

**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 2011 – 31 March 2012**

**30 September 2010**

## **Determination by the Board of the Pension Protection Fund 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 2011 to 31 March 2012: 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, and the dates at which the levies are to become payable are to be as set out in the Levy Rules appended to this determination (the "Rules").

### **Important note:**

**The attention of trustees and advisers is specifically drawn to Rule A2, and the consequent importance of ensuring that complete, accurate and up to date information is submitted through the Pensions Regulator's Exchange system by the relevant deadlines. Provision of information forming part of the scheme return is a legal duty under s.64 Pensions Act 2004, with civil penalties for non compliance. The scheme return submitted must contain all the information the Regulator asks for (s.65). As regards other information, the submission of which is not mandated by law, the trustees will need to ensure it is properly submitted by the relevant deadlines to ensure it is taken into account in the levy calculation. The importance of accuracy in all information supplied to the Regulator or the Board is underlined by the criminal sanctions which may apply where false or misleading information is supplied knowingly or recklessly (s.80 and s.195).**

**The attention of trustees and advisers is also drawn to the Board's Levy Practice Guidance. Schemes should note that the Board does not anticipate that the discretionary powers set out in the Determination will normally be exercised so as to correct data submitted on Exchange at the relevant measurement time.**

The appendices to the Rules are available from the Board's website at [http://www.pensionprotectionfund.org.uk/levy/1112\\_determination/Pages/11-12Determination.aspx](http://www.pensionprotectionfund.org.uk/levy/1112_determination/Pages/11-12Determination.aspx)

# THE LEVY RULES

## Part A – General

### A1. How to interpret these Rules

A1.1. Definitions used in these Rules and the Appendices attached to these Rules

In these Rules, the following expressions have the meanings shown next to them or, as the case may be, provided by the provision referred to:

“1995 Act” – the Pensions Act 1995.

“Act” – the Pensions Act 2004.

“Actuarial Transfer Information” – is defined in Rule F2.3.

“Acceptable Form” – has the meaning given to it in the Contingent Asset Appendix.

“Allocated Member” – is defined in Rule E4.1.

“API” – stands for “assumed probability of insolvency” and means the Board’s assumed probability of insolvency in respect of an undertaking.

“Basic Transfer Information” – is defined in Rule F2.2.

“Binding Rescue Notice” – is a Failure Notice which is treated as binding under section 125 of the Act or under section 130(6) of the Act.

“Board” – the Board of the Pension Protection Fund established under section 107 of the Act.

“Centralised Scheme” – is defined in Rule E4.2(4).

“Contingent Asset” – is defined in Rule D2.

“Contingent Asset Certificate” – a certificate which complies with Rule D2.4.

“DBUK” – Dun & Bradstreet Limited of Marlow International, Parkway, Marlow, Bucks SL7 1AJ (Company number 00160043).

“Deficit-Reduction Contribution” – is as set out in Rule D1.

“Employer” – is as defined in section 318 of the Act, provided that the identity of the Employer in relation to a Member shall be assessed by the Board by reference to data which has been Submitted in accordance with Rule A2.2.

"Exchange" – the scheme maintenance system maintained by the Pensions Regulator for the online submission of Scheme Returns and other information by or on behalf of pension schemes.

"Failed Scheme" – a Scheme which meets the criteria in Rule C5.

"Failure Notice" – is a notice issued under section 122(2)(a) of the Act, or pursuant to section 124 of the Act, or under section 130(2) of the Act.

"Failure Score" – is a UK Failure Score or a Non-UK Failure Score, as applicable.

"First Transfer Date" – is the date that the first transfer of assets is made from the Transferring Scheme to the Receiving Scheme in relation to a Full Transfer or a Qualifying Transfer.

"Last Man Standing Scheme" – is defined in Rule E4.2(2).

"Levies" – the RBL and the SBL. For the avoidance of doubt, where the term "levy" is used in these Rules, this includes the RBL and the SBL.

"Levy Year" – is, as the context requires, any period of 1 April to 31 March in respect of which the Board has made a determination under section 175(5) of the Act.

"Measurement Time" – is construed in accordance with Rule A2.3

"Median" – is calculated as set out in Rule E2.8.

"Member" – means an active, deferred, pensioner or pension credit member of a Scheme, but excludes any such members with purely money purchase benefits as defined in section 181 of the Pension Schemes Act 1993.

"MFR Valuation" – the Results of a valuation carried out by the Scheme Actuary in a manner which is in accordance with sections 56-60 of the 1995 Act, and Submitted by or on behalf of the trustees, whether as a matter of legal obligation or otherwise.

"Multi-Employer Regulations" – the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005.

"Multi-Employer Scheme" – as defined in section 307 of the Act.

"New Scheme" – a Scheme which becomes an eligible scheme as defined in section 126 of the Act on or after 1 April 2011.

"Non-UK Failure Score" - is as set out in Rule E2.2(3).

"No Return Scheme" - is defined in Rule A2.4.

"Partially Guaranteed Scheme" - as defined in The Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005.

"Partial Segregation Scheme" – is defined in Rule E4.2(3).

"Pension Credit Members" - individuals who have rights under the relevant Scheme attributable to a pension credit. 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.

"Post-Transfer Valuation" - the valuation submitted by a Receiving Scheme or a Transferring Scheme as part of the Actuarial Transfer Information, for the purposes of Rule F2.3.

"PPF" – the Pension Protection Fund.

"Previous Determination" – any determination of the Board under section 175(5) of the Act for the purposes of a Levy Year before the 2011/12 Levy Year.

"Protected Liabilities" – as defined in section 131 of the Act.

"Qualifying Transfer" – is defined in Rule F3.1.

"RBL" – the risk-based pension protection levy as defined in section 175 of the Act.

"Recent Scheme" – is a Scheme the trustees of which have

- (i) for the first time been sent a Scheme Return notice requiring them to submit a Scheme Return and the return date for that Scheme Return falls between 1 April 2010 and 31 March 2011 (inclusive); and
- (ii) no later than 5.00pm on 31 March 2011 Submitted a Scheme Return.

"Rescue Notice" – is a notice issued under section 122(2)(b) of the Act or under section 130(3) of the Act.

"Results" – those data items required to be completed on Exchange.

"Risk Indicator" – is defined in Rule E2.4(2).

"Rules" – these Rules issued by the Board for the 2011/12 Levy Year.

"SBL" - the scheme-based pension protection levy as defined in section 175 of the Act.

"Scheme" – an "eligible scheme" as defined in section 126 of the Act.

"Scheme Actuary" - the actuary in respect of the Scheme within the meaning of section 179(2) of the Act.

"Scheme Return" – a completed return Submitted in respect of the Scheme via Exchange in accordance with sections 63 to 65 inclusive of the Act. For the avoidance of doubt, a Scheme Return does not include information relating to Contingent Assets, Deficit-Reduction Contributions or Full or Qualifying Transfers.

“Section 179” – Section 179 of the Act and regulations and relevant guidance made and issued under that section.

“Section 179 Valuation” - the Results of an actuarial valuation of the Scheme which has been Submitted on Exchange and has been carried out in a manner which is in accordance with Section 179, whether as a matter of legal obligation or otherwise.

“Segregated Part” – in respect of an eligible scheme is as defined in Part 4, 5, 7 or 8 of the Multi-Employer Regulations.

“Segregated Scheme” – as defined in the Multi-Employer Regulations.

“SIC Code” – the Standard Industry Classification Code, 1972.

