March 6, 1986

To Our Clients:

Director and Officer Liability Insurance

Effective liability insurance coverage for directors and officers is becoming very difficult for public companies to obtain, and even when available its cost is usually very high.

Current D&O policies do not properly address the areas where coverage is most needed. For example, D&O policies being offered today do not adequately insure against liabilities arising from directors' and officers' activities in response to tender offers and other attempts to take over a company. Also, many policies no longer indemnify directors or officers personally but only indemnify the company in the event that the company pays an indemnity to a director or officer. These limitations on the scope of coverage, along with high deductibles and low limits of liability, have undermined meaningful D&O insurance coverage.

We believe that in some states companies could achieve reasonable limitation of director and officer liability exposure through contract. However, this is an untried area and subject to question and litigation. Therefore, we recommend that companies undertake to deal with the problem by seeking the enactment of new legislation. A suggested form of legislation is attached. This legislation would supplement existing statutory provisions on indemnification and insurance. The basic scope of the proposed legislation is to limit director and officer liability to an amount which is significant, yet would not threaten them with catastrophic loss for their actions.

Pending the enactment of corrective legislation, we recommend that companies carefully examine their by-law provisions relating to indemnification. The by-laws should be drafted to provide for indemnification to the fullest extent permitted by the state statute. Also, in order to protect directors and officers in the event of a change of control, the by-laws should provide that the indemnification continues in effect for ten years following the termination of the director's or officer's relationship with the company.

M. Lipton
I. Reich

Proposed Legislation Regarding the Scope of Liability of Directors, Officers and Employees of Public Corporations

I. Introduction and Purpose

Public corporations are today faced with a liability insurance crisis. The rising tide of litigation against directors, officers and employees of public corporations has led to dramatically higher liability insurance rates and significantly greater limitations on coverage. Small corporations have an even greater problem than large corporations. In many instances, no coverage can be obtained.

In the absence of adequate coverage, a real risk is created that a director or officer can be held personally liable for millions of dollars in damages, even where he has acted entirely in good faith. As a result, public corporations are finding it increasingly difficult to attract and retain qualified and experienced individuals to serve in those capacities. In several instances, individuals have either resigned existing positions or refused to accept new positions rather than serve without adequate liability insurance coverage.

The purpose of the proposed legislation is to create a logical framework for the determination of personal liability for those persons serving public corporations. It is only through a framework where the potential liability is commensurate with the benefits received from service to the corporation that public corporations will continue to be able to attract and retain well-qualified individuals.

A wide range of constituencies suffer when public corporations cannot attract and retain the best people to serve as directors, officers and employees. It is not just stockholders and the public securities markets that suffer when less qualified and less experienced individuals are responsible for the operation of public corporations. Without qualified leadership, the welfare of the thousands of employees, suppliers and customers of those corporations, as well as the communities in which they work and live, may be jeopardized.

The proposed legislation would allow for sufficiently high potential awards to encourage the commencement of suits to redress real breaches of duty. On the other hand, it should have the effect of reducing the amount and frequency of frivolous suits. The current proliferation of frivolous suits has contributed to the increase in liability insurance rates and the greater limitations on coverage. The reduction in the number of frivolous suits will moderate the costs of defending litigation in this context and thereby moderate liability insurance rates.

The proposed legislation is comparable to the limitation on liability for certain violations of the federal securities laws proposed by the American Law Institute. The Institute's proposed Federal Securities Code also adopts a $100,000 limitation. It states, "there must be some maximum [on the amount recoverable for civil violations] .... [However, unless] the potential liability is high enough to attract able lawyers who are willing to undertake class actions on a contingency basis, there may not be any practical enforcement .... The answer suggested is basically an arbitrary maximum of $100,000 per individual defendant...." Comments to §1708(c), ALI Federal Securities Code, 1980, at pp. 731-2.

II. Proposed Legislation

The proposed legislation would limit civil liabilities of directors, officers and employees of public corporations arising out of the performance or non-performance of their duties to the corporation, to an amount equal to the "actual benefit received" by such person or $100,000, whichever is greater.

"Actual benefit received" is defined to mean the direct or indirect monetary benefit received by such person in either a transaction between the corporation and such person, if the performance or non-performance arose out of that transaction or a transaction in which such person misappropriated a corporate benefit or opportunity. Thus, if a covered person engages in an improper transaction with the corporation and receives a benefit of $2,000,000, the limit on recovery is $2,000,000, not $100,000.

