

**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 2015 – 31 March 2016**

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# **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 2015 to 31 March 2016: 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.

## **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

[www.pensionprotectionfund.org.uk/pages/1516\\_Levy\\_Determination.aspx](http://www.pensionprotectionfund.org.uk/pages/1516_Levy_Determination.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.

“ABC Arrangement” means a contractual arrangement under which the Scheme trustee:

- (i) becomes a limited partner in a limited partnership (the “Trustee LP”) in which another entity within the Employer's Group is also a partner;
- (ii) as a result expects to receive one or more payments representing distributions of profits (or return of capital) in relation to the Trustee LP (“Coupon Payments”); and
- (iii) the Coupon Payments are expected to be wholly or mainly generated by virtue of one or more income producing asset(s) owned by one of the following:
  - (a) the Trustee LP;
  - (b) another limited partnership of which the Trustee LP is a member (a “Second LP”);
  - (c) another corporate entity within the Employer's Group which has issued a loan note to the Trustee LP,

or such other arrangement that the Board considers to be designed to have substantially the same effect as the above.

Where the context so requires, references to an ABC Arrangement shall include all documents entered into as part of the transaction under which the Scheme trustee acquired its interest in the Trustee LP.

“ABC Asset” or “ABC Asset(s)” - means the asset or assets held by a Trustee LP, Second LP, or corporate entity within the Employer's Group which has issued a loan note to the Trustee LP for the purposes of the ABC Arrangement.

“ABC Certificate” - means a certificate which complies with all of the requirements of the ABC Appendix.

“ABC Payments” - means the Coupon Payments made pursuant to the ABC Arrangement between:

- (a) the later of:
  - (i) the date that the ABC Arrangement was entered into; and

(ii) the date of the Section 179 or MFR Valuation of the Scheme that is used under Rule D2 or, in a case to which Part F of these Rules applies, the relevant Post-Transfer Valuation; and

(b) the date as at which the Latest Scheme Accounts are prepared.

"ABC Value" has the meaning given in paragraph 4 of the ABC Appendix or, where Rule H1.2 applies, the value ascribed to it by the Board pursuant to Rule H2.3.

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

"Accounts" – means financial statements which:

(a) are signed by the following in relation to the Employer, Group Subsidiary or Ultimate Parent (as the case may be):

(i) any director, in the case of a company;

(ii) any member, in the case of a limited liability partnership;

(iii) the general partner, in the case of a limited partnership;

(iv) any partner, in the case of a partnership in which no partner has any limit on its liability in respect of the liabilities of the partnership;

(v) any person who fulfils substantially the same role as any of the persons described in the preceding paragraphs, in the case of an organisation that does not fall within any of those paragraphs;

(vi) that individual, in the case of an individual;

(b) are audited, where:

(i) the Employer, Group Subsidiary or Ultimate Parent (as the case may be) is required by law to have its annual statutory accounts audited; or

(ii) in the case of Consolidated Accounts they are provided to Experian pursuant to Rule E2.3;

(c) as a minimum, comply with the legal requirements to which the relevant Employer, Group Subsidiary or Parent, as the case may be, is subject in relation to the accounts which they are legally required to file;

(d) are Annual Accounts, unless they are Accounts that have been filed with Companies House in the UK; **and**

(e) are prepared for the period ending with a Year End Date no earlier than the date which is 30 months before the Score Measurement Date.

"Act" – the Pensions Act 2004.

"Actual s179 ABC Amount" - means the value attributed to the Scheme trustee's interest in the Trustee LP in the s179 Scheme Accounts.

"Actuarial Transfer Information" – is defined in Rule F2.3.

“Adjusted Monthly Score” – means the Monthly Score adjusted in accordance with Part 5 of the Insolvency Risk Appendix.

“Allocated Members” – means members (as defined in section 124 of the 1995 Act) who, in respect of a particular Employer, are or were in a description or category of employment to which the scheme in question relates, and includes Pension Credit Members allocated to an Employer using the definition of “Pension Credit Member” in these Rules.

“Annual Accounts” means Accounts prepared for the period which ends with the Employer Ultimate Parent or Group Subsidiary's Year End Date PROVIDED THAT, in determining whether this definition is met, Experian shall treat all Employers as if they were subject to the same restrictions on the frequency of changing a Year End Date which apply to UK registered companies.

“Annual Return” – is construed in accordance with section 854 of the Companies Act.

“Appealable Score” – means a Mean Score, Levy Band or Levy Rate.

“Appropriate Legal Advice” - means that the Appropriate Solicitor complies with the SRA Indemnity Insurance Rules and rule 1.8 of the SRA Code of Conduct in relation to professional indemnity insurance and any limitation of liability in relation to the advice.

“Appropriate Solicitor” - means a private practice solicitor holding a current practising certificate for the relevant jurisdiction and professional indemnity insurance in accordance with the Solicitor's Indemnity Insurance Rules appointed by the trustees pursuant to s47 of the Pensions Act 1995 (or, if applicable, the Trustee LP) at the time of the advice.

“Assets” – is defined in Rule D2.1(1).

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

“Binding Failure 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 E6.2(4).

“Charity” - means a body which meets the definition set out at s.1 of the Charity Act 2011 and which is either:

- (a) registered with the Charity Commission; or
- (b) is not required by law to be so registered and, in relation to which the Board has, before the calculation of the Levies for the relevant Scheme, if it so requests, received evidence that the Board considers to be satisfactory that, as at the relevant Score Measurement Date, it met the definition set out at s.1 of the Charity Act 2011.

“Charity Commission” – means one or more of:

- (a) the Charity Commission for England & Wales;
- (b) the Office of the Scottish Charity Regulator; or
- (c) the Charity Commission for Northern Ireland.

"Companies Act" – means the Companies Act 2006.

"Companies House" – means Companies House, the executive agency of the department for business, innovation and skills and any body which undertakes an equivalent role outside of the UK.

"Company/Charity Source" – means Companies House and the Charity Commission.

"Consolidated Accounts" – means the Accounts of a Group in which the assets, liabilities, equity, income, expenses and cash flows of the Parent and its Subsidiaries are presented as those of a single economic entity and which meet any applicable legal requirements for such accounts.

"Contingent Asset" – is defined in Rule G2.2.

"Contingent Asset Certificate" – a certificate which complies with Rule G2.4.

"Coupon Payments" the payments representing distributions of profits (or return of capital) in relation to the Trustee LP that the ABC Arrangement provides for the Scheme trustee to receive.

"CRA Rated" – means directly rated by one or more of Moody's Investors Service, Fitch Ratings or Standard & Poor's Ratings.

"CRA Rating" – means the publicly available rating from one or more of Moody's Investors Service, Fitch Ratings or Standard & Poor's Ratings Services.

"Deficit-Reduction Contribution" – refers to the amount of the cash contribution calculated in accordance with paragraphs 6-15 of the Deficit-Reduction Contributions Appendix.

"Earlier Levy Year" – is defined in Rule G3.4(1)(i)

"Entry Rules" – means the Pension Protection Fund (Entry Rules) Regulations 2005.

"Employer" – is as defined in section 318 of the Act and regulations made thereunder.

"Employers' Association" – means an employers' association within the meaning of section 122 of the Trade Union and Labour Relations (Consolidation) Act 1992 whose name appears on the list maintained by the Certification Officer pursuant to that Act.

"Exchange" – means 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.

"Experian" – means Experian Limited, registered in the UK company number 653331 and, where appropriate, shall include its relevant associated undertakings (for the purposes of the Insolvency Act 1986).

"Failed Scheme" – means a Scheme which meets the criteria in Rule C4.

"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.

"FCA" - means the Financial Conduct Authority.

"Filed" – means either:

- (a) publicly available on the website of Companies House, the Charity Commission or an Other Permitted Source; or
- (b) Provided to Experian pursuant to Rule E2.3;

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

"Forces Association" – means an association established by the Defence Council pursuant to powers granted under Part XI of the Reserve Forces Act 1996.

"Full Accounts" – means individual Accounts which are not Consolidated Accounts and contain a balance sheet and profit and loss account.

"Full Transfer" – is defined in Rule F1.3.

"Group" – in relation to an Employer means that Employer, any Subsidiary or Parent of that Employer, and any Subsidiary of a Parent of that Employer and in relation to an Ultimate Parent means it and all its Subsidiaries. Each Employer in a Group is a member of the Group.

"Group Subsidiary" – means a Subsidiary of the Employer or the Employer's Ultimate Parent.

"Housing Association" – means a provider of social housing registered:

- (a) as a 'non-profit organisation' under section 115 of the Housing and Regeneration Act 2008;
- (b) under Part 2 of the Housing (Scotland) Act 2010; or
- (c) under Chapter II of the Housing (Northern Ireland) Order 1992.

