

DAIRY INDUSTRY

UNION PENSION PLAN FOR PHILADELPHIA AND VICINITY

P.O. BOX 99 • COLLINGSWOOD, NJ 08108

2021 NOTICE OF CRITICAL AND DECLINING STATUS

FEDERAL FUNDING RULES. Beginning on January 1, 2008, the Pension Protection Act of 2006 (the “PPA”) imposed new rules aimed at improving the funding of multiemployer defined benefit plans such as the Dairy Industry-Union Pension Fund for Philadelphia & Vicinity (the “Plan”). Under prior law, a multiemployer defined benefit plan was required to address a funding problem only when the plan failed to satisfy minimum funding standards for a given plan year. Unlike prior law, the PPA requires a plan’s board of trustees to take certain actions to improve the plan’s funding when the plan’s actuary projects that the plan will have future funding issues.

Recognizing the impact of various economic forces, Congress enacted the Multiemployer Pension Reform Act of 2014 (“MPRA”) on December 16, 2014, which has already significantly impacted many multiemployer pension funds across the country. Among other provisions, MPRA allows a plan’s trustees to take proactive steps under certain circumstances in order to avoid future funding problems.

FUNDING STATUS CERTIFICATION. Under the PPA, within the first 90 days after the beginning of each plan year, a plan’s actuary must certify whether the plan is in endangered, seriously endangered, critical, or critical and declining status. A plan’s board of trustees may elect to have the plan be in critical status for a plan year if the plan’s actuary projects that the plan will be in critical status within the next five years. In general, the two most relevant factors used by the Plan’s Actuary to determine the Plan’s funding status are the ratio of the Plan’s assets to its liabilities (the funded percentage of the Plan) and whether the Plan is projected to satisfy certain minimum funding standards within prescribed periods of time.

PLAN’S 2021 FUNDING STATUS. On March 31, 2021, the Plan’s Actuary certified that Plan is in critical status for the Plan Year beginning January 1, 2021, because it has funding or liquidity problems, or both. Specifically, the Plan’s Actuary determined that the Plan was in critical status for the previous plan year and over the next 9 years the Plan is projected to have an accumulated funding deficiency. Also, as required by the MPRA, the Plan’s Actuary certified that the Plan is in critical and declining status because the Plan is in critical status and the Plan’s Actuary determined that the Plan is projected to become insolvent within 20 years from January 1, 2021, based upon a specific set of assumptions.

REHABILITATION PLAN. 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 sixth 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.

The Plan’s Actuary previously certified the Plan as being in critical status in 2011 and the Plan’s Board of Trustees (the “Board”) adopted a rehabilitation plan as required by the PPA. As part of that rehabilitation plan, the Board established schedules that increased employer contributions, revised the Plan’s benefit structure, and reduced or eliminated certain “adjustable benefits” to the

extent necessary for the Plan to be projected to emerge from critical status within the required statutory period. The Board notified participants in 2011 that the Plan had reduced or eliminated adjustable benefits under the rehabilitation plan. The Board made such reductions and eliminations of adjustable benefits permanent.

The Plan subsequently emerged from critical status, with the Plan's Actuary certifying that the Plan was neither in endangered nor critical status for 2015. The Board then elected to adopt critical status for the Plan for the plan year beginning January 1, 2017 and adopted a new rehabilitation plan (the "Rehabilitation Plan") as required by the PPA. As part of the Rehabilitation Plan, the Board adopted a default schedule that decreased future benefit accruals and increased employer contributions and an alternative schedule that only increased employer contributions, but no adjustable benefits were reduced or eliminated under either schedule. If the Board determines that further reducing adjustable benefits is 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.

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

- Disability benefits (if not yet in pay status); and
- Early retirement benefit or retirement-type subsidy.

The Board is required to review the Rehabilitation Plan and schedules on an annual basis and update them, if necessary, based on the Plan's progress in meeting the Rehabilitation Plan's funding benchmarks. In 2021, due to a number of recent employer withdrawals from the Plan, the Board determined that scheduled employer contribution rate increases under the Rehabilitation Plan were not sustainable because they increased the risk of additional employer withdrawals. The Board determined that updating the Rehabilitation Plan was necessary and adopted a supplement that froze the scheduled employer contribution rate increases. The supplement did not reduce or eliminate any adjustable benefits or otherwise affect the Plan's benefit structure.

WHAT THIS MEANS FOR CONTRIBUTING EMPLOYERS. The law requires each contributing employer to pay an automatic surcharge to a plan in critical status to help improve 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 its applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the plan's initial critical year beginning 30 days after an employer receives notification that the plan has been certified as being in critical status and a 10% surcharge is applicable for each succeeding plan year in which the plan remains in critical status. The surcharge remains in effect until the employer and the collective bargaining unit have agreed to adopt one of the plan's rehabilitation plan schedules.

The Fund will not impose a contribution surcharge in 2022. Every employer that contributes to the Fund currently pays \$712.82 per participant per month, which satisfies a schedule required by the current Rehabilitation Plan. The \$712.82 rate went into effect as of January 1, 2021.

POSSIBLE FUTURE BENEFIT REDUCTIONS. No additional adjustments or reductions in benefits are contemplated at this time. Depending upon the Plan's investment performance in 2021

and beyond, the financial health of the contributing employers, changes in pension law, increases and/or decreases in the Plan's projected assets and benefit obligations, and other factors, it is possible that the Board (as noted above) will need to update the Rehabilitation Plan to require additional increases in employer contributions and/or reductions in future benefit accruals for participants. If the Board determines that reductions in future benefit accruals are necessary as a result of MPRA or otherwise, participants will receive a separate notice in advance of any reductions that will identify and explain the effect of those additional reductions, as applicable.

LOOKING AHEAD. The Board is continuously working to develop ways to secure participants' and beneficiaries' benefits well into the future and bargaining parties are being asked to work together to improve the funded status of the Plan going forward. Since 2011, as noted above, employers have significantly increased their contributions and participants and beneficiaries have had certain benefits reduced or eliminated. The Board will continue to evaluate the Fund's progress and update the Rehabilitation Plan, as necessary.

Under the American Rescue Plan Act of 2021, if a financially distressed plan meets certain requirements, the plan may apply for and receive "special financial assistance" ("SFA") from the Pension Benefit Guaranty Corporation (the "PBGC"), which the plan may then use to help pay benefits and expenses. The amount of SFA a plan may receive is the amount necessary, based on actuarial projections, for the plan to remain solvent until at least the year 2051. The PBGC has established a SFA application schedule based on certain priority criteria, with larger and more severely-distressed plans generally being eligible to apply for SFA earlier than smaller and less severely-distressed plans. In consultation with the Plan's Actuary and legal counsel, the Board has determined that the Plan qualifies for SFA and will first be eligible to apply for SFA in March 2023, at which time the Board will submit an SFA application for the Plan.

WHERE TO GET MORE INFORMATION. For more information about this Notice, you may contact the Board of Trustees, Dairy Industry-Union Pension Fund for Philadelphia & Vicinity, PO Box 99 Pennsauken, NJ 08109 or by calling (833) 925-5585. You have a right to receive a copy of the Rehabilitation Plan, including supplements thereto, upon written request to the Board.

Date: April 29, 2022

cc. United States Department of Labor; Pension Benefit Guaranty Corporation