“Submitted” – and associated terms are to be construed in accordance with Rule A2.2.

“tPR” – the Pensions Regulator, established under section 1 of the Act and, where the context so requires, its predecessor, the Occupational Pensions Regulatory Authority.

“UK Failure Score” – is as set out in Rule E2.1(3).

“Unsecured Part” – in respect of a Partially Guaranteed Scheme the “unsecured part” as defined in The Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005.

“Value” - in the case of the assets or the Protected Liabilities of the Scheme shall be interpreted in accordance with Rule A6.1.

## A1.2 General Interpretation

- (1) All references to dates and times in these Rules relate to Greenwich Mean Time or, at the times when it is in force, British Summer Time.
- (2) References to midnight on a day are to midnight at the end of that day.
- (3) Unless the context otherwise requires, terms used in these Rules bear the same meaning as in the Act.
- (4) References to Scheme “trustees” include managers of a Scheme if that Scheme does not have trustees.
- (5) Headings are not part of this determination and are only for ease of reference and shall not be used in its construction and interpretation.
- (6) References to any gender include the other gender.
- (7) References to the singular include the plural and vice versa.

- (8) References to specific Rules and Appendices are to the relevant provisions in these Rules and the Appendices to them and, except for paragraph (11) below, "Rules" includes the Appendices.
- (9) A reference to any statutory provision includes a reference to any amendment, consolidation or re-enactment of the provision from time to time in force and all secondary legislation made under it.
- (10) Except for the purposes of Rule A6.1(4), in the case of a Segregated Scheme, each segregated section shall (except where these Rules expressly or by implication require otherwise) be treated as if it were a separate Scheme for the purposes of these Rules. Similarly where a Segregated Part of a Scheme has been created on or before 31 March 2011, each of the Segregated Part(s) and the remainder of the Scheme shall (except where these Rules expressly or by implication require otherwise) be treated as if it were a separate Scheme for the purposes of these Rules. References to Schemes shall be construed accordingly.
- (11) In the event of any inconsistency between these Rules and the Appendices to this determination, the Rules shall prevail.
- (12) The term "calculate" and associated terms shall in any relevant case include "re-calculate" and its associated terms.
- (13) In determining whether it is satisfied as to any matter set out in these Rules, the Board shall take account of any guidance which it has published or which appears in the help files within Exchange (including guidance in the form of "Frequently Asked Questions"). However, the Rules shall prevail in the case of inconsistency.
- (14) Further guidance may be published by the Board as to how it expects to use its discretionary powers in these Rules. The Board will have regard to such guidance but may decide to depart from it.

## **A2. Validated data on Exchange: the general rule for calculations**

### **A2.1 What is the general rule for calculating the Levies?**

For calculating the Levies, the Board shall use data which has been Submitted at the relevant Measurement Time except where expressly provided otherwise in these Rules.

### **A2.2 Methods of Submitting information**

Where these Rules refer to certain information being or having been Submitted (and any associated terms), the requirement shall be satisfied and the information treated as having been Submitted only if the Board is satisfied that:

- (1) except where (2), (3) or (4) of this Rule A2.2 apply, the information:

- (i) has been validly entered and submitted on Exchange on behalf of such Schemes as it relates to; or
- (ii) has been pre-populated on Exchange,

and, in each case, is held on Exchange at the relevant Measurement Time.

(2) in the case of hard copy supporting documentation required for submission of Contingent Assets, the documentation has 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". For the avoidance of doubt, delivery by fax or email is not permissible.

(3) in the case of a Scheme the trustees of which have been expressly permitted by tPR to complete their Scheme Return on paper rather than on Exchange, the information which is equivalent to what would be the contents of a Scheme Return is provided to the tPR in such manner as tPR has stipulated (or, in the absence of such a stipulation, by post).

(4) the information has been received in accordance with a permitted alternative method. A "permitted alternative method" is any different method of provision of information to those methods set out at paragraphs (1), (2) or (3) for the purposes of the 2011/12 Levy Year which, after the date of final publication of this determination, the Board has expressly stipulated on its website (whether as an alternative or a replacement to those methods).

### A2.3 The Measurement Time and deadlines

The Measurement Time for each item of information is the deadline for Submission of that information. The Measurement Time shall be 5.00pm on 31 March 2010 except as set out below:

- (1) In relation to Contingent Assets, 5.00pm on 31 March 2011.
- (2) In relation to Deficit-Reduction Contributions, 5.00pm on 7 April 2011.
- (3) In relation to Recent Schemes, 5pm on 31 March 2011.
- (4) In relation to New Schemes and No Return Schemes, it shall be construed in accordance with Rule A2.4.
- (5) In relation to Qualifying Transfers, 5.00pm on 30 June 2010 for Submission of both Basic Transfer Information and Actuarial Transfer Information.
- (6) In relation to Full Transfers, 5.00pm on 30 June 2011 for Submission of both Basic Transfer Information and Actuarial Transfer Information.
- (7) Where otherwise expressly stated in the Rules.

#### A2.4 New Schemes and Schemes not yet required to file a Scheme Return

(1) In the case of a New Scheme, where reference is made to information or documents being Submitted by a particular date, references to the Measurement Time or a deadline shall be treated as requiring the information or documents to be Submitted not later than 28 days after the scheme becomes a Scheme, or by such later date as the Board shall require if it calls for other information or documents to be Submitted.

(2) In the case of a Scheme which has not, by 5pm on 31 March 2011, been required to complete a Scheme Return (a "No Return Scheme"), where reference is made to information or documents being Submitted by a particular date, references to the Measurement Time shall be treated as requiring the information or documents to be Submitted by the date on which the Scheme is required to complete and Submit a Scheme Return or by such earlier date as the Board shall require if it calls for information or documents to be Submitted.

### **A3. How the Board shall calculate the Levies**

#### A3.1 The SBL and the RBL

The Board shall calculate the SBL and the RBL in respect of each Scheme using Part C of these Rules.

#### A3.2 Acts and decisions of the Board

Any act or decision of the Board under these Rules may be taken on behalf of the Board of the PPF either by the Chief Executive of the Board or by such member of the Board's staff as may be authorised for the purpose.

#### A3.3 Information Submitted on Exchange by 5.00pm 31 March 2010

The matters referred to in these Rules shall be assessed, measured, quantified or estimated at such dates and in such manner as is provided for in these Rules. In the absence of such provision, these Rules shall be applied in accordance with the position as it existed at 5.00pm on 31 March 2010.

### **A4. When are the Levies payable?**

The Levies in respect of a Scheme are to become payable on the earliest of the following dates:

- (1) 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 these Rules provide for a revised notification to be issued, the date upon which that person is sent a revised notification);
- (2) the date on which any Scheme ceases to be a Scheme; or
- (3) 31 March 2012.

## **A5. Calculation principles**

In performing the calculations required by this determination:

- (1) The Board shall round all monetary figures to the nearest penny at each stage of the calculation, save for the final amounts of the SBL and the RBL which shall each be rounded to the nearest pound; and
- (2) The Board shall round all figures representing an API 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 APIs and to (ii) the product of the weighted APIs and a scaling factor based on Scheme structure in accordance with Rule E4.
- (3) Where a value which falls to be rounded in accordance with (1) or (2) above falls exactly halfway between two potential rounded figures it shall be rounded upwards.

## **A6. Actuarial valuations**

A6.1 What is meant by "Value" of Scheme assets or Protected Liabilities?

