

The Board of the Pension Protection Fund

**Determination under
Section 175(5) of the Pensions Act 2004
in respect of the financial year
1 April 2009 – 31 March 2010**

20 November 2008

Introduction

Section 175(5) of the Pensions Act 2004 requires the Board of the Pension Protection Fund (the "Board"), before the beginning of each financial year, to determine in respect of that year:

- (a) the factors by reference to which the pension protection levies are to be assessed;
- (b) the time or times by reference to which those factors are to be assessed;
- (c) the rate of the levies; and
- (d) the time or times during the year when the levies, or any instalment of levy, becomes payable.

The approved form of the 2009/10 determination is attached as pages 3-19 of this document. The Appendices and Annexes may be accessed via the links on pages 20 and 21.

Determination by the Board under section 175(5) of the Pensions Act 2004

The Board of the Pension Protection Fund hereby makes the following determination in respect of the financial year 1 April 2009 to 31 March 2010:

- (1) That in respect of that year, the factors and times by reference to which the pension protection levies are to be assessed, and the rate of the levies, are to be as set out in the Schedule to this determination;
- (2) That the levies in respect of a scheme are to become payable on the earliest of the following dates: the date upon which the person liable to pay the levies in respect of the scheme is sent notification of the amount of the levies in respect of the scheme (or, in the cases in which this Schedule provides for a revised notification to be issued, the date upon which that person is sent a revised notification); the date on which the scheme ceases to be an eligible scheme; or 31 March 2010.

SCHEDULE

Part 1 – general

1. The scheme-based levy and the risk-based levy in respect of a scheme shall be calculated in accordance with Part 2 and Part 3 respectively of this Schedule, subject to the modifications contained in Part 4 of this Schedule in the cases to which those modifications apply. Where this Schedule refers, in whatever language, to something which is to be done or decided by the Board, then any necessary action or decision may be taken on behalf of the Board either by the Chief Executive of the Board or by such member of the Board's staff as he may appoint for the purpose.
2. The matters referred to in this Schedule shall be assessed, measured, quantified or estimated at such dates and in such manner as is provided for below. In the absence of such provision, it is intended that this Schedule shall be applied in accordance with the factual position as it existed at midnight on 31 March 2008. All references to dates and times in this Schedule relate to Greenwich Mean Time or, at the times when it is in force, British Summer Time. For the avoidance of doubt, references to midnight on a day are to midnight at the end of that day.
3. References in this Schedule to the "Act" are to the Pensions Act 2004. Unless the context otherwise requires, terms used in this Schedule bear the same meaning as in the Act. References to "defined benefit members" of a scheme shall be taken to mean members of that scheme who are entitled to defined benefits under that scheme. References to "pension credit members" of a scheme shall be taken to mean individuals who have rights under a scheme attributable to a pension credit and such pension credit members shall be deemed to have been employed by the same employer as the member from whom their rights under the scheme are derived. References to the "scheme

maintenance system” are to the system maintained by the Pensions Regulator for the online submission of scheme return and other information by or on behalf of pension schemes, also known as “Exchange”. References to the “scheme actuary” are to the actuary within the meaning of section 179(2) of the Act.

4. Where this Schedule refers to certain information having been provided on or before a certain time/date, the information shall be treated as having been so provided if but only if the Board is satisfied that:

(a) save only as provided by subparagraphs (b) and (c) below, that the information has been submitted to the appropriate part of the scheme maintenance system.

(b) in the case of hard copy documentation required for submission of contingent assets (for the avoidance of doubt not including certificates in respect of contingent assets), the documentation has, on or before the time/date in question, been received by post or hand delivery to:

The Board of the Pension Protection Fund
Knollys House
17 Addiscombe Road
Croydon
Surrey
CR0 6SR

Marked for the attention of “Director of Legal Re: Contingent Assets.

(c) in a case where on or after the date of final publication of this determination the Board has expressly stipulated on its website a different method of provision of information for the purposes of the 2009/10 levy year to those methods set out at paragraphs (a) or (b) above (whether as an alternative or a replacement to those methods), the information has been received in accordance with that method.

For the avoidance of doubt, delivery by fax is not permissible. Save where this Schedule specifically provides otherwise, the deadline for any information provided to the Board otherwise than pursuant to a specific request or requirement is midnight on 31 March 2008. Without prejudice to paragraph 6 and paragraph 12 below, the Board may at its discretion take account of information provided after any applicable deadline but only in circumstances where it appears to the Board that:

(a) The information was despatched at an appropriate time, but was delayed in the course of post or otherwise; or

(b) The provider of the information was prevented from meeting the deadline by the temporary inaccessibility of the Board’s website or the scheme maintenance system, or the interruption of electronic communications, or other like cause, and the information was provided as soon as reasonably practicable thereafter.

