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STRATEGIC ALLIANCES IN THE FINANCIAL SERVICES SECTOR: IMPLICATIONS FOR TRINIDAD AND TOBAGO

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Private Pension Schemes in Trinidad and Tobago: A Preliminary Look at their Micro-Operations and Recently Unveiled Regulatory Shortcomings

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PRIVATE PENSION SCHEMES IN TRINIDAD AND TOBAGO: A Preliminary Look at their Micro-Operation and Recently Unveiled Regulatory Shortcomings

INTRODUCTION

The marked increase in the popularity of private pension funds in Trinidad and Tobago over the last twenty to thirty years has been, for the most part, prompted by the inability of the government-based system, that is, the National Insurance Scheme, to adequately meet post-retirement needs of employees. Under this system, pension payments bear very little relationship to the cost of living, thus creating the need to supplement post-retirement income[1].

However, to date, not much investigative work has been done on the micro-operations of these private pension funds. As the situation exists, there are many ambiguities and discrepancies with respect to the actual functioning of the funds, both in terms of the legislative requirements and what actually occurs in practice. It is with these concerns in mind that the focus of the paper lies.

This paper seeks to examine the micro-operation of private pension funds existing in Trinidad and Tobago, and to examine the legal and regulatory framework which governs the registration and operation of these funds. As such, the paper is broadly divided into two distinct parts.

The first section traces the growth and performance of both insured and self-administered funds throughout the period 1975-1992 and comparisons are made accordingly. The

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[1] Dookeran W. and Indira Sagewan. "The Pension Fund System in Trinidad and Tobago". Sistema de Pensiones en America Latina y el Caribe.CEPAL1994.

portfolio composition of self-administered plans is then examined over a shorter period. Self-administered plans were selected since it was not possible to get disaggregated data for insured plans. Issues affecting the management of pension plans are also highlighted and recommendations made in some cases. The area of actuarial valuation of pension plans is also featured. as well as, the issue of supervision of actuarial firms. The rather contentious topic of pension fund surpluses. with respect to its allocation. is also analysed. Finally. a brief description of some of the newer pension schemes that have come into existence within recent times is given.

In the second part of this paper, the statutory and regulatory framework is examined with the objective of proposing measures that would lead to greater security of fund assets and member benefits, and the reduction of uncertainties as regards the roles and rights of the parties associated with pension fund schemes.

The method of analysis chosen is primarily based on interviews with representatives from the Ministry of Finance, under which the supervision of private pensions falls: a labour union: actuaries. both from the Ministry and in private practice; the association of employers and the Board of Inland Revenue. The consensus of opinion along with a review of reforms. mainly in the UK. were combined in order to fashion proposals that would share the burden of reform. as fairly as possible, amongst all concerned.

The factors that make the reform of pension fund regulations an urgent consideration. are firstly summarised. to show the universality of this issue. Having done this, a review of the legislation existing in Trinidad and Tobago is performed, and contentious issues highlighted, with the aid of examples of recent events, involving private occupational pension schemes in Trinidad and Tobago. The legal and regulatory weaknesses, upon which the previously cited issues arose, are distilled and recommedations proposed in order to bring greater clarity and strength to this institution.

PART I.

TYPES OF PRIVATE PENSION PLANS

There are mainly two types of pension schemes: defined-benefit and defined contribution schemes.

- The defined benefit schemes are structured so that the benefits obtained upon retirement are specified in the trust deed and rules which is the agreement that governs the funds in which the employer formalises the benefits that promised to the employees upon retirement. Usually benefits are expressed as a percentage of final salary based on the length of service. In Trinidad and Tobago, the maximum is two-thirds of highest salary.

- The defined contribution scheme is one where the employer and employee contribute a specified portion of the employee's salary to the pension scheme. The pension benefits are not guaranteed but depend on, ceteris paribus, what instruments the funds are invested in and the returns on them.

These schemes can either be self-administered or insured.

- Self-administered pension plans operate such that all contributions are deposited with a trustee (usually a financial institution operating as a custodian of fund assets or investment manager). The trustee together with the management committee (which comprises of employees) actively manage the portfolio.

- With insured pension plans, the funds are placed with an insurance company which manages the portfolio. The insurance company, therfore plays the role of the deposit-administrative vehicle, where they guarantee a rate of return on investment to the employer. The employer however has already guaranteed benefits to employees, therefore, if the returns received from investment are greater than the benefits promised, the employer can appropriate the rest to himself. If, however,

the returns are less than the benefits promised, then the onus is on the employer to make up the difference.

It has been estimated that, as of December 1993, there existed approximately two hundred and twenty-six private pension plans - seventy three self-administered and one hundred and fifty-three insured with the former controlling some TT $7 billion in total assets and the latter, approximately TT$ 900 million (1992), such that, pension funds are now considered the largest single provider of finance capital (other than government). Hence, because of their financial strength alone, these institutions, therefore, can and do have a significant impact on the wider macro economy.

However, to date, not much investigative work has been done on the micro operations of these private pension funds. As the situation exists, there are many ambiguities and discrepancies with respect to the actual functioning of the funds, both in terms of the legislative requirements and what actually occurs in practice. The process of actuarial valuation, which is another area that is often misunderstood primarily because of a lack of information, is also given some consideration. It is with these concerns in mind that the focus of the paper rests.

GROWTH OF PENSION PLANS

Charts 1 and 2 (see Appendix 1) further illustrate the growth in value of both self-administered and insured plans over the period 1975 - 1992. They show that the value of these plans, taken as the amount of all such plans at the end of the year, grew at relatively the same rates over the period. The end of year values for self-administered plans grew from TT$ 147,944,027 in 1975 to TT$ 3,721,967,139 in 1992, while the value of insured plans grew from TT$ 37,347,932 to TT$ 878,157,135 within the same period. Chart 3 (Appendix 1) indicates that since 1988 the number of registered plans have increased, however, the rate of increase of self-administered plans has been higher than that of the insured plans.

PERFORMANCE OF PENSION PLANS

With respect to performance, however, while the rate of returns secured by both types of plans have tended to fluctuate within the same band, that is, between 7% and 10.7%,it appears that insured plans have generally been able to achieve higher rates of returns on their investments throughout most of the period (See Chart 4, Appendix 1). Furthermore, the rate of return of insured plans throughout the period has been relatively more stable than that of the self-administered, though this may simply be as a result of the way in which the funds are invested [2].

PORTFOLIO COMPOSITION OF SELF-ADMINISTERED FUNDS

With respect to trends in the portfolio composition, between the period 1988 - 1993, there has been the continued rise in significance of both TnT Government Securities and Other Assets (comprising mainly of bonds). These two instruments, along with Fixed Deposits, since 1989, have comprised the bulk of investment. This naturally reflects the risk-averse nature of portfolio behaviour that is so common with the investment of pension funds, and perhaps rightly so, given the nature of what is at stake. Of notable significance, too, is the increased significance of foreign assets, that is, TnT Government Securities denoted in Foreign Currency and Other Foreign Securities, particularly after the floating of the Trinidad and Toago dollar in 1992 when investment in total foreign assets jumped from TT$ 39,073,026 in 1991 to TT$ 222,052,008 in 1992 (See Table 1, Appendix 1).

ISSUES SURROUNDING PORTFOLIO MANAGEMENT AND COMPOSITION

With respect to their portfolio composition, pension plans, both insured and self-administered continue to be subjected to provisions set out in the Second Schedule of the Insurance Act 1980

[2] Funds of the insured plans are amalgamated with other funds deposited within the insurance companies and total funds are invested accordingly, thereby minimising the variability of returns.

(See Appendix 2), which outlines what instruments are permissible for investment and to some extent, what proportion of their portfolios can be invested in which assets. There is the opinion, however, that these restrictions are by far outdated and need to be reassessed.

First of all, the stipulation that eighty percent of their portfolio must be held in local assets should perhaps, given the enormity of some of these funds and the freeing up of the economy, be relaxed. One can even argue that it is because of this restriction that certain large pension funds can and do exert considerable influence on the local stock market and stock prices.

The prohibition to invest in the employing company should also be reconsidered and perhaps amended to follow the UK legislation which allows investment of up to five percent of the portfolio in the employing company. This should be considered especially in cases where the employing company is considerably profitable. If this is to be recommended, however, careful monitoring will be needed to ensure that it is not being abused. In addition it should only apply to pension funds whose employing company is profitable, has a history of profitability and, based on independent financial advise shows indication of continued profitability.

The practice of granting mortgages to members of the pension plan also needs to given careful consideration since the portion of funds which can be devoted to this purpose is limited to ten percent of assets. Clearly this indicates that some process of selection has to be carried out in order to decide who receives a mortgage or not. There needs to be some clear guidelines as to what are the criteria for giving mortgages.

THE PURPOSE OF ACTUARIAL VALUATIONS

Because factors affecting pension plans are continuously changing, it is necessary, therefore, to review the financial position of each plan from time to time by means of actuarial reviews to ensure that all current and future benefits (liabilities) of the fund can be met.

According to the Insurance Act 1980, all pension funds, both insured and self-administered, must undergo actuarial valuations once every three years or at shorter intervals, as the Supervisor of Insurance might propose. The main purpose of these triennial valuations is to reassess the funding position of each plan and to determine at what rate contributions can and should be made by both employer and employee, in order to service all liabilities.

THE PROCESS OF ACTUARIAL VALUATION

By their very nature, the actuarial valuations of pension plans tend to be quite technical and not much is known about them with respect to what assumptions are made, how are these are arrived at or how are funding levels determined. An attempt will now be made to bring some light to these areas of ambiguity.

The valuation process starts with the need to establish several parameters - some of which are known while others need to be estimated or assumed. Some known facts will include the present contribution and benefit structure, the size of present membership, the number and time of planned retirements and the assets comprising the current portfolio. Some of the unknown include the level of future investment returns, potential salary increases, anticipated rates of mortality as well as the number of early retirements. However it is the relationship between these assumptions that is of significance rather than their absolute sizes.

The results of any valuation are usually most sensitive to and therefore contingent upon these assumptions that are made, particularly those of a financial nature such as the rate of return on investment or the rate of salary increases. For instance, most pensions are calculated as a percentage of final salary, therefore large anticipated increases in salaries in subsequent years will warrant like increases in present rates of contribution perhaps for both employer and employees.

Finally, these assumptions must naturally be made within the context of several overall assumptions of the future macro economic performance, and the future political and demographical climate.