- (1) Where a Section 179 Valuation has been Submitted, subject to Rule A6.1(4), A6.3, and Part F, any reference in these Rules to the Value of the assets or Protected Liabilities is to that value or amount as shown in the Section 179 Valuation which is Submitted as at the Measurement Time but then adjusted in a manner which in the view of the Board best gives effect to the approach set out in the Transformation Appendix to these Rules and results in the Scheme's assets and its liabilities being consistently treated for these purposes.
- (2) Where a Section 179 Valuation has not been Submitted but an MFR Valuation has been Submitted, subject to Rule A6.1(4) and Part F of these Rules, any reference to the Value of the assets or Protected Liabilities of the Scheme is to that value or amount as shown in the MFR Valuation which is Submitted as at the Measurement Time but then adjusted in a manner which in the view of the Board best gives effect to the approach set out in the MFR Conversion Appendix to these Rules and results in the Scheme's assets and its liabilities being consistently treated for these purposes.
- (3) Where:
  - (i) neither a Section 179 Valuation nor an MFR Valuation has been Submitted at the Measurement Time;
  - (ii) Rules A6.2 and A6.3 do not apply; and
  - (iii) the Board has, after the Measurement Time, but before calculation of the Levies, obtained a Section 179 Valuation in respect of the Scheme,  
  
any reference to the Value of the assets or Protected Liabilities of the Scheme is to that value or amount as shown in the Section 179 Valuation

that the Board has then obtained, adjusted first in accordance with the Transformation Appendix as in Rule A6.1(1) and second by reducing the value of the assets by 5%.

(4) Where a Segregated Part has been created by the operation of an option or requirement to segregate on or before 31 March 2011 (whether or not any such Segregated Part has transferred to the PPF) and there is no Section 179 Valuation calculated by reference only to the Segregated Part and/or the remainder of the Scheme:

- (i) the Board shall estimate such data in relation to any Segregated Part as it considers appropriate for the purpose of assessing the Value of the assets or Protected Liabilities of the Segregated Part by multiplying the equivalent data for the entire Scheme by A/B. A shall be the number of Allocated Members of the Employer for that Segregated Part; B shall be the total number of Members in the entire Scheme. Rule E4.1 shall apply when determining the number of Allocated Members of each Employer in relation to a Scheme;
- (ii) the Board shall estimate such data in relation to the remainder of the Scheme as it considers appropriate for the purpose of assessing the Value of the assets or Protected Liabilities of the Segregated Part by multiplying the equivalent data for the entire Scheme by C/D. C shall be the total number of Members who are not Allocated Members of the Employer for that Segregated Part (including for the avoidance of doubt any Member not formally attributed to any current Employer). D shall be the total number of Members in the entire Scheme. Rule E4.1 shall apply when determining the number of Allocated Members of each Employer in relation to a Scheme; and
- (iii) where there is no Section 179 Valuation for the entire Scheme, the approach set out in this Rule A6.1(4) shall be applied in conjunction with Rule A6.1(2) (use of Minimum Funding Requirement data adjusted in accordance with the MFR Conversion Appendix) in order to estimate the assets and Protected Liabilities of the Segregated Part and the remainder of the Scheme.

#### A6.2 Schemes which are not yet obliged to complete a Section 179 Valuation

Where no Section 179 Valuation has been Submitted in relation to a Scheme but where the trustees are not obliged to complete a Section 179 Valuation at or before the Measurement Time, the Board may obtain from the trustees of that Scheme such information as will allow the Board to make a determination of the Value of the assets or Protected Liabilities of the Scheme equivalent to that in Rule A6.1.

#### A6.3 Schemes which are not required to complete a Section 179 Valuation

Where a Section 179 Valuation has been Submitted in relation to a Scheme but, since that valuation, the Scheme has undertaken a valuation under section 143 or section 156 of the Act, the Board may obtain from the trustees of the Scheme such information as will allow the Board to make a determination of the Value of

the assets or Protected Liabilities of the Scheme in the manner which in the view of the Board best gives effect to the general approach laid down by these Rules.

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## **Part B – Use of alternative information in exceptional circumstances**

### **B1. Where the Levies cannot be calculated under these Rules**

#### **B1.1 When does this Rule B1 apply?**

(1) It is intended that the provisions contained in these Rules should in all cases permit the calculation of the amount of the Levies in respect of a Scheme.

(2) In any exceptional situation for which these Rules fail to make the provision required for a calculation of the Levies to be performed, this Rule B1 applies.

(3) This Rule B1 also applies in any case where it is not reasonably practicable for the Board to obtain any item of information which would normally be required for the application of these Rules.

#### **B1.2 How will the Board calculate the Levies?**

Where this Rule B1 applies, the Board hereby determines that the calculation of the Levies shall be performed in such manner and by using such assumptions as in the opinion of the Board:

(1) is reasonably practicable for the Board; and

(2) best gives effect in that situation to the general approach laid down by these Rules.

### **B2. Correction by the Board**

#### **B2.1 When could data be corrected?**

This Rule B2.1 applies if it appears to the Board that either:

(1) the information supplied for or used in the calculation of the Levies is incorrect in a material respect;

(2) a notification required by or under a certificate in relation to Contingent Assets has not been duly given; or

(3) a certificate or declaration given for the purposes of these Rules was improperly given or contained information which was incorrect in a material respect.

#### **B2.2 Correction of the data**

(1) Where Rule B2.1 applies, the Board may calculate the Levies on the basis of information which appears to it to be correct for the purposes of these Rules. Where the Levies have already been calculated in respect of a Scheme, the Board may review and revise the amount of the Levies calculated in respect of a

Scheme on the basis of information which appears to it to be correct but it shall not be under an obligation so to act.

(2) The Board is under no obligation to take into account corrected information merely because the Scheme has been disadvantaged by the failure of the trustees or those acting on its or their behalf to supply correct information at the proper time.

(3) For the purposes of Rule B2.1(1), information is not incorrect 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 these Rules to be applied differently.

### **B2.3 What if a certificate or declaration is incorrect?**

(1) Where Rule B2.1(2) or (3) applies, in calculating the Levies in respect of the relevant Scheme the Board may disregard the relevant certificate or declaration if it believes that it has been improperly given.

(2) Where Rule B2.1(2) or (3) applies, in calculating the Levies in respect of the relevant Scheme the Board may disregard any information in the certificate or declaration, which is believed to be incorrect.

(3) Where the Levies have already been calculated in respect of a Scheme, the Board may review and revise the amount of the Levies calculated in respect of a Scheme on the basis set out in (1) or (2) above but it shall not be under an obligation so to act.

## **B3 Reliance on information**

### **B3.1 The Board may obtain further information**

The Board may, at any time prior to the calculation of the Levies in respect of a Scheme, take such steps as it thinks fit to obtain further or amended information for the purposes of that calculation.

### **B3.2 The Board may fill in gaps in its information**

If, at the time of any calculation of the levy in respect of a Scheme, any information necessary for such calculation has not been Submitted in the manner or format or at the time anticipated by these Rules, then the Board may instead use equivalent information Submitted or provided in a different manner or format or at a different time.

### **B3.3 The Board's powers in this Rule B3 are discretionary**

The Board is under no obligation to use the powers in Rules B3.1 and/or B3.2 where the relevant information has not been Submitted on or before the relevant Measurement Time and will not do so merely because a Scheme has been disadvantaged by the failure of the trustees or those acting on its or their behalf to Submit information by the relevant deadline.

