

# **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 2008 – 31 March 2009**

**19 February 2008**

## Introduction

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

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

The approved form of the 2008/09 determination is attached as pages 3-19 of this document. The Appendices and Annexes may be accessed via the links on page 20.

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

The Board of the Pension Protection Fund hereby makes the following determination in respect of the financial year 1 April 2008 to 31 March 2009:

- (1) That in respect of that year, the factors and times by reference to which the pension protection levies are to be assessed, and the rate of the levies, are to be as set out in the Schedule to this determination;
- (2) That the levies in respect of a scheme are to become payable on the earliest of the following dates: the date upon which the person liable to pay the levies in respect of the scheme is sent notification of the amount of the levies in respect of the scheme (or, in the cases in which this Schedule provides for a revised notification to be issued, the date upon which that person is sent a revised notification); the date on which the scheme ceases to be an eligible scheme; or 31st March 2009.

### **SCHEDULE**

#### **Part 1 – general**

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

Maintenance system” are to the system maintained by the Pensions Regulator for the online submission of scheme return and other information by or on behalf of pension schemes, also known as “Exchange”.

4. Where this Schedule refers to certain information having been provided to the Board (or, as the case may be, to the Pensions Regulator) on or before a certain date, the information shall be treated as having been so provided if but only if the Board is satisfied that it has been received at the Board’s offices (or, as the case may be, the offices of the Pensions Regulator) on or before the date in question. For these purposes the only permissible means of delivery of information to the Board’s offices are:

- (a) by email to the email address for the delivery of the relevant information as specified on the Board’s website at the following page:

[http://www.pensionprotectionfund.org.uk/index/pension\\_protection\\_levy-2/levy\\_contacts.htm](http://www.pensionprotectionfund.org.uk/index/pension_protection_levy-2/levy_contacts.htm); OR

- (b) by post or hand delivery to: The Board of the Pension Protection Fund, Knollys House, 17 Addiscombe Road, Croydon, Surrey, CR0 6SR, marked for the attention of:

- (i) “Director of Legal Re: Contingent Assets”, in the case of certificates or other documentation relating to contingent assets; or
- (ii) “Director of Levy and Policy Re: 2008/09 Pension Protection Levies” in relation to all other documents.

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

- (a) The information was despatched at an appropriate time, but was delayed in the course of post or otherwise; or
- (b) The provider of the information was prevented from meeting the deadline by the temporary inaccessibility of the Board’s website or the Scheme Maintenance system, or the interruption of electronic communications, or other like cause, and the information was provided as soon as reasonably practicable thereafter.

5. It is intended that the provisions contained in this Schedule should in all cases permit the calculation of the amount of the levies in respect of a scheme. However, in the event that any situation arises for which the Schedule fails to make the provision required for a calculation to be performed, the Board hereby determines that the calculation of the levies shall be performed in such manner as, in the opinion of the Board, is reasonably practicable and best gives effect in that situation to the general approach laid down by this Schedule. This paragraph

shall also apply in any case where the Board is unable to obtain some item of information which would normally be required for the application of this Schedule in accordance with its terms.

6. Nothing in the Board's determination or this Schedule shall prevent the Board from reviewing the amount of the levies calculated in respect of a scheme where it subsequently appears to the Board that the information upon which the calculation was based was incorrect in a material respect, or that a notification required by or under a certificate in relation to contingent assets has not been duly given, or that a certificate or declaration given for the purposes of this Schedule was improperly given or contained information which was incorrect in a material respect. Further, in calculating the levies in respect of a scheme the Board may disregard any such certificate or declaration if the Board believes that it has been improperly given, and may similarly disregard any information in the certificate or declaration, or in any notification or return, which is believed to be incorrect. For the avoidance of doubt, information is not incorrect for this purpose where it is correct and legitimate in itself, but it would have been open to the person supplying it to supply some different or additional information which might have caused this Schedule to be applied differently, and the Board is in any case under no obligation to review the amount of the levies merely because a scheme has been disadvantaged by the failure of those acting on its behalf to supply correct information at the proper time<sup>1</sup>.
7. In the case of a scheme which is divided into sections (defined in the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 as a segregated scheme), each such section shall (except where this Schedule expressly or by implication requires otherwise) be treated as if it were a separate scheme for the purposes of this Schedule. Similarly where a segregated part (as defined in parts 4, 5, 7 & 8 of the same Regulations) of a scheme has been created on or before 31 March 2008, each of the segregated part(s) and the remainder of the scheme shall (except where this Schedule expressly or by implication requires otherwise) be treated as if it were a separate scheme for the purposes of this Schedule. References to "schemes" shall be construed accordingly.
8. Where this Schedule indicates that the Board should use "relevant scheme return data", the Board will take account of the following information.
  - (a) Where the scheme concerned has either:
    - (i) no later than midnight on 31 March 2008, submitted a scheme return via the Scheme Maintenance system in accordance with sections 63-65 of the Act; or

