

Retiree Representative—Update

June 2016

I would like to provide you with an update on my activities as Retiree Representative of the New York State Teamsters Conference Pension and Retirement Fund (the Fund), and on other relevant events.

First, for background information about me, the Fund's financial status, and the Multiemployer Pension Reform Act (MPRA), please see the Introductory Statement and other information on my website: <http://nysteamstersfundretireerep.com/>.

The Central Questions

I know that the main questions everyone has are:

Will my benefits be cut?

How much?

When?

What can I do?

Will my benefits be cut? How much?

We don't know yet. The Fund's Board of Trustees has not decided on any plan for benefit cuts that it might include in a MPRA application for permission to make cuts (which are technically called "benefit suspensions" under MPRA). If the Fund does submit an application, the Fund will provide you with an individualized estimate of the effect of the planned cuts upon you, shortly after the application is filed.

It's important to remember that the Board is considering making a MPRA application to cut benefits because the Fund is expected to run out of money within the next 19 years. If it did run out of money, the Pension Benefit Guaranty Corporation (PBGC) is supposed to guarantee partial payment of benefits. But the PBGC could run out of money too, in which case even those partial benefits may not be paid. By contrast, under a plan for benefit cuts under the MPRA, benefits have to be at least 10% higher than the level guaranteed by the PBGC; no cuts would apply to retirees who, at the time the cuts go into effect, are age 80 or above or who are receiving disability pensions from the Fund; and retirees aged 75-79 when cuts go into effect would be partly protected from cuts, on a sliding scale based on age. In summary, the goal of a MPRA application would be to avoid larger cuts in benefits at a later date.

When?

The Board has been considering trying to submit an MPRA application to the Treasury Department in late summer 2016, with cuts scheduled to go into effect in mid-summer 2017. This is just an estimate, however. If and when the Fund does submit an MPRA application, the Treasury Department then has 225 days to rule on it. If Treasury doesn't reject the application, a vote of all participants and beneficiaries has to be held within 30 days. Unless a majority votes against the application, it is approved and the cuts will go into effect at the time set in the application. It is important to note that if a participant or beneficiary does not submit a vote, then that vote will be counted as a vote in favor of the cuts.

What can I do?

I urge you to continue to stay informed by checking my website, asking me or the Fund Office questions, and going to any meetings on these issues that you may be able to attend. Also, please see the "Take Action" section of my website, which contains a form letter and contact information that can be used for urging elected officials to save our Fund benefits.

If and when the Fund files an application to cut benefits under the MPRA, you will have an opportunity to submit comments to the Treasury Department about the application. I will also be submitting comments, based on the concerns that have been shared with me and in order to represent the interests of all those I represent.

If the Fund's application is not rejected by the Treasury Department, you will also be entitled to vote on the application. If the Fund is considered to be "systemically important" based on the amount of liability that it would impose on the PBGC, however, the cuts could go into effect even if the vote goes against the application. Whether the Fund is systemically important is uncertain but I would urge you to vote regardless.

My Activities

As the Board has been considering its options under MPRA, I have been insisting that any plan for cuts has to be fair to the retirees, deferred vesteds, and beneficiaries I represent, and should affect them as little as possible. I've also been pressing the Board on specific issues that some of you have raised with me, including the following:

- Whether some additional protection from cuts could be provided for beneficiaries, such as surviving spouses,

- Whether participants who are disabled but who aren't receiving a disability pension from the Fund (which would mean their benefits would be protected from cuts under the law) could receive some protection from cuts,
- Whether, if cuts go into effect, the Fund's rules could be changed to permit retirees to work more without having their pension payments suspended.

The Board has stated that it will consider these issues, but has not yet decided on whether or how they might be incorporated into any plan for cuts under MPRA.

Here are some of my activities and other important events that have occurred since my appointment as Retiree Representative:

- February 8, 2016. I interviewed numerous law firms and actuarial firms as candidates to provide me with legal and actuarial services in connection with my duties as Retiree Representative.
- February 10, 2016. I selected Spivak Lipton LLP as my law firm and CBIZ Savitz as my actuarial firm.
- February 18, 2016. I, along with my attorneys and actuaries, attended a meeting of a subcommittee of the Board of Trustees in Albany, at which the Fund, its actuaries, and its attorneys provided information about the Fund's condition and options under the MPRA.
- February 22, 2016. My Introductory Statement was sent to those I represent.
- March 7, 2016. I attended a meeting at Local 294 at which the Fund's possible submission of an MPRA application was discussed.
- March 30, 2016. I attended a meeting in Syracuse at which the Fund's Executive Administrator made a presentation about the Fund's fiscal condition and the MPRA to union officials and contributing employers. Representatives of my legal and actuarial firms also attended this meeting. After the presentation, I made comments to the group about my role and spoke to a number of the attendees about issues relating to the Fund and the MPRA.
- March 31, 2016. Launch of my website.