#### **B4 Disruption in the delivery of information**

B4.1 Without prejudice to Rule B3, the Board may at its discretion take account of information Submitted after any applicable deadline but only in circumstances where it appears to the Board that:

- (1) The information was despatched at an appropriate time, but was delayed or lost in transit; or
- (2) Both
  - (a) the provider of the information was prevented from meeting the deadline by the temporary inaccessibility of the PPF website or Exchange, or the interruption of electronic communications, or other (in the opinion of the Board) comparable cause; and
  - (b) the information was Submitted as soon as reasonably practicable thereafter.

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## **Part C – How much will the Levies be?**

### **C1. SBL formula**

C1.1 Subject to Rule C3.3, the SBL in respect of a Scheme shall be:

$$L \times 0.000135.$$

C1.2 L shall be the Value of the Scheme's Protected Liabilities.

### **C2. RBL formula**

C2.1 Subject to Rules C3, D2 and D3, the RBL in respect of a Scheme shall be:

$$U \times P \times R \times C$$

C2.2 U shall be the underfunding of the Scheme and is calculated using Rule C4. P shall be the insolvency probability associated with the Scheme Employer(s) and is calculated using Rule C6. R shall be 0.8 because that is the proportion of the Levies intended to be risk-based for the 2011/12 Levy Year. C shall be 2.07 because that is the "risk-based levy scaling factor" for the 2011/12 Levy Year.

### **C3. Variations to the SBL and RBL formulae**

C3.1 The maximum RBL in respect of the Scheme is  $0.0075 \times$  the Value of the Scheme's Protected Liabilities, because that is the "RBL cap" for the 2011/12 Levy Year.

C3.2 If the Scheme is authorised by the Board under section 153 of the Act to continue as a closed Scheme, the RBL shall be zero.

C3.3 If the Scheme is a Failed Scheme the SBL shall be zero and the RBL shall be zero.

C3.4 For a New Scheme, subject to Rules C3.5 to C3.7 inclusive, the SBL and RBL shall be the product of multiplying, respectively, the amounts shown in Rule C1.1 and C2.1 by  $N/365$  where N is the number of days during the 2011/12 Levy Year for which the New Scheme is a Scheme.

C3.5 Unless they refer to provision of information or documents, in relation to a New Scheme, references in these Rules to the Measurement Time, shall be read as references to the first date on which the New Scheme was a Scheme. This Rule C3.5 is subject to Rule E1.3.

C3.6 This Rule C3.6 applies if the Board is satisfied that:

(1) the New Scheme is the successor to the rights and liabilities of a Scheme which existed on 1 April 2011 ("the Predecessor Scheme") or to some substantial part of the rights and liabilities of such a Scheme;

(2) 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

(3) that the Levies in respect of the Predecessor Scheme either have been paid or will be promptly paid.

Where this Rule C3.6 applies the Board may determine that the Levies in respect of the New Scheme shall be nil.

### C3.7 New Scheme is not materially underfunded

Where the Board considers that both:

(1) no Section 179 Valuation information is conveniently available in respect of a New Scheme; and

(2) it is unlikely that the New Scheme is materially underfunded at the relevant time

the Board may determine that the SBL and/or the RBL shall be nil.

### C3.8 Partially Guaranteed Schemes

(1) The Board shall, where it judges it necessary, obtain from the trustees of a Partially Guaranteed 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.

(2) The information referred to in (1) above shall be used by the Board in substitution for the Section 179 Valuation falling within Rule A6.1 or the Value as defined in Rule A6.1.

(3) In calculating the Levies for a Partially Guaranteed Scheme, the Board may also apply these Rules 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 had been a separate Scheme.

### C3.9 Multi-Employer Schemes

In the case of a Multi-Employer Scheme, the Board may apply Rule C3.3 with such modifications as appear to it appropriate for the purpose of ensuring that:

(1) zero Levies are only applied to the Segregated Parts (if any) to which that Rule C3.3 applies; and

(2) appropriate Levies are charged to the remainder (if any) of the Scheme.

#### C4 How is U calculated?

U is calculated by determining the Value of a Scheme's assets (**A**) expressed as a percentage (%) of the Value of the Scheme's Protected Liabilities (**PL**), and applying the table below.

<i>Value of the Scheme's assets</i>	<i>U=</i>
$A < (135\% \text{ of PL})$	$(PL \times 1.36) - A$
$(135\% \text{ of PL}) \leq A < (140\% \text{ of PL})$	1% of PL
$(140\% \text{ of PL}) \leq A < (145\% \text{ of PL})$	0.75% of PL
$(145\% \text{ of PL}) \leq A < (150\% \text{ of PL})$	0.50% of PL
$(150\% \text{ of PL}) \leq A < (155\% \text{ of PL})$	0.25% of PL
$A \geq (155\% \text{ of PL})$	0

In this Rule C4, **A** shall include the Deficit-Reduction Contributions figure which is stated in the most recently Submitted compliant certificate (if any) under Rule D1.

#### C5 What is a Failed Scheme?

C5.1 A Scheme is a Failed Scheme if it meets all of the criteria in this Rule C5 and:

- (i) has not been authorised by the Board under section 153 of the Act to continue as a closed scheme; and
- (ii) is not a Scheme to which section 146 and/or section 147 of the Act applies.

#### C5.2 Failure Notice received

A Scheme meets the criteria in this Rule C5.2 if, no later than midnight on 31 March 2011, the Board has either received or issued a Failure Notice in respect of the Scheme.

#### C5.3 No Rescue Notice

A Scheme meets the criteria in this Rule C5.3 if, before the calculation of the Levies for the Scheme concerned, the Board has neither received or issued a Rescue Notice in respect of the Scheme.

#### C5.4 Failure Notice must be binding

A Scheme meets the criteria in this Rule C5.4 if, before the calculation of the Levies for the Scheme concerned, the Scheme Failure Notice has become a Binding Failure Notice.

## **C6 Assumed insolvency probability**

### **C6.1 What is P?**

P is the insolvency probability associated with the Employer(s) in relation to the Scheme. It shall be calculated as in Part E of these Rules subject to a maximum value of 0.03.

## **C7 Re-issued invoices**

### **C7.1 What if a payment has been made?**

Where the Board issues a revised notification of the amount of the Levies in respect of the Scheme, any amount already paid in respect of that Scheme pursuant to any previous notification shall be deemed deducted from the amount due pursuant to the revised notification.

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## **D Reducing the RBL by reducing risk**

### **D1 Deficit-Reduction Contributions**

#### **D1.1 When does this Rule apply?**

This Rule D1 applies where:

- (i) a certificate in respect of a Deficit-Reduction Contribution that complies with Rule D1.2 has been Submitted by the Measurement Time; or
- (ii) there has been provided or Submitted a certificate in respect of a Deficit-Reduction Contribution which complied with the requirements and deadlines set out in or under a Previous Determination; and
- (iii) it appears to the Board (to the extent that it is to be recognised for the purpose of the calculation of the RBL) that the certified contribution has the effect of reducing the difference between a Scheme's assets and Protected Liabilities where Protected Liabilities exceed the assets, or increasing that difference where the assets exceed the Protected Liabilities.

#### **D1.2 What must the certificate of Deficit-Reduction Contributions contain?**

The certificate must contain the information specified in the Deficit-Reduction Contributions Appendix, which must be calculated in accordance with the rules set out in that Appendix.