5. It is intended that the provisions contained in this Schedule should in all cases permit the calculation of the amount of the levies in respect of a scheme. However, in the event that any situation arises for which the Schedule fails to make the provision required for a calculation to be performed, the Board hereby determines that the calculation of the levies shall be performed in such manner as, in the opinion of the Board, is reasonably practicable and best gives effect in that situation to the general approach laid down by this Schedule. This paragraph shall also apply in any case where the Board is unable to obtain some item of information which would normally be required for the application of this Schedule in accordance with its terms.
6. Nothing in the Board's determination or this Schedule shall prevent the Board from reviewing the amount of the levies calculated in respect of a scheme where it subsequently appears to the Board that the information upon which the calculation was based was incorrect in a material respect, or that a notification required by or under a certificate in relation to contingent assets has not been duly given, or that a certificate or declaration given for the purposes of this Schedule was improperly given or contained information which was incorrect in a material respect. Further, in calculating the levies in respect of a scheme the Board may disregard any such certificate or declaration if the Board believes that it has been improperly given, and may similarly disregard any information in the certificate or declaration, or in any notification or return, which is believed to be incorrect. For the avoidance of doubt, information is not incorrect for this purpose where it is correct and legitimate in itself, but it would have been open to the person supplying it to supply some different or additional information which might have caused this Schedule to be applied differently, and the Board is in any case under no obligation to review the amount of the levies merely because a scheme has been disadvantaged by the failure of those acting on its behalf to supply correct information at the proper time¹.
7. In the case of a scheme which is divided into sections (defined in the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 as a segregated scheme), each such section shall (except where this Schedule expressly or by implication requires otherwise) be treated as if it were a separate scheme for the purposes of this Schedule. Similarly where a segregated part (as defined in parts 4, 5, 7 & 8 of the same Regulations) of a scheme has been created on or before 31 March 2009, each of the segregated part(s) and the remainder of the scheme shall (except where this Schedule expressly or by implication requires otherwise) be treated as if it were a separate scheme for the purposes of this Schedule. References to schemes shall be construed accordingly.

¹ NOTE – This note is provided for information as to the manner in which the Board is likely to exercise the power described in paragraph 6. The note does not form part of the Determination, but has been approved by the Board when considering the Determination. The Board does not anticipate that this power of review will normally be exercised so as to correct validated data (as defined in paragraph 8(a) of the Schedule) held on the *scheme maintenance system* as at midnight on 31 March 2008 or other relevant deadline. However, the Board may take such steps in appropriate cases, including (without limiting the exercise of the Board's discretion) any case in which a scheme would otherwise be advantaged by the submission of inaccurate information.

8. Where this Schedule indicates that the Board should use “relevant scheme return data”, the Board will take account of the following information.

(a) Where the scheme concerned has either:

- (i) no later than midnight on 31 March 2008, submitted a scheme return via the scheme maintenance system in accordance with sections 63-65 of the Act; or
- (ii) been sent a scheme return notice requiring it to submit a scheme return via the scheme maintenance system, and the return date for that scheme return falls on or before 31 March 2008 (whether or not the scheme has so submitted a scheme return by that date);

then the Board shall take into account the validated data held on the scheme maintenance system as at midnight on 31 March 2008. For these purposes validated data shall mean the data held on the system at the point of the most recent certification (whether by way of scheme return or scheme maintenance certification) through the system on behalf of the scheme or, where no such certification has ever been made on behalf of the scheme, the data with which the system was pre-populated when it was first made available to the scheme.

(b) Where the scheme concerned has for the first time been sent a scheme return notice requiring it to submit a scheme return and the return date falls between 1 April 2008 and 31 March 2009 (inclusive) and the scheme has, no later than 5pm on 31 March 2009 submitted a scheme return via the scheme maintenance system or otherwise in accordance with sections 63-65 of the Act, then the Board shall take into account the validated data held on the scheme maintenance system or the information otherwise submitted as at 5pm on 31 March 2009.

(c) In all other cases the Board shall take into account the most recently submitted equivalent information provided to the Board by or on behalf of the scheme by no later than midnight on 31 March 2008.

9. References in this Schedule to a section 179 valuation are to the results of an actuarial valuation of the scheme carried out in a manner which is in accordance with section 179 of the Act and regulations and relevant guidance made and issued under that section and certified by the scheme actuary, the results of which have been provided by or on behalf of the trustees or managers of the scheme in accordance with the provisions of paragraphs 4 and 8 of this Schedule, whether that valuation has been so carried out and the results so provided as a matter of legal obligation or otherwise. References in the preceding sentence to the results of the valuation are to those data items required to be completed in the relevant section of the scheme maintenance system or other scheme return as the case may be. Where there is more than one valuation satisfying the requirements of this paragraph, the Board shall use the valuation with the latest effective date falling on or before the relevant deadline for submission of

information for the purposes of calculating the levies. In the event of any discrepancy between valuation data as at the same date supplied to the Board via the scheme maintenance system and any other means, the validated data (as defined in paragraph 8(a) and (b)) held on the scheme maintenance system as at midnight on 31 March 2008 (or, if applicable, 31 March 2009) shall prevail.