If the breach of duty did not relate to a transaction in which a person received a benefit, the "actual benefit received" by such person would be determined by reference to the compensation received by such person from the corporation during the twelve months immediately prior to the transaction in question. With respect to a non-officer director, such amount is deemed to be three times the amount of his fees received from the corporation as a director during that period. With respect to an officer or other employee of the corporation, such amount is deemed to be the total compensation earned by such person through his employment during that period.

The proposed legislation would not apply to litigation related to criminal violations or suits for personal injury or wrongful death. The proposed limitation on liability would not apply to any claims or causes of action relating to the performance or non-performance of duties to the corporation for which the person sued has been convicted of a criminal offense (other than a traffic violation or similar offense) for which the time for appeal has expired or an appeal has been taken and the conviction has been affirmed or upheld. Similarly, the proposed limitation on liability also would not apply to actions, suits or proceedings seeking recovery of monetary damages for personal injury or wrongful death.

The proposed legislation would not limit a corporation's liability to third parties nor would it limit the liability of any person not a director, officer or employee who has acted in concert with, or benefited from, a breach of duty by a director, officer or employee.

The proposed legislation would add a new section to the state's corporation law. It would be applicable only to domestic corporations. It would not affect any right to indemnification or insurance already contained in the corporation law. It would not create any additional right to bring a cause of action, affect actions commenced prior to its effective date or diminish any existing causes of action. Furthermore, it would not limit the liability of any person under any applicable federal statute.

III. Text of Proposed Legislation

"§___. Limitation of Liability.

(a) No director, officer or employee of a corporation that is subject to the registration or reporting requirements of Section 12 or Section 15(d) of the Exchange Act, shall be held liable in any civil action, suit or proceeding by or in the right of the corporation or otherwise on behalf of the stockholders of the corporation, for money damages for the performance or non-performance of such person's duties to the corporation, in an amount exceeding the greater of (1) the actual benefit received by such person or (2) $100,000.

(b) For purposes of this section, the following terms shall have the following meanings:

(1) "actual benefit received" means either:

(A) the direct or indirect monetary benefit received by such director, officer or employee in a transaction (i) between such person and the corporation in connection with which the performance or non-performance of such person's duties shall have occurred or (ii) in which such person shall have misappropriated a benefit or opportunity of the corporation; or

(B) in instances where the performance or non-performance shall not have occurred in connection with a transaction set forth in subparagraph (b)(1)(A) above:

(i) if such person was a director, but not an officer, at the time the performance or non-performance shall have occurred, an amount equal to three times the fees received from the corporation by such director, as a director, during the twelve months immediately preceding the transaction in connection with which the performance or non-performance shall have occurred, or

(ii) if such person was an officer or employee at the time the performance or non-performance shall have occurred, an amount equal to the total compensation earned by such officer or employee with respect to his employment with the corporation during the twelve months immediately preceding the transaction in connection with which the performance or non-performance shall have occurred.

(2) "Exchange Act" means the Act of Congress known as the Securities Exchange Act of 1934, as the same has been or hereafter may be amended from time to time, or any successor legislation thereto.

(3) "corporation" includes its subsidiaries and affiliated entities.

(c) The provisions of this section shall not apply to any claim or cause of action

(1) with respect to any performance or non-performance for which a director, officer or employee has been convicted by a court of competent jurisdiction in a criminal action, suit or proceeding (other than a conviction for a traffic violation or similar offense) under the applicable penal laws of any state, federal or local jurisdiction and for which the time for appeal has expired or an appeal has been taken and the conviction affirmed or upheld; or

(2) seeking recovery for personal injury or wrongful death.

(d) Nothing contained in this section shall affect any rights to indemnification or insurance contained elsewhere [in the corporation law].

(e) Nothing contained in this section shall be construed to create a new cause of action, diminish an existing cause of action or affect or limit the liability of any person other than a director, officer or employee.

(f) Nothing contained in this section shall limit the liability of any person under any applicable laws of the United States of America.

(g) This section shall be effective only with respect to actions, suits or proceedings commenced after __________, 1986."