#### **D1.3 Which certificates can be taken into account?**

A certificate shall not be taken into account unless it refers to, and the information contained within it has been calculated by reference to, the same Section 179 Valuation or MFR Valuation of the Scheme as is used under Rule A6.1, or in a case to which Part F of these Rules applies, to the relevant Post-Transfer Valuation.

#### **D1.4 Effect of Deficit-Reduction Contributions on the Levies**

Where this Rule D1 applies, for the purposes of these Rules the value of the assets of the Scheme shall be increased by the Deficit-Reduction Contributions figure which is stated in the most recently provided or Submitted compliant certificate.

### **D2 Current Contingent Assets**

#### **D2.1 When does this Rule D2 apply?**

This Rule D2 applies where the Board is satisfied that there has been Submitted by or on behalf of the Scheme trustees, before the relevant Measurement Time:

- (1) a Contingent Asset Certificate; and
- (2) satisfactory hard copy supporting documents, as required by the Contingent Asset Appendix.

## D2.2 What is a Contingent Asset?

A "Contingent Asset" must be one of either:

- (1) a Type A Contingent Asset, which is a guarantee from a parent company or any relevant associated undertaking in Acceptable Form and which complies with paragraphs 6 and 7 of the Contingent Asset Appendix;
- (2) a Type B Contingent Asset, which is a security in Acceptable Form and which complies with paragraphs 8 to 11 inclusive of the Contingent Asset Appendix;
- (3) a Type C Contingent Asset, which is a letter of credit or bank guarantee in favour of the Scheme trustees in Acceptable Form and which complies with paragraphs 12 to 16 inclusive of the Contingent Asset Appendix,

and in all cases it must comply with Rule D2.3.

## D2.3 Further provisions about Contingent Assets

- (1) The Contingent Asset must comprise or result from an arrangement which becomes or became effective no later than 1 April 2011 except in the case of a New Scheme where it may take effect on the date on which the New Scheme becomes a Scheme if that is later.
- (2) The Contingent Asset must appear to the Board to reduce the risk of compensation being payable from the Board in the event of an insolvency event occurring in respect of an Employer in relation to the Scheme.

## D2.4 The Contingent Asset Certificate

In order to be a Contingent Asset Certificate, a certificate must:

- (1) contain the information set out in paragraphs 30 to 48 inclusive of the Contingent Asset Appendix which is relevant to the type of Contingent Asset;
- (2) certify that the Scheme benefits from one or more Contingent Assets as specified in Rule D2.2; and
- (3) provide all the information and certifications required by Exchange in relation to the relevant Contingent Asset;

provided, however, that if the certificate required on Exchange requests less or different information or certifications than those set out in the Contingent Asset Appendix, then the correct and full completion and Submission of the relevant certificate in Exchange shall be treated as sufficient compliance with sub-Rules (1) and (2) above, provided however that the Board reserves the right to request

the further or different information required in accordance with the Contingent Asset Appendix and to reject the certificate if such information is not supplied.

#### D2.5 Are Contingent Assets from previous years accepted?

(1) Where a Contingent Asset was recognised by the Board for the purposes of calculating a Scheme's RBL for a Levy Year ending on or before 31 March 2011 this Rule D2.5 applies.

(2) The Board shall give that Scheme credit for that Contingent Asset for the 2011/12 Levy Year where:

- (i) it gave credit for it in the 2010/11 Levy Year;
- (ii) the relevant requirements of Rules D2 and D3 are satisfied;
- (iii) the Contingent Asset is re-certified by a Contingent Asset Certificate being Submitted by or on behalf of the trustees on or before the Measurement Time; and
- (iv) the requirements of the Contingent Asset Appendix which are relevant to Contingent Assets which have been recognised in a previous Levy Year are satisfied.

D2.6 Where a Scheme's Contingent Asset has been recognised by the Board for the purposes of calculating a Scheme's RBL for a Levy Year ending on or before 31 March 2011 but was **not** so recognised for the 2010/11 Levy Year, nothing in this Rule D2.5 is to be taken as preventing the Scheme from Submitting the Contingent Asset for the consideration of the Board with a new Contingent Asset Certificate and any other required documentation.

D2.7 What is the effect of the Board recognising a Contingent Asset for the 2011/12 Levy Year?

The Board shall take into account a Contingent Asset for the purposes of calculating the Scheme's Levies for the 2011/12 Levy Year and calculate the Scheme's RBL in accordance with the Contingent Asset Appendix but only if it appears to the Board that the asset meets all the relevant provisions of this Rule D2 and the Contingent Asset Appendix.

### **D3 Cancellation, amendment and replacement of Contingent Assets**

D3.1 No recognition of any Contingent Asset unless previous year's Contingent Assets still in place and not weakened

(1) This Rule D3.1 shall apply if, in respect of a Scheme, the Board gave credit for one or more Contingent Assets (each referred to below as the "Original Contingent Asset") for the purposes of calculating the RBL for the 2010/11 Levy Year.

(2) Where this Rule D3.1 applies then, notwithstanding any other provision of the Rules, the Board shall not take into account any Contingent Asset for the purposes of that Scheme's Levies for the 2011/12 Levy Year unless:

(i) that Scheme certifies to the Board that each Original Contingent Asset satisfies the requirements for recognition for the 2011/12 Levy Year; and,

(ii) the condition specified in Rule D3.1(3) below is satisfied in relation to each Original Contingent Asset.

(3) The condition referred to in Rule D3.1(2) is that no amendments have been made to the terms of the Original Contingent Asset since it was last certified to the Board or, if any such amendments have been made, the Board is satisfied that they do not reduce the value of that Original Contingent Asset.

(4) This Rule D3.1 is subject to Rule D3.3.

D3.2 Withdrawal of recognition where Contingent Asset cancelled or amended during 2011/12 Levy Year

(1) This Rule D3.2 shall apply if the trustees of a Scheme notify the Board, or if the Board otherwise becomes aware, that at some time during the 2011/12 Levy Year the information contained in a Contingent Asset Certificate has ceased or will cease to be true and correct.

(2) Where this Rule D3.2 applies, if:

(i) the instrument representing the Contingent Asset has been or is to be terminated;

(ii) its terms have been or are to be varied in such a way as will in the opinion of the Board reduce the value of the asset; or

(iii) any other step has been or is to be taken which has had or will have substantially the same effect,

the Board will calculate the RBL in respect of the Scheme as if that Contingent Asset had not existed at the Measurement Time (that is to say, the Contingent Asset shall be wholly disregarded for the purposes of calculating the RBL for the 2011/12 Levy Year).

(3) This Rule D3.2 is subject to Rule D3.3.

D3.3 Is there material detriment to the Scheme?

(1) If, in relation to a Scheme, the Board would be required to recognise one or more Contingent Assets for the purposes of the 2011/12 Levy Year, and is prevented from doing so only by the operation of Rule D3.1 or, as the case may be, Rule D3.2, then the Board may nonetheless recognise any or all of those Contingent Assets for the purposes of the 2011/12 Levy Year, in full or in part, if Rule D3.3(2) applies.

(2) This Rule D3.2(2) applies if in the opinion of the Board the condition specified in Rule D3.3(3) is met either:

(i) in the case of Rule D3.1, comparing the position at 1 April 2011 with the position at 1 April 2010; or

(ii) in the case of Rule D3.2, comparing the position following each relevant change to any Contingent Asset with the position at 1 April 2011.

