

## **Annex G to the Board's determination under Section 175(5) of the Pensions Act 2004 in respect of the financial year 1 April 2009 – 31 March 2010**

### **Amendment and replacement conditions**

1. This Annex sets out the tests to be applied by the Board in relation to a change in relation to the contingent assets from which a scheme benefits, as referred to in paragraphs 26, 27(d) and 29 of Appendix 4 to the 2009/10 Determination (as defined below). Without prejudice to the more detailed provisions set out below, variables with a subscript 00 relate to the position as at the Pre-Reduction Reference Date (as defined below), variables with a subscript 0 relate to the position as at 1 April 2008, variables with a subscript 1 relate to the position as at 1 April 2009, and variables with a subscript 2 relate to the position as at the date (on or after 1 April 2009) on which a change to the contingent asset position takes place (the **Mid-Year Change Date**), taking into account that change.

2. In this Annex:

**2008/09 Determination** means the Board's determination under Section 175(5) of the Pensions Act 2004 in respect of the financial year 1 April 2008 – 31 March 2009, dated 19 February 2008 and published on the Board's website;

**2009/10 Determination** means the Board's determination under Section 175(5) of the Pensions Act 2004 in respect of the financial year 1 April 2009 – 31 March 2010, dated [ ] 2008 and published on the Board's website, of which this Annex is a part;

**2008/09 RBL** means the risk-based levy in respect of the financial year 1 April 2008 – 31 March 2009;

**2009/10 RBL** means the risk-based levy in respect of the financial year 1 April 2009 – 31 March 2010;

**A<sub>00</sub>** means the value of the assets of the scheme used by the Board for the calculation of the risk-based levy for the financial year commencing on the Pre-Reduction Reference Date;

**A<sub>0</sub>** means the value of the assets of the scheme used by the Board for the calculation of the 2008/09 RBL;

**A<sub>1</sub>** means the value of the assets of the scheme used by the Board for the calculation of the 2009/10 RBL;

**A<sub>2</sub>** means the value of the assets of the scheme as at the Mid-Year Change Date;

**L<sub>00</sub>** means the value of the liabilities of the scheme used by the Board for the calculation of the risk-based levy for the financial year commencing on the Pre-Reduction Reference Date;

**L<sub>0</sub>** means the value of the liabilities of the scheme used by the Board for the calculation of the 2008/09 RBL;

**L<sub>1</sub>** means the value of the liabilities of the scheme used by the Board for the calculation of the 2009/10 RBL;

**L<sub>2</sub>** means the value of the liabilities of the scheme as at the Mid-Year Change Date;

**M<sub>00</sub>** means the aggregate value of all Type A contingent assets of the scheme which were in place as at the Pre-Reduction Reference Date;

**M<sub>0</sub>** means the aggregate value of all Type A contingent assets of the scheme which were in place as at 1 April 2008;

**M<sub>1</sub>** means the aggregate value of all Type A contingent assets of the scheme which were in place as at 1 April 2009;

**M<sub>2</sub>** means the aggregate value of all Type A contingent assets of the scheme which are in place on the Mid-Year Change Date, taking into account the relevant change in the contingent assets;

**N<sub>00</sub>** means the aggregate value of all contingent assets of Type B or C of the scheme which were in place as at the Pre-Reduction Reference Date;

**N<sub>0</sub>** means the aggregate value of all contingent assets of Type B or C of the scheme which were in place as at 1 April 2008;

**N<sub>1</sub>** means the aggregate value of all contingent assets of Type B or C of the scheme which were in place as at 1 April 2009;

**N<sub>2</sub>** means the aggregate value of all contingent assets of Type B or C of the scheme which are in place on the Mid-Year Change Date, taking into account the relevant change in the contingent assets; and

**Pre-Reduction Reference Date** means the pre-reduction reference date as defined in paragraph 29 of Appendix 4 to the 2009/10 Determination.

### **3. Calculation of variables**

3.1 **A<sub>00</sub>, L<sub>00</sub>, M<sub>00</sub> and N<sub>00</sub>** shall all be calculated in the manner in which the Board would have calculated those quantities for the purposes of the financial year commencing on the Pre-Reduction Reference Date, taking into account any certificates in respect of section 179 valuations, deficit-reduction contributions and/or contingent assets, and any valuation information in relation to the charged assets underlying a Type B contingent asset, that were provided to the Board in the appropriate form and by the relevant deadline specified for the purposes of the risk-based levy for the financial year commencing on the Pre-Reduction Reference Date, but ignoring the subsequent reduction in contingent asset cover.

3.2 **A<sub>0</sub>, L<sub>0</sub>, M<sub>0</sub> and N<sub>0</sub>** shall all be calculated in the manner in which the Board calculated those quantities for the purposes of the 2008/09 RBL in accordance with paragraphs 10, 27 and 28 of the Schedule to the 2008/09 Determination and Appendix 4 to the 2008/09 Determination as appropriate, taking into account any certificates in respect of deficit-reduction contributions

and/or contingent assets, any certificates in respect of section 179 valuations required to be taken into account by virtue of paragraph 9 of the Schedule to the 2008/09 Determination, and any valuation information in relation to the charged assets underlying a Type B contingent asset, that were provided to the Board in the appropriate form and by the relevant deadline specified for the purposes of the 2008/09 RBL.