U. S. Securities and Exchange Commission
Washington, D.C. 20549 (202) 272-2650

News Release

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"POISON PILLS" CAN DECREASE STOCKS' MARKET VALUE, ACCORDING TO SEC ECONOMIST

Washington, Monday, March 10 -- "Poison pills" -- defensive tactics adopted by companies concerned about takeovers -- can decrease market value if companies are the subject of takeover speculation, according to a study released today by the Office of the Chief Economist of the Securities and Exchange Commission.

The study was based on 37 firms who have adopted four different kinds of "poison pills" since 1983. Original poison pills, such as the one adopted by the Lenox Company, gave holders of common stock a dividend of preferred stock convertible into common stock. The shares were redeemable for cash if an outside party acquired the company. "Flip-over" plans give shareholders the right to acquire common stock at below market-value prices. "Back-end" plans generally give shareholders the right to tender common stock for a package of securities with a higher market value than the common stock. And "voting plans" generally give dividends of preferred stock with more voting rights than normal preferred or common stock to holders of common stock. All are designed to help ward off unwanted takeovers by making them prohibitively expensive.

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Commission economists studied stock-market reaction to poison pills for the two days following announcement of them. Overall, market prices declined by 0.93 percent -- not a statistically significant figure. However, five companies in the sample experienced other, significant events during the two days (generally announcement of a higher bid). Excluding those companies from the sample, the market price decline is 1.42 percent, a significant amount. Further analysis done by the economists also showed that twelve of the firms in the sample were not the subject of takeover speculation. Removing those firms from the sample, and computing market reaction to announcement of poison pills by companies that were the subject of takeover speculation, showed that average net-of-market stock prices fell by 2.39 percent -- a very significant amount.

The economists concluded that adoption of poison pills by companies subject to takeover speculation decreases stock prices. However, they also caution that this evidence is not a sufficient basis on which to "judge right and wrong in a public policy context."

# # #

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A Study

by

The Office of the Chief Economist
Securities and Exchange Commission
450 5th Street, N.W.
Washington, D.C. 20549

March 5, 1986

The Economics of Poison Pills

The views expressed herein are those of the Office of the Chief Economist only. The Commission has expressed no view on this study.

THE ECONOMICS OF POISON PILLS

PERSONS TO
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INTRODUCTION

One of the most popular recent innovations in takeover defenses has been the so called "poison pill" defense. Although the form and potency of "poison pill" defenses have varied, they have all been designed to deter non-negotiated takeovers. Many experts have reacted with alarm, declaring the poison invincible. This view implies that the unilateral creation of a poison pill by a board could lead to managerial entrenchment that harms shareholders. Other experts (including its inventors) downplay the pill's deterence effect, noting that negotiated "white-knight" deals are the usual outcome of these hostile battles. They also point out that hostile suitors can still use open market purchases to end-run some pills, and proxy fights or conditional tender offers are available to counter other pills.

This release offers a more thorough investigation of poision pills. We find that although all pills have not been invincible, their adoption has not been well received by the capital markets. Announcements of poison pill plans in the midst of takeover speculation have resulted in on average 2.4 percent net of market price declines for firms adopting the plans. The stock-returns evidence suggests that the effect of poison pills to deter prospective hostile takeover bids outweighs the beneficial effects that come from increased bargaining leverage of the target management.

This empirical evidence will be reviewed in Section III. First, however, a description of the four different generations of poison pill plans that have evolved since June of 1983 is given in Section I. Section II gives a brief analysis of the economics of the most popular and most recently employed plans and suggests what might be learned from an examination of stock returns upon the announcement of such plans. After presenting the evidence in Section III, we present our conclusions in Section IV.

Section I: Poison Plan Plans Described

Poison Pill plans have gotten their names because it has been asserted that if a particular shareholder of a firm takes a particular set of actions (e.g. merging a firms assets, crossing a particular shareholding limit, etc. . .), the economic repurcussions will be so severe that it will be as if the shareholder has swallowed a "poison pill." Depending upon the plan, the shareholder may be forced to forego distributions of firm assets that are available to other shareholders, to sell marketable securities to other shareholders at prices well below true market value, or be given lesser voting rights on his or her shares than other shareholders if he or she takes the above mentioned actions. Management claims that such plans are created so as to maximize their bargaining power with large shareholders who they say are trying to acquire the firm's assets at prices below true value via such allegedly coercive tactics as two-tier tender offers that put small shareholders in a prisoner's dilema situation. Critics say that management is merely attempting to entrench themselves in their positions via unilateral adoption of poison pill plans. Below is a summary of plans that have been dubbed poison pill plans.

