

## Appendix A

### MODEL NOTICE OF APPLICATION FOR APPROVAL OF A PROPOSED REDUCTION OF BENEFITS

*[This is a model notice that can be used to satisfy the requirements of § 432(e)(9)(F) and the related regulations. The notice, including any inserts and additional material, must be written in a manner so as to be understood by the average plan participant.]*

*[If the plan sponsor applies for a partition of the Plan under section 4322 of ERISA, then this notice can be combined with the notice required under section 4322 assuming all other requirements, such as the timing of providing each notice, are satisfied.]*

#### NOTICE OF A PROPOSED REDUCTION OF YOUR PENSION BENEFITS

On *[insert date]*, the Board of Trustees of the *[insert Plan name]* (“Plan”) *[insert submitted/will submit]* an application to the U.S. Treasury Department for approval to reduce benefits under the Plan. This type of benefit reduction is allowed by the Federal law called the Multiemployer Pension Reform Act of 2014.

You are getting this notice because you have a pension benefit under the Plan. **The end of this notice describes the proposed reduction of your monthly payments.**<sup>6</sup> This notice will also answer the following questions for you—

1. Why is the Board of Trustees proposing to reduce benefits?
2. What will happen if the Plan runs out of money?
3. How did the Board of Trustees decide whose benefits to reduce and by how much?
4. What are the proposed reductions in benefits?
5. What comes next?

#### 1. Why is the Board of Trustees proposing to reduce benefits?

The Plan’s actuary estimated that, unless benefits are reduced, the Plan will not have enough money to pay benefits in the year *[insert year]*. This estimate is based on how much money the actuary expects the Plan to receive and to pay out each year. The Plan’s actuary estimated that, with the reduction of benefits that the Board of Trustees has proposed, the plan should not run out of money.

#### 2. What will happen if the Plan runs out of money?

If the Plan does not have enough money to pay benefits, then only the amount guaranteed by the Pension Benefit Guaranty Corporation (“PBGC”) will be paid. You can find the amount of your benefit that is guaranteed by PBGC at the end of this notice.

#### 3. How did the Board of Trustees decide whose benefits to reduce and by how much?

Under Federal law, the Board of Trustees must apply the following rules to the proposed reduction—

- The total reduction in everybody’s benefits must be estimated to be large enough to keep the plan from running out of money but not larger than needed to do that.
- Your monthly benefit and the benefit of your beneficiary cannot be reduced below 110% of the amount guaranteed by PBGC.
- Disability benefits (as defined under the Plan) cannot be reduced.
- The benefits of people who are at least 80 years old on *[insert date that is the last day of the month during which the suspension is proposed to take effect]* and their beneficiaries cannot be reduced.
- The benefits of people who are at least 75 years old on *[insert date that is the last day of the month during which the suspension is proposed to take effect]* and their beneficiaries are partially protected, and the closer the person is to age 80 the less the benefits can be reduced.
- The reduction of benefits must be spread fairly among the people who have a pension benefit under the plan.

In deciding whether the proposed reduction is spread fairly, the Board of Trustees took into account the following: *[List the factors the Board of Trustees took into account in designing the proposed suspension of benefits. This list may include (but is not limited to) factors found in § 432(e)(9)(D)(vi).]*

#### 4. What are the proposed reductions in benefits?

The Board of Trustees proposes the following reduction of benefits: *[Describe the proposed suspension of benefits and its effect. Describe each category or group of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined; describe the formula used to determine how the amount of the proposed suspension is determined for individuals in each category or group; specify whether the*

<sup>6</sup>A version of this notice that does not include the estimate of the effect on your benefit is being sent to unions that represent Plan participants and to all contributing employers.

*proposed suspension will remain in effect indefinitely or will expire by its own terms (and if so, when it will expire); describe any proposed phase-in of the suspension; and describe the effect of the proposed suspension on the plan's projected insolvency.]*

## **5. What comes next?**

### *Approval or denial of the application by the Treasury Department*

The Treasury Department will review the application to see whether it meets all of the legal requirements under Federal law. If the application meets all of those requirements, the Treasury Department is required to approve the application. If the application does not meet the legal requirements, the Treasury Department will deny the application. The Treasury Department will have until *[insert date 225 days after the application is submitted]* to make a decision.

### *You can get information from the Treasury Department*

More information about the proposed benefit reductions and a copy of the application is available at [www.treasury.gov/mpra](http://www.treasury.gov/mpra).