- April 5, 2016. I and my attorneys met with the co-chairs of the Board and its counsel in Albany to discuss my role and how information would be provided by the Board to me, my counsel, and my actuaries.
- April 9, 2016. I, along with representatives of my legal and actuarial firms, attended a meeting in Albany at which the Fund's Executive Administrator made a presentation about the Fund's fiscal condition and the MPRA to retirees. I explained my role to the group and spoke to a number of attendees after the meeting about their issues and concerns. United States Congressman Paul Tonko attended the meeting and advised everyone that he was working on legislative efforts to address the solvency issues of pension funds like ours.
- April 14, 2016. I, along with representatives of my legal and actuarial firms, attended a meeting of the Board in Syracuse at which issues concerning the Fund's possible MPRA application were discussed, including issues concerning actuarial assumptions for projecting the effect of cuts under the MPRA.
- April 26, 2016. Form letter and contact information for urging elected officials to take action to save our pensions posted to my website.
- April 28, 2016. The government issued final regulations concerning MPRA applications.
- May 6, 2016. The Treasury Department rejected the MPRA application filed by the Central States fund.
- May 10, 2016. I, along with a representative of my legal firm, attended a meeting in Rochester at which the Fund's Executive Administrator made a presentation about the Fund's fiscal condition and the MPRA to retirees. I explained my role to the group and spoke to attendees after the meeting about various issues.
- May 19, 2016. I, along with representatives of my legal and actuarial firms, attended a meeting of the Board of Trustees in Syracuse. At the meeting, the Fund's options under the MPRA were discussed in light of the Treasury Department's rejection of the Central States application.

Also that day, we learned that the Central States pension fund would not be submitting a new MPRA application, because the Central States fund had determined that making cuts under MPRA would not enable it to avoid insolvency.

During the time since I have been appointed, I have also met and spoken many times with my attorneys and actuaries concerning issues relating to the Fund and the MPRA. My attorneys and actuaries have also requested and received information on various matters from the Fund, its counsel, and its actuaries.

At the Board meetings that I have attended, the Fund's actuaries have presented various sets of assumptions and scenarios for purposes of evaluating the Fund's options under the MPRA. I, my counsel, and my actuaries have actively participated in these meetings, seeking to make sure that the assumptions are sound and insisting that those I represent must be treated fairly.

Clarification of Specific Issues

A few issues have been raised repeatedly, and could use some clarification:

- **"Orphans."** In making a plan for cuts, the MPRA permits a fund to base differences in treatment on whether benefits are attributable to service with employers who have failed to pay withdrawal liability due to the fund (a "defaulting employer"). This provision could be used to impose more severe cuts on such benefits, as compared with the cuts imposed on other benefits. Participants and beneficiaries who could be affected by such cuts are sometimes referred to as "orphans."

It's important to understand, though, that such cuts only apply to the benefits associated with the defaulting employer. Thus it's more accurate to refer to "orphan benefits," rather than "orphans."

A retiree who had some service with a defaulting employer, and other service with employers who never owed or defaulted on withdrawal liability, would only be subject to the more severe orphan cuts with respect to the benefits arising from service with the defaulting employer. This doesn't mean that the rest of the retiree's benefits would be safe from cuts, though. It just means those benefits would not be subject to extra cuts under the orphan benefit provision of the MPRA. It is, however, not the case that any amount of service with a defaulting employer means that all of a retiree's benefits will be subject to more severe cuts under the orphan benefit provision.

- **Age-Based Protections.** As noted above, retirees age 80 and above are protected from any MPRA cuts, and retirees aged 75-79 are partly protected from such cuts, on a sliding scale based on age. It's important to note that these protections apply based the retiree's age during the month when the cuts go into effect. Thus if cuts go into effect on July 1, 2017, a retiree who turned 80 on July

31, 2017 would be protected from any cuts, but a retiree who turned 80 on August 1, 2017 or thereafter would not. Under MPRA, unfortunately, a retiree cannot “age into” these protections.