["Immaterial Mortgage(s)" - means one or more security interests registered at Companies House in relation to which Experian has, by the Measurement Time, received an Officer's Certificate confirming that:

- (a) the copy (or copies) of the Immaterial Mortgage(s) attached to that certificate is/are true, complete and up to date; and
- (b) the principal amount secured by it (or the aggregate principal amount secured by them) is no more than [0.5% of the Total Assets] shown in the chargor's Latest Accounts,

and, in respect of which, Experian is satisfied, based on the document referred to in (a), that the criterion in (b) is met.][to be confirmed post-consultation]

["Immateriality Test" - means that the following criteria are met by the Employer or, for the purposes of the Parent Strength Variable, the Ultimate Parent (as the case may be):

- (a) Experian has, by the Measurement Time, received an Officer's Certificate confirming that it is CRA Rated and its CRA Rating is Investment Grade; and
- (b) the Board is satisfied that, as at the Measurement Time, the statement in the Officer's Certificate referred to in (a) is still true.

For the avoidance of doubt, if there is more than one CRA Rating, the best CRA Rating will be used for the purposes of this paragraph.][to be confirmed post-consultation]

"Insolvency Risk" or "IR" – refers to the number calculated in accordance with Rule E1.

"Investment Grade" - means:

- (a) Baa3 or better in the case of a rating by Moody's Investors Service; and
- (b) BBB- or better in the case of a rating by Fitch Ratings or Standard & Poor's Ratings Services.

"Investment Stress Threshold" – is as described in Rule D3.1.

"Latest Accounts" – means the most recent set of Accounts which have been Filed relating to the Employer, Ultimate Parent or Group Subsidiary, as the case may be.

"Latest Scheme Accounts" - means the most recent Scheme Accounts prepared and adopted before the Measurement Time.

"Last Man Standing Scheme" – is defined in Rule E6.2(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 Band" – the band, as shown in Table 4 in Part 7 of the Insolvency Risk Appendix, to which a LR refers.

"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.

"Liabilities" – is defined in Rule D2.1(1).

"LR" or "Levy Rate" – is defined in Rule E5.

"Mean Score" – is determined by calculating the mean average of the Adjusted Monthly Scores. For the avoidance of doubt, in the case of an Employer in respect of a Scheme where a Monthly Score is only available as at one Score Measurement Date, the Mean Score shall be the Adjusted Monthly Score derived from that Monthly Score.

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

"Median" – is calculated as set out in Part 6 of the Insolvency Risk Appendix.

“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.

“Monthly Score” – the Score as calculated in accordance with Rules E2 - E4 and the relevant Parts of the Insolvency Risk Appendix for an Employer in respect of a Scheme, as at any Score Measurement Date.

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

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

“N-3 Accounts” – means a set of Accounts which:

- (a) are the most recent Accounts having a Year End Date which is no less than three but no more than five years before the Year End Date of the Latest Accounts;
- (b) are Consolidated Accounts in any case where the Latest Accounts are Consolidated Accounts;
- (c) are not Consolidated Accounts in any case where the Latest Accounts are not Consolidated Accounts; and
- (d) have been Filed.

“New Scheme” – a Scheme which becomes an eligible scheme as defined in section 126 of the Act on or after 1 April 2015.

“Non-Filing” – is defined in Rule E3.1(9).

“No Return Scheme” – is defined in Rule A2.4.

“Officer's Certificate” - means a certificate that complies with any guidance issued by the Board from time to time in relation to such certificates (whether general guidance or guidance in relation to the specific certificate concerned) and is signed by one of the following on behalf of the Employer or Ultimate Parent as the case may be:

- (a) any director, in the case of a company;
- (b) any member, in the case of a limited liability partnership;
- (c) the general partner, in the case of a limited partnership.

“Original Mortgage” - means a security interest registered at Companies House, which is released following the discharge of the obligations secured by it and that discharge was funded by amounts the repayment of which are secured by the Refinance Mortgage.

“Other Permitted Source” – means the following sources:

- (a) the Higher Education Funding Council for England;

- (b) the Certification Officer appointed pursuant to the Trade Union and Labour Relations (Consolidation) Act 1992
- (c) the Financial Conduct Authority;
- (d) the Prudential Regulation Authority;
- (e) the Homes & Communities Agency;
- (f) the Scottish Housing Regulator.

"Parent" – is a parent undertaking as defined in s.1162 of the Companies Act, provided that, in the case of a limited liability partnership, section 1162 of the Companies Act shall be amended so that: (a) references in sections 1162(2)(a) and (d) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1162(2)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights. For the avoidance of doubt, to be a Parent, an entity must have one or more Subsidiaries which have not been dissolved.

"Partial ABC Certificate" - means a certificate which contains the information set out in paragraph 3 of the ABC Appendix and the Standard ABC Confirmations but is not an ABC Certificate.

"Partial Segregation Scheme" – is defined in Rule E6.2(3).

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

"Payment Performance Programme" – means the process used by Experian in its ordinary course of business to determine the Days Beyond Terms Variable as described in Part 3 of the Insolvency Risk Appendix.

"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.

"Pension Scheme Mortgage" - means a security interest registered at Companies House in relation to which, by the Measurement Time, either:

- (a) it is apparent to Experian from the data collected pursuant to Rule E2.2 that the persons entitled to the security interest are the trustees of a Scheme; or
- (b) Experian has received an Officer's Certificate confirming that:
  - (i) the copy of the Pension Scheme Mortgage attached to that certificate is true, complete and up to date; and
  - (ii) the persons entitled to the security interest are the trustees of a Scheme, and Experian is satisfied, based on the document referred to in (i), that the criterion in (ii) is met.

"Poor Data Methodology" – is as described in Rule F2.5(3).

"Portal" – means the website developed by Experian to display Scores to certain authorised persons.

"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 Contingent Assets" – is defined in Rule G3.4(1)(i)

"Previous Determination" – any determination of the Board under section 175(5) of the Act for the purposes of a Levy Year before the 2015/16 Levy Year.

"Previously Recognised Transfer" – any transfer of assets and/or liabilities between schemes (whether or not a Full Transfer for the purpose of this Determination) which the Board was required to take into account under the terms of a Previous Determination.

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

"Public Body" – means an Employer which meets the definition of that term in the Entry Rules or which:

- (i) appears on the list of public bodies set out on the following webpage:  
<https://www.gov.uk/government/organisations>
- (ii) is a local authority for the purposes of the s.1 of the Local Government Act 2000, a District Council for the purposes of the Local Government (Northern Ireland) Act 1972 or a Council for the purposes of the Local Government etc. (Scotland) Act 1994.
- (iii) is a public (non-financial) corporation appearing on the list published by the Office for National Statistics.

"Qualifying ABC Arrangement" - is an ABC Arrangement which the Board has recognised pursuant to Rule H1.

"Qualifying ABC Payments" are ABC Payments which the Board has taken into account pursuant to Rule H3.1

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

"Receiving Scheme" – is defined in Rule F1.3

"Refinance Mortgage" - means a security interest registered at Companies House in relation to which Experian has by the Measurement Time, received an Officer's Certificate confirming that:

- (a) the copy of the Refinance Mortgage and of the Original Mortgage attached to that certificate are true, complete and up to date;

- (b) the principal amount secured by the Refinance Mortgage (excluding reasonable legal costs associated with refinancing) is no greater than the principal amount secured by the Original Mortgage on the date it is released;
- (c) the periodic repayments of principal secured by the Refinance Mortgage in each year of its term are no greater than those that would have been secured by the Original Mortgage in that year if it had not been released; and
- (d) the interest rate applicable to the principal obligations secured by the Refinance Mortgage is no greater than that applicable to the principal obligations secured by the Original Mortgage and, for these purposes, if either interest rate is not a fixed rate, that rate will be deemed to be the actual interest rate applicable:
  - (i) in the case of the Original Mortgage, on the day it is released; and
  - (ii) in the case of the Refinance Mortgage, on the day it becomes effective,

and, in respect of which, Experian is satisfied, based on the document referred to in (a), that the criteria in (b), (c) and (d) are met.

“Registered Society” – means a registered society, co-operative society or community benefit society registered with the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014.

“Rent Deposit” - means a security interest registered at Companies House in relation to which, by the Measurement Time, either:

- (a) it is apparent to Experian from the data collected pursuant to Rule E2.2 that it is a security interest which falls within the description in section 859A(6)(a) of the Companies Act; or
- (b) Experian has by the Measurement Time, received an Officer's Certificate confirming that:
  - (i) the copy of the Rent Deposit attached to that certificate is true, complete and up to date; and
  - (ii) that document creates a security interest which falls within the description in section 859A(6)(a) of the Companies Act,

and Experian is satisfied, based on the document referred to in (i), that the criterion in (ii) is met.

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

“Royal Charter Company” – means a body established by or which has been granted a Royal Charter.

“Rules” – these Rules issued by the Board for the 2015/16 Levy Year.