The application will be available on that website within 30 days after the Treasury Department receives it. The application includes more information about the proposed reduction, including details about: 1) the Plan actuary's certification that the Plan will run out of money (that is, that the plan is in "critical and declining status"); 2) how the proposed reduction would satisfy the requirement that it be large enough so that the Plan is estimated not to run out of money, while not being larger than needed; and 3) the sensitivity of these estimates to the assumptions used.

The application describes the steps the Board of Trustees has already taken to keep the Plan from running out of money and why the Board of Trustees believes that a benefit reduction is the only remaining option to keep the plan from running out of money. In addition, the application explains why the Board of Trustees believes that the proposed reduction is spread fairly among the people who have a pension benefit under the plan.

The Treasury Department website will also provide updated information on the application, such as whether the application has been updated or withdrawn.

For further information and assistance you can also write to the Treasury Department at the following address:

Department of the Treasury  
Attn: MPRA Office, Room 1001  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

### *You can comment on the application to reduce benefits*

You can submit a comment on the application by going to [www.treasury.gov/mpra](http://www.treasury.gov/mpra). Comments may also be mailed to the Department of the Treasury, at the address listed above. All interested parties can make comments, and the comments will be publicly available.

### *Retiree Representative*

If a plan has 10,000 or more participants, the Board of Trustees must select a retiree representative to advocate for the interests of retirees, beneficiaries, and deferred vested participants as part of this process. A plan is required to pay the reasonable expenses of the retiree representative.

*[If the selection of the retiree representative was required under § 432(e)(9)(B)(v)(I), insert the following]*

On *[insert date]*, the Board of Trustees selected *[insert name]* to be the retiree representative. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

*[If the Board of Trustees has selected a retiree representative under § 432(e)(9)(B)(v)(I), even though it was not required, insert the following]*

Even though the Plan has fewer than 10,000 participants, the Board of Trustees selected *[insert name]* to be the retiree representative on *[insert date]*. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

*[If the Board of Trustees has not selected a retiree representative, insert the following]*

The Board of Trustees is not required to select a retiree representative, because the Plan has fewer than 10,000 participants. The Board of Trustees has not chosen to select a retiree representative.

*Vote on the proposed benefit reduction*

If the application for the proposed reduction of benefits is approved by the Treasury Department, then you will have the opportunity to vote on the proposed reduction. Unless a majority of all participants and beneficiaries of the Plan vote to reject the reduction, the Treasury Department must allow the reduction of benefits to take effect. This means that not voting counts the same as a vote to approve the reduction.

*[If the Board of Trustees believes that PBGC will or may determine that the Plan is a systemically important plan (a plan with a present value of projected PBGC financial assistance payments that exceeds \$1 billion), insert the following]*

Even if a majority votes to reject the proposed reduction of benefits, Federal law requires the Treasury Department to allow the proposed benefit reduction (or a modified version) to take effect if the cost to PBGC to provide guaranteed benefits is particularly large. This rule applies if the value of payments from PBGC if the plan runs out of money is expected to be more than \$1 billion. Before the Treasury Department permits a reduction in this circumstance, PBGC's Participant and Plan Sponsor Advocate may recommend possible modifications to the proposed reduction.

You may contact PBGC's Participant and Plan Sponsor Advocate by mail at Pension Benefit Guaranty Corporation, Attn: Participant and Plan Sponsor Advocate, 1200 K St., NW, Washington DC 20005; by telephone at (202) 326-4448; or by e-mail at [advocate@PBGC.gov](mailto:advocate@PBGC.gov).

*Your right to see Plan documents*

You may want to review Plan documents to help you understand your rights and the proposed reduction to your benefits. The Plan administrator must respond to your request for the following documents within 30 days:

- The Plan document (including any amendments adopted to reflect an authorized reduction of benefits), trust agreement, and other documents governing the Plan (such as collective bargaining agreements).
- The Plan's most recent summary plan description (SPD or plan brochure) and any summary of material modifications.
- The Plan's Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years.
- The annual funding notices furnished by the Plan during the last six years.
- Actuarial reports, including reports prepared in anticipation of the benefit reduction, furnished to the Plan within the last six years.
- The Plan's current rehabilitation plan, including contribution schedules and annual plan-sponsor determinations that all reasonable measures to avoid running out of money continue to be taken and that the Plan would run out of money if there were no benefit reductions.
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

The Plan administrator may charge you the cost per page to the Plan for the cheapest way of copying documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan is also available free of charge at [www.dol.gov/ebsa/5500main.html](http://www.dol.gov/ebsa/5500main.html). Some of the documents also may be available for examination, without charge, at the Plan administrator's office, your worksite or union hall.