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

- (ii) been sent a scheme return notice requiring it to submit a scheme return via the Scheme Maintenance system, and the return date for that scheme return falls on or before 31 March 2008 (whether or not the scheme has so submitted a scheme return by that date);

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

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

9. References in this Schedule to a “section 179 valuation” are to the results of an actuarial valuation of the scheme carried out in a manner which is in accordance with section 179 of the Act and regulations and relevant guidance made and issued under that section, and the results of which have (at or before midnight on 31 March 2008) been provided by or on behalf of the trustees or managers of the scheme to the Board or to the Pensions Regulator, whether that valuation has been so carried out and the results so provided as a matter of legal obligation or otherwise and provided that the results of such valuation have by that date been certified either as relevant scheme return data or in a certificate provided to the Board in the form attached to this Schedule as Annex A. References in the preceding sentence to the results of the valuation are to those data items required to be completed in the relevant section of the Scheme Maintenance system or other scheme return or in the certificate as the case may be. Where there is more than one valuation satisfying the requirements of the preceding sentence, the Board shall use the valuation with the latest effective date for the purposes of calculating the levies. In the event of any discrepancy between valuation data as at the same date supplied to the Board via the Scheme Maintenance system and any other means, the validated data (as defined in paragraph 8(a)) held on the Scheme Maintenance system as at midnight on 31 March 2008 shall prevail.

10. References in this Schedule to the value or amount of the assets or the protected liabilities of a scheme shall be understood as follows but subject to paragraphs 27, 40, 41, 42 and 44 below:

- (a) Where there is a section 179 valuation, the reference is to the value or amount of the assets or protected liabilities shown in that valuation, but adjusted in a manner which in the view of the Board gives effect to the approach set out in Appendix 1 to this Schedule and results in the scheme’s assets and its liabilities being consistently treated for these purposes.

- (b) Where there is no section 179 valuation, the reference is to the estimated value or amount of the assets or liabilities of the scheme shown in the Minimum Funding Requirement valuation data supplied as relevant scheme return data, but adjusted in a manner which in the view of the Board gives effect to the approach set out in Appendix 2 to this Schedule and results in the scheme's assets and its liabilities being consistently treated for these purposes.
- (c) This sub-paragraph shall apply where a segregated part or parts of a scheme has been created by the operation of an option or requirement to segregate on or before 31 March 2008 (whether or not such segregated part has transferred to the PPF), but there is no section 179 valuation calculated by reference to the segregated part and/or the remainder of the scheme so created in each case treated separately. In such circumstances the Board shall estimate all relevant data in relation to any segregated part by multiplying the equivalent data for the entire scheme by a fraction, the numerator of which is equal to the number of members in relation to which the employer for that segregated part is the employer, and the denominator of which is equal to the total number of members in the scheme. Similarly the Board shall estimate the relevant data in relation to the remainder of the scheme by multiplying the equivalent data for the entire scheme by a fraction, the numerator of which is equal to the total number of members in relation to which any employer that is not related to any segregated part is the employer (including for the avoidance of doubt any member not formally attributed to any current employer), and the denominator of which is equal to the total number of members in the scheme. The second sentence of paragraph 35 shall apply when determining the number of members of a scheme of whom an employer is the employer. For the avoidance of doubt, where a segregated part has been created on or before 31 March 2008 by virtue of a qualifying insolvency event, such that the segregated part has entered a PPF assessment period, but there is no section 179 valuation for the whole scheme, then the approach set out in this paragraph shall be applied in conjunction with paragraph (b) above (use of Minimum Funding Requirement data adjusted in accordance with Appendix 2) in order to estimate the assets and liabilities of the segregated part and the remainder of the scheme.