3.3  $A_1$ ,  $L_1$ ,  $M_1$  and  $N_1$  shall all be calculated in the manner in which the Board calculated those quantities for the purposes of the 2009/10 RBL in accordance with paragraphs 10, 27 and 28 of the Schedule to the 2009/10 Determination and Appendix 4 to the 2009/10 Determination as appropriate, taking into account any certificates in respect of deficit-reduction contributions and/or contingent assets and any valuation information in relation to the charged assets underlying a Type B contingent asset, that were provided in the appropriate form and manner and by the relevant deadline specified for the purposes of the 2009/10 RBL.

3.4  $A_2$ ,  $L_2$ ,  $M_2$  and  $N_2$  shall be calculated in the same manner as  $A_1$ ,  $L_1$ ,  $M_1$  and  $N_1$  respectively but taking into account, in addition, any information in respect of section 179 valuations, certificates in respect of deficit-reduction contributions and/or contingent assets, and any valuation information in relation to the charged assets underlying a Type B contingent asset, that were provided to the Board in accordance with the method required by paragraph 4 of the Schedule to the 2009/10 Determination by the Mid-Year Change Date (or, in the case of a certificate in respect of deficit-reduction contributions, no later than five working days after the Mid-Year Change Date). Contingent assets of Type C(ii) shall be valued based on the actual value of the asset on the Mid-Year Change Date and immediately after the relevant change in the contingent assets.

#### 4. Conditions

4.1 The condition referred to in paragraph 26 of Appendix 4 to the 2009/10 Determination (comparison of position as at start of levy year 2009/10 with position as at start of levy year 2008/09) is that:

(i) EITHER

$$\frac{A_1 + N_1}{L_1} \geq \frac{A_0 + N_0}{L_0}$$

OR

$$\frac{A_1 + N_1}{L_1} \geq 1.04$$

and

(ii) EITHER

$$\frac{A_1 + N_1 + M_1}{L_1} \geq \frac{A_0 + N_0 + M_0}{L_0}$$

OR

$$\frac{A_1 + N_1 + M_1}{L_1} \geq 1.05$$

and

- (iii) where any guarantor in relation to a Type A contingent asset has been replaced by a new guarantor, the new guarantor would, on a date falling no more than 5 business days prior to the date of replacement, be treated as having no greater risk of insolvency than the existing guarantor on that date, where each risk of insolvency is determined in accordance with paragraphs 31 *et seq* of the Schedule to the 2009/10 Determination.

4.2 The condition referred to in paragraph 27(d) of Appendix 4 to the 2009/10 Determination (comparison of position as at Mid-Year Change Date, taking into account the relevant change in the contingent assets, with position as at start of levy year 2009/10) is that:

- (i) EITHER

$$\frac{A_2 + N_2}{L_2} \geq \frac{A_1 + N_1}{L_1}$$

OR

$$\frac{A_2 + N_2}{L_2} \geq 1.04$$

and

- (ii) EITHER

$$\frac{A_2 + N_2 + M_2}{L_2} \geq \frac{A_1 + N_1 + M_1}{L_1}$$

OR

$$\frac{A_2 + N_2 + M_2}{L_2} \geq 1.05$$

and

- (iii) where any guarantor in relation to a Type A contingent asset has been replaced by a new guarantor, the new guarantor would, on a date falling no more than 5 business days prior to the date of replacement, be treated as having no greater risk of insolvency than the existing

guarantor on that date, where each risk of insolvency is determined in accordance with paragraphs 31 *et seq* of the Schedule to the 2009/10 Determination.

4.3 The condition referred to in paragraph 29 of Appendix 4 to the 2009/10 Determination (comparison of position as at start of levy year 2009/10 with position as at Pre-Reduction Reference Date) is that:

(i) EITHER

$$\frac{A_1 + N_1}{L_1} \geq \frac{A_{00} + N_{00}}{L_{00}}$$

OR

$$\frac{A_1 + N_1}{L_1} \geq 1.04$$

and

(ii) EITHER

$$\frac{A_1 + N_1 + M_1}{L_1} \geq \frac{A_{00} + N_{00} + M_{00}}{L_{00}}$$

OR

$$\frac{A_1 + N_1 + M_1}{L_1} \geq 1.05$$

and

(iii) where any guarantor in relation to a Type A contingent asset which was in place on the Pre-Reduction Reference Date has been replaced in the contingent assets in place on 1 April 2009 by a different guarantor, the latter guarantor would, on a date falling no more than 5 business days prior to the date of replacement, be treated as having no greater risk of insolvency than the former guarantor on that date, where each risk of insolvency is determined in accordance with paragraphs 31 *et seq* of the Schedule to the 2009/10 Determination.