

# LOCAL NO. 863 PENSION FUND

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ALPHONSE RISPOLI, JR.  
Secretary



## **Notice of Critical Status and Declining Status**

### **Local Union No. 863 I.B. of T. Pension Plan**

This is to inform you that on November 29, 2016 the Plan Actuary certified to the U.S. Department of the Treasury, and to the Trustees, that the Local Union No. 863 I.B. of T. Pension Plan (the "Plan") is in Critical and Declining Status for the plan year beginning September 1, 2016. Federal law requires that you receive this notice.

#### Critical and Declining Status

The Plan is considered to be in Critical and Declining Status because it has funding and liquidity problems, and is projected to become insolvent in a future year. More specifically, the Plan's Actuary has determined that the Plan has an accumulated funding deficiency for the 2016 plan year. The projected accumulated funding deficiency for the 2016 Plan year means that during the 2016 plan year, contributions are not expected to be high enough to meet government standards for funding promised benefits plus those that participants are currently earning. The Plan is projected to become insolvent by the plan year ending August 31, 2025. Such insolvency may result in benefit reductions.

#### Rehabilitation Plan

Federal law requires pension plans in Critical Status or Critical and Declining Status to adopt a Rehabilitation Plan aimed at restoring the financial health of the plan, if possible. Pursuant to this requirement, on November 25, 2009, the Trustees adopted a Rehabilitation Plan, that was updated in June 2013 and reaffirmed in 2016. This Rehabilitation Plan consists of two "schedules", including a preferred schedule calling for no changes in contribution rates or benefit levels and a default schedule that includes possible reductions in benefits. Please note that all of the possible reductions in benefits, except for possible elimination of certain death benefits under certain conditions, were already adopted by the Trustees in August 2008 and were communicated to you by a Notice dated August 15, 2008. The bargaining parties have been provided with these schedules for consideration in negotiations in new or renewed collective bargaining agreements. The "preferred schedule" reflects the Plan changes and reductions in the benefits as described in the Notice sent August 15, 2008. No further plan changes are incorporated in the "preferred schedule." The "default schedule" includes elimination of certain death benefits that will be applicable to groups who elect this schedule. These revised schedules were based on the Trustees' conclusion that the Fund could not reasonably emerge from critical status and that, upon exhaustion of all reasonable measures, the schedules forestall possible insolvency.

### Rehabilitation Plan and Adjustable Benefits

The law permits pension plans to reduce, or even eliminate, benefits called “adjustable benefits” as part of a Rehabilitation Plan. Even though the Rehabilitation Plan has been adopted by the Trustees, the Trustees must review the Rehabilitation Plan annually and make adjustments as necessary to keep the Pension Fund on track to emerge from Critical and Declining Status, if possible. If the Trustees determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions.

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

- The 10-Year Certain guarantee
- Post-retirement death benefits;
- Early retirement benefit or retirement-type subsidy;
- Benefit payment options other than a qualified joint-and survivor annuity (QJSA);
- Other similar benefits, rights, or features under the plan

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.

### Employer Surcharge

The law requires that all 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 and declining status.

The surcharge is a percentage of the employer’s negotiated contribution rate. A 5% surcharge was applicable the first Plan year in critical status. The surcharge went up to 10% for each succeeding Plan year in which the Fund is in critical status, until the employer agrees to a collective bargaining agreement that implements one of the schedules in the Rehabilitation Plan. These surcharges are separate requirements and are in addition to the obligation of the contributing employers to pay their regular contributions and their share of accumulated funding deficiencies. The 10% surcharge applies to contributions actually paid on or after September 1, 2009.

The surcharge amount is paid in a separate check made payable to the Teamsters Local 863 Pension Fund, with the notation “surcharge.” These surcharges will be disregarded in determining the rate of benefit accruals and potential employer withdrawal liability allocations, as required by the law. However, they will be reflected in the determination of the annual payment for any withdrawal liability allocation.

### Multiemployer Pension Reform Act of 2014 (MPRA)

Under the Multiemployer Pension Reform Act of 2014 (“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. If the Trustees of the Plan determine that it is in the best interest of the Plan and the Plan's participants and beneficiaries to utilize one of the statutory tools available pursuant to MPRA, you will receive a separate notice in the future identifying and explaining the effect of these provisions.

#### 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 to the greatest extent possible. As a final note, since 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 Fund's status and any future corrective actions needed.

#### Where to Get More Information

You have the right to receive a copy of the complete Rehabilitation Plan from the Pension Fund upon request. For more information about this Notice, you may contact the Board of Trustees, Local Union No. 863 I.B.T. Pension Plan, 209 Summit Road, Mountainside, New Jersey 07092; telephone number: (908) 654-3361. You have a right to receive a copy of the Rehabilitation Plan from the Plan.

This Notice is dated **December 29, 2016**.

*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 the Contributing Employer.*