11. For the purposes of this Schedule, the employer or employers in relation to a scheme shall be taken to be such undertaking or undertakings as have been notified as such in relevant scheme return data or pursuant to Section 191 of the Act.

12. The Board may, at any time prior to the calculation or any recalculation of the levy in respect of a scheme, take such steps as it thinks fit to obtain further or amended information for the purposes of that calculation or recalculation. But the Board is under no obligation to take such steps where information has not been provided to the Board on or before any applicable deadline prescribed in this Determination, and will not do so merely because a scheme has been

disadvantaged by the failure of those acting on its behalf to supply information at the proper time or in the proper manner<sup>2</sup>.

13. If, at the time of calculation or any recalculation of the levy in respect of a scheme, any information necessary for such calculation has not been provided in the manner or format or at the time anticipated by this Determination, then the Board may instead use equivalent information provided in a different manner or format or at a different time. But the Board is under no obligation to use such equivalent information, and will not do so merely because a scheme has been disadvantaged by the failure of those acting on its behalf to supply information at the proper time or in the proper manner.

14. In performing the calculations required by this Determination:

- (a) The Board shall round all monetary figures to the nearest penny at each stage of the calculation, save for the final amounts of the scheme-based levy and the risk-based levy which shall each be rounded to the nearest pound; and
- (b) The Board shall round all figures representing an assumed probability of insolvency to six decimal places (that is, to four decimal places when expressed as a percentage) at each stage of the calculation. Without limitation, this shall apply to (i) all figures derived by taking the average of assumed insolvency probabilities and to (ii) the product of the weighted average insolvency probability and a scaling factor based on scheme structure in accordance with paragraph 38 or 39.

15. In the event of any inconsistency between the Determination (including this Schedule and the Appendices) and the notes accompanying any of the certificates referred to in this Determination, the terms of the Determination shall prevail. In determining whether it is satisfied as to any matter set out in the Determination, the Board will take account of any guidance which it has published (including guidance in the form of "Frequently Asked Questions").

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

## **Part 2 – the scheme-based levy**

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

$$L \times h$$

17. L shall be the amount of the scheme's protected liabilities. h shall be a multiplier calculated and published in accordance with Part 5 below.

## **Part 3 - the risk-based levy**

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

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

19. U shall be the underfunding of the scheme, and P shall be the insolvency probability associated with the employer(s) in relation to the scheme, in each case calculated in accordance with the remainder of this Part 3 and/or Part 4 of this Schedule, as applicable. R shall be the proportion of the pension protection levies intended to be risk-based, which for the 2008/09 levy year shall be 0.8. c shall be a scaling factor calculated and published in accordance with Part 5 below.

20. In no case shall the risk-based levy in respect of a scheme exceed K multiplied by that scheme's protected liabilities, where K is the levy cap. For the 2008/09 levy year, K shall be 0.01.

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

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

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

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

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

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

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

28. Where there is provided to the Board, on or before midnight on 7 April 2008, a certificate, given in the form attached to this Schedule as Annex B by the actuary appointed in relation to the scheme for the purposes of section 47 of the Pensions Act 1995, that a deficit-reduction contribution or contributions has been made since the date to which the section 179 or, as the case may be, Minimum Funding Requirement valuation referred to in paragraph 10 above ("the previous valuation") relates, then for the purposes of this Schedule the value of the assets of the scheme shall be increased by the aggregate amount of that contribution or contributions. For this purpose, a deficit-reduction contribution is the whole or any part of a contribution made by or on behalf of the employer or any employee in relation to the scheme (including by HM Revenue and Customs in respect of age-related National Insurance rebates) which:

(a) Has been received, irrevocably and in full, by the trustees or managers of the scheme before the actuary's certificate is signed and not later than 31 March 2008; and

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

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

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

For the avoidance of doubt, where in relation to a scheme (i) an equivalent deficit-reduction contribution certificate was taken into account by the Board in the calculation of that scheme's risk-based levy for a previous levy year, and (ii)

paragraph 10 above requires the Board to use the same valuation for the purposes of the risk-based levy for the period 1 April 2008 – 31 March 2009 as was used for the calculation referred to in (i), then the Board shall take into account the previously given certificate for the purposes of the risk-based levy for 1 April 2008 – 31 March 2009. Where in relation to the same scheme more than one certificate in relation to deficit-reduction contributions has been provided to the Board (irrespective of when provided), only the most recent such certificate shall (provided it satisfies the other requirements for recognition set out in this Determination) be taken into account.

