriorated due to increasing social contributions and the tax progression. Thus, the gap between net income and the social insurance pension within the above mentioned range of income has been diminished considerably during the last years.

This, besides the obligation for adjustment – which will be commented on in detail below – is one of the main reasons why many actuaries no longer recommend final pay plans. Instead, if new pension schemes are now recommended, they contain frequently the assessment of fixed amounts depending on service time and salary grade; these amounts will be adjusted from time to time to the given situations and not automatically.

2. Special Direct Insurance

According to a decision of the tax authorities, it is possible within the frame of the tax regulations of the Act to pay premiums for life insurance for an employee up to the amount of DM 2 400/p.a. instead of salary. This saves income tax because the premium is taxable only at a flat rate of only 10% while the tax on the salary would be much higher.

Many companies are making use of this possibility for their higher paid employees to save taxes. Thus, the life insurance industry obtained about 200,000

additional policies with about 8 billions DM of business, due to this special provision of the companies pension plans Act.

Adjustment of Companies' Pensions to Inflation

As already mentioned in the previous national report, the Act for the Improvement of Companies' Pension Plans of December 1974 provides for the obligation to review and – in most cases – adjust current companies' pensions, as of January 1, 1975 every 3 years. By German law, the details are stipulated by verdicts of the highest competent court (Federal Court of Labour Law) based on individual cases, if the provisions of the law are not fully explicit. This being the case, the question to what extent current companies' pensions must be adjusted was largely settled by the verdict of September 15, 1977. The guiding principles of this court decision are:

"1. The amendment of current company pensions has to be done without consideration of the increase of the social insurance pensions.

2. It is not necessary to amend a pension if and as far as the total pension (including social insurance pension) of a pensioner would exceed the net income of a comparable active employee.

   An amendment is not necessary, too, if the economical situation of the employer is bad.

3. The adequacy, demanded by § 16 of the Law of 19.12.1974, with respect to the difficult real and legal situations today is fulfilled, if the purchasing power loss of company pensions will be equalized half (50% CLI).

4. By § 16, there is only a duty to amend current pensions. Pension rights of active employees are not concerned.

5. Thus, when amending current pensions, devaluations of pensions during the time before retirement will not be considered."

Especially the associations of employers consider the decision given in 1. above to be wrong and dangerous because it calls for an increase of the companies' pensions too, if the over-proportional increase of the social insurance itself is sufficient to compensate for the inflationary devaluation of the total retirement income.

From these guiding principles it is not clear, however, whether the rate of adjustment of 50% CLI is also applicable in the future, or whether it is only meant for the now required adjustments of all current pensions which are being paid since at least three years. Furthermore, it is necessary, as also reasoned by the court decision, to clarify whether according to guiding principle 2 the necessity for adjustment is given only then if the total retirement income is higher than the entire net income of a comparable active employee, or if an increase can be waived if a certain rate is surpassed, e.g. 80 to 90% of the net income.

The court did not specify clearly how a bad economic situation of the employer should be taken into consideration. However, it can be assumed that no adjustments are to be made if the company is not making any profit.

Certainly, a few more model cases will be conducted before all the details are clarified, if, when, and to what extent companies' pensions must be adjusted. The above mentioned planned reduction of the dynamization of the pensions in the compulsory pension schemes will lead – at least as far as the results are concerned – to close proximity of the following adjustment principles practiced up to now:

a) The companies' pension will be increased only if and to the extent as the reduction in purchasing power of the total retirement income has not been already compensated for by the gross-income-linked increase of the social insurance pensions. Applying this principle, approximately 80 – 90% of all companies' pensioners did not receive any amendments to their pensions in the past.

b) All companies' pensions will be increased by at least 50% of the increase of the cost of living index – completely independent of the social insurance pension and its increases.

It is regrettable that not only the insufficient Act but also the labour court decisions, which are not solving all problems, as well as the continuous changes in social insurance regulations, leave the employers considerably frustrated. The result is that many companies which adjusted the companies' pensions regularly and generously before the Act for the Improvement of Companies' Pension Plans came into force, now are reducing their pension increases to the directed extent. Above that, the uncertainty concerning the obligation to adjust current pensions has, in addition, prevented a further expansion of the private pension plans in Germany. This is contrary to the main objective of the legislation, thus having an unsatisfactory effect.