Frequently Asked Questions Regarding the Multiemployer Pension Reform Act of 2014

1. What is the Multiemployer Pension Reform Act of 2014?

President Obama signed the Multiemployer Pension Reform Act of 2014 (the “Act”) into law this past December 16, 2014. “The Act” modifies some of the components of the 2006 Pension Protection Act (PPA), and repeals other provisions of the PPA that had been scheduled to end on December 31, 2014.

(i) Changes/Modifications to the 2006 Pension Protection Act (PPA)

a.) In 2015, a plan approaching critical status may now elect to enter critical status early, thus bypassing endangered status. This new rule will give those plans that are heading into serious funding difficulty the opportunity to take earlier, less costly, steps to correct the plan’s funding.

b.) The Act also makes needed technical corrections and modifications that clarify provisions of the PPA that had caused confusion since the law was first enacted in 2006.

c.) The Act extends benefit guarantees by the Pension Benefit Guaranty Corporation (“PBGC”) to pre-retirement survivor annuities.

d.) The Act expands the list of documents and reports that plans must provide to participants and participating employers upon request, as provided under section 101(k) of ERISA.

More Specifically:

(ii) Mergers and partitions

The Act gives the Pension Benefit Guaranty Corporation (PBGC) new authority to enable plan mergers and allow partitions if doing so would strengthen the position of the PBGC’s multiemployer program. In a partition, a plan’s benefit obligation associated with bankrupt employers is separated from the plan and transferred to the PBGC, to help the remaining plan stay solvent over the long term.

These new rules do not affect the SAG-Producers Pension Plan because they apply only to situations with plans that are in critical status and approaching insolvency.

(iii) PBGC premium increases

The Act increases PBGC flat rate premiums for multiemployer pension plans to $26 per covered participant and beneficiary.

The flat rate premium for future years will be automatically increased with inflation. For comparison, the flat rate premium was $12 per covered participant and beneficiary in 2014, and it was scheduled to increase to $13 in 2015.
The impact of the increased PBGC premium on the Plan’s finances is minimal – the additional premium is equivalent to only 0.02% of the Plan’s assets (i.e., two-one-hundredths of one percent).

(iv) Benefit suspensions for deeply troubled plans

The Act gives trustees of a multiemployer pension plan that is in critical status and approaching insolvency (in “critical and declining status”) the authority to suspend benefits that were previously protected under law, if doing so would enable the plan to avoid insolvency.

The Act defines the suspension of benefits as the temporary or permanent reduction of any current or future payment owed by the plan to any participant or beneficiary. The trustees must determine annually that the benefit suspensions remain necessary to avoid insolvency, only after all other reasonable measures to avoid insolvency have been taken.

Benefits can be suspended only to the extent that the benefits are still at least 110% of the PBGC guaranteed benefit level. Again, it is extremely unlikely that this provision of the Act will ever apply to the SAG-Producers Pension Plan as we are solvent and healthy.

(v) Changes to withdrawal liability rules

The Act changes certain rules for determining employer withdrawal liability. For instance, certain contribution increases required under a funding improvement or plan restoration plan (for plans in endangered status), will be overlooked in order to give unfunded vested benefits to troubled employers, when calculating an employer’s legal payment schedule.

Employer surcharges (for plans in critical status only) are also eliminated.

Since the SAG-Producers Pension Plan has never had a funding improvement plan or rehabilitation plan, these new rules are not currently applicable to the Plan.

2. Will the Act’s limitations on benefit suspensions affect my benefits?

Given the SAG-Producers Pension Plan’s healthy funded position, none of the Act’s limitations on benefit suspensions should ever impact participants’ benefits.

For plans that may need to rely on the new benefit suspension rules allowed by the Act, there are still several limitations on benefit suspensions such as:

a.) Suspensions cannot reduce benefits below 110% of the levels guaranteed by the PBGC (a monthly benefit of up to $35.75 per year of service).

b.) Retirees who are age 80 or older at the time the suspensions go into effect are protected, as are disabled retirees.
c.) Retirees age 75 to 79 are partially protected.

d.) The suspensions must not materially exceed the level needed to avoid insolvency, and they must be spread equitably across the participant population.

e.) Trustees of large plans (with at least 10,000 participants) must designate a retired plan participant to advocate for the interests of retired and deferred vested participants through the suspension process.

f.) There are multiple disclosure requirements that must precede any benefit suspensions. For instance, before the plan can submit its application for approval to the Secretary of Treasury, it must send a detailed notice to interested parties, including an “individualized estimate” of the effect of the proposed suspensions on each participant or beneficiary.

g.) A plan’s application to the Secretary of Treasury must be posted online for public inspection and comment.

3. Are there any other provisions of the Act which will impact my benefits under the Plan?

No. The Act should have no impact whatsoever on any of our SAG-Producer Pension Plan participants’ benefits. The only individuals who may be affected by the Act are participants of the relatively small number of plans (estimated to be 5% to 8% of the 1,400 U.S. multiemployer plans) that are headed for inevitable insolvency. A plan must be 20% or more underfunded in order for benefits to be cut.

The SAG-Producer Pension Plan is not approaching insolvent status and is not expected to ever approach insolvent status. Thus, none of the provisions of the Act is expected to impact any of the Plan’s participants or their benefits under the Plan.