29. Where the trustees or managers of the scheme, before midnight on 31 March 2008, provide to the Board one or more certificates, in such of the forms attached to this Schedule as Annex C as is appropriate, certifying that the scheme benefits from one or more contingent assets within the meaning of Appendix 4 to this Schedule, then the risk based levy for the scheme shall be determined in the manner set out in Appendix 4. The Board shall not take into account certificates in relation to contingent assets which relate to a previous levy year when calculating the risk-based levy for the period 1 April 2008 – 31 March 2009. However the Board shall request from the trustees or managers of schemes in respect of which it has recognised one or more contingent assets for the preceding levy year information equivalent to that set out in the relevant form(s) set out at Annex C and shall take into account such information if and only if it is received in the form requested by the Board at or before midnight on 31 March 2008 or, if later, within 28 days of the date of such request.

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

(a) In the case of a scheme with a single employer, an amount equal to the Pension Protection Fund assumed probability of insolvency for that employer determined in accordance with paragraphs 31 to 34 below; and

(b) In the case of a scheme with more than one employer, an amount calculated in accordance with paragraphs 35 to 39 below;

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

31. The Pension Protection Fund assumed probability of insolvency for an employer shall be the assumed probability associated with the Failure Score which applies to that employer, as shown in Appendix 3 to this Schedule, or a figure determined in accordance with paragraphs 32(c), 33 or 34 below.

32. The Failure Score which applies to an employer shall be the failure score which Dun & Bradstreet UK Ltd (“DBUK”) informs the Board that it has assigned to that employer, after taking such steps to identify or obtain data relating to that employer as the Board has required. For the avoidance of doubt, the failure

scores to be provided to the Board are to be the normal failure scores<sup>3</sup> which were or would have been assigned to that employer by DBUK in the ordinary course of its business on and as at 31 March 2008, based on data provided to DBUK on or before 30 March 2008, save only that –

- (a) The Board has instructed DBUK that the failure scores provided to the Board should be those which would be assigned to the employer if there were to be disregarded any rule or practice whereby DBUK normally limits the maximum failure score obtainable by a company where it is a subsidiary of another company and that parent company is regarded as being at severe risk of insolvency;
- (b) This sub-paragraph applies in any case where DBUK informs the Board that it has decided, following representations made to it by or on behalf of the relevant trustees or managers or employer, or following a request by the Board to review the failure score assigned, that the failure score assigned to an employer on and as at 31 March 2008 was either too high or too low because it was based upon information which, on and as at 31 March 2008, was incorrect or incomplete by comparison with the information which should normally have been taken into account by DBUK in assigning a failure score at that date (whether because information which should normally have been available to, and would normally have been taken into account by, DBUK at that date was not available to DBUK, or because such information was available to DBUK but was nonetheless not taken into account in assigning the failure score). In a case to which this sub-paragraph applies, the Failure Score shall be the higher or lower failure score which DBUK informs the Board ought to have been assigned to the employer on and as at 31 March 2008. For these purposes, the Board shall only be obliged to take into account a change to a failure score if it results from representations made to DBUK by or on behalf of the relevant trustees or managers or employer not later than 28 days after the date shown on the original notification; and the Board shall not take into account any change to the failure score resulting from a request by the Board unless that change to the failure score is made no later than 31 March 2009. In a case to which this sub-paragraph applies the Board will where necessary issue a revised notification of the amount of the levies in respect of the scheme;
- (c) In the case of employers to which DBUK would not in the ordinary course of business assign a failure score, but to which an associated undertaking of DBUK would expect to assign a failure score or local equivalent or risk indicator, the Board has instructed DBUK to provide it with the failure score or local equivalent (if any) assigned to such employers by that relevant associated undertaking on the same basis as set out above, or in the absence of such a failure score or equivalent, with the risk indicator assigned to the employer in question on the same basis as set out above. In such cases the assumed probability of insolvency associated with that failure score or risk indicator will be such as the Board has been advised by DBUK is appropriate for the purposes of achieving equivalence with

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<sup>3</sup> Note that the standard D&B methodology as at 31 March 2008 will incorporate certain rules that previously appeared in the 2007/08 levy determination as “overrides” to the standard D&B methodology as at 30 March 2007.