Though pension plans existing in Trinidad and Tobago vary considerably in size and benefit structures, methods of actuarial evaluation for these plans are, by and large, similar. The "Attained Age Method" is apparently the most popular method of actuarial valuation and is currently utilised by some of the largest plans such as the Republic Bank Ltd. and the Trinidad and Tobago Electricity Commission Pension Plans.

THE 'ATTAINED AGE METHOD OF VALUATION'

Funding levels are arrived at by splitting liabilities into two components: service before the valuation date (past service) and after the valuation date (future service). The funding position is established at the valuation date by comparing the value of assets to the value of liabilities (benefits) accruing to past service. The future service contribution rate is then assessed in relation to the cost of benefits accruing after the valuation date. It is therefore based on the premise that:

> "The standard contribution rate paid over expected future membership of active members would provide for the expected benefits payable arising from future service. The value of their future service benefits is taken as the difference between the value of total benefits and the value of past service benefits" [3].

The principal characteristic of the Attained Age Method is that, if no new members were to enter the plan, if the valuation assumptions were to take place in reality and if contributions were paid at the suggested rates, then the future contribution rates revealed by future valuations would remain unchanged. Even though these conditions will almost never hold in practice, as new members will continuously join ongoing plans, this method of valuation normally produces a contribution rate which does not fluctuate too widely and therefore allows for a somewhat stable rate of contribution.

[3] "Manual of Actuarial Practice of the Institute of Actuaries".

SUPERVISION OF ACTUARIAL FIRMS

Currently, it is unclear as to exactly how many actuarial firms exist and are in active operation in Trinidad and Tobago. Three of the larger or more popular ones are Bacon, Woodrow and DeSouza, Acumen Ltd. and Buck Consultants Ltd., the first, however being the oldest and perhaps the most reputable of all, because of it being first firm of its kind in operation in this country. Within recent times, though, there has been a growing proliferation of smaller totally local firms as well as private individuals offering actuarial services.

This naturally raises the wider question of supervision. As it stands, such firms or individuals providing actuarial services are monitored by the Office of the Supervisor of Insurance to the extent outlined in Section 112 (4) of the Insurance Act 1980, which states that:

> "No person may carry out the functions of an actuary unless the Supervisor is satisfied that he is a fit and proper person and possesses the necessary qualifications to carry out such functions."

In fulfillment of this condition, when actuarial reports are received and are shown to be prepared by an actuarial firm which seems new and unfamiliar, the Office of the Supervisor of Insurance would then write to the relevant external body to confirm that the alleged actuarial firm is in fact legitimate, that is, the actuaries in question have satisfied the necessary requisites and have been deemed to be certified actuaries.

However, once this is established, when actuarial reports arrive at the Ministry of Finance, they are not investigated in any great detail. Instead it is, by and large, taken on good faith that the actuarial work done is accurate and meets all actuarial standards. While their is little evidence to suggest that the contrary is taking place, the situation as it exists, given the manpower restraints and lack of trained personnel at the Office of the Supervisor, is ripe for any misrepresentation to take place and easily slip by without being detected. Though there is an external actuary based in the UK, with whom any arising queries are lodged, as one can imagine, he is too removed from

the source and nature of any conflicts or other issues which arise and can hardly make properly informed decisions as he will not be sensitive to the peculiarities of each individual case.

Furthermore there have been several allegations that some level of coercion between the employer and the actuary can and have taken place in the past, particularly in instances where there exist large surpluses. It is alleged that in a certain plan which was experiencing a high surplus, the actuaries employed may have been 'persuaded' to set contribution levels in the interest of the employer such that they ended up paying one dollar per month, which according to the trade unions, was not necessarily in the best interest of the members.

THE ISSUE OF SURPLUSES

While there is no definition of a surplus within any of the legislation regarding pension funds, an 'actuarial surplus' refers to an excess of the value of assets over the value of liabilities in a pension plan. However, there are different kinds of surpluses such as, surpluses arising out of past service (service up to the valuation date), future service surplus (difference between future contributions and future liabilities), aggregate surplus (sum of past service and future service surpluses) and discontinuous surplus (the difference between the value of assets and the benefits that would be paid out if the plan were to be wound up as at valuation date). Though there are no universally accepted definitions, generally, it is the 'past service' definition that is most commonly utilised.

Today most pension plans seem to be well-funded or over-funded as the case may be. This is evident by the large surpluses that exist as opposed to the deficits which existed ten years ago when investment returns were not adequate to keep pace with salary increases. These large surpluses have been brought on primarily by the winding down of a period of rapid growth in earnings, characterised as the oil boom. For the operation of pension funds this meant that:

a. the restrained growth in salaries during the recession period was less than that which was anticipated by past actuarial evaluations, causing the anticipated funding requirements and hence the contribution rates at that time to be far greater than necessary,
b. the occurrence of downsizing of companies, forcing many workers to retire earlier than they had planned, thus freezing the benefits they would have received had they retired at the age of sixty or sixty five. The surplus arises since it was on the basis of a projected final salary at the age of retirement on which contribution rates were determined. and,
c. investment earnings during this period have also been better than anticipated.

All of this has meant that the funds' liabilities or what they have to pay to beneficiaries have grown at a slower rate than their assets.

Table 2 (See Appendix 1) further illustrates the enormity of pension surpluses. It reveals that as at their last valuation date some eighteen funds were each in surplus of over ten million dollars, with Trinidad and Tobago Airways (BWIA International) Plan topping the rest with a whopping TT $109,000,000, the Neal and Massy Group Pension Plan with TT $79,025,000 and the Trinidad and Tobago Electricity Commission Pension Plan with TT $45,000,000.

Though the issue of surpluses is a relatively new bone of contention, the existence of such large sums of 'excess funds' has sparked a number of rather heated debates as to what, if anything, should be done with them - in particular, the question of who 'owns' them and therefore has the legal and/or ethical right to them..

The law, however, is quite clear on how any excess funds are to be allocated upon the winding up of pension plans. These provisions are outlined in Section14 of the Income Tax Ordinance Ch.33 No. 1, which specifies that upon dissolution, first, funds must be used to pay immediate pensions to existing pensioners (including persons receiving widows and orphans), secondly, to provide pensions (immediate or deferred) for all other members of the plan at the time of dissolution according to their accumulated contributions and period of service. Any remaining funds are to be

then, and only then, used to increase the benefits due to the pensioners and/or members. Even so, their are no guidelines as to *how* these increased benefits are to be allocated.

With respect to surpluses of ongoing funds, there are no regulations on this issue and ways of dealing with them are not very consistent. The law does state, however, that under current legislation, refund of surpluses to the employer is not allowed unless outlined in the trust, deed and rules (however, at the time when most of the trust deed and rules were drawn up, this issue was not considered as the existence of such large surpluses was not anticipated). As it exists, surpluses are dealt with in several ways which are summarised as follows:

a. they may be used to reduce contributions payable by the employer provided that there are provisions for this to be done in the trust deed and rules. This is usually done on the advice of an actuary,
b. they can be used to improve benefits for members. Within recent times, the bargaining power of trade unions has been pivotal in securing improvements, and in general, making pension plans more benefit-oriented, or
c. the surplus can be allowed to stay in the plan untouched and carried on to future periods, to guard against any unforeseen adverse conditions.

There is the growing argument that these hundreds of millions of dollars should be used to finance industrial expansion and in general for more economic purposes in areas that would foster and enhance economic growth and development. It is my opinion, however, that while this may seem altruistic and perhaps politically and economically correct, this is not the purpose of a plan. One must bear in mind that the defined benefit of a pension fund is *to provide an ultimate benefit to its members and/or their dependents.* This promise is sacrosanct and the fulfillment of it must in no way be unnecessarily compromised.

Furthermore there is the widespread belief that the performance of pension funds is a function of the performance of the wider economy which grows in cyclical patterns. This implies that what seems like a surplus today may very well be eroded in later years, so it should for the most part be

left alone and carried forward in the accounts. Proponents of this view therefore postulate that this entire debate as to what should be done with surpluses is highly overrated and in retrospect will seem like 'much ado about nothing'.

It is clear, however, that there needs to be some legislative structure in place to monitor the growth and appropriation of surpluses. In the first instance, while it is not evident that this is the case, it must be made clear that employers, for whom there is some provision for the refund of surplus in the trust deed and rules, do not deliberately over fund the plans in order to evade tax and as the surpluses accumulatr, seek to reclaim them. Under the present system this can easily be done if such an employer was inclined to do so. In the second instance, there should clear guidelines as to how funds should be appropriated if at all..

SOME NEW PENSION SCHEMES

Within recent times, the growth in these new pension schemes, some of which are private individual schemes, others catering specifically to pension plans, has been of notable interest.Some of the private individual schemes include:

- The Republic Bank Tax Incentive Savings Plan which emphasises tax-free retirement benefits (interest earnings are taxed during the working life of the member) as well as tax-deductible monthly contributions throughout its members' working life. However, if the plan must be terminated before maturity (retirement) date, the proceeds become subject to income tax. However, it does offer the flexibility to start and stop contributions or to change the contribution amount, such that contributions can be made as lumpsums or in installments.

However, there is no guaranteed rate of return on investment, but it is anticipated that the lowest rate of return one can expect to make would be the interest rate on savings accounts.

- The Individual Retirement Unit Account (IRUA), which is administered through the Unit Trust Corporation of Trinidad and Tobago, does not seem to offer the same tax incentives as TISP, though post retirement benefits are not subjected to tax, contribution made throughout the working life of the member do not benefit from the same tax deductible status. It *does* offer a similar level of flexibility as TISP with respect to how contributions can be made.

While these retirement packages do not offer the advantages of joint funding by both employer and employee, they continue to remain attractive beacause of their tax incentives and contribution flexibility.

One of the more recent packages to come on the market is one specifically tailored towards pension plans, namely, the Managed Fund offered by Colonial Life Insurance Company Limited. This is an investment arrangement by which funds from participating pension plans are pooled under professional management . Each fund's share is expressed as units of the entire fund, which can be bought and sold at short notice. This allows for instant access to funds by pension plans. It is structured so that pension plans profit directly from investment, in other words, the employing company does not stand to make a 'profit' if returns from investment exceed the benefits which were guaranteed to the members of the plan. The expenses incurred include investment, management, administrative and actuarial fees.