"s179 ABC Amount" - means:

- (a) Where an ABC Certificate has been Submitted which complies with Rule H1.1 or a Partial ABC Certificate has been Submitted which complies with H3.1, the Actual s179 ABC Amount.
- (b) Where (a) does not apply but details of one or more ABC Arrangements have been Submitted by the Measurement Time:
  - (i) where a value, as included in the Scheme Accounts as at the effective date of the Scheme's most recent valuation under Part 3 of the Act, has been Submitted on Exchange, the value attributed to the Scheme trustee's interest in the Trustee LP in the Scheme Accounts as at that date;
  - (ii) where no value as set out in (i) has been Submitted on Exchange in respect of one or more ABC Arrangements but the value at the date of implementation has been so Submitted, the value attributed to the Scheme trustee's interest in the Trustee LP as at that date;
  - (iii) where no value as set out in (i) or (ii) has been Submitted on Exchange in respect of one or more ABC Arrangements, 25 per cent of the total assets stated in the s179 Scheme Accounts.

"s179 Scheme Accounts" - means the "relevant accounts" within the meaning of regulations made under s179 of the Act used for the purposes of the Section 179 Valuation.

"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 Accounts" - means audited accounts of the Scheme prepared pursuant to the Accounts Regulations.

"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 Transfers.

"Score" - is a Monthly Score, Adjusted Monthly Score or Mean Score calculated in accordance with Rules E2-E4 and the Insolvency Risk Appendix.

"Score Measurement Date" - is the final day of any month (excluding weekends and Bank Holidays) from and including October 2014 to and including March 2015.

"Scorecard" - means the relevant table matrix which applies to the Employer as set out in Rule E4.1(1) and which appears in Part 2 of the Insolvency Risk Appendix.

"Second LP" - means another limited partnership set up as part of the ABC Arrangement and of which the Trustee LP is a member.

"Section 60 Company" – means a company to which the exemption from the requirement as to the use of 'limited' under Section 60 of the Companies Act applies.

"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 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, 1992.

"SME Accounts" – means Accounts which are not Consolidated Accounts or Full Accounts but do contain a balance sheet.

"Submitted" and associated terms - are to be construed in accordance with Rule A2.2.

"Subsidiary" – is a subsidiary undertaking as defined in section 1162 of the Companies Act, provided that, in the case of a limited liability partnership, section 1162 of the Companies Act shall be amended so that: (a) references in sections 1162(2)(a) and (d) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1162(2)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

"Supplied Assets" – means the assets of the Scheme as set out in the Section 179 Valuation or the MFR Valuation (determined in accordance with Rule D2) or the Post-Transfer Valuation (determined in accordance with Part A of the Transfers Appendix) that will be transformed by the Board to a section 179 position as at 31 March 2015 (using the Appendices where appropriate).

"Supplied Liabilities" – means the liabilities of the Scheme as set out in the Section 179 Valuation or the MFR Valuation (determined in accordance with Rule D2) or the Post-Transfer Valuation (determined in accordance with Part A of the Transfers Appendix) that will be transformed to a section 179 position as at 31 March 2015 (using the Appendices where appropriate).

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

"Trade Union" – means a trade union within the meaning of Section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 whose name appears on the list maintained by the Certification Officer pursuant to that Act.

"Transferring Scheme" - is defined in Rule F1.3.

"Trustee LP" - means the limited partnership in which the Scheme trustee becomes a limited partner for the purposes of the ABC Arrangement.

“Ultimate Parent” – means a company which is a Parent but is not a Subsidiary.

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

“Unstressed Assets” – is defined in Rule D2.1(1).

“Unstressed Liabilities” – is defined in Rule D2.1(1).

“Variables” – means the data items referred to in table 1 in Part 3 of the Insolvency Risk Appendix or, as the context so requires, such of them as appear in a particular Scorecard.

“Year End Date” – means the end date of the Employer, Group Subsidiary or Ultimate Parent's accounting reference period.

#### 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 D2.1(3), 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 2015, 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 or the Portal (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. In the event of any inconsistency between these Rules and any guidance issued, these Rules will prevail.
- (15) References to Experian's “ordinary course of business” shall be construed as referring to the procedures Experian applies when calculating its Commercial Delphi insolvency risk score.
- (16) References to any English legal term, concept, requirement or provision shall, in respect of any jurisdiction other than England, be deemed to include what most nearly approximates in that jurisdiction to the English legal term, concept, requirement or provision.
- (17) The capitalised terms used in Rules E3.1 and in table 1, Part 3 of the Insolvency Risk Appendix shall, unless defined in Rule A1 have the meanings set out therein for the purposes of interpreting these Rules.

## **A2. Validated data: 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 applies, 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

Renaissance  
12 Dingwall Road  
Croydon  
Surrey  
CR0 2NA

marked for the attention of "Head 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 tPR in such manner as tPR has stipulated (or, in the absence of such a stipulation, by post).
- (4) in the case of an ABC Certificate, it has been emailed to the following address [1516ABCcert@ppf.gsi.gov.uk].
- (5) 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) of this Rule A2.2 for the purposes of the 2015/16 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).
- (6) For the avoidance of doubt, and subject to Rule E2.6(2), this Rule A2.2 does not apply to provision of information to Experian. Rule E2.3 applies for those purposes.

### 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 2015 except as set out below:

- (1) In relation to Deficit-Reduction Contributions, the Measurement Time shall be 5.00pm on 30 April 2015.
- (2) In relation to New Schemes and No Return Schemes, the Measurement Time shall be construed in accordance with Rule A2.4.
- (3) In relation to Full Transfers, the Measurement Time shall be 5.00pm on 30 June 2015 for Submission of both Basic Transfer Information and Actuarial Transfer Information.
- (4) Where otherwise expressly stated in the Rules, the Measurement Time shall be as so stated.

- (5) For the avoidance of doubt, Monthly Scores are calculated in accordance with Part E.

#### 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 5.00pm on 31 March 2015, 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 done or 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 to be used in the calculation of the Levies

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 2015.

### **A4. Payment of the Levies**

#### A4.1 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 2016.

#### A4.2 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. If the amount paid in respect of any previous notification exceeds the amount due pursuant to the revised notification, the difference between the notifications in question will be credited to the Scheme.

**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) where a value which falls to be rounded in accordance with (1) above falls exactly halfway between two potential rounded figures it shall be rounded upwards.

## **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 prudent and 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?

- (1) Subject to Rule B2.1(2) and (3), this Rule B2 applies if it appears to the Board that either:
  - (i) the information supplied for or used in the calculation of the Levies (including information contained in any data Submitted, if that information was incorrect at the time when it was Submitted) is incorrect in a material respect;
  - (ii) a notification required by or under a certificate in relation to Contingent Assets has not been duly given; or
  - (iii) a confirmation, certificate or declaration given for the purposes of these Rules was improperly given or contained information which was incorrect in a material respect.
- (2) Save for information relating to the identity of the Employer or Certified Guarantor and without prejudice to Rule E7.8, this Rule B2 does not apply in relation to any information which is used to calculate an Appealable Score or a Monthly Score and neither does it apply in relation to the Appealable Score or Monthly Score itself. Appealable Scores may be appealed as set out in Rule E7.
- (3) For the purposes of Rule B2.1(1)(i), 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.

## B2.2 Correction of the data

- (1) Where Rule B2.1(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 confirmation, 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 paragraphs (1) or (2) of this Rule B2.3 above but it shall not be under any 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 Levies 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.

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

### **C1. SBL formula**

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

$UL \times SLM.$

C1.2 UL shall be the value of the Scheme's Unstressed Liabilities. SLM shall be 0.000021 because that is the "scheme-based levy multiplier" for the 2015/16 Levy Year.

### **C2. RBL formula**

C2.1 Subject to Rule C3, the RBL in respect of a Scheme shall be:

$U \times IR \times LSF$

C2.2 U shall be the underfunding of the Scheme and is calculated using Part D. IR shall be the measure of insolvency risk associated with the Scheme Employer(s) and is calculated using Part E. LSF shall be 0.65 because that is the "risk-based levy scaling factor" for the 2015/16 Levy Year.

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

C3.1 The maximum RBL in respect of the Scheme shall be:

$UL \times K$

where UL shall be the value of the Scheme's Unstressed Liabilities and K is 0.0075, because that is the "RBL cap" for the 2015/16 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 as specified in Rule C4, 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 2015/16 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 2015 ("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 the amount (which may be zero) of the Levies in respect of the New Scheme as set out in Rule B1.2.

#### 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 on a Section 179 basis at the relevant time

the Board may determine that the amount of the SBL and/or the RBL shall be zero.