(3) The condition referred to in Rules D3.3(1) and (2) above is that any action or inaction of the trustees in relation to the Contingent Asset was reasonable and did not have a materially detrimental effect on the position of the Scheme in all the circumstances. For this Rule D3.3(3), "action or inaction" includes without limitation in consenting to amendment or termination of the instrument constituting a Contingent Asset or in failing to enforce rights available to them pursuant to any such instrument. For this Rule D3.3(3), the "position of the Scheme in all the circumstances" includes without limitation:

(i) any changes in the funding level of the Scheme (ignoring Contingent Assets) over the period in question;

(ii) the absolute funding level of the Scheme;

(iii) the implementation of new Contingent Assets in substitution for or in addition to those that were already in place; and

(iv) the effect of the trustees' action or inaction when considered together with the effect of any earlier changes in relation to relevant Contingent Assets.

#### D3.4 Position where a Scheme has removed or reduced contingent asset cover

(1) This Rule applies where:

(i) one or more Contingent Assets (the "Previous Contingent Assets") was recognised by the Board for the purposes of calculating a Scheme's RBL for a Levy Year ending on or before 31 March 2011 (the "Earlier Levy Year");

(ii) one of those Previous Contingent Assets was not recognised (whether in full or in part and whether or not a certificate in respect of that Previous Contingent Asset had been Submitted) for the purposes of the Scheme's RBL for a Levy Year or years subsequent to the Earlier Levy Year (including, for the avoidance of doubt, the 2010/11 Levy Year by virtue of Rules D3.1 or D3.2 or otherwise); and

(iii) in the opinion of the Board, that Previous Contingent Asset had not been accompanied by an at least equivalent compensatory improvement in the position of the Scheme.

(2) Where Rule D3.4(1) applies, it is the Board's intention that the Scheme should not receive any recognition for any Contingent Assets in any Levy Year subsequent to the Earlier Levy Year unless and until in the opinion of the Board the position of the Scheme (including any continuing Contingent Assets for which recognition is sought) is no worse than it was prior to the point at which all of the Previous Contingent Assets remained recognised by the Board for the purposes of the calculation of the RBL.

(3) Recognition of Contingent Assets for the 2011/12 Levy Year shall be restricted accordingly.

### D3.5 General provisions regarding this Rule D3

For the purposes of this Rule D3:

(1) A change in the value of real estate or securities comprising a Type B asset, after the date of the valuation given in the Contingent Asset Certificate, is not a matter which falls to be notified to the Board, and will not lead to any recalculation of the RBL.

(2) A reduction in the face value of a Type C(ii) Contingent Asset in accordance with its terms upon the making of a Planned Contribution (as defined in the Type C(ii) Contingent Asset Standard Form referred to in the Contingent Asset Appendix) shall not be regarded as a variation in the terms of that Type C(ii) Contingent Asset, is not a matter which falls to be notified to the Board during the Levy Year, and will not lead to any recalculation of the RBL.

(3) Under no circumstances will the RBL be reduced as a result of steps taken to increase the value of a Contingent Asset after the start of the 2011/12 Levy Year.

(4) The replacement of a Type C(i) Contingent Asset which has expired, by another Type C(i) Contingent Asset of the same or greater value, whether issued by the same or a different counterparty, shall be deemed to be the continuation of the expired asset for the purposes of applying Rules D3.1 and D3.2.

(5) The "value" of a Contingent Asset shall, in the case of a Type A Contingent Asset, take into account the covenant strength of the guarantor(s) as well as the amount guaranteed.

## **Part E – Measuring Employer insolvency risk**

### **E1 How to calculate P**

This Rule E1 sets out how to calculate P for the purposes of Rule C2.1 and is subject to Rule E3 (API Appeals).

#### **E1.1 Single Employer Schemes**

In the case of a Scheme with a single Employer, P is the API of that Employer, which is calculated in accordance with the following Rules, as applicable. Such Rules shall be operated, if applicable, in the following order until an API has been calculated:

- (1) Rule E2.1 (UK Failure Scores);
- (2) Rule E2.2 (Non-UK Failure Scores);
- (3) Rule E2.4 (Risk Indicators);
- (4) Rule E2.6 (Industry averages); and
- (5) Rule E2.7 (Blended averages).

#### **E1.2 Multi-Employer Schemes**

In the case of a Scheme with more than one Employer, the API of each Employer is calculated in respect of that Scheme as set out in Rule E1.1 but with the application of Rule E2.5 after Rule E2.4, and P is calculated as set out in Rule E4.3.

#### **E1.3 New, Recent and No Return Schemes**

In the case of a New Scheme, a Recent Scheme, or a No Return Scheme, the API of each Employer which existed at 31 March 2010 shall be calculated in respect of that Scheme as set out in Rule E1.1 and the API of each Employer which did not exist at 31 March 2010 shall be calculated in respect of that Scheme as set out in Rule E1.1 but disregarding paragraphs E1.1(1), and (2).

### **E2 How to calculate APIs**

#### **E2.1 UK Failure Scores**

(1) This Rule E2.1 applies where DBUK is able to assign a UK Failure Score to an Employer in respect of a Scheme.

(2) Where this Rule E2.1 applies, the API of that Employer shall be the API associated with the UK Failure Score which applies to that Employer as shown in table 1 of the API Appendix.

(3) The UK Failure Score which applies to an Employer shall be the value which DBUK informs the Board that it has assigned to that Employer as its UK Failure Score. For the avoidance of doubt, UK Failure Scores to be provided to the Board are, subject to Rule E2.3 (Overrides to DBUK's standard methodology), to be the normal UK failure score which was assigned to that Employer by DBUK in the ordinary course of its business as at the Measurement Time, (or, if different, the score which would have been assigned if account had been taken of all data that was received by DBUK at least 24 hours before the Measurement Time).

## E2.2 Non-UK Failure Scores

(1) This Rule E2.2 applies where DBUK is unable to assign a UK Failure Score to an Employer, but DBUK or one of its associated undertakings is able to assign a Non-UK Failure Score.

(2) Where this Rule E2.2 applies, the API of that Employer shall be the API associated with the UK Failure Score which maps from the Non-UK Failure Score which applies to that Employer, as shown in tables 1 and 2 of the API Appendix.

(3) The Non-UK Failure Score which applies to an Employer shall be the value which DBUK or, where applicable, the relevant associated undertaking informs the Board that it has assigned to that Employer as its non-UK Failure Score. For the avoidance of doubt, Non-UK Failure Scores to be provided to the Board are, subject to Rule E2.3, to be the normal non-UK failure score which was assigned to that Employer by DBUK (or the relevant associated undertaking, as the case may be) in the ordinary course of its businesses as at the Measurement Time, (or, if different, the score which would have been assigned if account had been taken of all data that was received by DBUK or the relevant associated undertaking, as the case may be, at least 24 hours before the Measurement Time).

## E2.3 Overrides to DBUK's standard methodology

(1) The Board has instructed DBUK to disregard 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, except in the situation where an Employer's domestic or global ultimate parent company is rated as being at severe risk of insolvency (Risk Indicator = 4 or local equivalent), in which case the Employer's Failure Score will be capped at the local failure score value of the domestic or global ultimate parent company, or at a comparable level deemed appropriate by DBUK.

(2) The Board has instructed DBUK that where it has classified an Employer as having branches in three or more different regions, based on information DBUK has collected in the normal course of its business (a "Nationwide Employer"), DBUK shall calculate the Failure Score for that Employer by including the application of a calculation attribute that DBUK have adopted as appropriate in respect of such a Nationwide Employer.

## E2.4 Risk Indicators

(1) This Rule E2.4 applies where there is an Employer to which DBUK or the relevant associated undertaking of 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 Risk Indicator.