The benefits of this type of arrangement, clearly, are that there is increased flexibilty and reduced administrative responsibility for the employing company.

PART II.

IMPERATIVES FOR REFORM.

The growth of pension fund schemes has been of paramount importance in the investment climate of developing countries. Such growth in economies like those of the Caribbean, with relatively small capital markets and few instruments, has brought the institutional investor to prominence. In Trinidad and Tobago, the assets of these funds are in the range of TT$7 bn in 1996, growing from about TT$ 1.8 bn in 1987 (Appendix 1: Chart 6). This is quite a turnaround from the situation that existed in the 1970's, where private investment was not a significant contributor to gross domestic savings. Private pension funds now contribute significantly to the supply of investment resources (Appendix 1: Chart 7). The trading activities of this group of investors have been the source of price volatility in the equities market of Trinidad and Tobago, and the concentration and long-term nature of the investment instruments needed by these investors, lead to oversubscription at issue in the primary market and relative inactivity in the secondary market for such instruments.

Pension funds, if not properly regulated by policies implemented by statute, could cause much instability in financial markets and considerable hardship to a growing proportion of the retiring workforce, who depend on this financial service to provide an income when they can no longer earn a living. Events like the Maxwell fiasco made pension reforms imperative in the United Kingdom[4]. The termination of occupational pension schemes as part of corporate strategy, in order to access the large surpluses that had accumulated, served as the impetus for reforms in the United States[5], to protect the benefits of fund members. The opportunity for fraud and mismanagement, with their attendant social and

[4] The ultimate result was the commissioning of the Pension Law Review Committee by the Secretary of State for Social Security in June, 1992, under the chairmanship of Professor Roy Goode, upon whose recommendation present reforms are based.

[5] The Employee Retirement Income Security Act, 1974 (ERISA) and the establishment of the Pension Benefit Guarantee Corporation (PBGC), have brought increased protection for fund assets and employee benefits.

economic costs, still exists to a greater extent in the Caribbean, as laws and regulation drafted adequately for days so long gone, try to grapple with increased complexity, volume and the demands for more protection of rights of all concerned.

In the CARICOM area, the importance of common legislation and economic convergence has followed the move towards globalisation and the formation of exclusive trading blocs. In the area of private pension schemes this is also relevant, as the vast pool of resources they contain could facilitate intra-regional investment requirements via cross-border capital flows. The problem arose in late 1993, with the sale of foreign interest and the subsequent regional incorporation of the Canadian Imperial Bank of Commerce (CIBC) Holding Company. Since the pension fund was previously domiciled in Canada, it was subjected to one set of legislation and regulations. With branches and staff in differing Caribbean territories, with varying pension and tax regulations, differing benefits would accrue amongst similar employees and the portability of benefits between territories would be made more complex, not to mention the added administrative costs of running such a plan. In general this would have been a limiting factor to the mobility of labour and the flow of human capital.

LOCAL SCENARIO: EXISTING LEGISLATION.

Locally, the Insurance Act 1980, (Chapter 84:01, Part IV[6]), governs private pension schemes, both self-administered and insured. Some uncertainty as to its application to earlier plans has prompted a freeze in their membership by the Board of Inland Revenue, from whom approval would have to be gained and a gradual phasing out of these so called Provident Funds, as members retire. The Insurance Act stipulates that all private pension plans must be registered, and outlines the requirements of the Trust Deed and Rules of the plan, for this purpose. Provisions are laid for (a) the registration of these plans by the Supervisor of Insurance, his power and function in the supervision of their operations; (b)

[6] Schemes that were established before this Act have either been amended to conform, or frozen in terms of new membership and gradually phased out, as existing members reach retirement age, e.g. the Trinidad & Tobago Electricity Commission Provident Fund.

the rights of members, or their spouses and/or children, to the benefits of and information about the plan; (c) the reporting requirements and form of submission of such reports for the Supervisor's information and approval; (d) the appointment of officers like auditors and actuaries and the frequency of submission of their reports; (e) allowable instruments for the investment of funds; (f) guidelines for the notification of and approval for wind-up of a plan; and (g) the procedure for amending the rules of a plan.

All private pension schemes must also be approved by the Board of Inland Revenue. Draft regulations, namely the Income Tax Ordinance Chapter 33, No.1 of 1969[7], which was never passed into law, are followed in this regard. These regulations pertain to the constitution of the pension fund schemes by irrevocable trust; the vesting of funds in trustees numbering no less than three in the case of individuals or a trust corporation. They also prescribe (a) the minimum pensionable age of fifty years and the circumstances which are exceptions, such as early retirement due to physical and mental infirmity; (b) the restriction of the employer from acting as a trustee; (c) the composition of the management committee of the plan; (d) the guarantee of a pension to retired members or their spouse and/or children up to 15 years after retirement; (e) limiting of the maximum pension payable to any member, to two-thirds of highest salary earned, and to spouse and/or children, to fifty per cent of member's benefit upon death; (f) restrictions on the payment of lump-sums and the assignment of a members pension; (g) payment of refunds; (h) the use of the funds in the event of the dissolution of a plan and its restriction from use in the business of the employer.

CONTENTIOUS ISSUES ARISING FROM EVENTS IN TRINIDAD & TOBAGO.

Not so long ago, events involving private pension funds have made evident the loopholes and ambiguities in the laws and regulations governing their establishment and operation. These point to areas in the system which need some reinforcement or restructuring.

[7] The Approved Pension Fund Plan and Deferred Annuity Plan Regulations, was the title of this draft legislation.

The absorption of the staff of the Port Contractors' Ltd. by the Port Authority in 1972, saw the existence of two pension plans operating parallel to each other, for workers similarly employed; one healthy with superior benefits, and the other insolvent. Redistribution of assets was advised to be illegal and unfair to the members of the solvent plan and the new company had to unwillingly accept the burden of funding the insolvent plan to acceptable levels. There are no provisions, including safeguards, for the merging of private occupational plans in the event of the merger of companies.

The nonpayment of employee contributions in the case of the Water and Sewerage Authority in the early years of the 1990s, and the inability of the legal and regulatory system to force compliance, highlighted the lack of statutory power in the office of the Supervisor of Insurance. The management committee of this pension fund was eventually reconstituted, with the inclusion of an actuary in a nonvoting capacity[8].

The divestment of government's majority interests in public enterprises to foreign investors, has also been problematic for the existing workers in these entities, where their pension funds were concerned. When the divestment of the Iron and Steel Company of Trinidad and Tobago took place in 1989, the pension fund was overfunded or in surplus; so much so, that the foreign employer of the now formed Caribbean ISPAT company, was subsequently successful in getting approval for a contributions holiday and now pays TT$1, monthly. Is this fair to the worker or previous employer? How could this undeserved benefit be reaped by the new employer?

The divestment of British West Indian Airways in 1994, brought a different twist to this contentious issue of surpluses. The company's pension fund was, at that time, in surplus by roughly TT$375 mn[9]; more than the accrued liabilities of the plan. Though written in the rules of the plan that the surplus belonged to the employer, i.e. the government of the

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[8] The situation is being rectified with the shortfall of TT$30 mn being payed by installment via government annual subvention.

[9] Approximately 1.2 million Republic Bank shares was held in the BWIA Pension Plan portfolio.

day, the workers' unions fought for the legal ownership of part this vast sum. The trustee in seeking guidance, eventually filed an application in the High Court for judgement on this matter of ownership. For expediency and for seemingly altruistic reasons a sharing arrangement was agreed to, with TT$195 mn towards improved benefits for, and the purchase of company shares by, the workers and a TT$180 mn share to the government. The fallout from this event has not yet subsided with certain tenets of this agreement, like early pension payments linked to an employee voluntary severance package, being legally resisted by the trustee, who has taken the position that amendments to the rules of the plan can not be made after a plan is terminated. The conclusion is, not enough detailed provision is made for the ownership and distribution of pension plan surpluses and no provision exists for the access of funds for severance payments.

The initial takeover bid by Republic Bank of the Bank of Commerce, here in Trinidad and Tobago in 1994, where the final decision was voted down by the Royal Bank, in whose trust/custody were a substantial portion of Republic Bank shares, is yet another example of conflict of interest. Royal contended that the issue of Republic Bank shares for Bank of Commerce shares would dilute the value of its Republic shareholding at that time. Republic argued that Royal, as trustee for the shares, had no authority to vote on the issue. It was clearly in the interest of Royal Bank to resist the expansion of Republic Bank and less to do with the obligation and responsibility of a trustee towards his client.

In 1994, the sale of the equities portfolio by the management committee from the T&TEC pension fund, which at the time contained a sizable block of the trustee's own shares, and the subsequent objection to the sale by the trustee, who was not consulted or informed of the pending sale, brought focus on the relationship and role of these two parties. Should the management committee have the power to make investment decisions? Does the Insurance Act require that sufficient technical expertise reside there for this purpose? Or, should this aspect of investment be the responsibility of the trustee/investment manager, whose daily activities would include investment decision-making, with the management committee responsible for the overall investment strategy? These questions were very

relevant in this case, with the management committee chaired by a director of the purchasing concern. Whose interest was served by the sale? This matter is now being litigated in the High Court, with the trustee filing a writ against the management committee for Breach of Trust. Interestingly, the consensus of the pension fund members was that a profit was made on the sale of the shares, which were rising at the time of sale, then subsequently fell in price. Thus, a seemingly good investment decision was made. Was it the buying and selling activities of the pension fund itself, of large volumes of shares[10] in a thin market, that was responsible for the changing fortunes of the trustee's stock? Who bears liability for bad investment decisions in such a situation? Why wasn't this potentially hostile relationship, between trustee and management committee, reported by the trustee to the Supervisor of Insurance for his arbitration?

These actual examples give some insight into the legal and regulatory weaknesses, with regards to pension fund operations in Trinidad and Tobago, and coupled with the issues raised by the varios groups involved in the industry for private occupational pensions, distilled broad areas of concern. These can be broadly listed as follows:

- The lack of establishment and enforcement of regulations by the Supervisor of Insurance office;
- The lack of consistency of the Board of Inland Revenue in application of its regulations;
- The independence, responsibility and liability of the trustee and management committee;
- The ownership and usage of accumulated fund surpluses, which are not clearly specified; and
- The lack of limited indexation, to reduce the diminishing effects of inflation, and the nonexistence of minimum funding standards;

[10] Approximately 3.8 and 1.4 million Republic Bank shares were bought by the T&TEC Pension Fund in 1993 and 1994, respectively.