#### 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 Rule C3.8(1) above shall be used by the Board in substitution for the Section 179 Valuation falling within Rule D2 or the Assets, Liabilities, Unstressed Assets or Unstressed Liabilities as defined in Rule D2.
- (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: Segregated Parts

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. What is a Failed Scheme?**

C4.1 A Scheme is a Failed Scheme if it meets all of the criteria in Rules C4.2 to C4.4 inclusive 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.

#### C4.2 Failure Notice received

A Scheme meets the criteria in this Rule C4.2 if, no later than midnight on 31 March 2015, the Board has either received or issued a Failure Notice in respect of the Scheme.

#### C4.3 No Rescue Notice

A Scheme meets the criteria in this Rule C4.3 if, before the calculation of the Levies for the Scheme concerned, the Board has neither received nor issued a Rescue Notice in respect of the Scheme.

#### C4.4 Failure Notice must be binding

A Scheme meets the criteria in this Rule C4.4 if, before the calculation of the Levies for the Scheme concerned, the Scheme Failure Notice has become a Binding Failure Notice.

## **Part D – How will Underfunding be calculated?**

### **D1. How is U calculated?**

D1.1 U is calculated as (to be expressed as a monetary figure, rounded in accordance with Rule A5, or, if such amount is negative, zero):

- (a) the greater of (i) the shortfall (if any) between the Assets and the Liabilities and (ii) the shortfall (if any) between the Unstressed Assets and the Unstressed Liabilities where the Assets and Unstressed Assets are calculated including the value of any Deficit-Reduction Contributions figure which is stated in the most recently Submitted compliant certificate (if any) under Rule G1 and adjusted (as appropriate) in accordance with the Transformation Appendix; (and where neither shortfall exists, this amount shall be taken as zero); less
- (b) the value of any Type B Contingent Assets or Type C Contingent Assets recognised by the Board for the purposes of the 2015/16 levy under Part G and adjusted (as appropriate) in accordance with the Transformation Appendix and the Contingent Asset Appendix; less
- (c) the ABC Value of any Qualifying ABC Arrangements; and less
- (d) the value of the ABC Payments which have been certified on an ABC Certificate (whether or not the ABC Arrangement is a Qualifying ABC Arrangement).

D1.2 U may therefore be expressed by the formula:

$$U = \max[ \max[ (L - A - D), (UL - UA - D), 0 ] - CA - ABC, 0 ]$$

where L, A, UL and UA represent, respectively, the Liabilities, Assets, Unstressed Liabilities and Unstressed Assets, D represents the value of any validly certified Deficit-Reduction Contributions, CA represents the value of any validly certified Type B Contingent Assets or Type C Contingent Assets and ABC represents the total of the amounts referred to in D1.1(c) and (d).

D1.3 L, A, UL, UA, D, CA and ABC shall be calculated in accordance with Rule D2.

### **D2. Assets, Liabilities, Unstressed Assets and Unstressed Liabilities**

D2.1 What is meant by Assets, Liabilities, Unstressed Assets or Unstressed Liabilities of the Scheme?

- (1) Subject to Rule D2.1(3), D2.3, and Part F, where at the Measurement Time:
  - (i) a Section 179 Valuation has been Submitted; or
  - (ii) a Section 179 Valuation has not been Submitted but an MFR Valuation has been Submitted;

any reference in these Rules to the Assets, Liabilities, Unstressed Assets or Unstressed Liabilities is to the value or amount of the Supplied Assets or Supplied Liabilities as appropriate, as shown in that Section 179 Valuation or MFR Valuation, 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 (or, where applicable, the MFR Conversion Appendix to these Rules) and results in

the Scheme's assets and its liabilities being consistently treated for the purposes of the Transformation Appendix and the MFR Conversion Appendix.

(2) Where:

- (i) neither a Section 179 Valuation nor an MFR Valuation has been Submitted at the Measurement Time;
- (ii) Rules D2.2 and D2.3 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 Assets, Liabilities, Unstressed Assets or Unstressed Liabilities of the Scheme is to the value or amount of the Supplied Assets or Supplied Liabilities as appropriate, as shown in that Section 179 Valuation, adjusted first in accordance with the Transformation Appendix as in Rule D2.1(1) and second by reducing the value of the Assets or Unstressed Assets (as the case may be) by 5%.

(3) Where a Segregated Part has been created by the operation of an option or requirement to segregate on or before 31 March 2015 (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, for the purposes of assessing the Assets, Liabilities, Unstressed Assets or Unstressed Liabilities of the Segregated Part, multiply the equivalent data for the entire Scheme (as defined in (iii) below) by  $A/B$ , where A shall be the number of Allocated Members of the Employer for that Segregated Part, and B shall be the total number of Members in the entire Scheme.
- (ii) the Board shall, for the purposes of assessing the Assets, Liabilities, Unstressed Assets or Unstressed Liabilities of the remainder of the scheme, multiply the equivalent data for the entire Scheme (as defined in (iii) below) 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.
- (iii) the equivalent data for the entire Scheme shall be ascertained in accordance with Rules D2.1(1) and (2).

## D2.2 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 Assets, Liabilities, Unstressed Assets or Unstressed Liabilities of the Scheme equivalent to that in Rule D2.1 which in the view of the Board best gives effect to the general approach laid down by these Rules.

## D2.3 Schemes which have completed a valuation pursuant to section 143 or 156 of the Act

Where a 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 Assets, Liabilities, Unstressed Assets or Unstressed 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.

### **D3. Investment Stress Threshold**

D3.1 What is meant by the Investment Stress Threshold?

- (1) A Scheme meets the Investment Stress Threshold where either of the following applies:
  - a. Where a Section 179 Valuation has been Submitted as at the Measurement Time (whether or not there is a subsequent Post-Transfer Valuation in respect of the Scheme), the Supplied Liabilities of the Scheme as shown in that valuation equal or exceed £1.5bn;
  - b. Where no Section 179 Valuation has been Submitted as at the Measurement Time, the Supplied Liabilities of the Scheme as a result of the application of Rules D2.1(2) - D2.3 inclusive (whether or not there is a Post-Transfer Valuation in respect of the Scheme) equal or exceed £1.5bn.

D3.2 The Board's requirement, as part of the Scheme Return, for additional information where a Scheme meets the Investment Stress Threshold

Where a Scheme meets the Investment Stress Threshold, the Scheme should have Submitted as at the Measurement Time the information specified in the Investment Risk Appendix.

D3.3 Approach where required information is not provided

- (1) This Rule D3.3 applies to any Scheme which meets the Investment Stress Threshold and in respect of which the information specified in the Investment Risk Appendix is not Submitted as at the Measurement Time.
- (2) The Board may make such assumptions in relation to the information that is not Submitted as, in its opinion, are appropriate, prudent, and reasonably practicable. These assumptions may (without limitation) be based upon or take account of other information provided by the Scheme for the 2015/16 Levy Year or previously and/or information Submitted by other Schemes, including (without limitation) data representing the mean or median situation of Schemes generally or any class of Schemes, or data representing the situation of those Schemes whose investments are most exposed to risk as considered by reference to the Transformation Appendix and Investment Risk Appendix, or any combination thereof.

D3.4 Schemes to which the Investment Stress Threshold does not apply

- (1) Subject to Rule D3.5(2) below, nothing in these Rules shall be taken as preventing any Scheme to which the Investment Stress Threshold does not apply from Submitting the information specified in Rule D3.2 above.
- (2) Where some or all of the information specified in the Investment Risk Appendix is not Submitted, without prejudice to the Board's powers under Rule B3 the Assets for that Scheme shall be calculated using the factors specified in paragraph 4.2 of the Transformation Appendix and in accordance with paragraph 4.7 of the Transformation Appendix but disregarding the factors specified within the Investment Risk Appendix, and the Liabilities, Unstressed Assets and Unstressed Liabilities for that Scheme shall be calculated in accordance with the Transformation Appendix.

- (3) In any case where a Scheme to which the Investment Stress Threshold does not apply Submits the information specified in the Investment Risk Appendix, the Assets for that Scheme shall be calculated using the factors specified in the Investment Risk Appendix and in accordance with paragraph 4.7 of the Transformation Appendix (and the Liabilities, Unstressed Assets and Unstressed Liabilities for that Scheme shall be calculated in accordance with the Transformation Appendix).

#### D3.5 Transfers

- (1) For the avoidance of doubt, the Investment Stress Threshold does not apply to a Post-Transfer Valuation, whether first provided in respect of the 2015/16 Levy Year or otherwise.
- (2) Where Rule F1 applies, any information provided pursuant to Rule D3.2 or Rule D3.4(3) by the Receiving Scheme may only be applied for the purposes of calculating the Receiving Scheme's risk-based levy if it is Submitted as at 31 March 2015 as part of the Scheme Return.
- (3) Where:
  - a. Rule F1 applies; and
  - b. a Receiving Scheme has Submitted information pursuant to Rule D3.2 or Rule D3.4(3) in accordance with Rule D3.5(2); and
  - c. the Poor Data Methodology does not apply,the Levies of the Receiving Scheme shall be calculated as if the information in Rule D3.5(3)(b) above had been provided in respect of the Board's determination of the post-transfer Assets and Unstressed Assets of the Receiving Scheme.