10. References in this Schedule to the value or amount of the assets or the protected liabilities of a scheme shall be understood as follows but subject to paragraphs 27, 40, 41 and 42 below:

- (a) Where there is a section 179 valuation, the reference is to the value or amount of the assets or protected liabilities shown in that valuation, but adjusted in a manner which in the view of the Board gives effect to the approach set out in Appendix 1 to this Schedule and results in the scheme's assets and its liabilities being consistently treated for these purposes.
- (b) Where there is no section 179 valuation, the reference is to the estimated value or amount of the assets or liabilities of the scheme shown in the Minimum Funding Requirement valuation data supplied as relevant scheme return data, but adjusted in a manner which in the view of the Board gives effect to the approach set out in Appendix 2 to this Schedule and results in the scheme's assets and its liabilities being consistently treated for these purposes.
- (c) This sub-paragraph shall apply where a segregated part or parts of a scheme has been created by the operation of an option or requirement to segregate on or before 31 March 2009 (whether or not such segregated part has transferred to the PPF), but there is no section 179 valuation calculated by reference only to the segregated part and/or the remainder of the scheme. In such circumstances the Board shall estimate all relevant data in relation to any segregated part by multiplying the equivalent data for the entire scheme by a fraction, the numerator of which is equal to the number of members in relation to which the employer for that segregated part is the employer, and the denominator of which is equal to the total number of members in the entire scheme. Similarly the Board shall estimate the relevant data in relation to the remainder of the scheme by multiplying the equivalent data for the entire scheme by a fraction, the numerator of which is equal to the total number of members in relation to which any employer that is not related to any segregated part is the employer (including for the avoidance of doubt any member not formally attributed to any current employer), and the denominator of which is equal to the total number of members in the entire scheme. The second sentence of paragraph 35 shall apply when determining the number of members of a scheme of whom an employer is the employer. For the avoidance of doubt, where a segregated part has been created on or before 31 March 2009 by virtue of a qualifying insolvency event, such that the segregated part has entered a PPF assessment period, but there is no section 179 valuation for the whole scheme, then the approach set out in this paragraph shall be applied in conjunction with paragraph (b) above

(use of Minimum Funding Requirement data adjusted in accordance with Appendix 2) in order to estimate the assets and liabilities of the segregated part and the remainder of the scheme.

11. For the purposes of this Schedule, the employer or employers in relation to a scheme shall be taken to be such undertaking or undertakings as have been notified as such in relevant scheme return data or pursuant to Section 191 of the Act.
12. The Board may, at any time prior to the calculation or any recalculation of the levy in respect of a scheme, take such steps as it thinks fit to obtain further or amended information for the purposes of that calculation or recalculation. But the Board is under no obligation to take such steps where information has not been provided to the Board on or before any applicable deadline prescribed in this Determination, and will not do so merely because a scheme has been disadvantaged by the failure of those acting on its behalf to supply information at the proper time or in the proper manner².
13. If, at the time of calculation or any recalculation of the levy in respect of a scheme, any information necessary for such calculation has not been provided in the manner or format or at the time anticipated by this Determination, then the Board may instead use equivalent information provided in a different manner or format or at a different time. But the Board is under no obligation to use such equivalent information, and will not do so merely because a scheme has been disadvantaged by the failure of those acting on its behalf to supply information at the proper time or in the proper manner.
14. In performing the calculations required by this Determination:
 - (a) The Board shall round all monetary figures to the nearest penny at each stage of the calculation, save for the final amounts of the scheme-based levy and the risk-based levy which shall each be rounded to the nearest pound; and
 - (b) The Board shall round all figures representing an assumed probability of insolvency to six decimal places (that is, to four decimal places when expressed as a percentage) at each stage of the calculation. Without limitation, this shall apply to (i) all figures derived by taking the average of assumed insolvency probabilities and to (ii) the product of the weighted average insolvency probability and a scaling factor based on scheme structure in accordance with paragraph 38 or 39.

² NOTE – This note is provided for information as to the manner in which the Board is likely to exercise the power described in paragraph 12. It does not form part of the Determination, but has been approved by the Board when considering the Determination. The Board does not anticipate that this power to obtain information will normally be exercised so as to amend validated data (as defined in paragraph 8(a) of the Schedule) held on the *scheme maintenance system* as at midnight on 31 March 2008 or other relevant deadline. However, the Board may take such steps in appropriate cases, including (without limiting the exercise of the Board's discretion) any case in which a scheme would otherwise be advantaged by the submission of inaccurate information.

