

# **SCHEME DOCUMENT**

**Water Act 2014**

**The Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015**

**The Flood Reinsurance (Scheme Funding and Administration) Regulations 2015**

**Issue 2**

**19 January 2022**

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## 1. Definitions

In this document the words and expressions shall have the following meanings:

<b>buildings policy</b>	means a contract of insurance covering the structure of household premises, which may include fixtures and fittings, swimming pools, permanently fixed hot tubs, tennis courts, patios, terraces, service tanks, drains, septic tanks, pipes and cables, central heating fuel storage tanks, driveways, footpaths, garden walls, hedges, gates and fences
<b>build back better</b>	means the process of carrying out a more resistant and/or resilient repair to flooded homes in order to reduce the future risk of flooding/damage to the property
<b>combined policy</b>	means a contract of insurance which comprises a buildings policy and a contents policy
<b>consumer prices index</b>	means the items consumer prices index published by the UK Statistics Authority or, if that index is not published for a relevant month, any substituted index or index figures published by the UK Statistics Authority
<b>contents</b>	in relation to a dwelling, means household goods and personal possessions, which may include valuables (except fine art), clothes, sports equipment and bicycles, camping equipment, money, satellite dishes, aerials and other articles, which belong to persons who live in the dwelling or for which they are responsible, or which belong to guests in the dwelling (except paying guests)
<b>contents policy</b>	means a contract of insurance covering the contents of household premises which consist of a dwelling
<b>contribution</b>	means a sum payable by way of capital contribution by a relevant insurer to the FR Scheme administrator pursuant to a contractual obligation under or by virtue of this Scheme
<b>Designation Regulations</b>	means the Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015
<b>dwelling</b>	means any building, or part of a building, or mobile home in the United Kingdom that is held for private, residential use as a single residential unit, and includes any garage, shed or other building which forms part of, and is enjoyed with, the residential unit
<b>Financial Conduct Authority Handbook</b>	means the Financial Conduct Authority Handbook published by the Financial Conduct Authority (as amended or replaced from time to time)
<b>financial year</b>	means a period of 12 months ending on the 31st March
<b>flood</b>	means water, from any source external to a building, which enters a building -

	<p>(a) at or below ground level, or above ground level, provided that part of the body of such water is at ground level; and</p> <p>(b) does so with a volume, weight or force which is substantial and abnormal.</p> <p>The following do not constitute a flood:</p> <p>(i) the gradual seepage or percolation of water into a building (such as rising damp);</p> <p>(ii) water escaping from a water main, drain, sewer, pipe or other thing inside a building, unless such escape was solely the consequence of a flood falling within paragraphs (a) and (b)</p>
<b>Flood Re Limited</b>	means, Flood Re Limited a company limited by guarantee registered in England and Wales with company number 08670444, and designated as the FR Scheme administrator pursuant to the Designation Regulations
<b>Flood Risk Element</b>	<p>means any and all:</p> <p>(a) risks of damage, loss and/or liability arising out of or in connection with any flood,</p> <p>(b) exposures to such risks, and</p> <p>(c) damage, loss and/or liability (including claims) arising out of or in connection with such risks and/or exposures,</p> <p>potentially or actually (as matter of fact or law) assumed, faced, incurred or suffered by any person, or otherwise, in respect of household premises and/or contents</p>
<b>FR Scheme administrator</b>	means the body designated as the Flood Re Scheme administrator by the Designation Regulations
<b>FR Scheme</b>	means the scheme designated as the Flood Reinsurance Scheme by the Designation Regulations
<b>FSMA obligation</b>	means any obligation to which the FR Scheme administrator is subject under or by virtue of the Financial Services and Markets Act 2000
<b>gross written premium</b>	<p>a relevant insurer's "<b>gross written premium</b>" means the aggregate sterling amount paid or payable by, or on behalf of, holders of home insurance for the relevant risk element of home insurance, before the deduction of any amount (including commission), but after the deduction of insurance premium tax;</p> <p>a relevant insurer's gross written premium must be increased by the amount of any gross written premium paid or payable for the relevant preceding calendar year for "transferred home insurance";</p>

	<p><b>“transferred home insurance”</b> means the rights and liabilities arising out of, or in connection with, home insurance, where the home insurance –</p> <p>(a) formed the whole, or part, of an insurance business carried on by a person (“A”),</p> <p>(b) the insurance business, or that part, has been transferred to, or has otherwise vested in, the relevant insurer in the preceding calendar year, and</p> <p>(c) A is not a relevant insurer on the date on which the levy is due under regulation 9 of the Regulations.</p> <p>When calculating a relevant insurer’s gross written premium, home insurance shall be taken to cover only the relevant risk element unless the contrary is shown by the relevant insurer to the reasonable satisfaction of FR Scheme Administrator;</p> <p><b>“the relevant risk element”</b>, in relation to home insurance, is any risk of damage to, or the loss or destruction of, either or both of the following –</p> <p>(a) a dwelling;</p> <p>(b) the contents of a dwelling</p>
<b>home insurance</b>	has the meaning given to such term in regulation 2 of the Regulations and <b>sections 4.3</b> and <b>4.4</b> of this Scheme Document
<b>household premises</b>	has the meaning given to such term in regulation 5 of the Regulations and <b>sections 4.6</b> to <b>4.9</b> of this Scheme Document
<b>inwards reinsurance</b>	means insurance obtained by relevant insurers from the FR Scheme administrator
<b>Liability Limit</b>	has the meaning given to such term in <b>section 4.10</b> of this Scheme Document
<b>Member</b>	means a relevant insurer which is a corporate member of Flood Re Limited
<b>mobile home</b>	means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 <sup>1</sup> (disregarding the effect of section 13(2) of the Caravan Sites Act 1968 <sup>2</sup> ), which is occupied by the occupier as their only or main residence
<b>Non-Member</b>	means a relevant insurer which is not a corporate member of Flood Re Limited
<b>outwards reinsurance</b>	means insurance obtained by the FR Scheme administrator from the market