A. ORIGINAL PLANS

The original plans first introduced by Lenox in June of 1983 essentially resembled fair price amendments. In these plans a pro-rata dividend of preferred stock convertible into common stock was issued to shareholders. The holders were entitled to redeem the share for cash if an outside party acquired a substantial holding (for instance 40 percent) with the redemption price being the highest price that party paid for the firm's common or preferred in the preceeding year. In the event of a merger, preferred holders could convert the preferred into voting securities of the acquirer with value at least equal to the highest price paid by the acquirer for common or preferred shares in the preceeding years.

Note that two-tier tender offers are possible by buying the bulk of the preferred and half the common. The remaining common could then be "frozen out." Since few formal merger offers are explicit two-tier offers,[1/] these plans were not terribly restrictive. No such plan has been installed since 1983. This may be because three of four firms that employed them were eventually taken over.

B. FLIPOVER PLANS

Flipover plans generally issue a right to shareholders to acquire one share of common at an exercise price far below market value. The rights are evidenced by the stock certificates of the firm. Typically, they cannot be exercised, but can be redeemed by the firm, until 20 percent of the firm is acquired by an outside party or until an outside party makes a tender offer for at least 30 percent of the firm's shares. At this time the pill is triggered and redemption is no longer possible. If a merger or substantial sale of assets should occur, then the rights can be presented to the acquiring party and the holder can purchase a fixed dollar amount of the securities of the acquiring

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1/ See Office of Chief Economist (1985).

firm at a price far below (usually half) the market price. The rights may also become exercised on favorable terms if a large shareholder engages in "self dealing" as defined in the rights agreement. In this case the large shareholder's rights become void and he suffers substantial dilution.

Despite these plans, a hostile bidder can acquire control of a firm with a creeping acquisition strategy as did Sir James Goldsmith in taking control of Crown Zellerbach. Depending upon the plan, however, the options available to the acquirer may be significantly constrained.[2/] A merger can still be forced if a substantial number of the rights are acquired. Given the potential value of the rights, however, it may be difficult, if not impossible, to get shareholders to tender their rights at an affordable price.[3/] Assuming 90 percent of the rights are acquired, however, for our sample of flipover plans we estimate that the bidder would have to pay premiums of between 18 and 36 percent of the targets market value to accomodate the exercise of the remaining 10 percent of the rights. This is a serious deterrent.

2/ Goldsmith acquired over 50 percent of Crown Zellerbach's shares open market and took control of the board of directors. He was able to negotiate the sale of most of Zellerbach's assets, because the Zellerbach plan did not prohibit such sales. Subsequent plans have not allowed such sales.

3/ See Bradley (1981) for a discussion of the free rider problem in tender offers.

C. BACK END PLANS

Back end plans typically give shareholders a right to tender their common shares for a package of securities in excess of the current market value of the target's common stock, if a shareholder exceeds a certain shareholding limit (30 to 50 percent). These premiums range from 15.7 to 358.3 percent with a median value of 33.3 percent for the 10 firms surveyed here.[4/] In these situations the large shareholder is not allowed to tender his shares. In some plans, the holders may not need to tender their shares but may execise rights that allow them to receive the stipulated back end price less the average price paid for the firm's securities by the large shareholder. Plans may also be triggered at lower percentage holdings if there is a change in board composition.

These plans make it virtually impossible for a bidder to acquire a firm at less than the stipulated price that management has set. Since this price is often 30 percent above a current market price that already incorporates a potential control premium, hostile takeovers are often impossible. These plans are more restrictive than flipovers because they do not allow a creeping acquisition strategy such as the one employed by James Goldsmith. If triggered, they result in a situation analagous to the discriminatory offer that forced T. Boone Pickens to give up his pursuit of Unocal.

4/ Premiums are calculated by dividing the back end price by the market price the day of pill adoption and subtracting one.

D. VOTING PLANS

Voting plans generally begin with the issuance of a pro-rata dividend of preferred stock with superior voting rights to current holders of common stock. If a substantial shareholder should cross a specified level, the votes associated with his preferred holdings are considerably lower vis-a-vis the votes of other shareholders. Since votes are required in proxy contests and merger approvals, this is a potent weapon. Due to its discriminatory nature, however, two of three such plans have been ruled illegal by the courts.

