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 **Local 153**  
**PENSION FUND**

OFFICE & PROFESSIONAL EMPLOYEES INTERNATIONAL UNION AFL-CIO

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*Dennis Munch, TPA*

**NOTICE OF CRITICAL & DECLINING STATUS  
FOR THE PLAN YEAR BEGINNING JANUARY 1, 2021  
FOR THE LOCAL 153 PENSION FUND**

This Notice is dated April 30, 2021

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This is to inform you that on March 31, 2021, the plan actuary certified to the U.S. Department of the Treasury, and to the plan sponsor, that the Local 153 Pension Fund (hereafter, the “Plan” or “Pension Fund”) is, once again, in critical status (also known as the Red Zone) as well as declining status for the plan year beginning January 1, 2021. The Plan has been in critical status since 2011 and you have received similar notices in prior years. Federal law requires that you receive this notice.

**Critical Status**

The Plan is considered to be in critical status, because the Plan was projected to have an accumulated funding deficiency in the Plan year ending December 31, 2021.

**Critical and Declining Status**

Also, as required by the Multiemployer Pension Reform Act of 2014, the Plan was certified as being in critical and declining status because the actuary determined that the Plan is projected to become insolvent in 2030.

The American Rescue Plan Act of 2021 (ARPA) was signed into law on March 11. Among other things, ARPA provides financial assistance to multiemployer pension plans with solvency issues. Specifically, multiemployer plans that meet specific eligibility requirements may receive “special financial assistance” from the Pension Benefit Guaranty Corporation (PBGC). The amount of the special financial assistance appears intended to enable plans to remain solvent and pay benefits without reduction at least through 2051, and perhaps longer. The Board of Trustees anticipates guidance from PBGC in July that will clarify certain provisions in the new law. The Board of Trustees intends to apply for special financial assistance after the agencies issue guidance.

**Rehabilitation Plan**

Federal law, the Pension Protection Act of 2006 (“PPA”), allows the Pension Fund to reduce, or even eliminate, benefits called “Adjustable Benefits” as part of the Rehabilitation Plan. The Rehabilitation Plan must include at least one schedule that describes the benefit adjustments or the combination of benefit adjustments and contribution rate increases that are necessary for the Pension Fund to emerge from the Red Zone, if possible. The PPA requires that the Trustees develop at least one schedule called the “Default Schedule” which reduces all Adjustable Benefits to the maximum extent allowable by law, prior to requiring any contribution rate increases. The law also permits the Trustees to develop additional schedules. The bargaining parties must then agree to adopt one of the schedules, which would become part of the Collective Bargaining Agreement.

Subsequent to the Pension Fund’s original certification in the Red Zone in 2011, the Trustees have developed a Rehabilitation Plan to restore the financial health of the Pension Fund. The Rehabilitation Plan was adopted on November 10, 2011, reaffirmed each year, and last updated in 2019. The Rehabilitation Plan is comprised of two schedules, the Preferred Schedule and Default Schedule, which when enacted by the bargaining parties, are projected to enable the Plan to forestall insolvency, as permitted by law.

The Rehabilitation Plan has been provided to the Office and Professional Employees International Union Local 153 and the contributing employers (collectively referred to as “bargaining parties”). A summary of the

Rehabilitation Plan will also be provided to Pension Fund participants as part of the Annual Funding Notice each year. You have the right to receive a copy of the complete Rehabilitation Plan from the Pension Fund upon request.

Even though the Rehabilitation Plan has been adopted by the Trustees and negotiated by the bargaining parties, the Trustees must review the Rehabilitation Plan annually and make adjustments as necessary to keep the Pension Fund on track to emerge from the Red Zone, if possible, or, alternatively, to forestall insolvency. This may require future changes to the Rehabilitation Plan, which may include new schedules that require additional reductions to Adjustable Benefits (described below) and/or contribution rate increases. If the Trustees determine that additional benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions.

### **Adjustable Benefits**

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

- Right to receive a pre-retirement surviving spouse benefit prior to the earliest date a deceased participant would have been eligible for a benefit.

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. Additionally, these reductions will not apply to any retiree or beneficiary that started receiving his or her benefits before April 30, 2011, the date that the initial Notice of Critical Status was first provided.

### **Benefit Restrictions**

Effective April 30, 2011, the Pension Fund is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity (except for the payout of benefits which are less than \$1,000) while the Pension Fund is in Critical Status.

### **Employer Surcharge**

The law requires that all contributing employers pay to the Plan a temporary surcharge to help correct the Plan's financial situation. Surcharges are additional contributions paid to the Pension Fund at the same time and in the same manner as the regular contributions. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan. Generally, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the Plan is in Critical Status. This surcharge does not apply to employers once a collective bargaining agreement that incorporates a Rehabilitation Plan schedule is adopted.

The surcharge amount will need to be paid in a separate check made payable to the Local 153 Pension Fund, with the notation "surcharge". These surcharges are disregarded in determining the rate of benefit accruals and the allocation of the unfunded vested liability for withdrawal liability purposes, as required by the law.

### **Where to Get More Information**

For more information about this Notice, you may contact Dennis Munch, Plan Administrator, at 42 Broadway, Suite 1201 New York, NY 10004 or by telephone at (212) 741-8258. You have a right to receive a copy of the rehabilitation plan from the plan.

*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 Contributing Employer.*