(2) Where this Rule E2.4 applies, DBUK will provide the Board with the "Risk Indicator". The "Risk Indicator" which applies to an Employer shall be the value which DBUK informs the Board that the relevant associated undertaking of DBUK has assigned to the Employer in question in respect of the Scheme in the ordinary course of that relevant associated undertaking's business and in the absence of a Non-UK Failure Score, based on data provided to the relevant associated undertaking at least 24 hours before the Measurement Time.

(3) In such cases the API associated with the Risk Indicator will be such as the Board has been advised by DBUK is appropriate for the purposes of achieving equivalence with the API Appendix to these Rules.

## E2.5 Scheme averages

(1) This Rule E2.5 applies where there are at least 10 Employers participating in a Scheme, and where application of Rules E2.1 to 2.4 inclusive has failed to produce a Failure Score or Risk Indicator for all those Employers but 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).

(2) Where this Rule E2.5 applies, the API in respect of that Scheme for each Employer for whom no Failure Score or Risk Indicator has been produced shall be the mean API of the other Employers in relation to that Scheme in respect of whom Failure Scores or Risk Indicators have been produced.

## E2.6 Industry averages

(1) This Rule E2.6 applies where Rules E2.1 to E2.5 inclusive do not produce a Failure Score or Risk Indicator for a particular Employer in respect of a particular Scheme.

(2) Where Rule E2.6 applies, the API for that Employer will be based upon the assignment of the Employer to an industry group based on two-digit 1972 Standard Industry Classification (SIC) codes, in accordance with this Rule E2.6.

(3) The Employer will be assigned by the Board to whatever industry group appears most appropriate.

(4) The API for an Employer shall be the probability which DBUK notifies to the Board as being the Median API for all UK-domiciled Employers within that industry group in respect of whom it has provided the Board with UK Failure Scores for the purposes of the 2011/12 Levy Year.

## E2.7 Blended averages

- (1) This Rule E2.7 applies where the Board either:
  - (i) is unable to determine the most appropriate SIC 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,
- (2) Where this Rule E2.7 applies, the API for the Employer shall be the probability which DBUK notifies to the Board as being the Median API 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 2011/12 Levy Year.

## E2.8 Medians

For the purposes of Rule E2.6 and E2.7, Medians shall be based on the same set of probability data as supplied by DBUK to the Board for the purposes of calculating the scaling factor in the 2011/12 Levy Year. 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 API has been applied in accordance with Rule E2.5.

## E3. DBUK appeals

### E3.1 When does this Rule E3 apply?

This Rule E3 can only apply in relation to a decision of DBUK, where DBUK informs the Board that:

- (1) it has made a decision under either of Rules E3.3 or E3.4;
- (2) that decision was made for a reason in Rule E3.5; and
- (3) that decision was made after receiving representations made by or on behalf of the Scheme trustees and/or Employer which comply with Rule E3.2(1), or following a request by the Board which complies with Rule E3.2(2).

For the avoidance of doubt the assignment of an Employer to an industry group by the Board under Rule E2.6(3) is not a decision of DBUK for the purposes of this Rule E3.

### E3.2 Representations and requests for an appeal

- (1) Where representations are made by the Scheme trustee or Employer:
  - (i) any representations must first be made to DBUK (or, where applicable, an associated undertaking) by or on behalf of the Scheme trustees or Employer not later than 28 days after the date shown on the notification of the Levies in respect of the 2011/12 Levy year; and

(ii) the relevant applicant must also comply with any other relevant deadlines throughout DBUK's appeal process as may be stipulated by DBUK.

### E3.3 DBUK may act if the score is incorrect

DBUK may decide for a reason in Rule E3.5 that the Failure Score or other measure applied in accordance with Rules E2.1 to E2.7 inclusive assigned to an Employer as at the Measurement Time, was incorrect.

### E3.4 DBUK may review cases using averages across Employers

DBUK may decide, for a reason in Rule E3.5, that either:

- (1) the procedures set out in Rules E2.5 to E2.7 inclusive have produced a result which was incorrect as compared with the result intended by those procedures; or
- (2) these Rules prescribed that a different procedure should have been applied.

### E3.5 The reasons applicable for Rule E3.3 and E3.4

DBUK may only act if it decides that its original decision was based upon information which, as at the Measurement Time, was incorrect or which was incomplete by comparison with the information which should normally have been taken into account by DBUK in assigning a Failure Score or other measure at that date and this occurred for one of the following reasons:

- (1) because, DBUK did not have access to information which would normally have been available to, and would normally have been taken into account by, DBUK at that date and, in a case where representations were made on behalf of the Scheme trustees or Employer, for reasons not related to any action or inaction of the relevant employer; or
- (2) because DBUK did not apply the procedures for assigning the Failure Score or other measure as they should normally have been applied.

### E3.6 What happens if there is a new Failure Score (or other measure)?

- (1) Where this Rule E3 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 as at the Measurement Time.
- (2) Where this Rule E3 applies the Board will, where necessary, issue a revised notification of the amount of the Levies in respect of the Scheme.

## **E4. Insolvency risk for Multi-Employer Schemes**

#### E4.1 Membership numbers

- (1) The number of Allocated Members of a Scheme for each Employer is to be determined by reference to the information Submitted as at the Measurement Time.
- (2) "Allocated Member" includes Pension Credit Members allocated to an Employer using the definition of "Pension Credit Member" in these Rules.

#### E4.2 Categorisation of Multi-Employer Schemes

- (1) Each Multi-Employer Scheme is to be determined as being either a "Last Man Standing Scheme", a "Partial Segregation Scheme" or a "Centralised Scheme" in accordance with the information Submitted for the Scheme as at the Measurement Time.
- (2) A "Last Man Standing Scheme" is a Scheme:
  - (i) which is not a Centralised Scheme; and
  - (ii) the rules of which do not include a requirement or discretion for the trustees to segregate assets on cessation of participation of an Employer.
- (3) A "Partial Segregation Scheme" is a Scheme the rules of which include a requirement or discretion for the trustees to segregate assets on cessation of participation of an Employer.
- (4) A "Centralised Scheme" is a Scheme:
  - (i) which is established as a centralised scheme for non-associated Employers, and whose rules do not include a requirement or discretion for the trustees to segregate assets on cessation of participation of an Employer;
  - (ii) which is stated in the data Submitted as at the Measurement Time as being such a Scheme; and
  - (iii) in relation to which the Board has, if requested by the Board, received satisfactory evidence in support of the statements in (i) before the calculation of the Levies for that Scheme.

#### E4.3 How is P calculated for such Schemes?

- (1) In the case of a Last Man Standing Scheme, P shall be 0.9 multiplied by the weighted average of API for each Employer in relation to the Scheme.
- (2) In the case of a Partial Segregation Scheme, P shall be the weighted average of API for each Employer.
- (3) In the case of a Centralised Scheme, P shall be the weighted average of API for each Employer multiplied by  $A/B$  where A is the largest number of

Members of the Scheme in relation to whom any one Employer is the Employer, and B is the total number of Members of the Scheme.

(4) In each case, the weighted average shall be calculated by:

- (i) separately determining the API for each Employer in accordance with Rules E1, E2 and E3, and then
- (ii) calculating the weighted average API for all Employers, where the weightings are equal to the number of Allocated Members for each Employer, divided by the total number of Members.

