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# PENSION FUND

OFFICE & PROFESSIONAL EMPLOYEES INTERNATIONAL UNION AFL-CIO

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*Dennis Munch, TPA*

## NOTICE OF CRITICAL & DECLINING STATUS FOR THE PLAN YEAR BEGINNING JANUARY 1, 2020 FOR THE LOCAL 153 PENSION FUND

This Notice is dated April 28, 2020

This is to inform you that on March 30, 2020, the plan actuary certified to the U.S. Department of the Treasury, and to the plan sponsor, that the Local 153 Pension Fund (hereafter, the "Plan" or "Pension Fund") is, once again, in critical status (also known as the Red Zone) as well as declining status for the plan year beginning January 1, 2020. The Plan has been in critical status since 2011 and you have received similar notices in prior years. Federal law requires that you receive this notice.

### **Critical Status**

The Plan is considered to be in critical status, because the Plan was projected to have an accumulated funding deficiency in the Plan year ending December 31, 2020.

### **Critical and Declining Status**

Also, as required by the Multiemployer Pension Reform Act of 2014, the Plan was certified as being in critical and declining status because the actuary determined that the Plan is projected to become insolvent in 2029.

### **Rehabilitation Plan**

Federal law, the Pension Protection Act of 2006 ("PPA"), allows the Pension Fund to reduce, or even eliminate, benefits called "Adjustable Benefits" as part of the Rehabilitation Plan. The Rehabilitation Plan must include at least one schedule that describes the benefit adjustments or the combination of benefit adjustments and contribution rate increases that are necessary for the Pension Fund to emerge from the Red Zone, if possible. The PPA requires that the Trustees develop at least one schedule called the "Default Schedule" which reduces all Adjustable Benefits to the maximum extent allowable by law, prior to requiring any contribution rate increases. The law also permits the Trustees to develop additional schedules. The bargaining parties must then agree to adopt one of the schedules, which would become part of the Collective Bargaining Agreement.

Subsequent to the Pension Fund's original certification in the Red Zone in 2011, the Trustees have developed a Rehabilitation Plan to restore the financial health of the Pension Fund. The Rehabilitation Plan was adopted on November 10, 2011, reaffirmed each year, and last updated in 2018. The Rehabilitation Plan is comprised of two schedules, the Preferred Schedule and Default Schedule, which when enacted by the bargaining parties, are projected to enable the Plan to forestall insolvency, as permitted by law.

The Rehabilitation Plan has been provided to the Office and Professional Employees International Union Local 153 and the contributing employers (collectively referred to as "bargaining parties"). A summary of the Rehabilitation Plan will also be provided to Pension Fund participants as part of the Annual Funding Notice each year. You have the right to receive a copy of the complete Rehabilitation Plan from the Pension Fund upon request.

Even though the Rehabilitation Plan has been adopted by the Trustees and negotiated by the bargaining parties, the Trustees must review the Rehabilitation Plan annually and make

adjustments as necessary to keep the Pension Fund on track to emerge from the Red Zone, if possible, or, alternatively, to forestall insolvency. This may require future changes to the Rehabilitation Plan, which may include new schedules that require additional reductions to Adjustable Benefits (described below) and/or contribution rate increases. If the Trustees determine that additional benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions.

### **Adjustable Benefits**

The Plan offers the following adjustable benefits, which may be eliminated or reduced as part of the Rehabilitation Plan the Plan adopted:

- Certain pre-retirement survivor benefits.

Any changes to Adjustable Benefits, which are adopted as part of the Rehabilitation Plan, **will not** reduce the level of any participant's accrued benefit payable at Normal Retirement Age. Additionally, these reductions will not apply to any retiree or beneficiary that started receiving his or her benefits before April 30, 2011, the date that the initial Notice of Critical Status was first provided.

### **Benefit Suspension and Partition**

Under MPRA, a plan that has been determined to be in critical and declining status and is projected to become insolvent may be able to adopt certain reductions to accrued benefits, subject to various requirements and limitations, if doing so is projected to prevent insolvency. Generally, in order for the plan sponsor to adopt a benefit suspension, the suspension must be approved by the Department of the Treasury (Treasury) in consultation with the Department of Labor and the Pension Benefit Guaranty Corporation (PBGC), and ratified by a vote of the plan's participants and beneficiaries. MPRA also provides that a plan in critical and declining status that cannot be projected to avoid insolvency by benefit suspension alone, may be eligible to apply to the PBGC for a partition, subject to various requirements and limitations, if a partition (in addition to suspension) is projected to prevent insolvency. Because the Plan is in critical and declining status for the 2020 plan year, the plan sponsor is eligible to apply to Treasury for approval of benefit suspensions and, if necessary, to PBGC for a partition.

### **Benefit Restrictions**

Effective April 30, 2011, the Pension 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 (except for the payout of benefits which are less than \$1,000) while the Pension Fund is in Critical Status.

### **Employer Surcharge**

The law requires that all contributing employers pay to the Plan a temporary surcharge to help correct the Plan's financial situation. Surcharges are additional contributions paid to the Pension Fund at the same time and in the same manner as the regular contributions. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan. Generally, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the Plan is in Critical Status. This surcharge does not apply to employers once a collective bargaining agreement that incorporates a Rehabilitation Plan schedule is adopted.

The surcharge amount will need to be paid in a separate check made payable to the Local 153 Pension Fund, with the notation "surcharge". These surcharges are disregarded in determining the rate of benefit accruals and the allocation of the unfunded vested liability for withdrawal liability purposes, as required by the law.

### **Where to Get More Information**

For more information about this Notice, you may contact Dennis Munch, Plan Administrator, at 265 West 14th Street New York, NY 10011 or by telephone at (212) 741-8258. You have a right to receive a copy of the rehabilitation plan from the plan.

*As required by law, this notice is being provided to all required parties including the Pension Benefit Guaranty Corporation (PBGC), the U.S. Department of Labor, each Plan Participant and Beneficiary, the Union and each Contributing Employer.*