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

### **E1. How to calculate Insolvency Risk**

This Rule E1 sets out how to calculate IR for the purposes of Rule C2.1 and is subject to Rule E7 (Experian Appeals).

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

In the case of a Scheme with a single Employer, IR is the Levy Rate (LR) of that Employer, which is calculated in accordance with Rules E1.3 - E5 and the Insolvency Risk Appendix, as applicable. For the avoidance of doubt, Rule E5.2 will not apply to such a Scheme.

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

In the case of a Scheme with more than one Employer, the LR of each Employer is calculated in respect of that Scheme as set out in Rule E1.1 (but, for the avoidance of doubt, Rule E5.2 may apply) and IR is calculated as set out in Rule E6.3.

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

In the case of a New Scheme or a No Return Scheme:

- (1) the LR of each Employer which existed at 31 March 2015 shall be calculated in respect of that Scheme as set out in Rule E1.1 (or Rule E1.2 where such Scheme has more than one Employer);
- (2) the LR of each Employer which did not exist at 31 March 2015 shall be calculated in respect of that Scheme in accordance with Rules E5.2 to E5.4, as applicable and all other Rules for calculating LR shall be disregarded.

### **E2. Data used to calculate Scores**

#### **E2.1 Data collection and use for Monthly Scores**

Monthly Scores will be calculated in accordance with these Rules by reference to the position as at each Score Measurement Date, using data in relation to Employers (and, where relevant, their Ultimate Parents and Group Subsidiaries) to the extent and in the manner provided for by these Rules which either:

- (1) has been collected by Experian under Rule E2.2;
- (2) has been provided to Experian under Rule E2.3; or
- (3) is available to Experian through its own Payment Performance Programme.

For the avoidance of doubt, Experian will determine the identity of the Employer in accordance with Rule E2.6(2).

#### **E2.2 Automatic Collection for Monthly Scores**

- (1) The Board has instructed Experian to collect (or procure the collection of) such of the data referred to in Rule E2.2(2) in relation to each Employer (and, where relevant their Ultimate Parents and Group Subsidiaries) as is either Filed with one

of the sources referred to in Rule E2.2(3), or available to Experian from such other sources as the Board instructs Experian to collect and use from time to time (whether generally or for specified purposes or to a specified extent) and which is relevant for the purposes of calculation under these Rules.

- (2) The data to be collected is:
- (a) the Latest Accounts of the Employer and, where applicable, its Ultimate Parent and any Group Subsidiaries;
  - (b) the three sets of Accounts Filed by the Employer and, where applicable, its Ultimate Parent and any Group Subsidiaries before the Latest Accounts (or, if fewer than three, all the Accounts Filed in the period beginning with the date five years before the date on which those Accounts were Filed);
  - (c) information about mortgages or other charges on the Employer's, and where applicable, Ultimate Parent's and Group Subsidiaries' assets;
  - (d) the establishment or registration date of any Employer;
  - (e) the Employer's (and, where relevant, Ultimate Parent's) most recent Annual Return; and
  - (f) data showing any of the matters referred to in paragraph 1 of Part 5 of the Insolvency Risk Appendix.
- (3) The relevant sources are:
- (i) Companies House;
  - (ii) the Charity Commission;
  - (iii) any Other Permitted Source.

### E2.3 Voluntary Provision for Monthly Scores

Scheme Employers, Ultimate Parents and trustees may voluntarily provide to Experian the following information by email to [experianppf@mailgb.custhelp.com](mailto:experianppf@mailgb.custhelp.com):

- (1) Any of the information referred to in Rule E2.2(2)(a), (b), (d) and (e) in relation to an Employer or Ultimate Parent where that Employer (or Ultimate Parent, as the case may be) is not required by law to file that information with any of the organisations referred to in Rule E2.2(3);
- (2) Consolidated Accounts relating to the Ultimate Parent, for the purposes of calculating the Parent Strength Variable referred to in paragraph 3 of Part 3 of the Insolvency Risk Appendix;
- (3) Full Accounts, where the Employer is required by law to file accounts with Companies House but those accounts are permitted to be SME Accounts and so it has not Filed Full Accounts with Companies House; and
- (4) Officers' Certificates required for certain adjustments to calculate Adjusted Monthly Scores as set out in part 5 of the Insolvency Risk Appendix.

## E2.4 Data Hierarchy

- (1) Subject to (2) below, in the event that the collection of data in accordance with Rule E2.2 and E2.3 results in conflicting data items, the following hierarchy will be applied to resolve the conflict (and, for the avoidance of doubt, no account will be taken of which source provides the most recent data):
  - (a) A Company/Charity Source;
  - (b) any Other Permitted Source;
  - (c) any other source specified by the Board pursuant to Rule E2.2(1);
  - (d) voluntary provision pursuant to Rule E2.3,
- (2) The exceptions to the hierarchy set out in (1) above are as follows:
  - (a) in the event that there is a conflict between data collected from two or more sources at the same level in the hierarchy:
    - (i) if one or more such sources provide more recent data than the others, that data shall be used; and
    - (ii) if the application of (i) does not resolve all conflicts, the Board shall determine which source should be used by Experian;
  - (b) if Consolidated Accounts in relation to an Ultimate Parent are voluntarily provided pursuant to Rule E2.3, these will be used in preference to any other Accounts collected by Experian pursuant to this Rule E2, provided that they are prepared for the period ending with a Year End Date the same as or more recent than those other Accounts; and
  - (c) if Full Accounts, which are prepared as at a Year End Date the same as or later than the Latest Accounts Filed with Companies House, are voluntarily provided pursuant to Rule E2.3, these will be used in preference to any SME Accounts Filed with Companies House.

## E2.5 Data Quality

Experian shall apply such data quality procedures and shall resolve conflicts between data items using the same approach that it would adopt in its ordinary course of business from time to time.

## E2.6 Timing of data collection and use

- (1) Except where (2) or (3) below applies, Experian will use such data as has either:
  - (a) been collected or received in accordance with Rule E2.1 and which it has been able to process by the Score Measurement Date in question; or
  - (b) been Filed at least one calendar month before the Score Measurement Date (or, in the case of the Score Measurement Date of 31 October 2014, on or before that date).

- (2) The identity of the Employer for whom an LR is required to be calculated will be determined using data which has been Submitted at the Measurement Time.
- (3) To calculate the Adjusted Monthly Scores pursuant to part 5 of the Insolvency Risk Appendix, Experian will use such data as has either been collected or received in accordance with Rule E2.1 by the Measurement Time and which it has been able to process by the date of calculation of the Levies.

### **E3. Employer Categorisation**

#### **E3.1 What are the Employer Categories?**

The Scorecard or method used to calculate the Monthly Score and Adjusted Monthly Score will be based on the Employer's category. Subject to Rule E3.2, the categories are:

- (1) Large/Complex: an Employer which does not meet the criteria in (8) and which meets one or more of the following criteria:
  - (a) Its Latest Accounts show that it is the Ultimate Parent within a Group;
  - (b) Its Latest Accounts show a Turnover of £50 million or more and Total Assets of £500 million or more; or
  - (c) It is an Employer whose:
    - (i) Latest Accounts have not been Filed with Companies House in the UK; and
    - (ii) address is not a UK address,

[and, before the relevant Score Measurement Date, Experian has not, pursuant to Rule E2.3, received and been able to process data which is sufficient to establish that the Employer does not meet the criteria in (a) or (b) above and does meet the criteria in one of (2) – (7) below.]<sup>1</sup>

- (2) Group £50m+: An Employer which does not meet the criteria in (1) or (8), which is part of a Group, and whose Latest Accounts are Full Accounts which show a Turnover of at least £50million.
- (3) Group £10m to £50m: An Employer which does not meet the criteria in (1) or (8), which is part of a Group, and whose Latest Accounts are Full Accounts which show a Turnover of at least £10million but less than £50million.
- (4) Group <£10m: An Employer which does not meet the criteria in (1) or (8), which is part of a Group, and whose Latest Accounts are Full Accounts which show a Turnover of less than £10million.
- (5) Group Small: An Employer which does not meet the criteria in (1) or (8), which is part of a Group and whose Latest Accounts are SME Accounts.

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<sup>1</sup> Note: If this rule were adopted and applied in practice, it would be necessary to calculate further neutral scores in relation to the Mortgage Age Variable for those scorecards to which these entities might move pursuant to this provision. These neutral scores which have not, at this stage, been calculated.