Appendix 3 to this Schedule. Sub-paragraph (b) shall apply to such assumed probabilities of insolvency, for which purposes the Board shall only be obliged to take into account a change to an assumed probability of insolvency if it results from representations made to DBUK not later than 28 days after the date shown on the original notification.

33. In the case of an employer in relation to a multi-employer scheme in relation to which there are at least 10 employers, and where the procedure set out in paragraph 32 above has produced a failure score or risk indicator for at least 90% of those employers (or at least 50% if there are more than 100 employers in relation to the scheme), then the Pension Protection Fund assumed probability of insolvency for such an employer for whom no failure score or risk indicator has been produced shall be the average (mean) Pension Protection Fund assumed probability of insolvency of the other employers in relation to that scheme in respect of whom failure scores or risk indicators have been provided.
34. In a case where the procedures set out in paragraphs 32 and 33 above do not produce a failure score or risk indicator for a particular employer on and as at 31 March 2008, the Pension Protection Fund assumed probability of insolvency for that employer will be based upon the assignment of that employer to whatever industry group appears most appropriate, using for this purpose the first two digits of the four digit 1972 Standard Industry Classification codes. If the Board is provided with a three digit 1972 Standard Industry Classification code in respect of an employer, the first digit of that code, preceded by a zero, shall be used. The Pension Protection Fund assumed probability of insolvency for that employer shall be the probability which DBUK notifies to the Board as being the median Pension Protection Fund assumed probability of insolvency for all UK-domiciled employers within that industry group in respect of whom it has provided the Board with failure scores for the purposes of the 2008/09 levy year. Where the Board is unable to determine the most appropriate Standard Industry Classification code for an employer, it may assign that employer to an "undetermined" code. The Pension Protection Fund assumed probability of insolvency for an employer assigned to the "undetermined" code shall be the probability which DBUK notifies to the Board as being the median Pension Protection Fund assumed probability of insolvency for all UK-domiciled employers (irrespective of industry group) in respect of whom it has provided the Board with failure scores for the purposes of the 2008/09 levy year. For the purposes of the preceding three sentences, (i) such medians shall be based on the same set of probability data as used by the Board for the purposes of calculating the scaling factor as set out in paragraph 49, and (ii) the Board may instruct DBUK to exclude specified classes of failure score which it regards as unrepresentative when calculating the relevant medians. For the avoidance of doubt, in determining such medians DBUK shall not include any employer to which a scheme average probability has been applied in accordance with paragraph 33 above.

## **Part 4 – modifications**

### ***Multi-employer schemes***

35. Paragraphs 36 to 39 below apply to the calculation of the risk-based levy in respect of multi-employer schemes, and references in those paragraphs to “the Regulations” are to the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005. Where reference is made to the number of members of a scheme of whom a person is the employer, that is to be determined by reference to the total number of active, deferred, pensioner and pension credit defined benefit members of that scheme and in relation to whom that person is (or is deemed to be) the employer in relation to the scheme, as notified to the Board or the Pensions Regulator in relevant scheme return data.
36. Which of paragraphs 37 to 39 below is to be applied to a multi-employer scheme is to be determined in accordance with relevant scheme return data.
37. In the case of a scheme the rules of which include a requirement or discretion to segregate on cessation of participation of an employer, an assumed probability of insolvency (PP) shall be separately determined for each of the employers in relation to the scheme in accordance with paragraphs 31 to 34 above, and P shall be taken to be the weighted average of PP for each employer, where the weightings are equal to the number of members in relation to whom each employer is the employer, divided by the total number of members.
38. In the case of a scheme the rules of which do not include a requirement or discretion to segregate on cessation of participation of an employer and to which paragraph 39 below does not apply, P shall be 0.9 multiplied by the weighted average of PP for each employer in relation to the scheme, determined in the same manner as set out in paragraph 37 above.
39. This paragraph applies to a scheme the rules of which do not include a requirement or discretion to segregate on cessation of participation of an employer and which is stated in relevant scheme return data to be a scheme established as a centralised scheme for non-associated employers, and in relation to which the Board has, if requested by the Board, received satisfactory evidence in support of that statement prior to the calculation of the levies for that scheme. In the case of a scheme to which this paragraph applies, P shall be the weighted average of PP for each employer in relation to the scheme (determined in the same manner as set out in paragraph 37 above), multiplied by the largest number of members of the scheme in relation to whom any one employer is the employer, and divided by the total number of members of the scheme.

