



# SOFT DRINK AND BREWERY WORKERS UNION, LOCAL 812 RETIREMENT FUND

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1-CGCR1812-372-G

## NOTICE OF CRITICAL STATUS

### SOFT DRINK AND BREWERY WORKERS UNION LOCAL 812 RETIREMENT FUND

**To: All Participants, Beneficiaries, Contributing Employers and Union Representative of the Soft Drink and Brewery Workers Union, Local 812 Retirement Fund**

This is to inform you that on September 28, 2021, the Fund's actuary certified to the U.S. Department of the Treasury and also to the Soft Drink and Brewery Workers Union, Local 812 Retirement Fund (the "Fund"), that the Fund is in critical status for the Plan Year beginning July 1, 2021. Federal law requires that you receive this notice.

#### INTRODUCTION

The Pension Protection Act ("Act"), signed into law in 2006, is intended to improve the financial condition of pension funds. The Act introduced several formal safeguards relating to funding, which, in simplest terms, is how much a pension plan has coming in, going out, and in reserve (or "in the bank") for future pension payments. The safeguards are intended to prevent future funding problems and correct those that have already developed.

The Act requires us to test the Fund annually to determine its official funding status. The federal law has adopted specific phrases to classify a fund's status at the time of the report. Funds that are labeled as "endangered," "seriously endangered" or "critical" 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.

#### CRITICAL STATUS

On September 28, 2021, the actuary of the Soft Drink & Brewery Workers Union, Local 812 Retirement Plan (the "Plan") certified the Plan continued to be in critical status (the red zone) but not in critical and declining status for the plan year beginning July 1, 2021. This is based on the actuary's determination that the Plan has an accumulated funding deficiency for the current plan year. What this means is that contributions to the Plan have not been sufficient to meet government standards for funding promised benefits plus those benefits that participants are currently earning.

#### REHABILITATION PLAN AND 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. This is the twelfth year the Plan has been in critical status. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan to help improve the financial status of these plans. On May 26, 2011, the Trustees adopted a rehabilitation plan which contains two Schedules of recommended contribution increases and reductions in benefits: a Preferred Schedule and a Default Schedule. In an effort to improve the Plan's funding situation, the Trustees subsequently amended the rehabilitation plan on December 1, 2016 to include, amongst other changes, modified contribution rate increases. Contributing employers must adopt a Schedule at the expiration of their current collective bargaining agreements. For collective bargaining agreements that were

in effect when the Fund entered critical status, if a contributing employer does not adopt a Schedule within 180 days of the date on which the collective bargaining agreement expired, the Default Schedule will be imposed on that employer.

Both the Preferred Schedule and the Default Schedule require contribution increases, and effective January 1, 2012, the Default Schedule requires a reduction in future benefit accruals and adjustable benefits. On October 28, 2011, you were notified that the Plan reduced and/or eliminated certain adjustable benefits for those participants who are employees of employers who have adopted, or will adopt, the Default Schedule. On October 28, 2010, you were notified that as of October 28, 2010, 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) while it is in critical status. If the Trustees of the Plan determine that further 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 such as a single life or qualified joint and survivor annuity. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 28, 2010.

#### **EMPLOYER SURCHARGE**

The Act requires that all contributing employers pay to the Fund a surcharge to help correct its financial situation. 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. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding year thereafter in which the Fund is in critical status, until the employer agrees to a collective bargaining agreement that implements the Rehabilitation Plan.

#### **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. As a final note, because the 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 funding status of the Fund and any future actions that may be needed.

#### **WHERE TO GET MORE INFORMATION**

For more information about this notice or the Fund, please contact the Fund Office in writing at the address listed at the top of this letter. Please note that you have a right to receive a copy of the rehabilitation plan from the Fund after the rehabilitation plan is adopted by the Trustees.

Sincerely,

The Board of Trustees  
Date: October 28, 2021

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