- (6) Independent Full: An Employer which does not meet the criteria in (1) or (8), is not part of a Group, and whose Latest Accounts are Full Accounts.
- (7) Independent Small: An Employer which does not meet the criteria in (1) or (8), is not part of a Group and whose Latest Accounts are SME Accounts.
- (8) Not-For-Profit: An Employer which:
  - (a) is one or more of the following on the relevant Score Measurement Date:
    - (i) A Charity;
    - (ii) A Section 60 Company;
    - (iii) A Royal Charter Company;
    - (iv) A Registered Society;
    - (v) A Trade Union;
    - (vi) An Employers' Association;
    - (vii) A Public Body;
    - (viii) A Housing Association; or
    - (ix) A Forces Association.

PROVIDED THAT it has not paid a dividend, made any other sort of distribution, or returned any capital to its members since 5 April 2005; or

- (b) has, before the calculation of the Levies, provided the Board with evidence which the Board considers to be satisfactory that, as at the relevant Score Measurement Date, its articles or other constitutional documents:
  - (i) did not permit it to trade for profit;
  - (ii) prohibited the payment of dividends, or any return of capital; and
  - (iii) required all the assets that would otherwise be available after payment of creditors to be transferred on its winding up either to another body with objects similar to its own, or to another body the objects of which are the promotion of charity.
- (9) Non-Filing: An Employer to which none of (1) – (8) above applies or in respect of which the data collected or received pursuant to Rule E2 are insufficient for Experian to assign it to a category within this Rule E3.1, or when the information Submitted as at the Measurement Time does not allow Experian to identify the entity which is the Employer.

### E3.2 Categorisation Principles

- (1) The categorisation principles set out in Part 1 of the Insolvency Risk Appendix will apply for the purposes of assigning Employers to the categories referred to in Rule E3.1.

- (2) If the Employer's Latest Accounts Filed before 29 May 2014 show that it was not the Ultimate Parent or not part of a Group (as applicable) on or before 29 May 2014 and the Board considers that a Group Subsidiary or Parent has been created wholly or mainly for the purposes of reducing liability to levy, the Board may instruct Experian to categorise the Employer as if the position shown in the Employer's Latest Accounts Filed before 29 May 2014 were reflected in its Latest Filed Accounts as at each Score Measurement Date.

### E3.3 Timing of data collection and use

Rule E2.6 will also apply for the purposes of assigning Employers to the categories referred to in Rule E3.1, save in relation to assigning Employers to the Not-For-Profit category, which, subject to any evidential requirements set out in Rule E3.1(8) being met, will be based on whether the factual tests in Rule E3.1(8) are met as at the relevant Score Measurement Date.

## **E4. Calculation of Monthly Scores and Adjusted Monthly Scores**

E4.1 Subject to Rule E4.2, the Monthly Score of each Employer is that calculated by the application of the following process:

- (1) Applying the data collected or received in accordance with Rule E2 to the relevant Scorecard which applies to the Employer's category as determined in accordance with Rule E3, as set out in the following table:

<b>Employer Category</b>	<b>Applicable Scorecard</b>
Large/Complex	Scorecard 1
Group £50m+	Scorecard 2
Group £10m to £50m	Scorecard 3
Group <£10m	Scorecard 4
Group Small	Scorecard 5
Independent Full	Scorecard 6
Independent Small	Scorecard 7
Not-for-Profit	Scorecard 8

- (2) Applying the calculation methods, procedures and formulae which are set out in Parts 3 and 4 of the Insolvency Risk Appendix and the adjustments set out in Part 5 of the Insolvency Risk Appendix to each Employer, subject to the calculation principles set out in Part 6 of the Insolvency Risk Appendix.

E4.2 Where an Employer is Non-Filing, no Monthly Score will be calculated.

## **E5. How to calculate LRs**

E5.1 LRs where Mean Score can be calculated

- (1) This Rule E5.1 applies where Experian have applied the procedures set out within Rules E2-E4 and the relevant Parts of the Insolvency Risk Appendix in respect of an Employer and is able to provide a Monthly Score for an Employer in respect of a Scheme as at any Score Measurement Date(s).
- (2) Where this Rule E5.1 applies, the LR of that Employer in respect of a Scheme shall be the LR of the Levy Band within which the Mean Score falls, as shown in Table 4 in Part 7 of the Insolvency Risk Appendix.

#### E5.2 Scheme averages

- (1) This Rule E5.2 applies where there are at least 10 Employers participating in a Scheme, and where at least one Employer, but no more than 10% of the Employers (or no more than 50% if there are more than 100 Employers in relation to the Scheme) are Non-Filing.
- (2) Where this Rule E5.2 applies, the LR in respect of that Scheme for each Non-Filing Employer shall be the mean average of the LRs of the other Employers in relation to that Scheme.

#### E5.3 Industry averages

- (1) This Rule E5.3 applies where at least one Employer in relation to a Scheme is Non-Filing but where Rule E5.2 does not apply.
- (2) Where this Rule E5.3 applies, the LR for that Employer will be based upon the assignment of the Employer to an industry group based on two-digit 1992 Standard Industry Classification (SIC) codes, in accordance with this Rule E5.3.
- (3) The Employer will be assigned to whatever industry group Experian would assign it to in its ordinary course of business, provided that, if the Board considers that this is not appropriate in any particular case, the Employer will be assigned by the Board to whatever industry group appears to the Board to be most appropriate.
- (4) The LR for such an Employer shall be the LR which Experian notifies to the Board as being the Median LR for all UK-domiciled Employers within the industry group to which the Employer has been assigned pursuant to Rule E5.3(3) in respect of whom it has provided the Board with Scores for the purposes of the 2015/16 Levy Year.

#### E5.4 Blended averages

- (1) This Rule E5.4 applies where Rule E5.3 applies save that:
  - (a) neither Experian nor the Board is able to determine the most appropriate SIC Code for an Employer; or
  - (b) the Board has not been provided with a Score for any Employers within the industry group to which that Employer has been assigned.
- (2) Where this Rule E5.4 applies, the LR for the Employer shall be the LR which Experian notifies to the Board as being the Median LR for all UK-domiciled Employers (irrespective of industry group) in respect of which it has provided the Board with Scores for the purposes of the 2015/16 Levy Year.

## E5.5 Calculation Principles

Rule E5 is subject to the calculation principles set out in Part 6 of the Insolvency Risk Appendix.

## **E6. Insolvency risk for Multi-Employer Schemes**

### E6.1 Membership numbers

The number of Allocated Members of a Scheme for each Employer is to be determined in accordance with the relevant FAQ issued by the Board and the relevant Exchange help file.

### E6.2 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 definitions in this Rule E6.2.
- (2) A "Last Man Standing Scheme" is a Multi-Employer Scheme:
  - (i) which is not a Centralised Scheme;
  - (ii) the rules of which do not include any requirement or discretion for the trustees to segregate assets on cessation of participation of an Employer; and
  - (iii) in relation to which it has been confirmed to tPR (in such manner as tPR requires) by 31 May 2015 that Appropriate Legal Advice has been received by the trustees from an Appropriate Solicitor, which confirms that in his/her opinion, the current scheme rules do not contain any requirement or discretion for the trustees to segregate assets on cessation of participation of an Employer.
- (3) A "Partial Segregation Scheme" is a Multi-Employer Scheme which is neither a Centralised Scheme nor a Last Man Standing Scheme.
- (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; and
  - (ii) in relation to which the Board has, if it so requests, received satisfactory evidence in support of the statements in (i) before the calculation of the Levies for that Scheme.

### E6.3 How is IR calculated for Multi-Employer Schemes?

- (1) In the case of a Centralised Scheme, IR shall be the weighted average of the LRs for each Employer, with each LR multiplied by a concentration index  $H_f$ , where  $H_f$  is calculated as the sum of the squares of the proportions of Allocated Members corresponding to each Employer.

$H_f$  may be expressed by the formula:

$$Hf = \sum_{i=1}^n (s_i \div T)^2$$

where n represents the number of Employers in relation to the Scheme,  $s_i$  represents the number of Members allocated to Employer i, and T represents the total number of Members in relation to the Scheme, i.e.:

$$T = \sum_{i=1}^n s_i$$

- (2) In the case of a Partial Segregation Scheme, IR shall be the weighted average of the LRs for each Employer.
- (3) In the case of a Last Man Standing Scheme, IR shall be the weighted average of the LRs for each Employer in relation to the Scheme, with each LR multiplied by  $0.9 + (0.1 \times Hf)$ , where Hf is as set out in E6.3(1) above.
- (4) In each case:
  - (i) the LR for each Employer shall be separately determined in accordance with Rules E1 - E5 and, when determining the LR of each Employer in a Last Man Standing Scheme or in a Centralised Scheme, the resultant calculation of the LR is not to be rounded; and
  - (ii) a weighted average will be calculated of the LR (adjusted in accordance with E6.3(1) and E6.3(3) as appropriate) for all Employers, where the weightings are equal to the number of Allocated Members for each Employer, divided by the total number of Members.

