

# BAKERY DRIVERS AND SALESMEN LOCAL 194 AND INDUSTRY PENSION FUND

2003 Route 130, Suite E • North Brunswick, NJ 08902

## EMPLOYER TRUSTEES

RODNEY G. MALARCHIK, Secretary



## UNION TRUSTEES

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ERISA/PUBLIC DISCLOSURE

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### Notice of Critical Status For The

### Bakery Drivers and Salesmen Local 194 and Industry Pension Fund

### For the Plan Year Beginning on November 1, 2011

This is to inform you that on January 28, 2012 the plan's actuary certified to the U.S. Department of the Treasury, and also to the Board of Trustees, that the plan is in "Critical" status for the plan year beginning November 1, 2011. You are receiving this notice because federal law requires the Board of Trustees to send this notice to all bargaining parties and participants.

#### **Critical Status**

The plan is considered to be in "Critical" status because it has funding problems, liquidity problems, or both. More specifically, the plan's actuary determined that the plan is projected to have an accumulated funding deficiency over the next five plan years, the present value of vested benefits of inactive participants is greater than the present value of vested benefits for active participants, and the present value of all expected contributions for the plan year beginning November 1, 2011 is less than the sum of the plan's normal cost and interest on unfunded benefits for the current plan year.

#### **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 Board of Trustees of the plan determines 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 will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after February 28, 2012.

But you should know that whether or not the plan reduces adjustable benefits in the future, effective as of February 28, 2012, the plan is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity (other than certain retroactive payments and certain *de minimis* amounts) while it is in "Critical" status.

#### **Adjustable Benefits**

Adjustable benefits are benefits over and above the normal pension paid at normal retirement age. The plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the Board of Trustees adopts:

- X Post-retirement death benefits
- X Sixty-month payment guarantees
- X Disability benefits (if not yet in pay status)
- X Early retirement benefits or retirement-type subsidies such as the deferred vested pension or an additional year of pension credit due to a layoff on account of a plant shutdown
- X Benefit payment options (other than a joint and 50% survivor annuity) such as the joint and 75% survivor annuity, pre-retirement surviving spouse's benefit, "pop-up" death benefit and social security bridge benefit

### **Employer Surcharge**

The law requires that all contributing employers pay to the plan a surcharge to help correct the plan's financial situation. 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 or other agreements pursuant to which the employer contributes. With some exceptions, a 5% surcharge will apply in the initial critical year beginning on March 17, 2012 and a 10% surcharge will apply on November 1, 2012 and on each succeeding plan year thereafter in which the plan is in "Critical" status. The surcharge will remain in effect until the local unions and the contributing employers adopt an acceptable schedule under the rehabilitation plan.

### **Looking Ahead**

The Board of Trustees is continuously working to develop ways to secure the plan's benefits well into the future. As a result of federal funding laws, contributing employers and covered employees are being asked to work together to improve the funded status of the plan. Contributing employers may be required to increase their contributions and implement certain reductions in adjustable benefits for participants and beneficiaries whose pensions have not started prior to February 28, 2012. Similarly, new retirees may be required to forego certain optional forms of payment. In the year ahead, the Board of Trustees will develop a rehabilitation plan with alternative schedules for the bargaining parties' next negotiations. The goal is that if the market performs consistent with the Board of Trustees' expectations, all of these actions will improve the funded status of the plan.

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

For more information about this notice, you may contact Mr. Anthony Sidoti, Fund Manager, by telephone at (732) 297-0194, by facsimile at (732) 297-0944 or by mail at 2003 Rt. 130, Suite E, North Brunswick, NJ 08902. You have a right to receive a copy of the rehabilitation plan once it is finalized.

**Date: February 16, 2012**

**Board of Trustees**

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