LEGAL AND REGULATORY SHORTCOMINGS.

(i) The lack of enforcement of existing regulations and the nonestablishment of standard practice is mainly due to the lack of resources and expertise employed in this area, and the lack of legal authority residing in the Supervisor's office. The Supervisor of Insurance office, though employing a staff of twenty-three (23), with twelve (12) technical staff-members, has only two (2) who oversee the private pension funds, which number in excess of two hundred, on a full-time basis. One person is responsible for the collection, review and compilation of the submitted audited statements and actuarial reports, while the other deals with the registration of and amendments to pension plans, and all matters so related. Active monitoring by the regulatory body can not be maintain on this basis.

The Supervisor in response to a breach of the Insurance Act, 1980[11], has the same remedies available to him as though he were a beneficiary of such a plan. His only legal recourse is to apply to the court for judgement on the matter. He does not have the authority to intervene and assume the managerial functions, in the case of a potentially troubled plan, nor can he simply wind-up an insolvent one. Non-compliance to reporting deadlines and to directives for additional funding, on the part of the employer, can be and are ignored. This lack of legal sanction in the office of Supervisor of Insurance needs to be addressed. Pension funds have become too important to the individual membership and macroeconomy, to be left unchecked and exposed to fraud and mismanagement. The adherence to timely and detailed reporting and the establishment of standards in terms of the registration, amendment, dissemination of information and operational practices, must be vested in one governing body backed by legal authority.

The observance of the widows and orphans provision is a case in point. On scrutinising the revenue and expense accounts submitted by self-administered and insured pension plans, and after also consulting interviewees, it is apparent that although guidelines for the payment of widows and orphans benefits to the spouses and children of fund members, are

[11] Insurance Act, 1980, Section 182, subparagraph (2).

clearly stated in the Income Tax Act[12]; only two self-administered plans consistently pay this benefit. There is also a fifty per cent (50%) maximum on the total widows and/or orphans benefit payable. This restriction and the apparent reluctance to pay this benefit, or the ignorance to such a provision on the part of trustee and fund members, immediately transfers half or all pension benefits away from the deceased members' dependents; an unacceptable situation. The enforcement of this provision should be a priority for the regulating authority.

(ii) Surplus on wind-up or dissolution of a pension plan is dealt with in the Income Tax Ordinance [13]. Here it states that it shall be used to increase benefits payable to members and/or pensioners. This is the case for all but five private occupational pension plans in Trinidad and Tobago. For the most part quite large surpluses have arisen from the early 1980's to the present, as a result of the optimistic actuarial assumptions of the 'booming' seventies (Appendix 1: Chart 8). In order to maintain a system of fairness, the ownership of surplus has to be dealt with on a case by case basis, depending on the peculiarities of the situation, since some justification for it being the property of either party could be argued. In the case of liquidation of a company and the premature termination of its pension plan, any surplus in the plan could be used to bring some immediate relief to severed workers during their period of unemployment, in lieu of the minimum pensionable age of 50 years[14]. For that matter, the surplus of an active plan, or some part of it, could be used to fund an Employee Stock Ownership Plan. This would strengthen the capital base of the company, providing for expansion, and may boost the productivity of the now worker/shareholder.

(iii) Trustees and management committee members are not required by law to be independent, and are usually not. This relates to the corporate affiliation of senior executives, who may sit on management committees, and the trustees, being the trust arms of commercial banks or an insurance company. Also, the trustee is not restricted by law

[12] Income Tax Ordinance, Chapter 33, No. 1, Paragraph (10), (11) Subsection (a), and Paragraph (13).
[13] Income Tax Ordinance, 1969, Chapter 33, No. 1, paragraph 14.
[14] Income Tax Ordinance, 1969, Chapter 33, No. 1, paragraph 4, sub. (a).

from investing in his own equity or from appropriating funds towards investment in the financial instruments it provides to the general public. The responsibility of the trustee comes into conflict with its corporate objectives, as is the case for the company executive/member, having to sacrifice corporate for fund considerations, in respect of the nonpayment of employer contributions, for example.

As regards to liability on the part of the trustee, all Trust Deed and Rules contain a clause which makes the trustee liable for only the contributions received. This gives members minimum insurance, i.e. they would at least receive their accumulated contributions upon retirement. This clause raises the question, 'Who has the legal authority to make the employer pay-up any deficit in his contributions?' Does the onus fall upon the trustee or the Supervisor of Insurance? There presently exists no legal deterrent to nonpayment of contributions by employers.

(iv) The rate of inflation is such that consumer prices double in about every eight years (Appendix: Chart 9). The active member could hedge against this erosion of future spending power by bargaining for increased contribution rates or purchasing an individual annuity to supplement existing cover; the early-leaver, with accrued benefits already vested, or the pensioner will bear the full cost of inflation. Some limited indexation is required in these cases, in keeping with the objectives of pension fund plans, which is to provided income for the maintenance of some minimum standard living. This minimum standard must be safeguarded, for the commitment to sacrifice present consumption is based on it. It is also worth noting that medical care price inflation grows faster than the retail price index (RPI) and is a key component of pensioners' expenditure.
In principle, private pension plans should be fully funded, but this is not always the case. It has already been established that pressure can not be legally exerted on the employer to fund any deficit in his contributions, and also that the trustee is only liable for contributions paid over to him. These factors can lead to a pension plan's demise and places the fund members' accrued and future benefits at risk. Some minimum funding standard has to be instituted.

(v) The Board of Inland Revenue has a Legal Department which would approve private pension plans that are constituted in accordance with the Income Tax Ordinance Chap. 33, 1969. As mentioned above, these regulations were never passed into law, and are broad and subject to varying interpretation. It has been stated, by more than one actuary, that the Board applies its regulations inconsistently. There is no unambiguous set of procedures for dealing with the increasingly complex arrangements included in the Trust deed and Rules of private pension plans. Added to this, there are only four lawyers who handle pension funds, none of them trained in Trust law. The result of these factors, is that the probability of a plan or an amendment being approved, is based on the craft of the legal draughtsman.

The initial reason for the tax incentives associated with the contributions to and income earned on private pension funds, was to promote the establishment of this institution. This being done, coupled with the very healthy position the industry now finds itself, could now be reversed. In a now changed environment of falling inflation, increasingly positive real returns on fund portfolios (Chart 9), and declining personal and corporation direct taxes, it may now be beneficial for a fund member to pay taxes now and enjoy a tax free post-retirement income, which already has to face the uncertainties of the future.

RECOMMENDATIONS FOR REFORM.

The recommendations for the reform of the private pension fund system in Trinidad and Tobago directly relates to the previously cited contentious events and concerns that grew out of them. Based on the opinions of various parties involved and reforms proposed in the UK scenario, this package seems the most appropriate.

1. The responsibility for the registration, constant monitoring and the supervision of the private pensions industry be relinquished from the Supervisor of Insurance office and placed with a Pensions Commission.

2. The establishment of a Pensions Commission headed by a Commissioner of Pensions. This agency would assume the responsibilities that presently falls under the purview of the Supervisor of Insurance office. The Commission should include, along with the Commissioner, lawyers trained in trust law, qualified actuaries, a financial analyst and an economist specialised in the area of pensions. This body would have the power of final and binding judgement in the resolution of conflicts concerning pension funds.

3. A separate Pensions Act should be drafted to govern all aspects of operation of the pensions industry. It would clearly specify the constitution of the Commission and the legal authority of the Commissioner to dissolve or assume the management of a pension fund, or appoint one on his behalf, that fall below a minimum solvency requirement or fail to comply with directives issued by his office. The Act will clearly define the role and responsibility of the trustee, allowable investments, the legal rights of fund members and guidelines for the resolution of conflicts. The overriding responsibility for the investment decision should be placed solely with the trustee of the pension fund, who should report any discrepancies in the pension funds, to which he is appointed as trustee, to the Commissioner, as they occur..

4. Under the Act, a minimum funding base level of 90% of total fund liabilities would be set. Below this, the fund would be deemed financially unstable and it would be left to the discretion of the Commissioner, as to whether intervention is necessary.

5 The ownership and use of surpluses in active plans should be dealt with via the bargaining process between employer, worker representatives, the trustees and an appointed independent actuary. If no agreement is reached, the matter goes to the Pensions Commission for judgement.

6 The provision for the purchase of immediate annuities for pensioners, deferred annuities for active fund members and the improvement of benefits with the excess upon dissolution of a plan, will remain.

7 Limited price indexation for deferred fund members and pensioners should be instituted at a 5% increase in accrued benefits every three years or the average rate of inflation over the period, whichever is lower

8 Provision should be made for a proportion of employer and employee contributions to be placed in a severance fund. If an employee is deemed redundant or upon wind-up of a company, he receives, from this fund, his contributions plus any interest accrued on it. The rest of the fund on his account shall be used to purchase a deferred annuity. If he voluntarily opts for early retirement, he foregoes the severance benefit, which stays in the fund, and receives his and the employer's contribution plus accrued interest.

9 A practice manual should be prepared and followed by the Legal Department at the Board of Inland Revenue. This would contain guidelines for the approval of new plans and the amendments to existing ones. This department would be advised by the Pensions Commission on any situation not provided for in the practice manual.

These are recommendations, which after further evaluation and debate, could be expanded, refined and implemented, in part or in total, depending on the stage of development of this institution and the pressure of demands placed on the system, from associated interests, for increased protection of their rights and benefits.

