

# **NYSA-ILA PENSION TRUST FUND**

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April 29, 2009

## **Notice of Endangered Status For NYSA-ILA Pension Trust Fund**

To: All Participants, Beneficiaries, Participating Unions and Contributing Employers

This Notice is required to be sent to you as a result of a Federal law known as the Pension Protection Act of 2006 (PPA), which became effective as to this Fund during the latter part of 2007.

**We understand that legally required notices, like this one, may create anxiety and concern about the Pension Fund's future. The Board of Trustees remains confident that the Fund will continue to provide our participants and their eligible beneficiaries with secure retirement benefits. Indeed, the parties to the Collective Bargaining Agreement (CBA) and the Board of Trustees are committed to making your Fund 100% funded in 15 years – that is by the year 2024.**

### **PPA Requirements**

The (PPA) has added requirements for measuring the financial health of multiemployer plans, such as ours. Starting with the 2008 Plan Year, the PPA required that a Pension Fund's actuary determine annually the Fund's status under these new rules and certify that status to the IRS and the Trustees (plan sponsor). It is important to note that if the Fund's status for a plan year is "endangered" ("yellow" zone) or "critical" ("red" zone), the Trustees *must* notify all plan participants in writing of this certification as well as take corrective action to improve the financial health of the plan.

### **Endangered Status**

This letter will serve as notice that our Pension Fund's actuary recently determined and certified that the Fund is in "endangered" status for the 2009 Plan Year. This determination was made based on the law's new funding measures, the Fund is currently less than 80% funded. *"Endangered" is a label that the law requires us to use, but in fact, the Fund is meeting its funding goals and is expected to continue doing so into the future.*

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The law also mandates that any pension fund in “endangered” (“yellow” zone) status must adopt a “Funding Improvement Plan” (FIP). The FIP is an action plan designed to significantly increase a plan’s funding percentage and to provide that contributions will be greater than the minimum required under the law. A FIP was developed in 2008 and is described below.

### Funding Improvement Plan

The CBA between New York Shipping Association, Inc. and International Longshoremen’s Association, AFL-CIO, for the period from October 1, 2004 through September 30, 2010, provides that sufficient annual contributions will be made to the Pension Fund to fund the benefits that participants are earning and to pay the Fund’s operating costs, and to amortize over a 19-year period the unfunded actuarial liability for Plan benefits defined in the actuarial valuations of the Pension Actuary – that is, to reach a 100% funded level after the 19-year period. Since this agreement started in January 1, 2004, the required contributions to the Pension Fund, as determined by the Fund’s actuary, have been more than \$102 million a year. In addition to the contributions of more than \$102 million a year determined by the Pension Fund’s actuary to be required to meet the 100%-funded goal, a further \$20 million was contributed to the Pension Fund during 2008. Thus, we expect that the Plan’s funding percentage will continue to improve in line with the requirements of the law *and, as noted above, as of January 1, 2009, the Fund is now scheduled to be 100% funded in fifteen (15) years.*

The Board of Trustees does not expect that any other changes will be needed to meet the law’s requirement for a Funding Improvement Plan while the current CBA is in effect. **Please note that the law mandates that our Plan’s funding status be reviewed and certified annually and notices like this one will be sent each year.** While our goal is to remain on track with the Plan’s funding schedule noted above, there are several variables beyond our control which our advisors will monitor yearly, including market volatility and changes in participation and/or the number of contributing employers.

In the event you have questions or would like additional information, you may contact the Board of Trustees, in writing, or Mr. Charles Ward, Executive Director, at 212-898-9173, 45 Broadway, 5<sup>th</sup> Floor, New York, NY 10006.

Sincerely,

The Board of Trustees

cc: U.S. Department of Labor  
U.S. Pension Benefit Guaranty Corporation