(c) Where a value which falls to be rounded in accordance with (a) or (b) above falls exactly halfway between two potential rounded figures it shall be rounded upwards.

15. In the event of any inconsistency between this Schedule, the Appendices and/or the Annexes to this determination, the following order of priority shall prevail:

(a) The Schedule to the determination;

(b) The Appendices to the determination (in the order in which they appear);

(c) The Annexes to the determination (in the order in which they appear).

In determining whether it is satisfied as to any matter set out in the determination, the Board will take account of any guidance which it has published (including guidance in the form of "Frequently Asked Questions").

Part 2 – the scheme-based levy

16. Subject to paragraph 44 below, the scheme-based levy in respect of a scheme shall be:

$$L \times h$$

17. L shall be the amount of the scheme's protected liabilities. h, the "scheme-based levy multiplier" shall be 0.000162

Part 3 - the risk-based levy

18. Subject to paragraphs 20, 29, 33 and 44 below, the risk-based levy in respect of a scheme shall be:

$$U \times P \times R \times c$$

19. U shall be the underfunding of the scheme, and P shall be the insolvency probability associated with the employer(s) in relation to the scheme, in each case calculated in accordance with the remainder of this Part 3 and/or Part 4 of this Schedule, as applicable. R shall be the proportion of the pension protection levies intended to be risk-based, which for the 2009/10 levy year shall be 0.8. c, the "risk-based levy scaling factor" shall be 2.22.

20. In no case shall the risk-based levy in respect of a scheme exceed K, the "levy cap", multiplied by that scheme's protected liabilities. For the 2009/10 levy year, K shall be 0.01.

21. Where the value of a scheme's assets is less than 120% of the amount of the scheme's protected liabilities, U shall be the amount obtained by subtracting the value of the scheme's assets from the product of multiplying the amount of the scheme's protected liabilities by 1.21.

22. Where the value of a scheme's assets is equal to or greater than 120% but less than 125% of the amount of the scheme's protected liabilities, U shall be 1% of such protected liabilities.

23. Where the value of a scheme's assets is equal to or greater than 125% but less than 130% of the amount of the scheme's protected liabilities, U shall be 0.75% of such protected liabilities.

24. Where the value of a scheme's assets is equal to or greater than 130% but less than 135% of the amount of the scheme's protected liabilities, U shall be 0.50% of such protected liabilities.

25. Where the value of a scheme's assets is equal to or greater than 135% but less than 140% of the amount of the scheme's protected liabilities, U shall be 0.25% of such protected liabilities.

26. U shall be 0 (zero) in all cases where the value of the scheme's assets is equal to or greater than 140% of the amount of the scheme's protected liabilities.

27. For the purposes of paragraphs 21 to 26 inclusive, all references to the value of the assets of a scheme shall include deficit-reduction contributions (if any) to the extent set out in paragraph 28.

28. This paragraph applies where, on or before 5pm on 7 April 2009, there is provided in accordance with the relevant provisions of paragraph 4 of this Schedule, a certificate given by the scheme actuary, containing the information specified in, and calculated in accordance with the rules set out in, Annex B attached to this Schedule (or, where the certificate has been provided before the publication of this determination, in accordance with the relevant guidance published by the Board and in force at the time the certificate is provided,) which confirms that a deficit-reduction contribution or contributions has been made since the date to which the section 179 or, as the case may be, Minimum Funding Requirement valuation referred to in paragraph 10 above (the previous valuation) relates. Where this paragraph applies, provided that the valuation referred to in the certificate is the same valuation as the Board is required to use under paragraph 10 above, then for the purposes of this Schedule the value of the assets of the scheme shall be increased by the aggregate amount of that contribution or contributions. For this purpose, a deficit-reduction contribution is the whole or any part of a contribution made by or on behalf of the employer or any employee in relation to the scheme (including by HM Revenue and Customs in respect of age-related National Insurance rebates) which:

(a) Has been received, irrevocably and in full, by the trustees or managers of the scheme before the scheme actuary's certificate is signed and not later than 31 March 2009; and

(b) Is not a contribution made on account of –

- (i) The cost of accrual of scheme benefits;
- (ii) The expenses of administering the scheme or investment management expenses; or
- (iii) The cost of augmentations of benefits granted or expected to be granted after the date to which the previous valuation relates; or
- (iv) Any benefits or transfers paid out of the scheme between the end-date of the audited accounts used for the purposes of the previous valuation and, if later, the valuation date

(for which purposes the costs referred to in sub-paragraphs (i) and (iii) above shall be calculated on the basis required for a section 179 valuation).