APPENDIX 1

CHART 1:
VALUE OF SELF ADMINISTERED PLAN (END OF PERIOD)

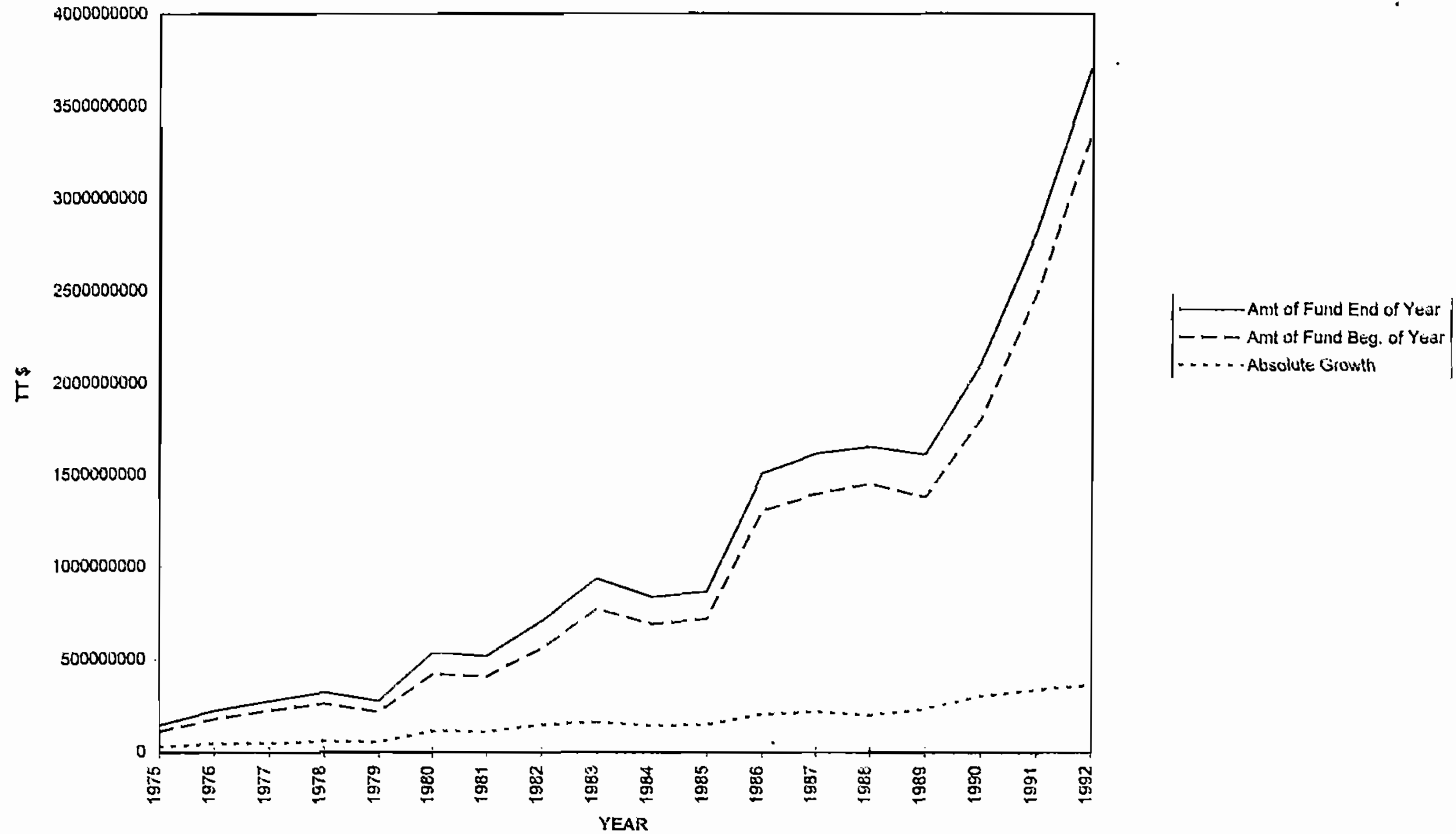


CHART 2:
VALUE OF FUNDS IN INSURED PLANS

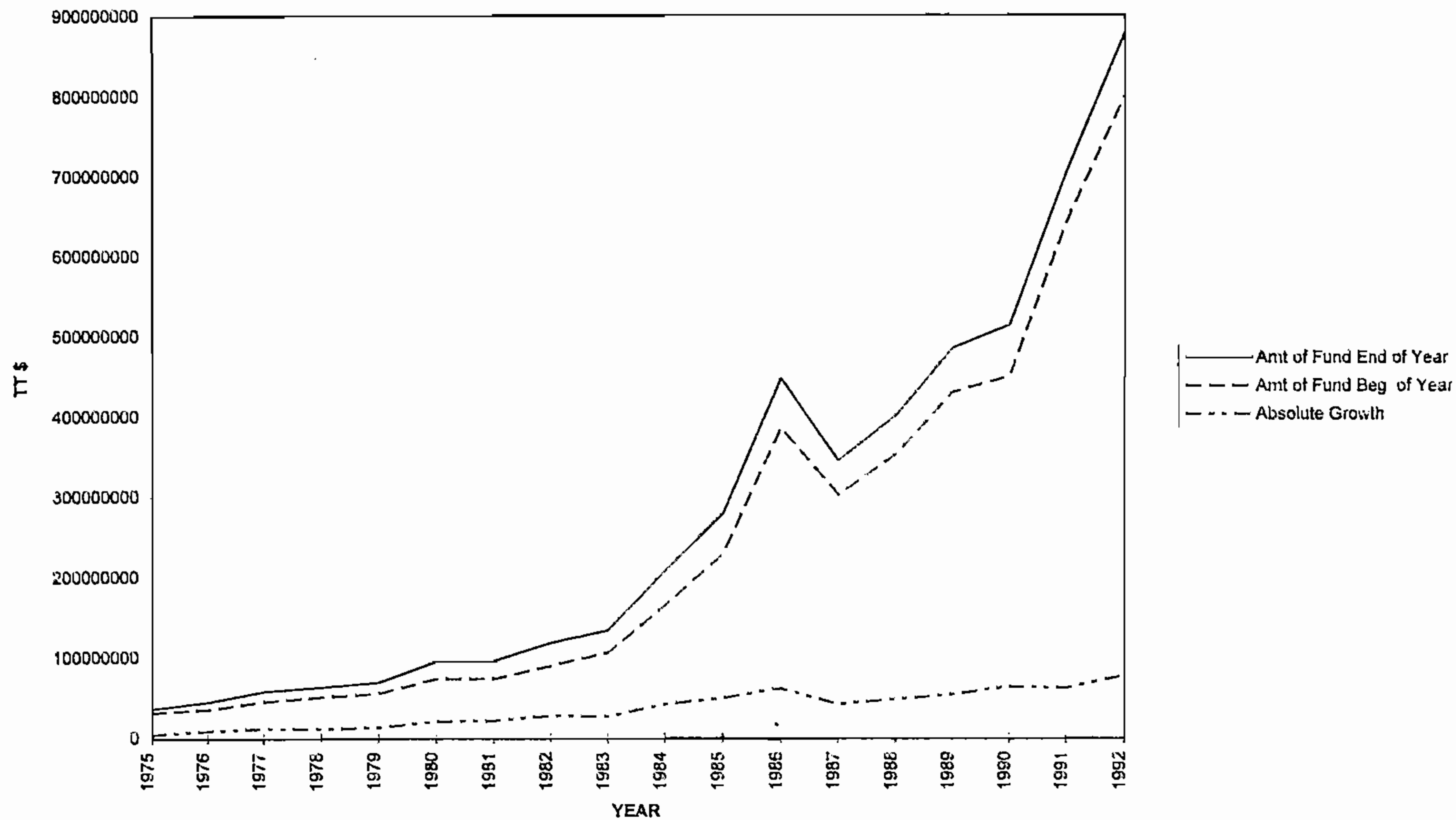
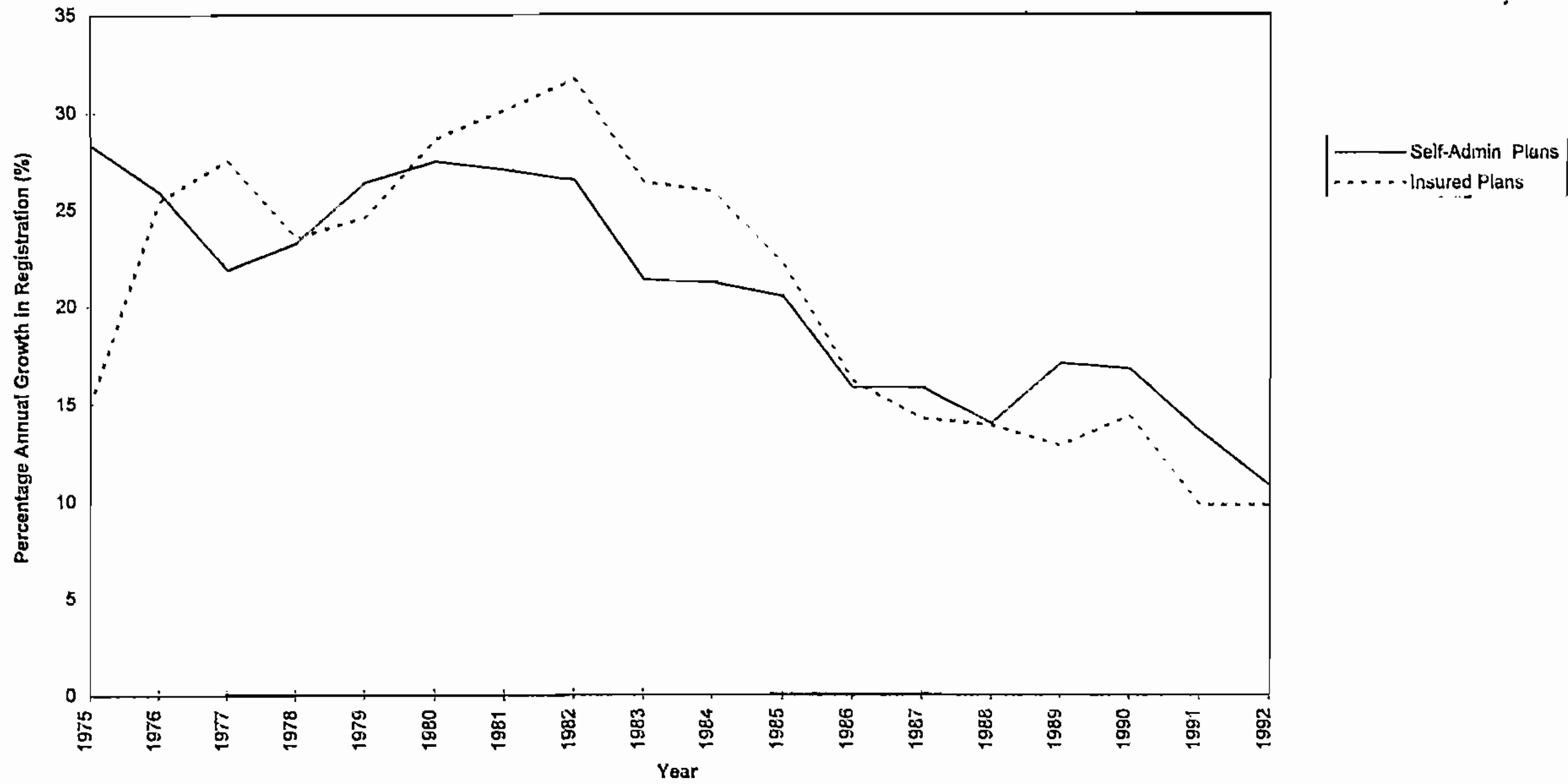


CHART 3:
COMPARATIVE GROWTH OF SELF-ADMINISTERED VS INSURED PLANS.



