

# Eliminating Benefit Discrepancies with Overseas Employees

By Vernon W. Holleman, III

## INTRODUCTION

My single digit age children have a tendency to ask: “why does he/she get that?” You know what’s next, of course – “that’s not fair!” Professional firms with a global scope face the same issue when offering life and disability insurance benefit programs to those overseas that do not match the U.S. domestic plans in amounts, quality, or terms and conditions. This article attempts to examine the challenge of insuring international employees with coverage comparable to their U.S. counterparts, as well as ensuring that the coverage for employees overseas takes into consideration local rules, regulations, and tax laws required of insurers doing business there; and how to best deliver solutions to both issues.

## THE RISK

Although the world has come a long way in treating disabilities and longevity (life expectancy) has increased, these risks are both still both very real (disability), and, despite modern medicine, still certain (death).

In terms of disability the odds of an illness or accident that keeps one out of work for three months or longer

are still very real. Three out of every ten employees between the ages of 25-65 will have an accident or illness that keeps them out of work for more than three months. In a group of twenty executives with an average age of 45, one has a 97% chance of becoming disabled for at least one year.

In terms of mortality, there seems to be a perception that we, as a people, are all living to age 100 and beyond and only the very unfortunate few do not make it that far. Perhaps this is human nature or wishful thinking – or both. However, the truth of the matter is that life expectancy, from birth, for U.S. Citizens is currently 77.8 years. Women continue to outlive men, by five years (80 years of age to 75). So, approximately one percent of males and three percent of females, respectively, survive to age 100. This simply means that adequate life insurance is important and reviewing coverage amounts and purposes with regularity is the cornerstone of any financial plan. This certainly has been highlighted under the recent economic turmoil. In more challenging economic times like those now, these issues do come more into focus for people, i.e. they see colleagues and neighbors out of work or struggling, disabilities



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can rise due to stress and anxiety, and life insurance needs become more obvious.

As the business world has globalized, professionals have become more specialized and focused in their work. At the same time, the pace of change has accelerated. Professionals, whether prudent or not, continue to rely on their employer’s (or spouse’s employer) benefit programs to provide the core baseline coverage for medical, life, disability, etc. This puts more pressure on global benefits teams to be forward-thinking and provide programs that, whether paid for by the company or offered on a voluntary employee paid basis, allow

employee professionals the comfort and peace of mind that appropriate insurance options have been considered and the very best quality and equity levels have been achieved. This is particularly germane in today's market because many employees do not have the time (or the inclination) or skills for in-depth planning on their own. The recent economic turmoil and stock market performance have also enhanced the concern about the ability to save for retirement and achieve lifetime income, which, again, has resulted in an elevation of disability and life insurance as key elements of an income and asset protection strategy. It is not lost on even the fastest moving executives what the impact of a death or disability during the last year would have meant for their family's financial security.

As stated, people are more acutely aware of financial risks today. A thirty to forty percent drop in their asset values (homes, investments, etc.) and double digit unemployment has gotten people's attention. Clarity is being sought on current levels of protection, as well as ways to be able to retire in the manner that they always envisioned. This is a time when knowing exactly what protections are in place is paramount. It can no longer be taken for granted. Since so many basic benefits, like life and disability insurance, are provided (or acquired) through the employer, employees are re-examining benefit levels and the specifics of their coverage through the workplace, as well as the contracts and carriers behind them. Benefits Managers and HR teams are receiving more calls and inquiries—at a time when many have been mandated to trim costs. This is an ideal time to examine both the legitimacy and equitability of coverage on employees outside the United States – workers abroad must

know the coverage will be there in the event of a claim and expect the same level or quality of coverage as their US counterparts.

## PROBLEMS

The fundamental problem for insuring income of international employees is that US companies often find it difficult to acquire adequate protection for their professionals. One reason stems simply from domestic carriers wanting to limit risk. Insurance carriers either do not truly understand the complexities of risk in many foreign countries, or they are concerned about not being an admitted insurer in those countries. Further, many major US carriers will not include international employees in a company's US Group LTD (Long-Term Disability) or Group Life Insurance plan. Further, the contractual language, such as definition of disability and other contractual terms can be severely limited. There can also be currency, language, and cultural barriers as well.

That said, in limited cases, US carriers will accommodate, albeit reluctantly, and include international employees in the life or disability benefit plans. This can, however, lead to unanticipated regulatory, legal, or tax problems in the foreign country at claim time for the employer and employees (expatriates, local nationals). Employers may be tempted by this, but they should fully understand the risks. First, this coverage is granted with a "buyer beware" disclosure that intentionally leaves the risks intentionally vague, ill defined, or nebulous. It is the full responsibility of the employer and employee to ensure claims are honored. This is the chief reason for disparate plans and unequal benefits for international professionals, which often do not go unnoticed by those receiving less. It

is important that Benefits Managers do not assume a problem has been solved, or have a false sense of security, if coverage is extended to international employees—there can be trap doors!