## **E7. Experian appeals**

E7.1 What elements of the levy calculation can be appealed to Experian?

Experian can only deal with appeals relating to an Appealable Score. For the avoidance of doubt, Experian cannot deal with appeals relating to:

- (1) the assignment of an Employer to an industry group in a case in which the Board has taken the decision about which industry group is most appropriate under Rule E5.3(3);
- (2) Monthly Scores (or equivalent) as at each Score Measurement Date (although each Monthly Score can be taken into account when Experian is dealing with appeals relating to Appealable Scores).

E7.2 Who can appeal to Experian?

The following can appeal to Experian:

- (1) a Scheme trustee in relation to any Appealable Score relating to the Scheme of which he is a trustee;
- (2) an Employer in relation to its own Appealable Score;

- (3) a Guarantor in relation to its own Appealable Score;
- (4) a person duly authorised to represent a person referred to in E7.2(1), (2) or (3);  
or
- (5) the Board.

#### E7.3 How can such a person appeal?

Save where an appeal is made by the Board, Experian can only deal with appeals which are in writing, sent to it by email to [ppfappeals@experian.com] or, subject to Experian's written consent, by post to PPF Appeals, Experian Ltd, Royalty Studios, 105-109 Lancaster Road, London W11 1QF and which comply with any other formalities that are stipulated by Experian.

#### E7.4 What are the time limits?

Save where an appeal is made by the Board, Experian can only deal with an appeal if:

- (1) either:
  - (i) it is sent by email no later than 28 days after the date shown on the notification of the Levies in respect of the relevant Scheme for the 2015/16 Levy Year; or
  - (ii) it is sent by registered first class post no later than 26 days after the date shown on the notification of the Levies in respect of the relevant Scheme for the 2015/16 Levy year; or
  - (iii) the circumstances of a case are such that, in the opinion of the Board, it is reasonable for an appeal to be sent after the end of the period mentioned in (i) or (ii) above, as the case may be, and the Board confirms this in writing to Experian;

#### **AND**

- (2) the relevant applicant also complies with any other relevant deadlines throughout Experian's appeal process as may be stipulated by Experian, or the circumstances of a case are such that, in the opinion of the Board, the non-compliance with such deadlines is reasonable and the Board confirms this in writing to Experian.

#### E7.5 When can Experian change an Appealable Score?

Experian can only change an Appealable Score where all other provisions of Rules E7.1 – E7.4 have been satisfied and one (or more) of the following applies:

- (1) Experian did not have access to or did not process data which would otherwise have been used for calculation pursuant to Rule E2.1 and one of the following applies:
  - (a) That data had been Filed at least one calendar month before the Score Measurement Date (or, in the case of the Score Measurement Date of 31 October 2014, on or before that date); or

- (b) In the case of matters to be dealt with under these Rules in accordance with Experian's ordinary course of business, it is data which would normally have been available to, and would normally have been taken into account by, Experian and that lack of access was not related to any action or inaction of any of the following:
  - (i) the trustee(s) of the relevant Scheme;
  - (ii) any Employer in relation to that Scheme;
  - (iii) any Guarantor in relation to that Scheme; or
  - (iv) any other entity in the Group of the Employer in relation to the Scheme.
- (2) An Appealable Score has been calculated otherwise than in accordance with Rules E2-E5 and the Insolvency Risk Appendix;
- (3) In the process of applying these Rules, an arithmetical error has been made by Experian;
- (4) An Appealable Score has been calculated by reference to an entity which is not the Employer on the basis of the information which has been Submitted in accordance with Rule A2.2 as at the Measurement Time, or Experian has erroneously failed to identify any entity as the Employer on the basis of that information. For the avoidance of doubt, any question as to the correctness of the information Submitted as at the Measurement Time concerning the identity of the Employer is to be addressed pursuant to Rule B2, and not by way of an appeal pursuant to this Rule E7;
- (5) An Appealable Score has been calculated without taking into account an Officer's Certificate provided to Experian for the purposes of excluding certain mortgages or other charges pursuant to Part 5 of the Insolvency Risk Appendix;
- (6) Experian considers that assignment to a different industry group under Rule 5.3(3) would be appropriate; or
- (7) In a case where Rule E5.4(1)(a) has applied, Experian considers that it is possible to assign the Employer to an industry group under Rule 5.3(3).

E7.6 What happens if there is a new Appealable Score?

If Experian decides to change an Appealable Score:

- (1) the relevant Appealable Score shall be the higher or lower number which Experian informs the Board ought to have been assigned to the Employer in respect of a Scheme; and
- (2) the Board will, where the application of the new Appealable Score results in a change to IR (in respect of the Scheme) from that which was initially calculated, issue a revised notification of the amount of the Levies in respect of the Scheme.

#### E7.7 Deemed correctness

Any item supplied to the Board by Experian as an Appealable Score will be deemed to be correct for the purposes of these Rules unless Experian's appeal process has been followed in respect of that Appealable Score pursuant to this Rule E7, if the basis upon which the Appealable Score is said to have been incorrect is a matter capable of having been dealt with through that appeal process.<sup>2</sup>

#### E7.8 Statutory Review Rights

For the avoidance of doubt and without prejudice to Rule E7.7, the Board may review an Appealable Score pursuant to s.207 of the Act on the grounds that the decision reached by Experian following an appeal pursuant to this Rule E7 was incorrect.

#### E7.9 Determination by Board

Experian and the Board may agree that an appeal to Experian is to be determined by the Board.

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<sup>2</sup> Note – this Rule is to be accompanied by the Board setting a policy that statutory reviews pursuant to Chapter 6 of the 2004 Act (Reviews, Appeals and Maladministration) will be accepted despite being made outside the statutory time limits, provided that the Experian appeal has been received on time and the statutory review is received within 28 days of completion of the Experian appeal process.

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

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

F1.1 Which transfers are covered by this Part?

- (1) This Part applies where there has been a Full 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 Previously Recognised Transfers.

F1.2 Carry forward of certificates

For Schemes where block transfer information was Submitted and accepted for use in the 2014/15 Levies, and where no new Section 179 Valuation for that Scheme is Submitted in accordance with Rule D2.1 and no further certificate for that Scheme is Submitted before 5.00pm on 30 June 2015, the information used for 2014/15 will be carried forward and used in 2015/16.

F1.3 What is a Full Transfer?

A "Full Transfer" is where, on any date or dates prior to 1 April 2015:

- (i) there are fewer than two Members remaining in a scheme or a Segregated 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 2015.

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(s).

### **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 2015 unless that information has already been Submitted.

Where a scheme becomes a Segregated Scheme after the Measurement Time and before 1 April 2016, the Board shall treat that scheme as though it were a New Scheme. The trustees of the Segregated Scheme shall be expected to agree and Submit the information in Rules F2.2 and F2.3 in accordance with the timeframe specified in Rule A2.4(1) in respect of New Schemes.

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 2015.

### 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 2015.

### 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 2015.
- (2) Where this Rule F2.4 applies, the Board will make what is in its view an appropriate determination of the Assets, Liabilities, Unstressed Assets and Unstressed Liabilities of the Receiving Scheme(s) as at 31 March 2015.
- (3) The determination referred to in Rule F2.4(2) will be made taking the Full Transfer into account in a manner which, in the opinion of the Board, best gives 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 2014 and 31 March 2015 (inclusive), the Board shall make its determination based upon the Supplied Assets and Supplied Liabilities of the Transferring Scheme and the Receiving Scheme(s) post-transfer and shall adjust the Supplied Assets and Supplied Liabilities of the Transferring Scheme and the Receiving Scheme(s) in a manner which, in the opinion of the Board, best gives 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 that the Board would otherwise use in accordance with Rule D2.
- (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 to which Rule D2.2 (Schemes which are not yet obliged to complete a Section 179 Valuation) applies.

### 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 2015, 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 all efforts that were reasonable in the circumstances were made to Submit (or procure the Submission of) the information in Rules F2.2 and F2.3 by 5.00pm on 30 June 2015 or that the application of the Poor Data Methodology would result in a levy that was inappropriately low when compared with the general approach laid down by these Rules, 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 provisions of paragraphs 12 and 13 of the Transfers Appendix;
  - (ii) determine the Levies of that Receiving Scheme in accordance with the Supplied Assets and Supplied 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 2015 or in accordance with any other valuation data that in the view of the Board appropriately

reflects the position of the Receiving Scheme whenever provided to the Board; 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 as in the view of the Board is appropriate when compared with 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 that the Board would otherwise use in accordance with Rule D2.

### **F3. The effect of a Full Transfer**

Where the Board makes a determination under Rule F2.4 or F2.5, 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.

## **Part G - Reducing the RBL by reducing risk**

### **G1. Deficit-Reduction Contributions**

#### G1.1 When does this Rule apply?

This Rule G1 applies where:

- (i) a certificate in respect of a Deficit-Reduction Contribution that complies with Rule G1.2 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.

