

**NOTICE OF CRITICAL STATUS  
FOR  
BUILDING SERVICE 32BJ PENSION FUND**

The purpose of this Notice is to inform you that, on September 28, 2010, the actuary of the Building Service 32BJ Pension Fund (“Fund”) certified to the U.S. Department of the Treasury, and also to the Board of Trustees of the Fund, that the Fund is in critical status for the plan year beginning July 1, 2010. Federal law requires that you receive this Notice.

**Critical Status**

The Fund is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Fund’s actuary has determined that there will be a funding deficiency within the next four plan years.

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

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called “adjustable benefits” as part of a rehabilitation plan. If the Fund’s Trustees determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant’s basic benefit payable at normal retirement. In addition, the reductions will apply only to those participants and beneficiaries whose benefit commencement date is on or after the date of the initial notice of the Plan’s critical status which is October 28, 2010.

**Adjustable Benefits**

The Fund offers the following adjustable benefits which may be reduced or eliminated as part of the Fund’s rehabilitation plan:

- 36-month (or 12 month in Program B) payment guarantees;
- Disability benefits (not yet in pay status);
- Early retirement benefit;
- Recent benefit increases (e.g. occurring in the past 5 years);

Under the Rehabilitation Plan adopted by the Fund's Board of Trustees, one schedule provides for an increase in contributions only, while the other schedule reduces future benefit accruals, eliminates the adjustable benefits described on the previous page and increases contributions.

### **Employer Surcharge**

The law requires that 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 amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Fund under the applicable collective bargaining agreement. A 5% surcharge is applicable in the initial critical year (2010) and a 10% surcharge is applicable for each succeeding plan year thereafter in which the Fund is in critical status. Therefore, for the remainder of the initial year, the 5% surcharge will be due with respect to any contribution required to be paid to the Fund on or after December 1, 2010, and will continue until June 30, 2011. For subsequent plan years, (e.g., beginning July 1, 2011) the 10% surcharge will apply to contributions required to be paid to the Fund on or after that date.

Please note, however, that for employers that adopt the Preferred Schedule or the Default Schedule of the rehabilitation plan through collective bargaining with the union, the surcharges will cease on the effective date of the collective bargaining agreement that is consistent with those schedules.

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

For more information about this Notice, you may contact the Fund Office at 101 Avenue of the Americas, New York, NY 10013 or 212-388-3500. You have a right to receive a copy of the rehabilitation plan from the Fund.