Section II: The Economics of the Pill

Due to problems of legality and effectiveness, the original poison pill [illegible] and the voting plans have been rare of late and may well be [illegible]. This leaves the flipover and back-end plans. These plans can stop an acquirer with alarmingly high probability if they [illegible] written stringently enough and if attention is paid to closing [illegible] potential loopholes.[5]

While fli[illegible] are subject to creeping acquisition takeovers, provis[illegible] low all shareholders, but the large blockholder, to ex[illegible] rights upon changes in board

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5/ See Corporate [illegible] rt (December 1985) for a description of how Newell [illegible] the Wm. Wright back-end plan due to an unforseen l[illegible] the plan.

composition, asset sales, etc. . . . may serve to turn these plans into back-end plans with less sensitive triggers. Of course, accumulation of shares may be futile if any effective action is ruled out by the pills provisions.

The key to the restrictiveness of these plans is to set the back-end prices high enough so that:

(a) No acquiror can afford to allow exercise to occur.

(b) No shareholder would be willing to tender his or her rights or shares at a "reasonable price," because holding out for the back-end is too lucrative.

Of course, delaying a potential bid may have its benefits. Management may be able to cut a better deal for shareholders than shareholders can get for themselves. The pill allows them time to seek out white knights or put together a higher bid themselves. Of course, management could just tell shareholders not to tender until management has an opportunity to shop for higher bids. If shareholders agree that they can get a better price, they will not tender. If they disagree, they can get what they perceive to be the best price possible - the tender price. Some might object that shareholders will [illegible] by partial tender offers or explicit two-tier tender [illegible]. The threat of such coercion may be blunted, however, by [illegible] of fair price amendments that are put to shareholder [illegible]. It would seem that poison pills, especially back-end plans, [illegible] well beyond protecting against two-tier tender offers.

Nevertheless, the question of whether poison pill defenses aid or harm shareholders can be empirically addressed. Introduction of pills that are designed to entrench management should result in stock price declines. If poison pill plans help management negotiate better deals for shareholders then prices should go up upon the announcement of such plans.

Section III. Empirical Evidence on Poison Pills

As of December 31, 1985, the Office of the Chief Economist had collected a sample of 37 firms that had introduced poison pill amendments. To the best of our knowledge, this sample is an exhaustive collection of all poison pill plans introduced as of the above date. Table 2 gives a summary of the plans introduced on a firm by firm basis. For each firm, a summary of pertinent facts about the plan and about subsequent events involving the firm is given.

Note that of the 37 firms listed, 10 have experienced a change in control and another, Amsted, has proposed a leveraged buyout. Of these ten, five negotiated takeover bidding while the plan was in effect (Revlon, Cluett Peabody, Great Lakes, International, Lenox, and Enstar), two experienced change of control via creeping acquisitions (Crown Zellerbach and William Wright), two were acquired after their plans were ruled discriminatory and therefore illegal (AMF and Richardson Vicks) and finally Superior

Oil was acquired some time after it withdrew its pill due to a threatened lawsuit and proxy fight by its largest holder Howard Keck. Four of the five mergers negotiated under the plan involved the redemption of the rights specified under the pill plan. Ironically, the Enstar plan was circumvented in facilitating a friendly two-tier bid in which the blended premium fell below a hostile competitive bid. The other takeover negotiated under the plan was Itel's acquisition of Great Lakes International. In this case, there was no need for pill redemption since Itel met Great Lakes International's specified back-end price.

Thus, it would seem that to date, the poison pill has aided management in negotiating higher bids in four cases. On the other hand the pill seems to have lent a definite helping hand in defeating bids for Phillips Petroleum, Unocal, and Michigan National.[6/] It may well have detered other acquisition plans, such as John Moran's proposed leveraged buyout of Household International.

So, there appears to be evidence of harm and benefit, but we are interested in the cost-benefit of the typical poison pill proposal.

6/ Phillips defeated Carl Icahn's bid wiht the aid of a back-end plan. Comerica dropped acquisition plans for Michigan National on announcement of their back-end plan. Unocal rid itself of T. Boone Pickens by effectively triggering their pill at a lower level of shareholdings than previously proposed. Their discriminatory self tender led Pickens to give up his pursuit of the firm.

