

**Retiree Representative**

October 20, 2016

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**Commenting on the Fund's MPRA Application**

The Treasury Department is now receiving comments on the Fund's application for permission to cut benefits pursuant to the Multiemployer Pension Reform Act (MPRA).

A copy of the application is available on my website. (See web address below.)

Here is some key information on the comment process:

***Comment Deadline:*** November 14, 2016. Comments will only be accepted if they are received on or before November 14, 2016. Online comments must be submitted by 11:59 pm Eastern Time on that date.

***Submitting Comments Online***

To submit comments online, you can use the following link to the Treasury Department's comment portal for the Fund's application:

<https://www.regulations.gov/comment?D=TREAS-DO-2016-0016-0001>.

You can also access the comment portal through the Treasury Department's webpage for MPRA Applications: <https://www.treasury.gov/services/Pages/Plan-Applications.aspx>. On that page, scroll down to the entry for the Fund's application and click on "Comment on Application."

***Mailing Comments***

Comments can be submitted by mail to the following address:

Department of the Treasury  
MPRA Office  
1500 Pennsylvania Avenue, NW  
Room 1224  
Washington, D.C. 20220  
Attn: Eric Berger

***No Email or Fax Comments.*** The Treasury Department will not review comments sent in by email or facsimile.

### ***Comments Will Be Public***

All comments submitted, whether online or by mail, will be made public by the Treasury Department. Any documents or information submitted with comments will also be made public. Please do not include any personal information, such as social security numbers or medical information, that you do not want publicly disclosed.

### ***Form Letter***

Enclosed is a form letter that I have prepared, which you could use for submitting comments. Please, though, feel free to submit comments without using the form letter.

### ***Government Tips for Commenting***

On the website for federal regulations, there is a document entitled “Tips for Submitting Effective Comments” containing suggestions about how best to comment on regulations. Though some of the suggestions in the document are not relevant to the Fund’s application, others may be useful. A copy of the “Tips” document is enclosed.

## **Fund Financial Disclosure**

As some of you may know, the Ohio Public Employees Retirement System and several other public pension systems in Ohio have recently agreed to make records of their expenditures available online, through a website established by the Ohio Treasurer.

Many of you have expressed interest in having more information about the Fund’s finances, which makes sense. This information could be useful to many of you as you review the Fund’s MPRA application and determine what position to take.

In view of this, I have requested that the Fund make its expenditure records and other financial information available online immediately. When I get a response or have further information to report on this issue, I’ll post an update on my website.

## **Forensic Audit Issue**

A number of people have called for a “forensic audit” of the Fund to be conducted. When this has been raised with the Fund, the Fund has stated that the Department of Labor (“DOL”) has recently audited the Fund and found only one issue with respect to an expenditure of less than \$200. Some have raised the question of whether the DOL audit is the same as a forensic audit, and so I thought some information about the different kinds of audits might be useful.

DOL audits typically focus on whether a fund has complied with the fiduciary and other requirements of the Employee Retirement Income Security Act (ERISA), including with respect to the handling of contributions, expenditures, and investments. These audits can be narrow or broad in scope, depending on the DOL's reason for conducting the audit and what it finds in the process. DOL investigations can also address possible criminal violations of ERISA.

The Internal Revenue Service (IRS) can audit retirement funds in order to determine whether they comply with applicable sections of the Internal Revenue Code.

The Fund is also required to have its financial statements audited annually by an external accounting firm. This audit addresses whether there are any material misstatements in the Fund's financial statements, whether all required disclosures are complete and materially correct, and whether the plan has procedures in effect for ensuring that the plan document and applicable laws are followed.

A "forensic audit" is typically an investigation of an entity's finances for the purpose of determining whether there has been any wrongdoing, such as fraud, embezzlement, or other financial misconduct. Forensic audits are sometimes conducted in connection with court proceedings, and may be initiated by government entities or private parties.

## **Recent & Upcoming Meetings**

Informational meetings on the Fund's MPRA application were held as follows:

- Albany on August 28, 2016
- Rochester area on September 11, 2016
- Syracuse on October 15, 2016
- Potsdam on October 16, 2016.

At these meetings, I spoke about my role and my view of the Fund's application, and then a representative of the Fund gave a presentation detailing the Fund's situation and the proposed plan for cuts. After that, the Fund representative took questions, and I and my attorneys and actuaries also answered any questions people had for us during and after the meeting.

Another meeting has been scheduled in Binghamton as follows:

Saturday, October 22, 2016  
12:00 pm—2:30 pm  
American Legion Post 1645  
177 Robinson Street  
Binghamton, NY 13904

Please check my website for updates on other meetings, and other issues that arise.

I know the Fund's situation and MPRA application are creating a lot of stress for a lot of us. I can't tell you that the Fund's problems are going away, but I hope that the information I've provided will be useful in helping people understand things more completely.

If you have further questions or issues, please feel free to contact me using the information below.

Thank you.



Tom Baum

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