

## **Notice of Special Election**

**For**

### **INDIANA AREA UNITED FOOD AND COMMERCIAL WORKERS UNIONS AND RETAIL FOOD EMPLOYERS JOINT PENSION PLAN**

This Notice includes important information about the Indiana Area United Food and Commercial Workers Unions and Retail Food Employers Joint Pension Plan (the "Plan"), Plan No. 001, Plan and Plan Sponsor EIN 35-6244695. This Notice relates to the plan year beginning January 1, 2009 and ending December 31, 2009 (the "2009 Plan Year"). Under the Pension Protection Act of 2006 ("PPA"), the Plan's actuary annually certifies the Plan's funding status. The PPA created "zones" based on a multiemployer pension plan's funding status. Based on a pension plan's funding status, it may be in critical status ("red" zone), in seriously endangered status ("orange" zone) or endangered status ("yellow" zone) or outside of these categories ("green" zone).

#### **Special Election**

Pursuant to the Worker, Retiree and Employer Recovery Act of 2008 ("WRERA"), the Plan's Trustees made a special election on April 17, 2009 to retain the Plan's funding status for the plan year beginning January 1, 2008 and ending December 31, 2008 (the "2008 Plan Year") as its funding status for the 2009 Plan Year. For the 2008 Plan Year, the Plan was certified as being in the "green" zone. Therefore, for the 2009 Plan Year, the Plan will be treated as though it is in the "green" zone and will not be subject to the funding improvement requirements discussed below for the 2009 Plan Year. Without the special election, the Plan would be in critical/"red" status for the 2009 Plan Year.

After careful consideration, the Plan's Trustees determined that it is in the best interests of the Plan's Participants to make the special election at this time. In making this decision, the Plan's Trustees extensively reviewed with the Plan's professional advisors the funding requirements under Federal law, including the effect of making the special election and the effect of not making the election.

This special election is available only for the 2009 Plan Year. Notice will be provided in 2010 if the Plan is certified to be in critical/"red", seriously endangered/ "orange" or endangered/"yellow" status for the plan year beginning January 1, 2010 and ending December 31, 2010 (the "2010 Plan Year").

#### **Funding Improvement Requirements**

If the Plan is certified to be in anything other than the "green" zone for the 2010 Plan Year, the law requires that the Trustees notify you of the Plan's status

for that Plan Year and that steps be taken to improve the Plan's funding. Such steps may include increases in employer contributions and reductions in future benefits accruals.

If the Plan is certified to be in critical/"red" status for the 2010 Plan Year, the Trustees would be required, for as long as the Plan is in critical status, to stop paying lump sum and level income option benefits to individuals who commence receiving benefits after notice is provided of the Plan's red zone status. The law also would require the Trustees to adopt a rehabilitation plan, which might include plan amendments to reduce, or even eliminate, certain benefits called "adjustable benefits". "Adjustable benefits" include, among others, post-retirement death benefits, early retirement benefits or retirement-type subsidies, and benefit payment options other than a qualified joint and survivor annuity ("QJSA"). These benefit modifications could apply only to individuals who commence receiving benefits after the notice of the Plan's critical status is provided. A rehabilitation plan must also include annual benchmarks to measure the Plan's progress in improving the Plan's funded status over time.

In addition, if the Plan is certified to be in critical/"red" status in 2010, the law would require that all contributing employers pay a surcharge to help correct the Plan's financial situation. The amount of the surcharge would be equal to a percentage of the amount an employer would otherwise be required to contribute to the Plan under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge would apply in the initial critical/"red" year and a 10% surcharge would apply in each succeeding plan year of critical/"red" status. The surcharge terminates once the collective bargaining agreement is renegotiated to incorporate the rehabilitation plan.

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

For more information about the special election described in this Notice, you may contact the Plan Office at the Indiana Area United Food and Commercial Workers Unions and Retail Food Employers Joint Pension Plan, 5420 West Southern Avenue, Suite 407, Indianapolis, Indiana 46241, 317-247-7381 (toll free 800-382-1799).

BOARD OF TRUSTEES, INDIANA UNITED FOOD  
AND COMMERCIAL WORKERS UNIONS AND  
RETAIL FOOD EMPLOYERS JOINT PENSION PLAN

April 24, 2009

*This notice is intended to meet the notification requirements of  
section 204(c)(2)(A) of WRETA and IRS Notice 2009-31.*