Where in relation to the same scheme more than one certificate in relation to deficit-reduction contributions has been provided to the Board (irrespective of when provided), only the most recent such certificate shall (provided it satisfies the other requirements for recognition set out in this determination) be taken into account. For the purposes of this paragraph 28, where paragraph 42 of this Schedule applies, references to the valuation referred to in paragraph 10 shall be treated as references to the information upon which the Board's determination of the value of the assets and protected liabilities of the scheme is based in accordance with that paragraph 42.

29. This paragraph applies where, on or before 5pm on 31 March 2009, there is provided in accordance with the relevant provisions of paragraph 4 of this Schedule:

- (a) a certificate containing the information set out in such part of Annex C attached to this Schedule as is appropriate, which certifies that the scheme benefits from one or more contingent assets within the meaning of Appendix 4 to this Schedule; and
- (b) the relevant required hard copy documents as set out in Annex C attached to this Schedule.

Where this paragraph applies then the risk-based levy for the scheme shall be determined in the manner set out in Appendix 4. The Board shall not take into account certificates in relation to contingent assets which relate to a previous levy year when calculating the risk-based levy for the period 1 April 2009 – 31 March 2010. In the event that there is any difference between the information and statements capable of being certified via the scheme maintenance system and those set out in Annex C, then the correct and full completion and submission of the relevant certificate in the scheme maintenance system shall be treated as sufficient compliance with sub-paragraph (a) above; provided, however, that the Board may at any time prior to the calculation or recalculation of the levy seek from the trustees or managers of the scheme any information or statement required by Annex C but not provided via the scheme maintenance system because of such a difference, in which case the relevant contingent asset shall not be taken into account for the purposes of the 2009/10 levy unless that information or statement is provided to the Board.

30.P (the insolvency probability associated with the employer(s) in relation to the scheme) shall be:

- (a) In the case of a scheme with a single employer, an amount equal to the Pension Protection Fund assumed probability of insolvency for that employer determined in accordance with paragraphs 31 and 32 below; and
- (b) In the case of a scheme with more than one employer, an amount calculated in accordance with paragraphs 35 to 39 below;

provided that if such amount exceeds 0.15, then P shall be taken to be 0.15.

31. The Pension Protection Fund assumed probability of insolvency for an employer shall be the assumed probability associated with the Failure Score which applies to that employer, as shown in Appendix 3 to this Schedule, or a figure otherwise determined in accordance with paragraph 32 below.
32. The Failure Score which applies to an employer shall be the failure score which Dun & Bradstreet UK Ltd (“DBUK”) informs the Board that it has assigned to that employer. For the avoidance of doubt, the failure scores to be provided to the Board are to be the normal failure scores which were or would have been assigned to that employer by DBUK in the ordinary course of its business on and as at 31 March 2008, based on data provided to DBUK on or before 30 March 2008, save only that –
- (a) The Board has instructed DBUK that the failure scores provided to the Board should be those which would be assigned to the employer if there were to be disregarded any rule or practice whereby DBUK normally limits the maximum failure score obtainable by a company where it is a subsidiary of another company and that parent company is regarded as being at severe risk of insolvency;
 - (b) In the case of employers to which DBUK would not in the ordinary course of business assign a failure score, but to which an associated undertaking of DBUK would expect to assign a failure score or local equivalent or risk indicator, the Board has instructed DBUK to provide it with the failure score or local equivalent (if any) assigned to such employers by that relevant associated undertaking on the same basis as set out above, or in the absence of such a failure score or local equivalent, with the risk indicator assigned to the employer in question. In such cases the assumed probability of insolvency associated with that failure score, local equivalent or risk indicator will be such as the Board has been advised by DBUK is appropriate for the purposes of achieving equivalence with Appendix 3 to this Schedule.
 - (c) In the case of an employer in relation to a multi-employer scheme in relation to which there are at least 10 employers, and where the procedure set out above has produced a failure score or risk indicator for at least 90% of those employers (or at least 50% if there are more than 100 employers in relation to the scheme), then the Pension Protection Fund assumed probability of insolvency for such an employer for whom no failure score or risk indicator has been produced shall be the average (mean) Pension Protection Fund assumed probability of insolvency of the other employers in relation to that scheme in respect of whom failure scores or risk indicators have been provided.
 - (d) In a case where the procedures set out above do not produce a failure score or risk indicator for a particular employer on and as at 31 March 2008, the Pension Protection Fund assumed probability of insolvency for that employer will be based upon the assignment of that employer to whatever industry group appears most appropriate, using for this purpose

the first two digits of the four digit 1972 Standard Industry Classification codes. If the Board is provided with a three digit 1972 Standard Industry Classification code in respect of an employer, the first digit of that code, preceded by a zero, shall be used. The Pension Protection Fund assumed probability of insolvency for that employer shall be the probability which DBUK notifies to the Board as being the median Pension Protection Fund assumed probability of insolvency for all UK-domiciled employers within that industry group in respect of whom it has provided the Board with failure scores for the purposes of the 2008/09 levy year. Where the Board either:

- (i) is unable to determine the most appropriate Standard Industry Classification code for an employer; or
- (ii) has not been provided with a failure score for any employers within the industry group to which that employer would be assigned,

it may assign that employer to an “undetermined” code. The Pension Protection Fund assumed probability of insolvency for an employer assigned to the “undetermined” code shall be the probability which DBUK notifies to the Board as being the median Pension Protection Fund assumed probability of insolvency for all UK-domiciled employers (irrespective of industry group) in respect of whom it has provided the Board with failure scores for the purposes of the 2008/09 levy year. For the purposes of the preceding three sentences, (i) such medians shall be based on the same set of probability data as used by the Board for the purposes of calculating the scaling factor as set out in paragraph 49 of its determination under s175(5) of the Act in respect of the 2008/09 levy year, and (ii) the Board may instruct DBUK to exclude specified classes of failure score which it regards as unrepresentative when calculating the relevant medians. For the avoidance of doubt, in determining such medians DBUK shall not include any employer to which a scheme average probability has been applied in accordance with subparagraph 32(c) above.

(e) This sub-paragraph applies in any case where DBUK informs the Board that it has decided, following representations made to it by or on behalf of the relevant trustees or managers or employer, or following a request by the Board, that either:

- (i) the failure score assigned to an employer on and as at 31 March 2008, or other measure assigned in accordance with sub-paragraph (b) above, was either too high or too low because it was based upon information which, on and as at 31 March 2008, was incorrect or incomplete by comparison with the information which should normally have been taken into account by DBUK in assigning a failure score at that date; or
- (ii) that the procedures set out in sub-paragraphs (c) or (d) above have produced a result which was incorrect as compared with the result intended by those procedures or that this Schedule

prescribed that a different procedure should have been applied,

(whether because information which should normally have been available to, and would normally have been taken into account by, DBUK at that date was not available to DBUK, or because such information was available to DBUK but was nonetheless not taken into account in assigning the failure score).

In a case to which this sub-paragraph applies, the Failure Score (or other measure) shall be the higher or lower failure score (or other measure) which DBUK informs the Board ought to have been assigned to the employer on and as at 31 March 2008. For these purposes, the Board shall only be obliged to take into account a change to a failure score (or other measure) if it results from representations made to DBUK by or on behalf of the relevant trustees or managers or employer not later than 28 days after the date shown on the notification of the pension protection levies (for the purposes of the 2008/09 risk-based levy or, if earlier, the 2009/10 risk-based levy) and if the relevant applicant has also complied with any other relevant deadlines throughout DBUK's appeal process as may be stipulated by DBUK. The Board shall not take into account any change to the failure score (or other measure) resulting from a request by the Board unless that change to the failure score (or other measure) is made no later than 31 March 2010. In a case to which this sub-paragraph applies the Board will where necessary issue a revised notification of the amount of the levies in respect of the scheme.

Part 4 – modifications

Closed Schemes

33. This paragraph applies where a scheme is authorised by the Board under section 153 of the Act to continue as a closed scheme. In a case to which this paragraph applies, the risk-based levy shall be zero.

Revised levy invoices

34. In any case where the Board issues a revised notification of the amount of the levies in respect of a scheme, that notification shall take account of any amount already paid pursuant to a previous notification.

Insolvency Risk for Multi-employer schemes

35. Paragraphs 36 to 39 below apply to the calculation of the risk-based levy in respect of multi-employer schemes, and references in those paragraphs to the Regulations are to the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005. Where reference is made to the number of members of a scheme of whom a person is the employer, that is to be determined by reference to the total number of active, deferred, pensioner and pension credit defined benefit members of that scheme and in relation to whom that person is (or

is deemed to be) the employer in relation to the scheme, as notified in relevant scheme return data.

36. Which of paragraphs 37 to 39 below is to be applied to a multi-employer scheme is to be determined in accordance with relevant scheme return data.
37. In the case of a scheme the rules of which include a requirement or discretion to segregate on cessation of participation of an employer, an assumed probability of insolvency (PP) shall be separately determined for each of the employers in relation to the scheme in accordance with paragraphs 31 and 32 above, and P shall be taken to be the weighted average of PP for each employer, where the weightings are equal to the number of members in relation to whom each employer is the employer, divided by the total number of members.
38. In the case of a scheme the rules of which do not include a requirement or discretion to segregate on cessation of participation of an employer and to which paragraph 39 below does not apply, P shall be 0.9 multiplied by the weighted average of PP for each employer in relation to the scheme, determined in the same manner as set out in paragraph 37 above.
39. This paragraph applies to a scheme the rules of which do not include a requirement or discretion to segregate on cessation of participation of an employer and which is stated in relevant scheme return data to be a scheme established as a centralised scheme for non-associated employers, and in relation to which the Board has, if requested by the Board, received satisfactory evidence in support of that statement prior to the calculation of the levies for that scheme. In the case of a scheme to which this paragraph applies, P shall be the weighted average of PP for each employer in relation to the scheme (determined in the same manner as set out in paragraph 37 above), multiplied by the largest number of members of the scheme in relation to whom any one employer is the employer, and divided by the total number of members of the scheme.