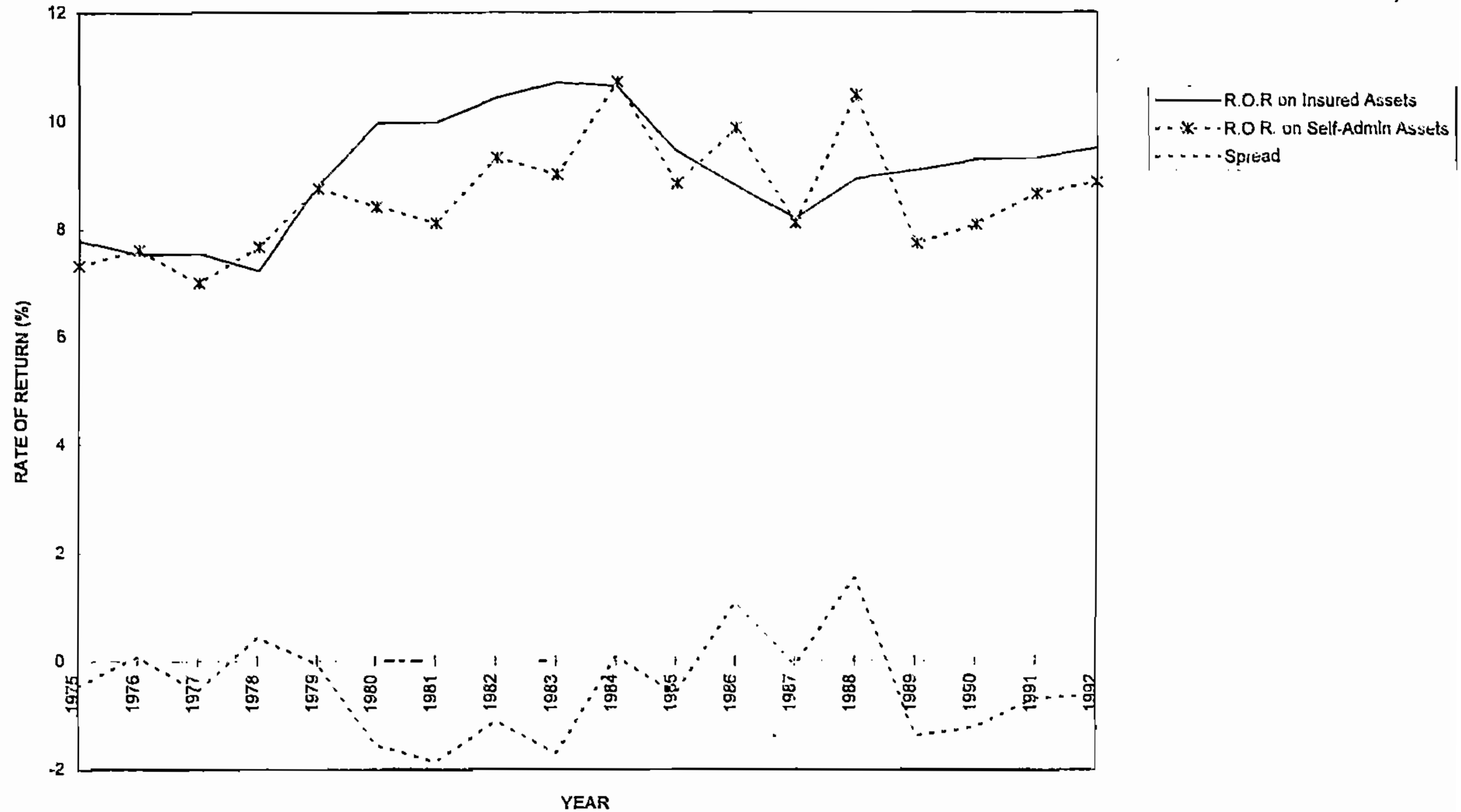


CHART 4:
Rate of Return on Investment and Spreads Annually
RATE OF RETURN (%)
YEAR
R.O.R on Insured Assets
R.O.R. on Self-Admin Assets
Spread
12
10
8
6
4
2
0
-2
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992

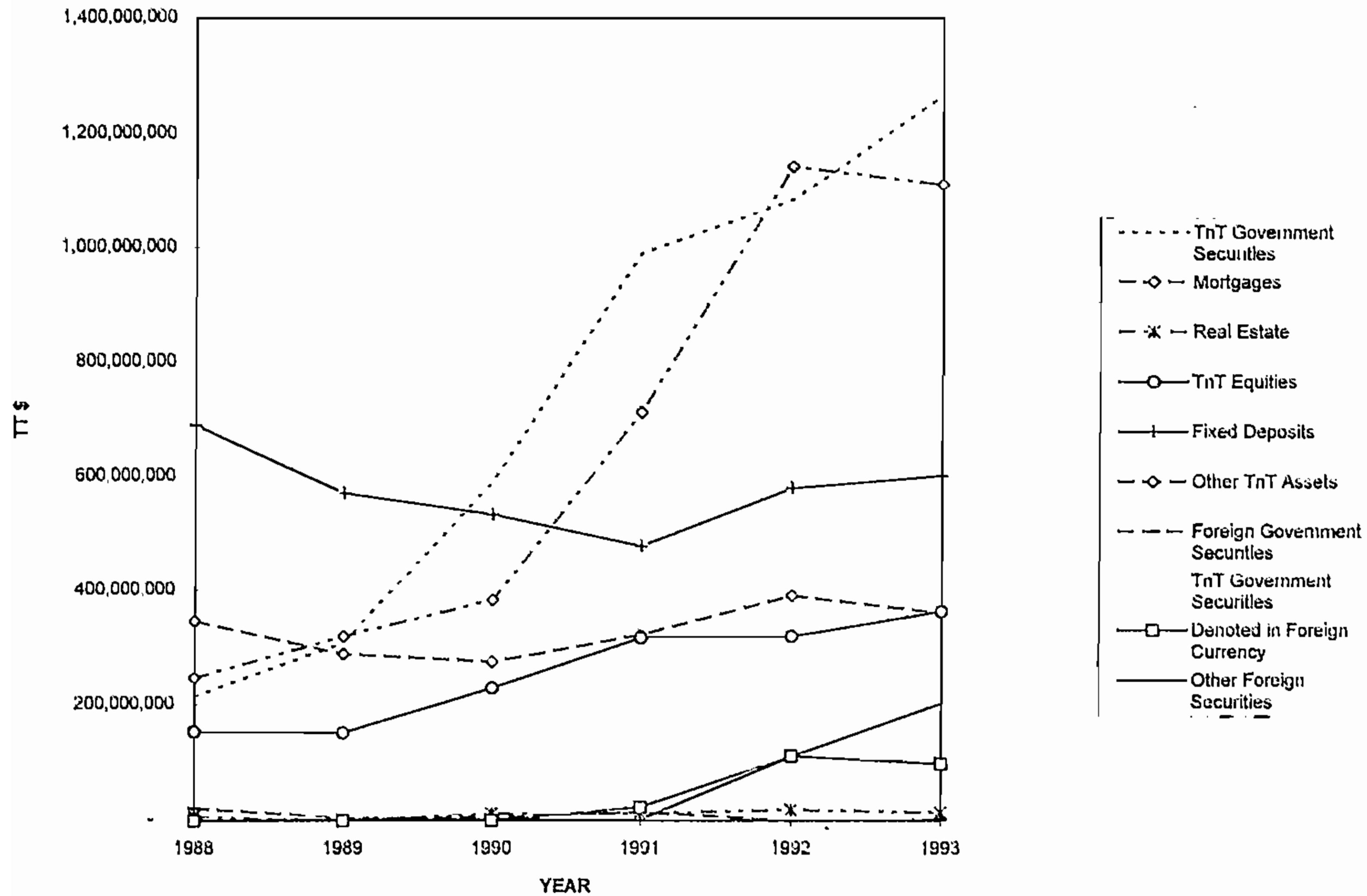


CHART 5:TRENDS IN PORTFOLIO COMPOSITION OF SELF-ADMINISTERED FUNDS (1988-1993)
1,400,000,000
1,200,000,000
1,000,000,000
800,000,000
600,000,000
400,000,000
200,000,000
TT $
1988
1989
1990
1991
1992
1993
YEAR
TnT Government Securities
Mortgages
Real Estate
TnT Equities
Fixed Deposits
Other TnT Assets
Foreign Government Securities
TnT Government Securities
Denoted in Foreign Currency
Other Foreign Securities