Table 1 presents the average net-of-market stock return in the two-day period around public anouncement of these poison pills. Ideally, the stock return summarizes the market's view of the net effect of the pill -- balancing for the typical case the possible benefits from the target management's added negotiating leverage against the potential costs of "entrenched" management preventing lucrative buy-outs. In practice, the stock returns are impure because these pills are usually instituted during hostile control bottles, during which time target stock returns become unusually volative. This forces us to use a relatively short two-day "event window" to measure the effects on stock price-larger windows would admit many other important events that mask the independent effects of the pill. Aggregation over a large sample would eliminate most of the remaining irrelevant, case-specific aberrations in returns. Because our sample of 37 cases is relatively small, aggregation is imperfect.

As Table 1 shows, the two-day, net-of-market stock return averaged over all 37 firms is negative 0.93 percent. This negative effect is not statistically significant. But, this sample contains five cases with confounding events (usually bid increases) that occured during the two-day window. Notice that Bell & Howell, Revlon, and City Federal Financial in Table 2 each have positive net-of market returns between three and seven percent. Excluding

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these five unusual cases leaves 32 poison pills, with an average net-of-market return of negative 1.42 percent (Table 1, second line). This result is statistically significant at the 95 percent confidence level.

Our research reveals that twelve poison pills were initiated by firms that were not the subject of serious takeover speculation. We conjecture that these cases may induce smaller effects on stock price because there should be a lower "expected" control premium built into their stock prices. Additionally, anouncement of a pill plan in these cases may be "good news" in the sense that it may indicate that the firm is or soon will be an acquisition target. Excluding these twelve "non-targets" and the five cases having confounding events leaves 20 poison pills for firms subject to significant takeover speculation. For these 20 firms, the average net-of-market stock return is negative 2.39 percent. This result is highly significant.

The twelve non-targets have an average net-of-market stock return of .10 percent. This result is not significantly different from zero.

Interestingly, of the four firms that used the pill to solicit and accept the highest bid possible, Great Lakes International, Lenox, Cluett Peabody and Revlon, the average net-of-market return was a positive 1.69 percent. Of the four who have seemingly used the pill to kill bids, Michigan National, Unocal, Phillips Petroleum, and Household International, the average net of market return was a negative 4.06 percent. While the sample sizes are certainly scant, the evidence suggests that the market has some discriminatory power in ascertaining which pills will be used in a more abusive fashion than others.

Section IV. Summary and Conclusions

In sum, the narrow two-day event window reveals that the market considers the typical poison pill to be significantly harmful to shareholder welfare when takeover speculation is present. The most damaging cases according to our methodology appear to be Michigan National, Superior Oil, Southwest Forests, Owens Illinois, Enstar, and Unocal. The average net-of-market return is about negative 2.4 percent, which is statistically significant. This result is strong enought to reject the argument that poison pills typically benefit target shareholders. The magnitude of the negative effect, however, is inconsistent with viewing poison pills as guaranteeing a target firm's independence. In fact, many of these 37 targets have been acquired. The market reaction suggests it expects target boards will be reluctant to use the "invincible" poison pill as an absolute defense, or the market expects determined bidders or the courts to defeat some of these pills.

What future course the evolution of the poison pill plans will take should be an item of great interest to those involved in the area of corporate control. This will in large part be determined by the response of state legislatures such as Delaware and by the response of state and federal courts. Currently, the increased use of restrictive flipover plans and discriminatory back-end plans seems to auger the oncoming of tougher pill plans. If this trend continues, but it would seem that such plans may run into eventual resistance via the proxy mechanism. If this is to be the case, proxy fights will have to be led by those with shareholdings of less than 20 percent to avoid triggering certain undersirable aspects of rights plans. This may be possible if third parties can create dissatisfaction amongst shareholders by making tender offers conditional on pill redemption. If shareholders feel that management has cost them hefty premiums by foregoing hostile tender offers, management may find itself foregone by angry shareholders.

Finally, a simple glance at target returns upon announcement of poison pill plans is not sufficient to judge right and wrong in a public policy context. Even if poison pills are used to elicit higher bids from an acquiror, this may not be desirable from an economic efficiency or fairness perspective. If acquirors are to realize returns on the information they generate,

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they must be able to make some profit (capital gain) on the shares of a corporation they acquire. The introduction of poison pill rights plans may make this more difficult for acquirors. Fears that such plans will be "sprung" on acquirors may make investment in valuable takeover information less attractive then is socially optional. In addition to this being economically inefficient, to many the expropriation of property rights to information may also seem unfair. We submit, of course, that fairness is in the eye of the beholder.