New schemes

40. This paragraph applies where a scheme (referred to in this paragraph as a new scheme) becomes an eligible scheme on or after 1 April 2009. In a case to which this paragraph applies:
- (a) The amount of the scheme-based levy and the risk-based levy in respect of the new scheme shall be the product of multiplying, respectively, the amounts shown in paragraphs 16 and 18 above by N divided by 365 where N is the number of days during the financial year for which the new scheme is an eligible scheme;
 - (b) References in this Schedule and Appendices and Annexes to 31 March 2008 or 31 March 2009, as the case may be, shall be read as references to the first date on which the new scheme was an eligible scheme, save that where reference is made to information or documents being provided by a particular date, such references shall be treated as requiring the information or documents to be provided not later than 28 days after the

scheme becomes an eligible scheme, or by such later date as the Board shall require if it calls for information or documents to be provided to it;

- (c) Where there is no valuation falling within paragraph 10 above, the Board may obtain from the trustees or managers of the new scheme such information as will allow the Board to make an equivalent determination of the value or amount of the assets or protected liabilities of the scheme. Where the Board considers that no such information is conveniently available in respect of a new scheme, and that it is unlikely that the scheme is materially underfunded at the relevant time, then the Board may determine that the rate of the scheme-based levy and/or the rate of the risk-based levy shall be nil;
- (d) If the Board is satisfied that the new scheme is the successor to the rights and liabilities of a scheme which was an eligible scheme on 1 April 2009 (the predecessor scheme), or to some substantial part of the rights and liabilities of such a scheme, that the levies which are or will be payable in respect of the predecessor scheme sufficiently take account of the assets and liabilities of the new scheme, and that the levies in respect of the predecessor scheme either have been paid or will be promptly paid, then the Board may determine that the levies in respect of the new scheme shall be nil.
- (e) For the avoidance of doubt, the calculation of P for a new scheme will be based on the failure score or other score assigned in accordance with subparagraphs 32(b)-(d) above that was or would have been assigned to the new scheme's employer(s) by DBUK in the ordinary course of its business on and as at 31 March 2008 and P will otherwise be calculated in accordance with paragraphs 31, 32 and 35 – 39 of this Schedule, save that, if the employer(s) notified in accordance with subparagraph 40(b) above did not exist as at 31 March 2008, the probability of insolvency of those employer(s) will be calculated in accordance with the provisions of subparagraphs 32(b) to 32(e) above.

Schemes not yet required to file a scheme return

41. This paragraph applies where a scheme became an eligible scheme on or before 1 April 2009 but has not by 5pm on 31 March 2009 been required by legislation or by the Pensions Regulator to complete a scheme return, with the result that there is no valuation falling within paragraph 10 above. In such a case the Board may proceed in the like manner as is set out in paragraph 40(c) above.

Scheme transfers

42. This paragraph applies where, on any date or dates prior to 1 April 2009, an eligible scheme (the transferring scheme) has transferred all of its assets and liabilities to one or more other eligible schemes (the receiving scheme(s)) and the transferring scheme was not an eligible scheme on 1 April 2009, but any such transfer or transfers is not reflected in the valuation falling within paragraph 10 for the receiving scheme(s). In a case to which this paragraph applies, the trustees or

managers of the transferring scheme and the receiving scheme(s) shall be expected to provide, in accordance with the relevant provisions of paragraph 4 of this Schedule, the following information to the Board:

- (a) by 5pm on 7 April 2009, provide the name and PSR number of the transferring scheme and the receiving scheme(s), the date of the first transfer payment, the date of the last transfer payment and the amount of assets transferred; and
- (b) by 5pm on 30 June 2009, provide the remainder of the information specified in and calculated in accordance with the provisions set out in Annex A attached to this Schedule,

so as to allow the Board to make what is in its view an appropriate determination of the value or amount of the assets or protected liabilities of the receiving scheme at 31 March 2008, in substitution for the valuation falling within paragraph 10 above. Where that information has not been provided by the relevant deadline, the Board shall make a determination of the value or amount of the assets and protected liabilities of the receiving scheme(s) at 31 March 2008 in accordance with the methodology set out in section 2 of Appendix 2A to this Schedule, in substitution for the valuation falling within paragraph 10 above and shall be entitled to invoice, or re-invoice, as the case may be based on that methodology. The Board shall not otherwise be obliged to take into account any transfers of assets and liabilities between schemes, save where it was required to do so under the terms of its determination under section 175(5) of the Act in relation to the levy years 2007/08 and 2008/09. In a case where any transfer of assets or liabilities occurs between 1 April 2008 and 31 March 2009 (inclusive), the Board shall make its determination based upon the position of the transferring scheme and the receiving scheme(s) post-transfer and shall adjust the assets and protected liabilities of the transferring scheme and the receiving scheme(s) in a manner which gives best effect to the approach set out in Appendix 1 or, as applicable, Appendix 2A.