When it comes to supplemental individual disability coverage, most US carriers will not write individual coverage outside the US, or if they do, it is only offered in a small handful of western European countries (e.g. UK). This leaves foreign executives of US companies to rely on the group long term disability (if they even have that), which may have inadequate plan maximums and/or guarantee issue limits that do not meet the desired benefit level, i.e. medical underwriting is required to obtain adequate levels of coverage.

In the US marketplace, employers can obtain "volume" discounts from carriers based on acquiring multiple coverage types or the number of employee lives being insured. In addition, discounts can be created when a broker has buying power leverage in the market through buying consortiums or other economies of scale. Historically, this has not been possible in the international marketplace.

## GLOBAL BENEFITS TERMINOLOGY

Before continuing, we should address some terminology critical to understanding the international benefits insurance arena.

### Local Country National

An individual who both resides and works in their country of residence.

### Expatriate

An individual working in a country in which they are not a resident.

### Admitted Carrier

An insurer admitted by the appropriate country's regulatory authorities to issue business in a country or jurisdiction.

### **Non-Admitted Carrier**

An insurer not admitted by the appropriate country's regulatory authorities to issue business in a country or jurisdiction.

### **“Offshore” Carriers**

Insurers located in a domicile not party to the World Trade Organization. Typical domiciles include Bermuda, the Bahamas, Dublin, Ireland, and Guernsey (in the English Channel off the coast of Normandy). By virtue of their location, these insurance companies are not party to commercial treaties that exist between many trading countries. This type of non-admitted carrier has been an insurance standard for decades.

The majority of countries in the world do not require that life and disability insurance be sold on an “admitted” basis. In fact, there are virtually no countries that require “admitted” insurance for life and -disability coverage sold to non-Local Country Nationals. Thus, even in a highly regulated country such as the U.S., insurance can be sold to an individual domiciled outside the U.S. by a non-U.S. admitted insurer even if that individual will be working in the U.S. Thus, the focus of issues surrounding admitted and non-admitted insurers is the Local Country National.

### **Gray Market**

The lack of clarity in regulations dealing with admitted and non-admitted carriers has led to a situation called the “Gray Market.” That is, the regulations are so unclear that non-admitted carriers continue to issue business in certain countries because there has been no specific case law or regulatory ruling that prohibits the sale of non-admitted insurance to Local Country Nationals.

### **Admitted vs. Non-Admitted Carriers**

Two important factors for U.S. companies to consider when selecting the carrier insuring their employees overseas are:

- Does the country (countries) involved have specific legislation that prohibits non-admitted carriers from issuing coverage to Local Country Nationals?
- Are Local Country Nationals being insured?

Some of the regulations are quite unclear and, thus, utilization of a non-admitted carrier has been an acceptable risk to insurers and employers over the years. It is critical that the advisor making plan recommendations is familiar with the various country regulations so that the optimal plan design (including carrier selection) can be achieved.

### **COMMON OPTIONS**

Multi-National insurance options are commonly the alternative to U. S. based disability protection programs. These are loosely affiliated insurance companies cobbled together in an attempt to create a series of local solutions. This approach is called “Multinational Pooling.” Although it can work, employees often end up with low guaranteed issue limits and plan maximums; contractual definitions and protections that are not seamless across country boundaries; financial guarantees which are limited; medical underwriting that is invasive; cultural, currency or language barriers; administrative complexity and limited cost efficiencies.

In order to create a truly efficient Multinational Pool solution, it may be necessary to combine several policy issuing insurers, even though the critical reinsurance that supports these plans spans the multiple policy issuing companies and centralizes administration at a single focal point.

## **LATEST INNOVATION**

### **Co-Ordination**

Unifying coverage so that all employees enjoy comparable levels of coverage is the overriding objective in today's marketplace. The focus should be on plan design, terms and conditions, pricing and the levels of guarantee issue available. There is no single solution that is always right or valid for all situations. Since unifying coverage can often only be achieved through insurers and brokers specializing in the international marketplace, it is critically important that Benefits Managers understand the importance of working with a broker who understands the international disability and life market and is in a position to use its collective buying power to create real value and performance for the employer. Coordinating all parties: the underwriter, administrator, insurer, and the re-insurer is the critical role that a qualified broker plays in solving the needs of international companies.

### **SUMMARY**

This article has attempted to demonstrate that several difficult issues exist with providing base insurance benefits in the international marketplace. Very simply, it is not easy, and requires special skills and experience. However, to compete on the world stage, it is as important as ever that global companies proactively pursue the latest thinking and best practices to providing important insurance protection for their best people. Therefore, Benefits Manager of an international concern take nothing for granted and need to ask the hard questions, then re-ask them, and be certain to work with an expert in insuring international companies who is constantly evolving with the market. This will lead to not only more peace of mind for you and your fellow employees, but cost savings for your company.