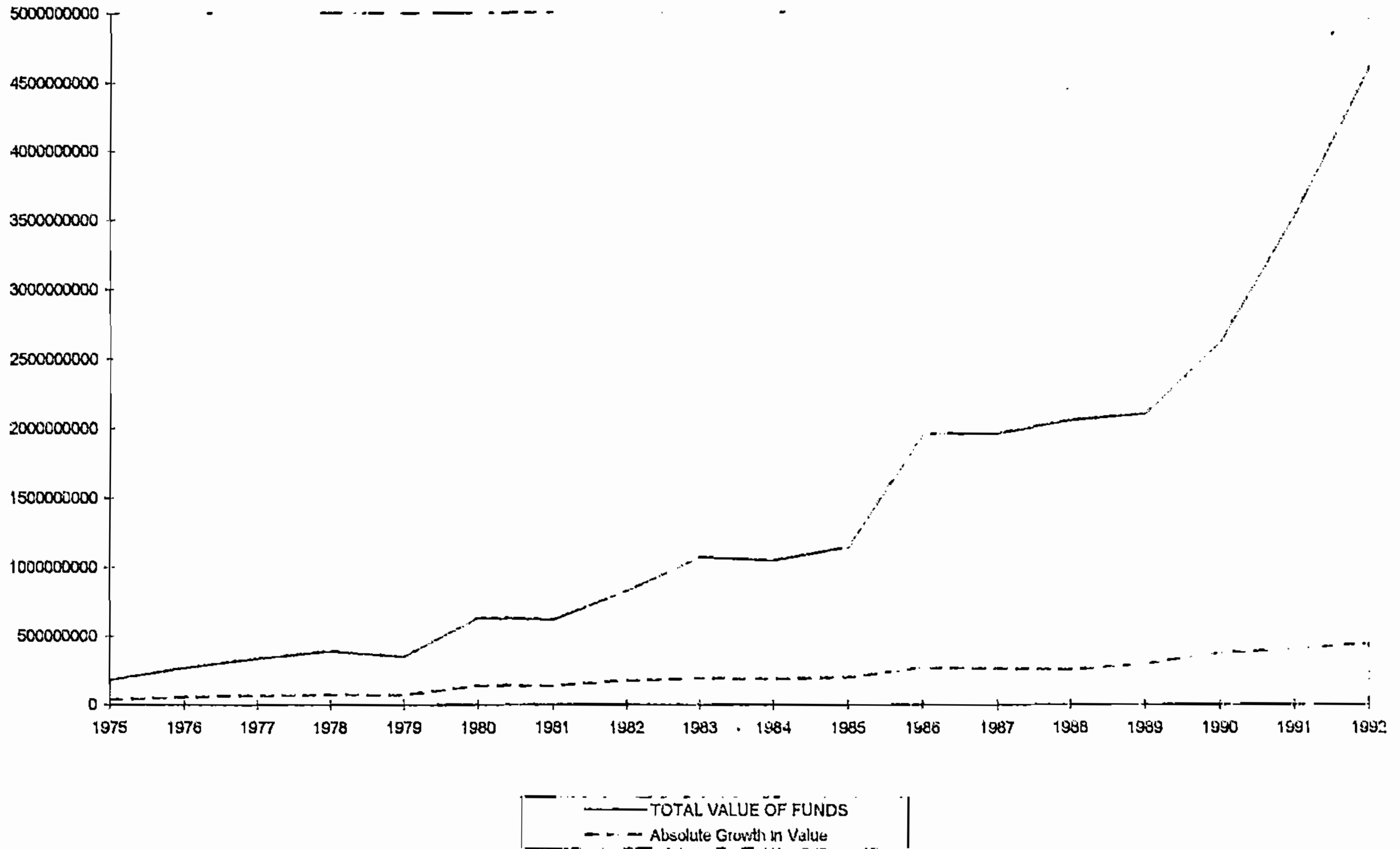


CHART 6: TOTAL VALUE OF PENSION FUNDS IN T&T (TT$mn)
5000000000
4500000000
4000000000
3500000000
3000000000
2500000000
2000000000
1500000000
1000000000
500000000
0
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
TOTAL VALUE OF FUNDS
Absolute Growth in Value

CHART 7: ABSOLUTE GROWTH IN PRIVATE PENSION FUNDS AS A PROPORTION OF GROSS CAPITAL FORMATION.
Perccentage of GCF (%)
14
12
10
8
6
4
2
0
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
Year

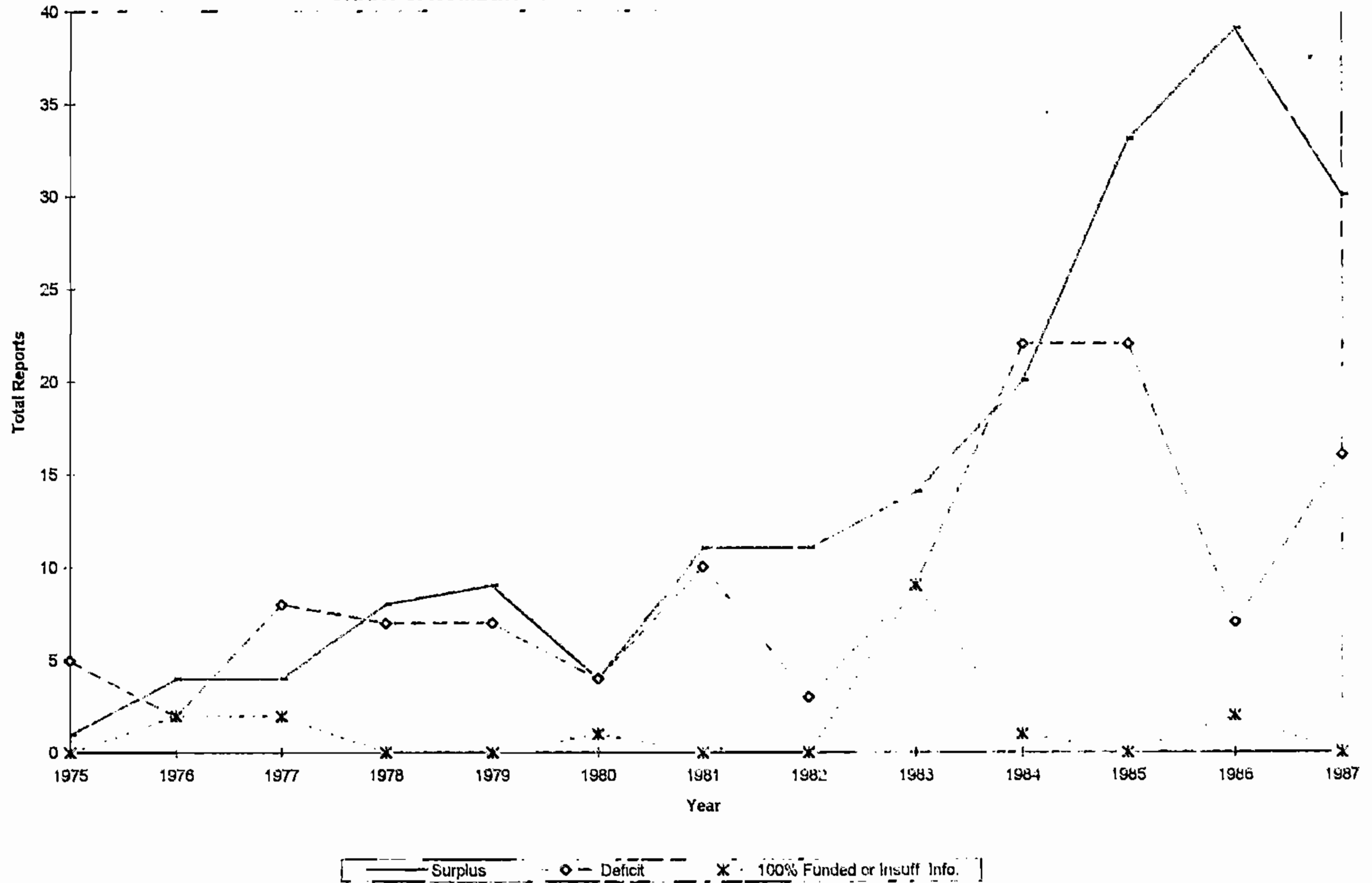


CHART 8: NUMBER OF SURPLUS/DEFICIT ACTUARIAL EVALUATIONS.
Total Reports
40
35
30
25
20
15
10
5
0
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
Year
Surplus
Deficit
100% Funded or Insuff Info.

