

or from the sale or transfer of the GIC to unrelated third parties) and advances made by the Employer (Advances, as described below), plus interest on the net of the foregoing amount after the Receivership Date at the rate earned by the MI Portfolio (the Guarantee Rate), accrued on a daily basis. The Trustee's MI Portfolio is a diversified portfolio of short-term and long-term conventional and synthetic guaranteed investment contracts issued by insurance companies and other institutions. The average yield on the MI Portfolio Assets for the month of November, 1994, was 5.81 percent.

The Advances

Although the GIC is non-benefit-responsive, the Employer is concerned that the Receivership may result in an increase in transfers of Accounts out of the I Fund to other investment funds maintained by the Plan, posing potential liquidity problems for the I Fund. Accordingly, if as a result of Account transfers or withdrawals from the I Fund the Guarantee Amount commences to represent more than 30 percent of the I Fund, the Employer will make Advances to the I Fund in an amount sufficient to reduce the ratio to 30 percent.

Final Resolution

If the Receivership and any rehabilitation of Confederation Life are resolved and completed prior to the end of the year 2000, within 60 days of the Plan's receipt of final payment from or on behalf of Confederation Life with respect to the GIC, the Employer will honor the Guarantee by making a final Advance to the I Fund in an amount sufficient to cause the Guarantee Amount to equal zero. If the Receivership and any rehabilitation extend beyond the year 2000, the Employer will make a final Advance to the I Fund on the first business day in the year 2001 in the amount of the Guarantee Amount.

Repayments

Repayment of the final Advance and all previous Advances will be restricted to the GIC Proceeds. The Repayments will only be made after such time as the Plan has recovered, through the Advances plus the GIC Proceeds, the amount guaranteed by the Employer with respect to the GIC, as described above. To the extent the total Advances exceed GIC Proceeds, repayment will be waived.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the

following reasons: (1) The Guarantee will enable the Employer to complete its commitment to Plan participants to protect the Plan from any loss of its investment in the GIC as of the Receivership Date; (2) The Advances will protect the I Fund from threats to its liquidity resulting from possible transfers and withdrawals of Accounts; (3) The Repayments will be made only from GIC Proceeds, and only after the Plan has recovered the amount guaranteed by the Employer; (4) After resolution of the Receivership, the Plan will be made whole with respect to the Guarantee by means of a final cash Advance; and (5) To the extent the Advances exceed the GIC Proceeds, Repayment of the difference will be waived.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202)219-8881. (This is not a toll-free number.)

Shippers Paper Products Company 401(k) Plan (the Plan) Located in Glenview, IL

[Application No. D-09866]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale by the Plan of Group Annuity Contract, No. GA-4725 (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) to Illinois Tool Works Inc., a party in interest with respect to the Plan; provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan receives no less than the fair market value of the GAC at the time of the sale; (3) the Plan's trustee, acting as independent fiduciary for the Plan, has determined that the proposed sale price is not less than the current fair market value of the GAC; and (4) the Plan's trustee has determined that the proposed transaction is appropriate for and in the best interests of the Plan and its participants and beneficiaries.

Summary of Facts and Representations

1. The Plan is sponsored by the Shippers Paper Products Company, which is an wholly-owned subsidiary of

Illinois Tool Works Inc. (the Applicant). The Plan is a defined contribution plan with a salary reduction feature. There were 91 participants as of October 20, 1994. As of September 30, 1994, the Plan's total assets were \$635,695.00. The Plan is administered by the Employee Benefits Committee of the Board of Directors of the Applicant (the Committee). The Plan's trustee, Northern Trust Company (the Trustee), manages the investment of Plan funds at the direction of the Committee. The GAC, which is the sole asset of the Plan, was effective as of July 1, 1985.³ The Applicant represents that the GAC was scheduled to terminate only after disbursement of the final annuity payment thereunder and, therefore, had no stated maturity date. The terms of the GAC provided for a minimum annual interest rate of 4.0%.

2. On July 16, 1991, Mutual Benefit was placed into rehabilitation proceedings by the New Jersey Commissioner of Insurance. As a result of these proceedings, the Plan's assets have been frozen.⁴ The Applicant represents that it wishes to enter into the proposed transaction in order to protect the accounts of Plan participants and beneficiaries from the risk of investment loss associated with the GAC. The Applicant further represents that the Plan needs to sell its interest in

³ The Department notes that the decisions to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC issued by Mutual Benefit.

⁴ Following the cessation of payments by Mutual Benefit with respect to the GAC, Shippers Paper Products Company made the decision to make periodic advances to the Plan to enable the payment of distributions to terminating and retiring participants and the payment of certain in-service withdrawals to current participants. The Applicant represents that, as of November 30, 1994, the periodic advances to the Plan totaled approximately \$178,595. The Applicant also represents that the terms of those periodic advances satisfy the conditions of PTE 80-26 (45 FR 28545, April 29, 1980). This conditional class exemption permits a party in interest to make an interest-free loan to an employee benefit plan, and the repayment of such loan. Specifically, the exemption states, in relevant part, that effective January 1, 1975, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money from a party in interest to an employee benefit plan, nor to the repayment of such loan in accordance with its terms, if no interest or other fee is charged to the plan, the loan is unsecured, and the loan proceeds are used only for the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan. In this proposed exemption the Department expresses no opinion as to whether the periodic advances satisfy the provisions of PTE 80-26.