*Your right to challenge incorrect calculations*

If you think the Plan miscalculated the reduction to your benefits, then you have the right to submit a claim to the Plan to have the calculation corrected. The Plan's summary plan description ("SPD") tells you how to submit a claim. The SPD also describes your right to have a court review the Plan's final decision on your claim.

If you believe the information used to calculate your estimate at the end of this notice is wrong, please contact the Plan office at *[insert phone number, address, and e-mail address]*.

*[The following may be on a separate page at the end of the notice.]*

## **HOW YOUR MONTHLY PAYMENTS WILL BE AFFECTED**

*[Distribute this estimate to the affected individual]*

This estimate of the effect of the proposed reduction of benefits has been prepared for:

[Affected Individual's Name]  
[Address]  
[Town, State, Zip]

[Choose (a), (b), (c) or (d), as appropriate for an affected individual. Affected individuals include a participant (including a retiree), a beneficiary of a deceased participant, or an alternate payee. If (a), (b) or (c) is chosen, then insert a narrative description of the effect of the suspension if it is not possible to estimate its effect quantitatively (on an annual or monthly basis), such as in the case of a suspension that affects the payment of any future cost of living adjustment.]

[(a) For an affected individual who is in pay status and who has a proposed suspension]

Your current monthly benefit is [insert current monthly benefit]. Under the proposed reduction your monthly benefit will be reduced to [insert monthly benefit reflecting proposed suspension] beginning on [insert effective date of the proposed suspension].

[(b) For an affected individual who has a proposed suspension, is not yet in pay status, and is below the participant's normal retirement age]

If you start receiving your benefit on [insert participant's normal retirement date] in the form of a [insert normal form of benefit], your monthly benefit without the proposed reduction would be [insert monthly benefits earned as of proposed effective date of suspension]. Under the proposed reduction your monthly benefit in the same form would be reduced to [insert monthly benefit reflecting proposed suspension].<sup>7</sup>

[(c) For an affected individual who has a proposed suspension, is not yet in pay status, and is above the participant's normal retirement age]

Your benefit without the proposed reduction as of [insert date] in the form of a [insert normal form of benefit] is [insert monthly benefit as of proposed effective date of suspension]. Under the proposed reduction your monthly benefit in the same form will be reduced to [insert monthly benefit reflecting proposed suspension].<sup>8</sup>

[(d) For an affected individual whose benefits are not proposed to be suspended]

Your monthly benefit would not change under the proposed reduction.

[If the proposed suspension is permanent, insert the following for all affected individuals who have a benefit suspension]

The proposed reduction is permanent.

[If the proposed suspension is temporary, insert the following for all affected individuals who have a benefit suspension]

The proposed reduction in your payments will last until [insert date]. Under the proposed reduction, after that date your monthly benefit will increase to the unreduced amount.

[The following text is for all individuals.]

This is an estimate of the effect of the proposed reduction on your benefit under the Plan. It is not a final benefit calculation. This was done assuming that the proposed benefit reduction starts on [insert proposed effective date]. If the benefit reduction starts later, the effect of the proposed reduction on your benefit might be different.

This estimate is based on the following information from Plan records:

- You have [insert total years and months of credited service or total years and months of credited service as of the service calculation date, as applicable] of credited service under the Plan.
- You will be [insert age in years and months] as of [insert last day of the month of that includes the effective date of proposed suspension].
- The portion of your benefit that is based on disability is [insert amount].

[Add additional bullets for other data that is used to estimate the effect of proposed suspension on the individual's benefit.]

### **PBGC Guaranteed Benefits**

If the Plan does not have enough money to pay benefits, your monthly benefit would be no larger than the amount guaranteed by PBGC. The amount of your monthly benefit guaranteed by PBGC is estimated to be [insert \$xxxx.xx].

<sup>7</sup>These numbers are just estimates. The actual amount you receive will depend on things like how long you work and when you begin receiving payments. For more information, see [insert cross-reference].

<sup>8</sup>These amounts will be different if you take your benefit in a different form. For example, if you elect [insert other form of benefit available under the plan], your reduced monthly benefit will be [insert monthly benefit reflecting proposed suspension].