### ***New schemes***

40. This paragraph applies where a scheme (referred to in this paragraph as a “new scheme”) becomes an eligible scheme on or after 1 April 2008. In a case to which this paragraph applies:
- (a) The amount of the scheme-based levy and the risk-based levy in respect of the new scheme shall be the product of multiplying, respectively, the amounts shown in paragraphs 16 and 18 above by N divided by 365 where N is the number of days during the financial year for which the new scheme is an eligible scheme;

- (b) References in this Schedule and Appendices to 31 March 2008 shall be read as references to the first date on which the new scheme was an eligible scheme, save that where reference is made to information or documents being provided to the Board by a particular date (whether midnight on 31 March 2008 or on 7 April 2008 or otherwise), such references shall be treated as requiring the information or documents to be provided not later than 28 days after the scheme becomes an eligible scheme, or by such later date as the Board shall require if it calls for information or documents to be provided to it;
- (c) Where there is no valuation falling within paragraph 10 above, the Board may obtain from the trustees or managers of the new scheme such information as will allow the Board to make an equivalent determination of the value or amount of the assets or protected liabilities of the scheme. Where the Board considers that no such information is conveniently available in respect of a new scheme, and that it is unlikely that the scheme is materially underfunded at the relevant time, then the Board may determine that the rate of the scheme-based levy and/or the rate of the risk-based levy shall be nil;
- (d) If the Board is satisfied that the new scheme is the successor to the rights and liabilities of a scheme which was an eligible scheme on 1 April 2008 (“the predecessor scheme”), or to some substantial part of the rights and liabilities of such a scheme, that the levies which are or will be payable in respect of the predecessor scheme sufficiently take account of the assets and liabilities of the new scheme, and that the levies in respect of the predecessor scheme either have been paid or will be promptly paid, then the Board may determine that the levies in respect of the new scheme shall be nil.

### ***Schemes not yet required to file a scheme return***

41. This paragraph applies where a scheme became an eligible scheme on or before 1 April 2008 but has not by midnight on 31 March 2008 been required by legislation or by the Pensions Regulator to complete a scheme return or to file valuation information, with the result that there is no valuation falling within paragraph 10 above. In such a case the Board may proceed in the like manner as is set out in paragraph 40(c) above.

### ***Scheme transfers***

42. This paragraph applies where, on any date or dates prior to 1 April 2008, an eligible scheme (“the transferring scheme”) has transferred at least the lesser of £1.5 million and 5% of its assets value as calculated in the last Minimum Funding Requirement or section 179 valuation prior to the first such transfer to another pension scheme but any such transfer or transfers is not reflected in the valuation falling within paragraph 10 for the transferring scheme. This paragraph also applies where, on any date or dates prior to 1 April 2008, an eligible scheme (“the receiving scheme”) has received at least the lesser of £1.5 million and 5% of its assets value as calculated in the last Minimum Funding Requirement or section 179 valuation prior to the first such transfer from another pension scheme but any such transfer or transfers is not reflected in the valuation falling within paragraph

10 for the receiving scheme. In a case to which this paragraph applies, the Board shall where it judges it necessary obtain from the trustees or managers of the transferring scheme or the receiving scheme such information as will allow the Board to make what is in its view an appropriate determination of the value or amount of the assets or protected liabilities of the scheme at 31 October 2007, in substitution for the valuation falling within paragraph 10 above. The Board shall not be obliged to take into account any such transfer unless it has been provided with information relating to all relevant transfers no later than midnight on 7 April 2008 in relation to the scheme concerned but may take into account such information received after that date where it considers it appropriate to do so.