Table 1

Net-of-Market Stock Returns over Day of and Day Before the Wall Street Journal Announcement of Poison Pill Adoption

Sample Description	Average Two-Day Net-of-Market Stock Return 1/	t-test of Statistical Significance
All 37 firms	- 0.93%	-1.78
32 firms having no confounding 2/ events.	- 1.46%	-2.87
25 firms subject to 3/ takeover speculation.	- 1.42%	-2.00
20 firms subject to takeover speculation having no confounding events.	- 2.39%	-3.60
12 firms with no takeover speculation.	.10%	.18

1/ 2 day return calculated by subtracting 2 day return on NYSE composite index from 2 day announcement return of firm.

2/ Confounding event defined as one if the following occuring during announcement window:

(a) Potential acquirer/bidder has made or increased bid (Revlon, Phillips);

(b) potential acquirer's appearance noted (Jerr[illegible], [illegible]l & Howell); and

(c) potential acquirer has significantly incr[illegible] (City Fed. Financial).

3/ Takeover specul[illegible]fined as:

(a) Pot[illegible] actual bidder publicly note[illegible] of announcement; and/or

(b) take[illegible]rs accompanied by a price run-[illegible] net of market in two month[illegible] to announcement.

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Table 2
Poison Pill Sample

Firm	WSJ Date	Two-Day Two-Day Net-of-Market Stock Return (%)	Takeover Speculation Present	Confounding Event	Original Plans	Flip-Over Plans	Back End Plans	Voting Plans	Firm no Longer Independent	Pill Ruled Illegal on Withdraw
Lenox	6/16/83	-2.84	x		x				x	x (w)
Bell & Howell	7/18/83	7.14	x	x	x					
Enstar	8/16/83	-4.20	x		x				x	x (w)
Superior Oil	11/25/83	-6.10	x		x				x	x (w)
Household International	8/15/84	-2.00				x				
Colgate Palmolive	10/15/84	-2.73	x			x				
Crown Zellerbach	7/20/84	1.19				x			x	
Owens Illinois	9/12/84	-4.86	x			x				
General Host	2/21/85	-1.83				x				
Interco	9/25/85	-3.40				x				
RCA	9/10/85	0.39				x			x	x (w)
Johnson Controls	11/19/84	-2.04	x			x				
Southwest Forests	10/23/84	-4.47	x			x				
Tandem Computers	5/20/85	2.93				x				
Rorer Group	2/8/85	-2.77	x			x				
Morton Thiokol	3/29/85	2.69								

Table 2 (cont'd)

Poison Pill Sample

Firm	WSJ Date	Two-Day Two-Day Net-of-Market Stock Return (%)	Takeover Speculation Present	Confounding Event	Original Plans	Flip-Over Plans	Back End Plans	Voting Plans	NLIO	RIOW
Amsted	5/31/85	0.30	x			x			x*	
Dart & Kraft	9/6/85	0.99				x				
McDonald	9/16/85	-0.23				x				
Wainaco Oil	2/22/85	2.56	x			x				
Cluett Peabody	8/16/85	3.33	x				x		x	x (w)
Great Lakes International	5/24/85	1.49	x				x		x	
Revlon	8/20/85	3.10	x	x			x		x	x (w)
Phillips	2/8/85	-0.56	x	x			x			
Unocal	4/17/85	-4.65	x				x			
AMF	5/10/85	-1.41	x				x		x	x (I)
William Wright	9/24/85	-1.95	x				x		x	
Jerrico	10/22/85	-0.47	x	x			x			
Michigan National	7/11/85	-9.03	x				x			
Asarco	4/9/85	-2.77	x					x		x (I)
City Fed. Financial	7/22/85	2.97	x	x				x		
Richardson-Vicks	7/18/85	-3.64	x					x	x	x (I)

C00945

Poison Pill Sample

Firm	WSJ Date	Two-Day Two-Day Net-of-Market Stock Return (%)	Takeover Speculation Present	Confounding Event	Original Plans	Flip-Over Plans	Back End Plans	NLIO	RIOW
Green Tree Acceptance	10/11/85	0.45	x			x			
Eaton Corp.	9/30/85	0.361				x			
Bard, C.R.	10/10/85	-1.22				x			
Schering Plough	11/12/85	1.32				x			
UNC Resources	10/30/85	-2.46	x				x		

*Amstead has preliminarily proposed a leveraged buyout.