CHART 9: INFLATION AND REAL RATES OF RETURN FOR SELF-ADMIN. VS INSURED PLANS

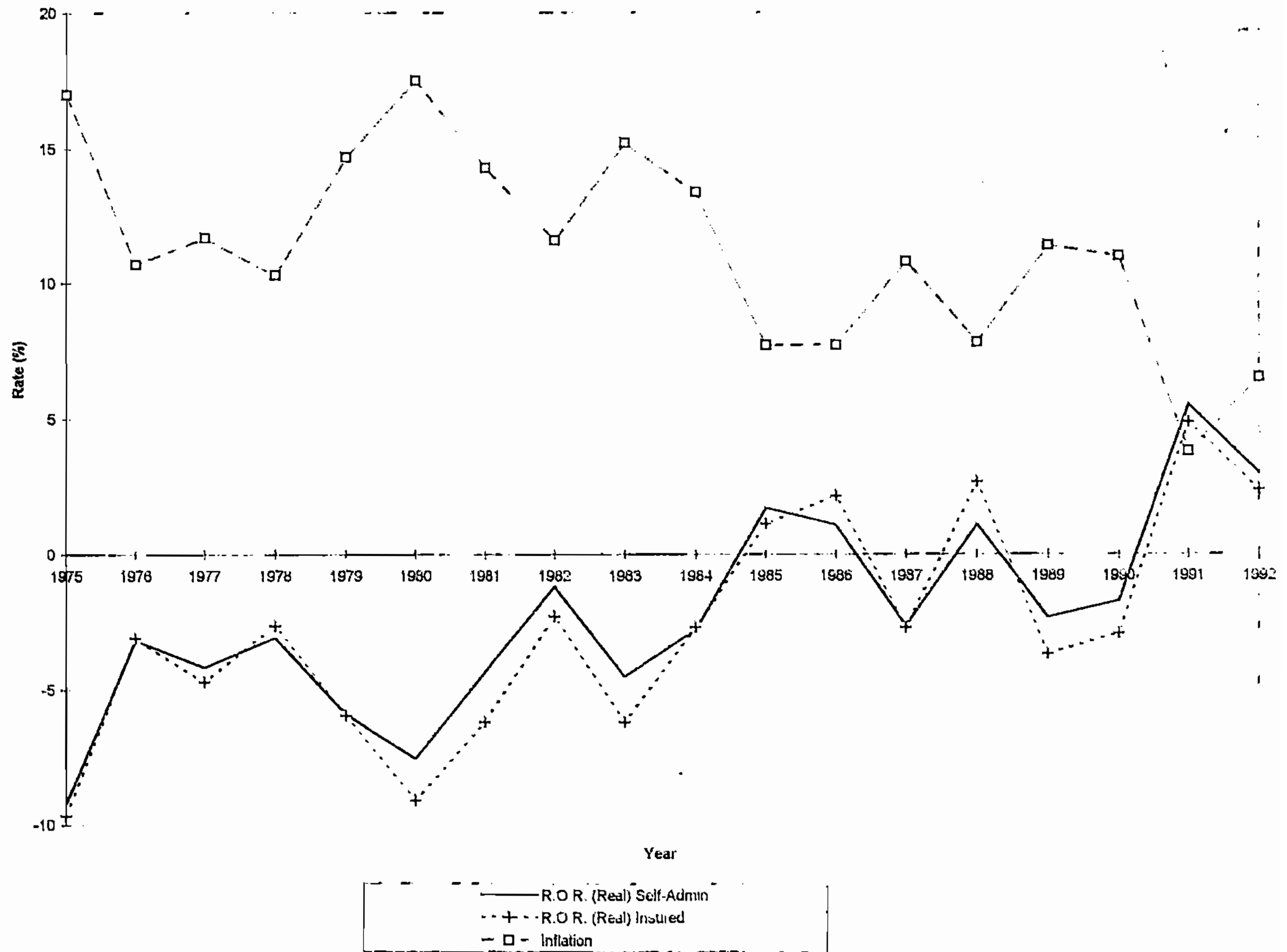


TABLE 1: GROWTH IN ASSETS (BY TYPE) OF SELF-ADMINISTERED PENSION FUNDS 1988-1993

TYPE OF ASSET	1988	% TOTAL ASSETS	1989	% TOTAL ASSETS	1990	% TOTAL ASSETS	1991	% TOTAL ASSETS	1992	% TOTAL ASSETS	1993	% TOTAL ASSETS
No. of Pension Plans	62		63		66		69					
TnT Government Securities	214,632,451	13%	308,315,900	19%	590,974 765	29%	989 270 670	34%	1,083,744 457	29%	1,265,250,459	[illegible]
Mortgages	348 162,979	21%	288,395 333	18%	275 195 222	14%	321,093,429	11%	390,066,918	10%	359 610 272	9%
Real Estate	6,503 331	0%	1,519 635	0.09%	12,191,341	0.6%	12,209,510	0%	18,843,516	1%	13 853 277	0.3%
TnT Equities	153,450,561	9%	151,110,493	9%	229,550,229	11%	318 376 964	11%	319,368,064	9%	362,504,155	[illegible]
Fixed Deposits	630,560 351	41%	570 950,923	35%	533 599 193	26%	477,063,035	17%	579,397,767	15%	601 067,931	15%
Other TnT Assets	247,169,717	15%	319,311,899	19%	362 761,139	19%	711,554,713	25%	1,141 800,105	[illegible]	1,110,400 878	28%
Total Local Assets	1,658,488,420	98%	1,639,534,182	99.6%	2,024,304,910	99.5%	2,828,773,621	98.6%	3,533,222 877	94.1%	3,712,872,976	92.5%
Foreign Government Securities	21,039,337	1.3%	4,890,011	0.3%	6,650,363	0.3%	14 190 451	0.5%	332 544	0.01%	2,741,068	0.1%
TnT Government Securities Denoted in Foreign Currency	-	-	-	-	-	-	22,953 620	0.8%	111 376,372	3%	99,174,743	2%
Other Foreign Securities	828,681	0%	2,287,607	0.1%	3,555,563	0.2%	1 912,755	0.1%	110,341 032	3%	201 507,203	5%
Total Foreign Assets	22,028 550	1.3%	7,177,618	0.4%	10,206 926	0.5%	39,073,026	1.4%	222 052,008	6%	302,513,020	8%
TOTAL ASSETS	1,680,514,870	100%	1,646,711,800	100%	2,034,511,836	100%	2,867,846,647	100%	3,755,274,885	100%	4,015,385,996	100%

Source: Supervisor of Insurance Annual Report

TABLE 2:
LIST OF PLANS WITH SURPLUSES IN EXCESS OF TT $10 MILL AS AT LAST VALUATION DATE

Plan	Valuation Date	Surplus
TnT Airways (BWIA International) Plan	31/12/89	109,000,000
Port Authority of TnT Pension Scheme and the TnT Port Contractors Ltd. Pension Fund Plan (With respect to daily and weekly paid workers)	31/12/89	34,800,000
National Insurance Board Pension Fund Plan	31/12/89	23,000,000
Alston Ltd. Pension Plan	31/12/90	28,969,700
Neal & Massy Group Pension Plan	31/3/90	79,025,000
Central Bank of Trinidad and Tobago Pension Scheme	31/12/90	26,327,000
Amoco Trinidad Oil Company Pension Plan	1/4/91	22,600,000
The Retirement Income and Life Plan for Aluminum Sprostons (Trinidad) Ltd.	1/1/92	14,160,000
Trinidad and Tobago Electricity Commission Pension Plan	31/12/89	45,000,000
Trinidad and Tobago External Telecommunications Co. Ltd Pension Fund Plan	31/12/90	43,100,000
The University of the West Indies (St. Augustine) Staff Pension Fund Plan	1/8/91	15,767,404
Caroni (1975) Ltd. Employees Pensio Scheme	31/12/90	21,079,000
Water and Sewerage Authority Daily Rated Employees Pension Fund Plan	31/12/87	12,747,000
Iron and Steel Co. of Trinidad and Tobago Pension Fund	1/5/89	12,043,000
The National Commercial Bank of Trinidad and Tobago Ltd. Pension Plan	31/12/92	39,761,000
Trinidad and Tobago Petroleum Co. Ltd. Staff Pension Plan	30/9/91	31,800,000
Bank of Nova Scotia (TnT) Ltd. Pensi Fund Plan	31/10/92	17,623,000
Industrial Development Corporation Pension Fund Plan	31/12/91	12,631,000

Source: Supervisor of Insurance Annual Reports

APPENDIX 2

(d) the bonds, debentures or other securities of, or those guaranteed by the International Bank of Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development or any other international financial institution approved by the Minister;

(e) guaranteed investment certificates issued by a trust company incorporated in any country listed in subparagraph (a) which at the date of vesting thereof in trust, complied with the requirements set out in subparagraph (f) in respect of the payment of dividends;

(f) the fully paid ordinary shares, preferred shares, bonds debentures or other evidence of indebtedness of a company incorporated in any country listed in subparagraph (a) which during a period of five years ending less than one year before the date of purchase thereof has either paid a dividend in each such year upon its ordinary shares or had earnings in each such year available for the payment of a dividend upon such shares, of at least four per cent of the average value at which the shares were carried in the capital stock account of the company during the year in which the dividend was paid or in which the company had earnings available for the payment of dividends, as the case may be;

(g) ordinary shares, preferred shares, bonds or debentures of a company incorporated in Trinidad and Tobago and approved by the Minister.

2. Mortgages and other titles for repayment of loans secured by—

(a) real estate or leaseholds for a term of years or other estate or interest in real estate in Trinidad and Tobago where the amount of the loan together with the amount of indebtedness under any mortgage or other charge on the real estate or interest therein ranking equally with or superior to the loan does not exceed seventy-five per cent of the value of the real estate or interest therein, subject to the exception that a company—

(i) may upon the sale of real estate in which its funds are invested, accept a mortgage or other title for repayment on such real estate, as part payment and secured thereon for more than seventy-five per cent of the sale price of such real estate; or

(ii) may invest in a mortgage or other title for repayment on real estate where the amount of indebtedness under any mortgage or other charge on such real estate or interest therein ranking equally with or superior to the loan does not exceed ninety per cent of the value of the real estate as long as that portion of the indebtedness in excess of seventy-five per cent of the value of the real estate is guaranteed by the National Housing Authority or by a company registered under this Act to carry on that class of insurance business;

(*b*) real estate or leaseholds in Trinidad and Tobago notwithstanding that the loan exceeded the amount which the company may otherwise invest in, if the excess is guaranteed or insured by the Government or through an agency of the Government of Trinidad and Tobago;

(*c*) ground rents, mortgages or hypothecs on real estate or leaseholds in Trinidad and Tobago or in the country in which the head office of the company is situated, where the amount of the mortgage or hypothec together with the amount of indebtedness under any mortgage or hypothec on the real estate or leasehold ranking equally with or superior to the mortgage or hypothec which is invested in does not exceed three-quarters of the value of the real estate or leasehold covered thereby.

3. Real estate or leaseholds—

(*a*) real estate or leaseholds in Trinidad and Tobago for the production of income either alone or jointly with any other company transacting insurance business in Trinidad and Tobago or with any other company incorporated in Trinidad and Tobago where—

(i) a lease of the real estate or leasehold is made to or guaranteed by the Government of Trinidad and Tobago or an agency of the Government or a municipality in Trinidad and Tobago and the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least eighty-five per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment.

(ii) the real estate or leasehold has produced in each of the three years immediately preceding the date of investing therein net revenue in an amount which, if received in each year following the date of investment, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least eighty-five per cent of that amount within the portion of the economic lifetime of the improvements to the real estate or leasehold which remain at the date of investment but not exceeding forty years from that date.

(*b*) real estate in Trinidad and Tobago required by the company for its actual use or occupation or reasonably required by it for the natural expansion of its business or acquired by it for the natural expansion of its business or acquire by foreclosure of a mortgage on real estate where the mortgage

is an investment under this Act, save that the total amount of investment in real estate either for the production of income or for the use and natural expansion of the business of the company shall not exceed—

(i) in the case of a company carrying on long-term insurance business, twenty per cent of the total value of assets required to satisfy the statutory fund requirement; or

(ii) in the case of a company carrying on general insurance business, such amount as may be approved by the Supervisor not exceeding the amount referred to in subparagraph (i).

(4) Cash balances deposited with—

(*a*) any bank in Trinidad and Tobago;

(*b*) any financial institution licensed under the Financial Institutions (Non-Banking) Act, 1979;

(*c*) any building society which may from time to time be approved by the Minister.

5. The total accepted value of the statutory fund assets of any company invested in ordinary shares shall not at any time exceed forty per cent of the accepted value of the total of such assets in Trinidad and Tobago of the company.

6. The total accepted value of the real estate or leaseholds invested in accordance with this Schedule shall not exceed—

(*a*) in respect of a company carrying on long-term insurance business twenty per cent of the total value or assets required to satisfy the statutory fund requirement for;

(*b*) in respect of a company carrying on other than long-term insurance business such amount as may be approved by the Supervisor.

7. No single mortgage included as an asset in the statutory fund of a company may exceed ten per cent of the total assets of the company.

8. A company shall not invest in trust bonds, debentures or other evidence of indebtedness on which payment of principal or interest is in default.

9. A company shall not purchase more than thirty per cent of the ordinary shares of any corporation.

10. A company registered to carry on life insurance business shall not, in respect of that business, purchase the shares of a company, incorporated in Trinidad and Tobago and carrying on such business.

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