April 7, 1976

SUBJECT: INSURANCE

Circular Letter No. 8 (1976)
April 7, 1976

TO: ALL CORPORATIONS SUBJECT TO THE PROVISIONS OF ARTICLE IX-C OF THE NEW YORK INSURANCE LAW

SUBJECT: RULES FOR THE APPROVAL OF RETIREMENT PLANS OF ARTICLE IX-C CORPORATIONS

The captioned rules have remained unchanged since the issuance of the Department's Circular Letter 8, dated September 17, 1965. Because of the applicability of the Employee Retirement Income Security Act of 1974 (a Federal Statute) to the retirement plans provided for employees of corporations subject to Article IX-C of the New York Insurance Law and of inflationary trends which have manifested themselves since the date of the original Circular Letter, the rules set forth therein are hereby rescinded and are replaced by those contained in this Circular Letter.

Retirement plans adopted by the Boards of Directors of Article IX-C Corporations are subject to the provisions of Section 255(6) of the New York Insurance Law and in accordance therewith must be approved by the Superintendent of Insurance. The purposes of the requirement of such approval are:

(a) to assure that the provision of benefits will not impose an undue burden upon a corporation's financial condition; and

(b) to provide that contributions or benefits under a plan do not discriminate in favor of officers, or highly compensated employees.

The following rules, to be effective July 1, 1976, have been designed to assure that these purposes are served:

RETIREMENT PLAN RULES

1) Any retirement plan adopted shall be available to all of the Corporation's employees who are eligible, pursuant to the provisions of the Pension Reform Act of 1974. Certain employees, such as employees of affiliates, maintenance employees, or employees covered by collective bargaining may be insured under a separate plan within the rules applicable to Article IX-C retirement plans.

2) The normal retirement age shall not be less than age 62. Optional early retirement is permissible.

3) Pension benefits shall be measured by years of service, i.e. uniform annual pension credits should be employed which may differ between "Current" and "Prior" service.

4) The maximum annual pension, without death benefit, that may be provided at normal retirement age by employer contributions is obtained from the following table:

Compensation Base for Benefit	Maximum Benefit Rate Per Year of Service
Career Average Compensation *	3%
Average Compensation * for Highest 5 Consecutive Years	2%

* Average compensation shall exclude any bonus or overtime pay.

Such retirement benefit may not exceed the lesser of a) $ 75,000 per annum, to be adjusted by the ratio of the then current Consumer Price Index (published by the Bureau of Labor Statistics of the United States Department of Labor) to the Price Index for the calendar quarter beginning October 1, 1974; or b) 75 of average annual compensation for the highest five consecutive years. For optional earlier retirement, or any other option, the benefits must be the actuarial equivalents.

Any plan of adjustment in benefits which may be granted after retirement, to adjust for changes in the cost of living, must be approved by the Board of Directors annually. Such plan shall be on a basis equitable with respect to all pension levels and is subject to approval by the Department.

5) The maximum death benefit which may be provided by employer [ILLEGIBLE WORDS]

7) The cash value or actuarial value of a corporation's contributions, if any, under the retirement plan shall not be payable in a lump sum to the employee unless (a) the contributions have become vested by service, (b) the terms of the plan provide for such payment, and (c) the employer, or a pension committee established by the terms of the pension plan, consents.

8) Vesting should be in compliance with Federal requirements.

9) A pension plan must have IRS approval before final approval may be granted.

10) In the event that an employee continues in employment beyond his normal retirement date, any additional pension benefits must be stated in the plan and shall not exceed those determined on the same basis as for years of service prior to the normal retirement date. No pension benefits shall be paid until actual retirement.

11) Nothing herein shall prevent the Superintendent from approving a plan not conforming to the foregoing standards if he deems such plan to be consistent with the purposes of Subsection 6 of Section 255 of the Insurance Law, or disapproving a plan conforming to those standards if he finds the plan to be inconsistent with such purposes.

Please acknowledge receipt of this Circular Letter to Mr. George L. Gould, Chief of the Pension, Non-Profit Plans Bureau, New York State Insurance Department, Two World Trade Center, New York City 10047.

[SIGNATURE]

THOMAS A. HARNETT

Superintendent of Insurance