

**NOTICE OF CRITICAL STATUS  
FOR THE PLAN YEAR BEGINNING JANUARY 1, 2016  
FOR THE LOCAL 153 PENSION FUND**

April 29, 2016

This is to inform you that on March 30, 2016, 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) for the plan year beginning January 1, 2016. The Plan has been in critical status since 2011 and you have received notices like these 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, 2016. Also, as required by the recently enacted Multiemployer Pension Reform Act of 2014, the Plan was certified as not being in critical and declining status.

**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 and reaffirmed each year thereafter. The Rehabilitation Plan is composed of two schedules, which when enacted by the bargaining parties, are projected to enable the Plan to emerge from the Red Zone over an extended period, 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. 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.

### **Adjustable Benefits**

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

- Disability benefits (if not yet in pay status);
- Certain guaranteed death benefits;
- Early retirement subsidies;
- Pre-retirement optional lump sum death benefit for employees previously covered by OPEIU Local No. 12 Retirement Plan; and
- Right to receive a pre-retirement surviving spouse benefit prior to the earliest date a deceased participant would have been eligible for a benefit.

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 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 under the applicable collective bargaining agreement. 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**

The PPA requires that the plan actuary determine the Pension Fund's status each year and that a Notice of such status be provided to all interested parties annually. The PPA also requires that this Notice be provided to the Pension Benefit Guaranty Corporation (PBGC) and the Secretary of Labor.

For more information about this Notice, you may contact George Bueno, Plan Director, at 265 West 14<sup>th</sup> Street, New York, NY 10011 or by telephone at (212) 741-8259.

*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.*