

# TEAMSTERS INDUSTRIAL EMPLOYEES

**Located at:**  
Teamsters Building  
707 Summit Avenue  
Union City, New Jersey 07087



**Mailing Address:**  
P.O. BOX 8037  
Summit Avenue Station  
Union City, NJ 07087

201-867-3553 • 866-560-FUND (3863) • Fax: 201-867-5899

## **Notice of Critical Status Teamsters Industrial Employees Pension Plan**

April 20, 2011

Participants, Beneficiaries, Contributing Employers and Teamsters Local 560:

This is to inform you that on March 31, 2011, the actuary for the Teamsters Industrial Employees Pension Plan (the "Fund") certified to the U.S. Department of the Treasury and to the Board of Trustees that the Fund is in critical status for the Plan year beginning January 1, 2011. Federal law requires that you receive this notice.

### **Introduction**

The Pension Protection Act ("PPA"), signed into law in 2006, is intended to improve the financial condition of pension funds. The Act introduced several formal safeguards and controls and added notification requirements for Trustees to share more information about a fund's financial circumstances with participants, contributing employers and others directly related to the pension plan.

Many of the Act's preservation provisions relate to funding, which, in simplest terms, is how much money a pension plan has coming in, going out, and what is in reserve (or "in the bank") for the future. The preservation provisions are intended to create more discipline and mandate certain procedures with the object of deterring future funding problems and directed to correct those that have already developed.

Starting with the 2008 plan year, the Act requires us to test the Fund annually to classify its funding status. Standardized measurements were established for classifying pension plans based on their funding issues. Funds that are in "seriously endangered" or "endangered" status (commonly known as yellow zone) or "critical" status (or, red zone) must notify all fund participants, beneficiaries, unions, and contributing employers of the fund's status, as well as take corrective action to restore the fund's financial health.

### **Fund's Status – Red Zone**

The Fund is in critical status (red zone) as of January 1, 2011 based on the actuary's determination that the Fund was in critical status in the prior plan year and is projected to have an accumulated funding deficiency within the next ten plan years. This means that contributions will not be enough to meet government standards for funding promised benefits plus those that participants are currently earning.

### **Rehabilitation Plan and Possibility of Reduction in Benefits**

The PPA requires the Board of Trustees to develop a Rehabilitation Plan aimed at restoring the Pension Fund's financial health. Because the Pension Fund entered critical status in 2010, the Trustees adopted a Rehabilitation Plan on October 26, 2010.

Under the Rehabilitation Plan, parties to each collective bargaining agreement are required to make or negotiate changes in the employers' contribution obligations. The Rehabilitation Plan included a "default" schedule and an "alternative" schedule that the bargaining parties can adopt to implement the Plan. The bargaining parties can wait until negotiations on a new collective bargaining agreement to agree on the schedule, or they can re-open their current agreement to incorporate one of the schedules. The law provides for imposition of the default schedule after the current agreement expires if the parties are unable to agree.

The Board of Trustees will be required by law to annually assess whether the Pension Fund is on track to meet the goals of the Rehabilitation Plan. Adjustments to the Rehabilitation Plan may be necessary or appropriate over time depending on investment performance and other developments.

Under the law, a Rehabilitation Plan can include contribution rate requirements and revisions to the Fund's benefit schedule for future accruals, as well as reductions in, or elimination of, so-called "adjustable benefits." In November 2010, you received a notice explaining the reductions in adjustable benefits included in the schedules of the Rehabilitation Plan. If the Trustees of the Pension Fund determine that additional reductions in adjustable benefits are necessary in the future, you will receive a separate notice in the future identifying and explaining the effect of those reductions. No change in adjustable benefits will reduce any participant's accrued benefit payable at Normal Retirement Age. Further, no reduction in adjustable benefits will be applied to any pensioner or beneficiary whose benefits began (benefit commencement date) before April 30, 2010. Adjustable benefits include:

- Plan benefits, rights, and features, including the 60-month guarantee, the Disability Pension, pre-retirement death benefits (other than the qualified pre-retirement survivor annuity), optional forms of payment (other than qualified joint and survivor annuities), and similar benefits; and
- Early retirement benefits or retirement-type subsidies.

The level of benefits already earned that are payable at normal retirement age as a single life or qualified joint and survivor annuity cannot and will not be reduced under these PPA rules. Any reductions pursuant to the Rehabilitation Plan will apply only to participants and beneficiaries whose benefit commencement date is after April 30, 2010. You will be notified at least 30 days before any benefit reduction is put into effect.

As of May 1, 2010 the Plan cannot accept any new collective bargaining agreement that reduces contribution rates to the Plan or that excludes new employees, such as new hires.

### **Benefit Restrictions**

Effective April 30, 2010 and until the Pension Fund emerges from red zone status, the Fund is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity, such as the High/Low Option, while it is in critical status. This means that anyone with an annuity starting date of May 1, 2010 or later will not be able to elect the High/Low option.

### **Employer Surcharge**

The law requires that all contributing employers pay to the Fund a surcharge to help correct the Fund's financial situation, beginning 30 days after the employer is notified that the plan is in critical status. The surcharge is a percentage of the employer's negotiated contribution rate. A 5% surcharge is applicable the first year the Fund is in critical status and the employers are notified of the surcharge. The surcharge goes up to 10% for each succeeding plan year in which the Fund is in critical status, until the employer agrees to a collective bargaining agreement that implements one of the schedules in the Rehabilitation Plan.

The 5% surcharge was due with respect to any contribution required to be paid on or after May 30, 2010, or actually paid after that date even if the obligation to the Fund arose earlier, and continued until December 31, 2010. For subsequent Plan years, i.e., beginning January 1, 2011, the 10% surcharge will apply to contributions required to be paid or actually paid on and after that date.

## What's Next

We understand that legally required notices like this one can create concern about the Fund's future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Fund. With the assistance of the Fund's actuary, counsel and other professionals, and working with the contributing employers and the Union, the Trustees have developed a Rehabilitation Plan that addresses these issues. You should know that we expect that both contribution increases and benefit reductions will be necessary to improve the Fund's serious financial condition. As a final note, since the Pension Fund is influenced by economic and financial variables beyond our control (such as market volatility and changes in employment and/or the number of contributing employers), unexpected developments can affect the Fund's status and any future corrective actions needed.

For more information about this notice or the Fund, or to receive a copy of the Rehabilitation Plan, contact the Fund Office at the address or phone number listed at the top of this letter.

Sincerely,  
Board of Trustees

*As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.*

*The Segal Company does not practice law and, therefore, cannot and does not provide legal advice. Statutory interpretations reflected in this draft are subject to review of Fund Counsel. In addition to those specifically identified above, these include:*

- *The substitution of an individually designed notice for the model notice proposed by the US Labor Department, including the omission of certain information items that do not appear to be relevant to this case;*
- *The identification and description of adjustable benefits;*
- *The description of the terms on which benefits are protected from reduction; and*
- *The date and manner of mailing or other distribution.*

*Other conclusions based on our understanding of the statute may also be embedded in the draft text.*

*The determination of the tone to take in this announcement, including how and how much to explain about the red zone certification, is solely the responsibility of the Trustees.*

7424473v1/00173.001