### ***Partially guaranteed schemes***

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

### ***Schemes in assessment***

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

- (i) no later than midnight on 31 March 2008:
  - a. the Board has received a scheme failure notice issued under Section 122(2)(a) of the Act;
  - b. the Board has issued such a notice pursuant to Section 124 of the Act; or
  - c. the Board has issued a scheme failure notice under Section 130(2) of the Act; and
- (ii) that scheme failure notice has become binding in accordance with Section 125(1) or, as the case may be, 130(6) of the Act prior to the calculation or recalculation of the levies for the scheme concerned; and
- (iii) the Board has not, prior to the calculation or recalculation of the levies for the scheme concerned, received a withdrawal notice issued under Section 122(2)(b) of the Act, or issued a withdrawal notice under Section 130(3) of the Act, indicating that the scheme has been rescued.

In a case to which this paragraph applies:

- (a) The scheme based levy and the risk based levy in respect of the scheme shall, subject to the following subparagraphs, be zero.
- (b) If, after the calculation of the levies in respect of the scheme, a withdrawal notice is issued under Section 122(2)(b) or 130(3) of the Act indicating that the scheme has been rescued, and that withdrawal notice becomes binding in accordance with Section 125(1) or, as the case may be, Section 130(6) of the Act on or before 31 March 2009, then the scheme based levy and the risk based levy shall be recalculated in accordance with the remainder of this Schedule and shall become payable upon the withdrawal notice becoming binding.<sup>4</sup>
- (c) For the purposes of any recalculation of the levies in accordance with subparagraph (b) above, the assets and liabilities of the scheme shall, notwithstanding that there was no section 179 valuation by 31 March 2008, and provided that a section 179 valuation is subsequently provided within such time limit as the Board may reasonably require, be calculated in accordance with paragraph 10(a) and not paragraph 10(b).
- (d) For the purposes of any recalculation of the levies in accordance with subparagraph (b) above, if a person has assumed the former employer's pension liabilities under the scheme as described in Regulation 9(1)(a)(ii) of the Pension Protection Fund (Entry Rules) Regulations 2005, then the insolvency probability of that person, as at 31 March 2008 or the nearest practicable date, shall be substituted in place of the insolvency probability of the employer that suffered the insolvency event.

In the case of a multi-employer scheme, the Board may apply this paragraph with such modifications as appear to it appropriate for the purpose of ensuring that zero levies are applied to a scheme or part of a scheme which has been the subject of a binding failure notice but not of a subsequent binding withdrawal notice; that appropriate levies are charged to the remainder (if any) of the scheme, and that where a scheme or part of a scheme has been the subject of a binding failure notice but then of a binding withdrawal notice, levies are applied to that scheme or part of a scheme in a manner that reflects the position following that withdrawal notice. Such modifications may make special provision amongst other matters for a case in which a segregated part of a scheme (as defined in Part 4, 5, 7 or 8 of the Pension Protection Fund (Multi-employer Schemes)(Modification) Regulations 2005) has been created by virtue of an insolvency event in relation to an employer, For the purposes of this power to apply paragraph 44 of the Schedule with modifications, the service of a non-segregation notice in accordance with those regulations may be treated as equivalent to the service of a withdrawal notice.

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<sup>4</sup> In the case of a scheme which pays zero levies in 2008/09 by virtue of paragraph 44(a), but is subsequently rescued during a future levy year, it is the Board's intention that the levies would be recouped on the same basis as paragraphs 44(b) and (c) via a corresponding increase to the future year's levies. Provisions to this effect will be included in the levy determinations for future years.

### ***Revised levy invoices***

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

### **Part 5 – the scaling factor**

46. Q, the pension protection levy estimate, shall be £675 million.

47. The multiplier, h, shall be such quantity as the Board estimates will cause the total amount which will be payable by way of scheme-based levies in respect of the financial year 1 April 2008 to 31 March 2009, to be equal to  $(1 - R) \times Q$ .