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## **Part F – Special rules for scheme transfers**

### **F1 When do these special rules apply?**

#### **F1.1 Which transfers are covered by these Rules?**

- (1) This Part F of the Rules sets out special rules which apply where there has been a Full Transfer or a Qualifying Transfer.
- (2) The Board shall not be obliged to take into account any transfers of assets or liabilities between Schemes which are not Full Transfers or Qualifying Transfers, save where it was required to do so under the terms of a Previous Determination.

#### **F1.2 Carry forward of certificates**

For Schemes where block transfer information was Submitted and accepted for use in the 2010/11 Levies, and where no new Section 179 Valuation for that Scheme is Submitted in accordance with Rule A6.1 and no further certificate for that Scheme is Submitted before 5.00pm on 30 June 2011, the information used for 2010/11 will be carried forward and used in 2011/12.

#### **F1.3 What is a Full Transfer?**

A "Full Transfer" is where, on any date or dates prior to 1 April 2011:

- (i) there are fewer than two Members remaining in a scheme (the "Transferring Scheme"); and
- (ii) the Transferring Scheme has transferred (in groups of two or more Members) Members to one or more other Schemes (each, the "Receiving Scheme")

and there remain fewer than two Members in the Transferring Scheme on 1 April 2011.

#### **F1.4 What is the effect of a Full Transfer?**

Where there has been a Full Transfer this Part F of the Rules applies to the Transferring Scheme and the Receiving Scheme.

### **F2 The Board's expectation for additional information and the rules in relation to Full Transfers**

#### **F2.1 The Board's expectations of Scheme trustees**

If there is no Section 179 Valuation for the Receiving Scheme(s) which reflects the Full Transfer and is Submitted at the Measurement Time, the trustees of the Transferring Scheme and the Receiving Scheme(s) shall be expected to agree and Submit the information in Rules F2.2 and F2.3 by 5.00pm on 30 June 2011 unless that information has already been Submitted.

## F2.2 Basic Transfer Information

The Basic Transfer Information is specified in Part A of the Transfers Appendix attached to these Rules and is expected to be agreed and Submitted by or on behalf of the Schemes' trustees by 5.00pm on 30 June 2011.

## F2.3 Actuarial Transfer Information

The Actuarial Transfer Information is specified in Part A of the Transfers Appendix and calculated in accordance with the provisions set out in Part B of the Transfers Appendix attached to these Rules. The Actuarial Transfer Information is expected to be agreed and Submitted by or on behalf of the Schemes' trustees by 5.00pm on 30 June 2011.

## F2.4 The Board's objective

(1) This Rule F2.4 applies where all of the information in Rules F2.2 and F2.3 is Submitted by 5.00pm on 30 June 2011.

(2) Where this Rule F2.4 applies, the Board will make what is in its view an appropriate determination of the Value of the assets and/or Protected Liabilities of the Receiving Scheme(s) as at 31 March 2010.

(3) The determination referred to in Rule F2.4(2) will be made taking the Full Transfer into account and giving best effect to the general approach set out in the Transformation Appendix. In any case where a transfer of assets and liabilities occurs between 1 April 2010 and 31 March 2011 (inclusive), the Board shall make its determination based upon the assets and Protected Liabilities 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 the Transformation Appendix.

(4) Any determination made under Rule F2.4(2) shall be used in substitution for the valuation the Board would otherwise use in accordance with Rule A6.

(5) For the avoidance of doubt, the provisions of this Part F apply to a Receiving Scheme that is a New Scheme or a scheme that, by virtue of Rule A6.2, is not yet obliged to complete a Section 179 Valuation.

## F2.5 Absence of information

(1) Where any of the information in Rule F2.2 and/or F2.3 has not been Submitted by 5.00pm on 30 June 2011, this Rule F2.5 applies.

(2) Where this Rule F2.5 applies, the Board shall make a determination of the Levies of the Receiving Scheme(s) in accordance with the "Poor Data Methodology" provided that if the Board is satisfied that the trustees of any Receiving Scheme have made all efforts that were reasonable in the circumstances to Submit or procure that the Transferring Scheme Submits the information in Rules F2.2 and F2.3 by 5.00pm on 30 June 2011 the Board shall

not be obliged to determine the Levies of that Receiving Scheme in accordance with the Poor Data Methodology and may instead:

- (i) determine the Levies of that Receiving Scheme in accordance with the Poor Data Methodology but without applying the adjustment to the estimated value of assets for the Transferring Scheme referred to in paragraph 12 of the Transfers Appendix;
- (ii) determine the Levies of that Receiving Scheme in accordance with the assets and Protected Liabilities contained in any Post-Transfer Valuation which reflects the Full Transfer(s) and which has been Submitted by the Receiving Scheme by 5.00pm on 30 June 2011; or
- (iii) determine the Levies of that Receiving Scheme by using a combination of the approaches set out in (i) and (ii) above and the Poor Data Methodology,

in each case in such manner which in the view of the Board best gives effect to the general approach laid down by these Rules.

(3) The "Poor Data Methodology" is the methodology set out in Part C of the Transfers Appendix to these Rules.

(4) Any determination made under Rule F2.5(2) shall be used in substitution for the valuation the Board would otherwise use in accordance with Rule A6.

### **F3 Qualifying Transfers**

#### **F3.1 What are Qualifying Transfers?**

A "Qualifying Transfer" is where:

- (1) on any date prior to 1 April 2010, a Scheme (the "Transferring Scheme") has transferred all of its liabilities in respect of two or more Members to another single destination (being a Scheme (the "Receiving Scheme"), another pension scheme, or an insurance company);
- (2) that transfer is not a Full Transfer; and
- (3) the value of the assets transferred exceeds one or more of:
  - (i) 5% of the asset value of the Transferring Scheme as stated in the last MFR or Section 179 Valuation before the First Transfer Date which is Submitted as at the Measurement Time;
  - (ii) 5% of the asset value of the relevant Receiving Scheme as stated in the last MFR or Section 179 Valuation before the First Transfer Date which is Submitted as at the Measurement Time; or
  - (iii) £1.5 million.

#### **F3.2 Can a Qualifying Transfer be considered?**

(1) This Rule F3.2 applies where:

(i) there is a Qualifying Transfer;

(ii) there is no Section 179 Valuation for the Transferring Scheme and/or the Receiving Scheme which reflects the relevant transfer and is Submitted prior to the Measurement Time; and

(iii) the trustees of the Transferring Scheme and the Receiving Scheme agree and Submit the Basic Transfer Information and the Actuarial Transfer Information both specified in Part A of the Transfers Appendix attached to these Rules and calculated in accordance with the provisions set out in Part B of the Transfers Appendix attached to these Rules by 5.00pm on 30 June 2010.

(2) Where this Rule F3.2 applies, the Board shall make what is in its view an appropriate determination of the Value of the assets and/or Protected Liabilities of the Transferring Scheme and the Receiving Scheme as at 31 March 2010.

(3) The determination referred to in Rule F3.2(2) will be made taking the Qualifying Transfer into account and giving best effect to the general approach set out in the Transformation Appendix.

(4) Any determination made under Rule F3.2(2) shall be used in substitution for the valuation the Board would otherwise use in accordance with Rule A6.

#### **F4 The effect of a Full Transfer or a Qualifying Transfer**

Where the Board makes a determination under Rule F2.4, F2.5 or F3.2, in respect of each Transferring Scheme and Receiving Scheme to which it applies, the Board shall calculate the SBL and RBL and shall invoice, or re-invoice, as the case may be, based on that determination.