#### G1.2 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.

#### G1.3 Which certificates can be taken into account?

A certificate shall not be taken into account:

- (1) 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 D2 or, in a case to which Part F of these Rules applies, the relevant Post-Transfer Valuation.
- (2) if it includes in amount "a" (as described in the Deficit-Reduction Contributions Appendix to the Board's determination under s175 of the Act for the relevant Levy Year) either or both of the following:
  - (a) the amount paid to the Scheme trustee for the purposes of purchasing its interest in the Trustee LP;
  - (b) any Coupon Payments.

For the avoidance of doubt, this Rule G1.3(2) will apply to Deficit-Reduction Contribution certificates Submitted in respect of previous Levy Years which would otherwise be taken into account by the Board, as well as those Submitted for the 2015/16 Levy Year.

#### G1.4 Effect of Deficit-Reduction Contributions on the Levies

Where this Rule G1 applies, for the purposes of these Rules the Assets and the Unstressed 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.

## **G2. Current Contingent Assets**

### G2.1 When does this Rule G2 apply?

This Rule G2 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.

### G2.2 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 demand 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 G2.3.

### G2.3 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 2015 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) It must appear to the Board that:
  - (i) the Contingent Asset reduces 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; and
  - (ii) the reduction, if any, in a Scheme's levy that may result from the recognition of a Contingent Asset for levy purposes is reasonably consistent when compared with the level of that reduction in risk.
- (3) Where Rule G2.3(2)(ii) is not satisfied but the Board's requirements for a Contingent Asset are otherwise met, and it appears to the Board that Rule G2.3(2) would be satisfied if the Contingent Asset were to be recognised in part, the Board may recognise the Contingent Asset to the extent that the Board deems consistent with the reduction in risk. The Board is under no obligation to take into account any Contingent Asset under this Rule G2.3(3).

### G2.4 The Contingent Asset Certificate

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

- (1) contain the information set out in paragraphs 25 to 43 inclusive of the Contingent Asset Appendix which is relevant to the type of Contingent Asset;

- (2) certify that the Scheme benefits from a Contingent Asset as specified in Rule G2.2; and
- (3) provide all the information and certifications required by Exchange in relation to the relevant Contingent Asset;

provided 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 and this sub-Rule (3). 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.

#### G2.5 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 2015 this Rule G2.5 and, as the case may be, Rule G2.6, shall apply.
- (2) The Board shall give that Scheme credit for that Contingent Asset for the 2015/16 Levy Year where:
  - (i) the relevant requirements of Rules G2 and G3 are satisfied;
  - (ii) 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
  - (iii) the requirements of the Contingent Asset Appendix which are relevant to Contingent Assets which have been recognised in a previous Levy Year are satisfied.

#### G2.6 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 2014 but was **not** so recognised for the 2014/15 Levy Year, then the Scheme may Submit the Contingent Asset as a recertified Contingent Asset with any documentation required by the Contingent Asset Appendix, provided that:

- (i) the requirements of Rule G2.5(2) are met;
- (ii) the Board receives confirmation in the Contingent Asset Certificate that either the trustees do not believe that the legal position has changed since the levy year in respect of which the Contingent Asset was last certified or, if they have reason to believe the legal position may have changed, have Submitted a revised legal opinion;
- (iii) the contingent asset agreement has remained in place between the relevant parties since the levy year in respect of which the Contingent Asset was last certified; and
- (iv) the Contingent Asset was last certified in respect of a levy year no earlier than the 2010/11 levy year.

#### G2.7 Where the conditions in Rule G2.6(i), (ii) and (iii) are not met, nothing in this Rule G2.7 is to be taken as preventing the Scheme from Submitting the Contingent Asset for the consideration of the Board as a new Contingent Asset submission, with a new Contingent Asset Certificate and any other required documentation as

if that Contingent Asset were being recognised for the first time for the 2015/16 Levy Year.

G2.8 What is the effect of the Board recognising a Contingent Asset for the 2015/16 Levy Year?

The Board shall take into account a Contingent Asset for the purposes of calculating the Scheme's Levies for the 2015/16 Levy Year and calculate the Scheme's RBL in accordance with the Contingent Asset Appendix and the Transformation Appendix but only if it appears to the Board that the asset meets all the relevant provisions of this Rule G2 and the Contingent Asset Appendix.

### **G3. Cancellation, amendment and replacement of Contingent Assets**

G3.1 No recognition of any Contingent Asset unless previous year's Contingent Assets still in place and not weakened

- (1) This Rule G3.1 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 2014/15 Levy Year.
- (2) Where this Rule G3.1 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 2015/16 Levy Year unless:
  - (i) that Scheme certifies to the Board that each Original Contingent Asset satisfies the requirements for recognition for the 2015/16 Levy Year; and
  - (ii) the condition specified in Rule G3.1(3) below is satisfied in relation to each Original Contingent Asset.
- (3) The condition referred to in Rule G3.1(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 G3.1 is subject to Rule G3.3.

G3.2 Withdrawal of recognition where Contingent Asset cancelled or amended during 2015/16 Levy Year

- (1) This Rule G3.2 shall apply if the trustees of a Scheme notify the Board, or if the Board otherwise becomes aware, that at some time during the 2015/16 Levy Year the information contained in a Contingent Asset Certificate has ceased or will cease to be true and correct.
- (2) Where this Rule G3.2 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 2015/16 Levy Year).

- (3) This Rule G3.2 is subject to Rule G3.3.

**G3.3 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 2015/16 Levy Year, and is prevented from doing so only by the operation of Rule G3.1 or, as the case may be, Rule G3.2, then the Board may nonetheless recognise any or all of those Contingent Assets for the purposes of the 2015/16 Levy Year, in full or in part, if Rule G3.3(2) applies.
- (2) This Rule G3.3(2) applies if in the opinion of the Board the condition specified in Rule G3.3(3) is met either:
- (i) in the case of Rule G3.1, comparing the position at 1 April 2015 with the position at 1 April 2014; or
  - (ii) in the case of Rule G3.2, comparing the position following each relevant change to any Contingent Asset with the position at 1 April 2015.
- (3) The condition referred to in Rules G3.3(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 G3.3(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 G3.3(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.

**G3.4 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 2015 (the "Earlier Levy Year"); and
  - (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 2014/15 Levy Year by virtue of Rules G3.1 or G3.2 or otherwise).

- (2) Where Rule G3.4(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.
- (4) Recognition of Contingent Assets for the 2015/16 Levy Year shall be restricted accordingly.

### G3.5 General provisions regarding this Rule G3

For the purposes of this Rule G3:

- (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 2015/16 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 G3.1 and G3.2.
- (5) The "value" of a Contingent Asset shall, in the case of a Type A Contingent Asset, take into account the covenant strength of (and the Realisable Recovery that could be certified in relation to) the guarantor(s) as well as the amount guaranteed.

## **Part H – Recognition of ABC Arrangements**

### **H1. When will the Board recognise an ABC Arrangement?**

H1.1 The Board will recognise an ABC Arrangement where:

- (1) there has been Submitted by or on behalf of the Scheme trustees, before the Measurement Time an ABC Certificate in respect of the ABC Arrangement; and
- (2) the Board is satisfied that the ABC Value as set out in the ABC Certificate represents a reasonable valuation which has been arrived at in a manner substantially consistent with guidance issued by the Board; and
- (3) the Scheme trustees have provided to the Board any additional documents or information relating to the ABC Arrangement which the Board has requested prior to the calculation of the Levies, and such documents or information have been provided within 14 days of the receipt of the Board's request or such longer period as the Board may specify.

H1.2 The Board may also recognise an ABC Arrangement where paragraphs (1) and (3) of Rule H1.1 are satisfied, but paragraph (2) is not satisfied, but it is under no obligation to do so.

### **H2. What is the effect of recognition of an ABC Arrangement?**

H2.1 Where the Board recognises an ABC Arrangement, the ABC Value will be taken into account in the calculation of U, pursuant to Rule D1.1(c).

H2.2 Subject to Rule H2.3, the ABC Value taken into account will be the ABC Value as set out in the ABC Certificate.

H2.3 Where Rule H1.2 applies, the ABC Value will be such amount, if any, as the Board is satisfied could have been put forward as the ABC Value in the ABC Certificate and would have met the requirements of Rule H1.1(2).

### **H3. When will the Board take into account ABC Payments and Actual s179 ABC Amounts?**

H3.1 The Board will take into account ABC Payments which have been certified on a Partial ABC Certificate or an ABC Certificate.

H3.2 The Board will use the Actual s179 ABC Amount to calculate the s179 ABC Amount for the purposes of the Transformation Appendix where it has been certified on a Partial ABC Certificate or an ABC Certificate.