48. The scaling factor, c, shall be such quantity as the Board estimates will cause the total amount which will be payable by way of risk-based levies in respect of the financial year 1 April 2008 to 31 March 2009, to be equal to  $R \times Q$ .

49. The Board will make its estimates of the total amounts that will be payable by way of scheme-based and risk-based levies on the basis of all the information which is available to it or to the Pensions Regulator at midnight on 31 March 2008, and which the Board considers that it is able to process in sufficient time for that information to be taken into account in making those estimates so that h and c may be calculated and published no later than 31 May 2008. For these purposes only:

- (a) the Board shall assume that any scheme failure notice that it has received or issued by no later than midnight on 31 March 2008 will become binding, and no withdrawal or non-segregation notice will be issued prior to the calculation of the levies for the scheme to which it relates;
- (b) the Board shall assume that all voluntary certificates supplied to it are valid without further investigation unless that is manifestly not the case;
- (c) to the extent DBUK cannot provide failure scores or risk indicators for employers in multi-employer schemes within the required timeframe, the Board shall apply the rule set out in paragraph 33 (scheme averages) wherever at least one employer in relation to the scheme has been assigned a failure score or risk indicator, notwithstanding that the higher thresholds set out in paragraph 33 may not have been met; and
- (d) for each scheme in relation to which such information is available, the Board shall assume that the insolvency probability P for that scheme shall be equal to the lower of the insolvency probability calculated in accordance with this Schedule applied to the information available to the Board, and the insolvency probability used for the calculation of the risk based levy for that scheme for the period 1 April 2007 – 31 March 2008.

50. The Board will make its estimates of the total amounts that will be payable by way of scheme-based and risk-based levies by means of –

- (a) First, estimating the amounts of the levies that will be payable in respect of each of those schemes in relation to which the Board considers that it has

and has processed the necessary information to make such estimates appropriately (“calculated schemes”); and

- (b) Secondly, estimating the amounts of the levies that will be payable in respect of all other schemes (“approximated schemes”), such estimate to be made on the basis of an assumption that approximated schemes will pay a scheme-based and a risk-based levy corresponding to the average values for calculated schemes (i) in respect of which no certificate in relation to a contingent asset has been provided for the purposes of the levies for the period 1 April 2008 – 31 March 2009, (ii) in relation to which the condition set out in paragraph 44(i) above (scheme failure notice) has not been satisfied, and (iii) which are of comparable size to the expected size of the approximated schemes in question. In determining how many approximated schemes are expected to be of a particular size, the Board will make use of data supplied by the Pensions Regulator.

51. In making the estimate of the amounts of levies that will be payable in respect of calculated and approximated schemes, the Board will (without prejudice to paragraphs 49 and 50 above) adopt an approach which is substantially equivalent to that set out in Appendix 5 to this Schedule, and which in the view of the Board most appropriately and practically gives effect to the objectives set out in paragraphs 47 and 48 above.

52. The Board shall publish the values which it has calculated for h and c in accordance with paragraphs 47 and 48 above. Those published values shall thereafter be treated as definitive, and the calculation of the amount of the levies in respect of a scheme shall be based upon the values of h and c as so published and not upon any other estimate or calculation of h and c.

## **Links to Appendices and Annexes**

### **Appendix 1**

Roll-forward or roll-backward of s.179 valuations to 31 October 2007

### **Appendix 2**

Valuation methodology where s.179 valuation not filed in time

### **Appendix 3**

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

### **Appendix 4**

Contingent assets

### **Appendix 5**

Calculation of the multiplier and the scaling factor

### **Annex A**

Section 179 certificate

### **Annex B**

Actuarial Certificate of Deficit-Reduction Contributions

### **Annex C**

Contingent Asset Certificates

All certificates for certifying contingent assets for the first time for 2008/09 may be accessed at:

Certificates/pro-forma letters for re-certifying contingent assets for 2008/09, as sent to individual schemes, may be accessed at:

### **Annexes D – F**

Pension Protection Fund required forms of contingent asset agreement

All Pension Protection Fund required forms of contingent asset agreement may be accessed at:

### **Annex G**

Amendment and replacement conditions