

SCHEDULE 3

Regulations 6 and 12

Financial sustainability requirement

Part 1

Information required on application for authorisation

1. The other information to be included in an application, in relation to whether the scheme is financially sustainable, is—

- (a) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act (financial sustainability requirement)—
 - (i) an estimate of the cost of setting up the scheme;
 - (ii) an estimate of the cost of running the scheme, in accordance with any requirements set out in a Code;
 - (iii) details of the scheme's sources of income including estimates of the amount of income from each source, in accordance with any requirements set out in a Code;
 - (iv) the trustees' strategy for meeting any shortfall between the scheme's income and the costs mentioned in section 14(2)(a) of the Act;
 - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;
 - (vi) an explanation of the circumstances in which, and the extent to which, the scheme's actual costs and income may vary from the estimates provided and any measures in place to address such variations;
 - (vii) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(a) of the Act, the following financial information in respect of each such employer to the extent it is available—
 - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
 - (bb) forecast and actual profit and loss for the previous 12 months;
 - (cc) budget for the year to date and any variation from that budget;
 - (dd) cash resources;
 - (ee) cash flow forecast for each of the following four quarters;
 - (ff) operating costs;
 - (gg) inter-company loans and other forms of funding;
 - (hh) the employer's most recent accounts;
 - (ii) such further information, concerning the financial position of the employer, as is set out in a Code;
 - (viii) details of any financing arrangements entered into by the trustees in respect of the costs mentioned in section 14(2)(a) of the Act;
 - (ix) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
 - (x) where the scheme has any arrangements with service providers that meet the description in paragraph 2(i), details of the matters set out in that paragraph in respect of each arrangement;

- (xi) details of any insurance held in respect of the scheme, in respect of the costs mentioned in section 14(2)(a) of the Act, including details of the matters set out in paragraph 2(j);
- (b) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act—
 - (i) an estimate of the costs mentioned in section 14(2)(b)(i) of the Act;
 - (ii) an estimate of the costs mentioned in section 14(2)(b)(ii) of the Act;
 - (iii) the trustees' strategy for meeting the costs mentioned in section 14(2)(b) of the Act;
 - (iv) the amount and classes of assets held by, or that will be available to, the trustees to meet those costs;
 - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;
 - (vi) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(b) of the Act, the following financial information in respect of each employer to the extent it is available—
 - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
 - (bb) forecast and actual profit and loss for the previous 12 months;
 - (cc) budget for the year to date and any variation from that budget;
 - (dd) cash resources;
 - (ee) cash flow forecast for each of the following four quarters;
 - (ff) operating costs;
 - (gg) inter-company loans and other forms of funding;
 - (hh) the employer's most recent accounts;
 - (ii) such further information, concerning the financial position of the employer, as is set out in a Code;
 - (vii) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
 - (viii) details of any insurance held in respect of the scheme in respect of the costs mentioned in section 14(2)(b) of the Act, including details of the matters set out in paragraph 3(i);
 - (ix) details of any compensation for which members are eligible in the event of a scheme failure, including details of the matters set out in paragraph 3(k) of this Schedule.

Part 2

Matters which the Regulator must take into account

2. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act (financial sustainability requirement)—
 - (a) the scheme's sources of income, including the estimated amount of income from each source;
 - (b) the estimated cost of setting up the scheme;

- (c) the estimated cost of running the scheme;
- (d) the trustees' strategy for meeting any shortfall between the scheme's income and the costs mentioned in section 14(2)(a) of the Act;
- (e) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 14(2)(a) of the Act, and the robustness of the strategy mentioned in subparagraph (d);
- (f) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(a) of the Act, the financial position of each of those employers that the Regulator considers relevant;
- (g) the scheme financing arrangements entered into by the trustees in respect of the costs mentioned in section 14(2)(a) of the Act;
- (h) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (i) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitation on the service provider's liability for those costs;
- (j) any insurance held in respect of the costs mentioned in section 14(2)(a) of the Act, including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer's liability.

3. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act—

- (a) the most recent estimates of the costs mentioned in section 14(2)(b) of the Act provided in respect of the scheme;
- (b) the extent and manner in which the trustees have made provision to meet those costs;
- (c) the amount and classes of assets held by, or available to, the trustees to meet those costs;
- (d) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 14(2)(b) of the Act, and the robustness of the strategy for meeting those costs;
- (e) where one or more employers in relation to the scheme has agreed to fund the costs mentioned in section 14(2)(b) of the Act, the financial position of each of those employers that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) whether the scheme rules impose liability on any person for the following costs and, if so the identity of those liable—
 - (i) the costs of winding up the scheme;
 - (ii) the costs of converting the scheme into a closed scheme;
- (h) the alignment between the actions set out in the scheme's continuity strategy and the estimate in the strategy of the costs of carrying out those actions;
- (i) any insurance held in respect of the costs mentioned in section 14(2)(b) of the Act, including details of—
 - (i) the insurance provider;

- (ii) the policy holder;
- (iii) the beneficiary of the policy;
- (iv) any limitations on the insurer's liability;
- (j) the quality of the scheme's records and data;
- (k) whether the members are eligible for compensation in the event of a scheme failure and, if so, details of—
 - (i) the compensation provider;
 - (ii) the basis on which the compensation is payable;
 - (iii) any limits on the amount of compensation payable;
- (l) the scheme's most recent continuity strategy.

Part 3

Requirements to be met by the collective money purchase scheme

4. A collective money purchase scheme must meet the following requirements relating to its financing—
- (a) any assets held by or available to the trustees to meet the costs mentioned in section 14(2) of the Act (financial sustainability requirement) must be—
 - (i) of the classes and in the proportions set out in a Code;
 - (ii) valued in accordance with any discounted rates set out in a Code;
 - (iii) available to be used when the relevant costs fall due;
 - (b) the scheme's trustees must have first call on the assets referred to in sub-paragraph (a);
 - (c) any funding commitment made to the scheme in respect of the costs mentioned in section 14(2) of the Act must be given in writing and duly executed by the party making the commitment.