Partially guaranteed schemes

43. This paragraph applies to a partially guaranteed scheme as defined in The Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005. In a case to which this paragraph applies the Board shall where it judges it necessary obtain from the trustees or managers of the scheme such information as will allow the Board to make what is in its view an appropriate determination of the assets and protected liabilities of the unsecured part of the scheme, as defined in those Regulations, in substitution for the valuation falling within paragraph 10 above. The Board may also, in calculating the levies for a partially guaranteed scheme, apply the provisions of this Schedule with such modifications as appear to it appropriate for the purpose of ensuring that the levies payable in respect of the scheme correspond so far as reasonably practicable to the amounts which would have been payable if the unsecured part of the scheme had been a separate scheme.

Failed Schemes in assessment

44. This paragraph applies to a scheme in relation to which:

- (i) no later than midnight on 31 March 2009:
 - a. the Board has received a scheme failure notice issued under Section 122(2)(a) of the Act;
 - b. the Board has issued such a notice pursuant to Section 124 of the Act; or
 - c. the Board has issued a scheme failure notice under Section 130(2) of the Act; and
- (ii) that scheme failure notice has become binding in accordance with Section 125 or, as the case may be, 130(6) of the Act prior to the calculation or recalculation of the levies for the scheme concerned; and
- (iii) the Board has not, prior to the calculation or recalculation of the levies for the scheme concerned, received a withdrawal notice issued under Section 122(2)(b) of the Act, or issued a withdrawal notice under Section 130(3) of the Act.

In a case to which this paragraph applies the scheme-based levy and the risk-based levy in respect of the scheme shall be zero.

45. In the case of a multi-employer scheme, the Board may apply paragraph 44 with such modifications as appear to it appropriate for the purpose of ensuring that zero levies are only applied to the relevant part of the scheme to which that paragraph applies and that appropriate levies are charged to the remainder (if any) of the scheme. Such modifications may make special provision amongst other matters for a case in which a segregated part of a scheme (as defined in Part 4, 5, 7 or 8 of the Pension Protection Fund (Multi-employer Schemes)(Modification) Regulations 2005) has been created by virtue of an insolvency event in relation to an employer.

Links to Appendices and Annexes

Appendix 1

Formulae for transforming section 179 valuation results to a section 179 basis as at 31 March 2008

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_appendix_1.pdf

Appendix 2

Valuation methodology where s.179 valuation not filed by deadline

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_appendix_2.pdf

Appendix 2A

Methodology for schemes which received a transfer of total assets and liabilities of another scheme prior to 1 April 2009 but did not formally notify the Board and provide the required information by the relevant deadlines.

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_appendix_2a.pdf

Appendix 3

PPF assumed probability of insolvency based on failure score (UK employers)

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_appendix_3.pdf

Appendix 4

Contingent assets

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_appendix_4.pdf

Annex A

Requirements in respect of block transfer certificates

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_annex_a.pdf

Annex B

Requirements in respect of Deficit-Reduction Contributions

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_annex_b.pdf

Annex C

Requirements in respect of Contingent Assets

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_annex_c.pdf

Annex D

Pension Protection Fund required form of Type A contingent asset - group company guarantee

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_a_corporate_guarantee.doc

Annex E

Pension Protection Fund required form of Type B(i) contingent asset - security over cash

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_bi_-_security_over_a_bank_account.doc

Pension Protection Fund required form of Type B(ii)EW contingent asset - security over real estate (England & Wales)

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_bii_ew_-_security_over_land_in_england_and_wales.doc

Pension Protection Fund required form of Type B(ii)S contingent asset - security over real estate (Scotland)

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_bii_s_security_over_land_in_scotland.doc

Pension Protection Fund required form of Type B(ii)NI contingent asset - security over real estate (Northern Ireland)

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_bii_ni_security_over_land_in_ni.doc

Pension Protection Fund required form of Type B(iii) contingent asset - security over securities

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_biii_security_over_securities-2.doc

Annex F

Pension Protection Fund required form of Type C(i) contingent asset - letter of credit/bank guarantee (evergreen)

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_c_letter_of_credit.doc

Pension Protection Fund required form of Type C(ii) contingent asset - letter of credit/bank guarantee (reducing balance)

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/ca_agreement_type_c_letter_of_credit_-_scheduled_payments.doc

Annex G

Amendment and replacement conditions

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/0910_determination_annex_g.pdf