UPSTATE NEW YORK BAKERY DRIVERS AND INDUSTRY PENSION PLAN

Employer Trustees

Rodney Malarchik
Karen Bolcavage-Colosi
Paul Fenton

Kathleen Sweeney Meck, CEBS
Fund Manager

109 S. Warren Street, Suite 1103
State Tower Building
Syracuse, New York 13202
(866) 225-3790 · (315) 422-3232
Fax (315) 476-5560
E-mail: benefits@upstatenybakerydriverspensionfund.org

Union Trustees

Irving Wood
Paul Markwitz
Ozzie Martucci

NOTICE OF CRITICAL STATUS

For the Plan Year Beginning On July 1, 2010

- PLEASE READ -

NEW FEDERAL FUNDING RULES. The Pension Protection Act of 2006 (the "PPA") imposed new rules aimed at accelerating the funding of defined benefit plans such as the Upstate New York Bakery Drivers and Industry Pension Plan (the "Plan"). These new rules under the PPA took effect on January 1, 2008. Under prior law, defined benefit plans were required to address a funding problem only when a plan would not satisfy minimum funding standards for the current year. Unlike prior law, the PPA requires plans to ***accelerate funding*** and to ***anticipate future funding issues based upon projections***. Federal law also requires the Board of Trustees (the "Board") to send this notice to all contributing employers and participants.

THE PLAN'S ACTUARY MUST CERTIFY FUNDING CATEGORY. Under the PPA, within the first 90 days of each plan year, the Plan's actuary must certify whether a plan is endangered, seriously endangered or in critical status. In general, the two most relevant factors used by the Plan's actuary to categorize a plan are the ratio of the plan's assets to its liabilities (the funded percentage of the plan) and whether the plan will be able to satisfy the new minimum funding standards within the next three tc seven years without additional contribution income changes or additional benefit changes.

PLAN'S CURRENT STATUS. On September 28, 2010, the Plan's actuary certified to the U.S. Department of the Treasury and to the Board that the Plan is in critical status for the 2010 plan year because:

- The Plan is projected to have an accumulated funding deficiency over the next three plan years.
- The Plan's liability for inactive participants is greater than that for active participants; Plan contributions during the upcoming plan year are less than the Plan's normal cost plus interest on its unfunded liability for the upcoming year.

WHY HAS THIS HAPPENED? Even though the Board has been proactive in addressing the Plan's funding problem, the PPA established new rules that require faster funding of plans than under prior law. Like most multiemployer plans, and even most single employer pension plans sponsored by U.S. companies, the Plan was negatively impacted in 2008, by the significant downturn in the stock market, which caused a significant drop in the value of the Plan's assets. While the Plan was positively impacted by the recovery in the market during 2009, the recovery was not sufficient to erase all of the losses sustained in 2008.

REHABILITATION PLAN. Because the Plan's actuary has certified that the Plan is in critical status, the PPA requires the Board to develop and implement a "Rehabilitation Plan" designed to improve the Plan's funding. As part of the Rehabilitation Plan, the Board must establish schedules that outline the increased employer contributions, revised benefit structures, or both, that will bring the Plan out of critical status within 13 years. The Board is diligently working with the Plan's actuary and the Plan's counsel to develop a Rehabilitation Plan that consists of alternative default schedules. These schedules outline the acceptable alternatives that will be presented to the parties for collective bargaining. In collective bargaining, the contributing employers and the local unions must agree to a schedule acceptable to the Board.

WHAT DOES THIS MEAN FOR PARTICIPANTS? If participants were already retired and receiving benefits as of October 28, 2010, their benefits will not change. Also, ***the normal pension benefit a participant has accrued will not change.*** This affects only participants whose benefit payments begin after October 28, 2010. While the Plan is in critical status, the PPA prohibits the Plan from paying any benefits in the form of a lump sum, or any other payment in excess of the monthly amount payable in the form of a single life annuity (other than certain retroactive payments). In addition, vested retirement benefits will continue to be partially guaranteed by the Pension Benefit Guaranty Corporation (the "PBGC"). For example, the PBGC guarantees a monthly benefit payment equal to 100% of the first $11 of the Plan's monthly benefit accrual rate, plus 75% of the next $33 of the accrual rate, times each year of credited service.

POSSIBLE FUTURE BENEFIT REDUCTIONS. Depending upon how the stock market performs in 2010, it is possible that additional contributions and/or benefit changes will be required as part of any Rehabilitation Plan that is adopted by the Board. *A Rehabilitation Plan may require certain **"adjustable benefits"** to be reduced at some time in the future for participants and beneficiaries whose pensions have not started prior to October 28, 2010.* Adjustable benefits are benefits over and above the normal pension paid at normal retirement age, and include benefits such as disability benefits (if not yet in pay status), post-retirement death benefits, and early retirement benefits or subsidized early retirement benefits. It also includes any form of payment (other than the joint and 50% surviving spouse annuity (or single life annuity for unmarried participants)), such as the optional joint and 75% surviving spouse annuity, 36-month guaranteed benefit, pre-retirement surviving spouse's benefit, the Social Security level monthly income benefit, and the Rule of 85 benefit option. If the Board determines that future benefit reductions are necessary, participants will receive a separate notice in the future identifying and explaining the effect of those reductions.

WHAT DOES THIS MEAN FOR CONTRIBUTING EMPLOYERS? Under the PPA, each contributing employer will be required to pay to the Plan a surcharge of 5% of the contributions otherwise required under the applicable collective bargaining agreement or other agreements pursuant to which the employer contributes **for all work performed after November 27, 2010**. In addition, effective July 1, 2011, the surcharge will increase to 10% for the 2011 plan year. The surcharge will remain in effect until the local unions and the contributing employers adopt an acceptable schedule under the Rehabilitation Plan.

LOOKING AHEAD. We are continuously working to develop ways to secure the Plan's benefits well into the future. As a result of the PPA, contributing employers and covered employees are being asked to work together to improve the funded status of the Plan. As noted above, 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 October 28, 2010. Similarly, new retirees may be required to forego certain optional forms of payment. In the year ahead, the Board 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's 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 the Fund Manager as follows:

Ms. Kathleen Sweeney Meck, Fund Manager
Upstate New York Bakery Drivers and Industry Pension Plan
109 South Warren Street
Suite 1103, State Tower Building
Syracuse, New York 13202
Telephone (866) 225-3790 or (315) 422-3232
When completed, all employers and participants will have a right to receive a copy of the 2010 Rehabilitation Plan.

Date: October 28, 2010 **Board of Trustees**

DB1/65693107.5