Also, if a retiree is protected from cuts based on his or her age, the retiree’s beneficiary will get the same protection regardless of the beneficiary’s age.

- Disability Pension Protections. Under the MPRA, the rule providing that disability pensions may not be cut only applies to disability pensions provided by the Fund; it does not apply to retirees receiving Fund benefits who are disabled, but who are not receiving a disability pension from the Fund. The MPRA regulations also provide that beneficiaries of disability pensioners are not entitled to the disability pension protection.
- UPS & Central States. As some of you know, UPS agreed to make up the difference in cuts to Central States pension benefits that might be imposed on certain active or terminated UPS employees due to the Central States fund’s fiscal condition. I have received some questions about whether a similar deal might be applied to our Fund. While it’s possible in theory, I have no information indicating that any such deal is likely.
- The Rejection of Central States’ Application. Some of you have asked how the rejection of Central States’ MPRA application will affect our Fund. I’ve reviewed the issue with my attorneys and actuaries, and the matter was discussed at length during the Board of Trustees meeting we attended on May 19, 2016.

While it’s uncertain, the Central States rejection may make things harder for our Fund. Treasury rejected their application in part because it concluded that Central States’ investment return assumption of 7.5% was, for various reasons, too optimistic. Our Fund has historically used an investment return assumption of 8.5%. Our Fund is, however, different than Central States in a number of ways that could justify the Fund in using a rate higher than 7.5%.

Nevertheless, the rejection of Central States’ application raises the question of whether an application by our Fund would be approved without a lower investment return assumption. And the lower the investment return assumption, the bigger the cuts needed to prevent insolvency. I and my legal and actuarial staff will be evaluating this issue further, as will the Board of Trustees.

Additionally, Central States' decision not to submit a new MPRA application means that it now expects to simply become insolvent and to become subject to the PBGC guarantee. Because the Central States plan is so big, this could cause the PBGC to run out of money for all multiemployer plans. And this could eventually leave not only Central States retirees, but also the retirees of other insolvent plans—including our Fund if it can't reduce benefits under the MPRA—with nothing.

Central States has called for legislative action to address the problem. As mentioned above, I've also provided a form letter and contact information that people could use to urge elected officials to take action to protect our Fund benefits. While government action on this is sorely needed, the Fund still has to proceed with its consideration of cuts under the MPRA—especially since such government action may not come for some time, if ever.

In closing . . .

I wish I had more definite and more encouraging information to give you, but I think it's my duty to describe the situation in an honest and direct manner. I'll provide you with further updates as more information becomes available.

Please continue to ask questions, make suggestions, share concerns, and provide information. I will keep insisting for fair treatment of those I represent, and will make sure the Board clearly understands that their interests must be respected.

Sincerely,



Tom Baum, Retiree Representative
Email: info@nystfretireereptbaum.com

Attorneys' Statement

Under the MPRA, a retiree representative's function is to advocate for the interests of retired and deferred vested participants and beneficiaries of the fund throughout the application approval process. ("Deferred vested participants" are those who have stopped working in covered employment and who have a right to a pension, but who have not yet started receiving benefits.) As attorneys for Retiree Representative Tom Baum, our role is to provide Tom with legal analysis, advice, and other support to enable him to carry out that function.

Most recently, we have been analyzing and advising Tom on the final MPRA regulations and the rejection of the Central States application; assisting him with communications; and attending Board and other meetings along with Tom and his actuaries. We will continue to devote our best efforts to helping make sure Tom has the tools he needs to vigorously represent his constituency.

Eric R. Greene

Denis P. Duffey Jr.

Spivak Lipton LLP

Actuaries' Statement

As actuaries for Retiree Representative Tom Baum, our role is to provide Tom with actuarial analysis, advice, and other support to enable him to evaluate the information presented by the Fund's actuary so that he can better understand the information being presented, ask the right questions, and make informed decisions.

Most recently, we have been working with Tom to ensure that all actuarial calculations, methods, and assumptions being used in the Fund's projections are an accurate representation of the Trustees' future expectations and are in line with what is required by the final MPRA regulations and the Actuarial Standards of Practice. We will continue to attend all appropriate meetings to assist Tom to the best of our abilities as he advocates for those participants he represents.

Joseph F. Hicks, Jr., FCA

Bryan M. McCormick, ASA

CBIZ Savitz