<sup>1</sup> 1960 c.62

<sup>2</sup> 1968 c.52

<b>PRA</b>	means the Prudential Regulation Authority or any successor appointed from time to time
<b>PRA Handbook</b>	means the PRA Handbook and/or Rulebook (as applicable) published by the PRA (as amended or replaced from time to time)
<b>preceding calendar year</b>	in relation to a financial year, means the year ending on 31st December immediately preceding the financial year
<b>the Regulations</b>	the Flood Reinsurance (Scheme Funding and Administration) Regulations 2015
<b>relevant insurer</b>	<p>an insurer is a relevant insurer in a financial year, if the insurer:</p> <p>(a) (i) effected any home insurance in the period of 12 months immediately preceding the first day of the financial year; and</p> <p>(ii) has permission under the Financial Services and Markets Act 2000<sup>3</sup> which allows the insurer to effect and carry out home insurance on the first day of the financial year; or</p> <p>(b) is a member of the Society (within the meaning of the Lloyd's Act 1982<sup>4</sup>) and, as such a member –</p> <p>(i) effected any home insurance during the period of 12 months immediately preceding the first day of the financial year; and</p> <p>(ii) on the first day of the financial year, intends to effect further home insurance during the financial year.</p> <p>For the purposes of paragraph (b), an insurer who falls within paragraph (b)(i) shall be taken to fall within paragraph (b)(ii) unless the contrary is shown by the insurer to the reasonable satisfaction of the FR Scheme administrator</p>
<b>Scheme Document</b>	means this scheme document
<b>Solvency Capital Requirement or SCR</b>	shall have the meaning set out in the PRA Handbook
<b>Subordinate Legislation</b>	has the meaning given by section 21 of the Interpretation Act 1978 and, for the purposes of this Scheme Document, shall include the Designation Regulations and the Administration Regulations
<b>Type A payment</b>	(also known as Levy 1) means a payment made or due to be made by a relevant insurer in accordance with section

<sup>3</sup> 2000 c.8.

<sup>4</sup> 1982 c.xiv.

	66(1)(a) of the Water Act and regulations 8 and 9 of the Regulations which shall be a levy
<b>Type B payment</b>	(also known as Levy 2) means a payment made or due to be made by a relevant insurer in accordance with section 66(1)(b) of the Water Act and regulations 10 and 11 and 12 of the Regulations which shall be a levy or a contribution
<b>Water Act</b>	means the Water Act 2014

In this Scheme Document, save where the context otherwise requires:

- 1.1 a reference to a statute or statutory provision shall include a reference:
  - 1.1.1 to that statute or provision as from time to time consolidated, modified, re-enacted or replaced by any statute or statutory provision;
  - 1.1.2 to any repealed statute or statutory provision which it re-enacts (with or without modification); and
  - 1.1.3 any Subordinate Legislation made under the relevant statute;
- 1.2 words in the singular shall include the plural, and vice versa;
- 1.3 a reference to a **"person"** includes a reference to a body corporate and to an unincorporated body of persons;
- 1.4 if a period of time is specified and dates from a given day or the day of an act or event, it shall be calculated exclusive of that day and both time and date shall be determined by reference to that prevailing in the City of London in England at the relevant time; and
- 1.5 the headings in this Scheme Document are for convenience only and shall not affect the interpretation of any provision of this Scheme Document.

## 2. **Introduction**

2.1 The scheme described in this Scheme Document is the FR Scheme, being the scheme referred to in section 64(1) of the Water Act and designated pursuant to the Designation Regulations.

2.2 This Scheme Document describes the FR Scheme and provides a framework within which the FR Scheme administrator will administer the FR Scheme. This Scheme Document replaces the Scheme Document dated 16 March 2015 to reflect changes following Flood Re's first Quinquennial Review. This Scheme Document has been updated to introduce technical changes to improve the efficiency and effectiveness of the FR scheme and changes to promote the uptake of property flood resilience (PFR) to support the transition to a risk reflective flood insurance market. The FR Scheme is a not-for-profit flood reinsurance scheme which is run and managed by the insurance industry through the FR Scheme administrator.

2.3 The Water Act provides for the establishment of the FR Scheme<sup>5</sup> which is established for the purpose of providing inwards reinsurance to relevant insurers in respect of such risks arising from a flood as are identified by the FR Scheme in such a way as to:

2.3.1 promote the availability and affordability of flood insurance for household premises while minimising the costs of doing so<sup>6</sup>; and

2.3.2 manage, over the period of operation of the FR Scheme, the transition to risk-reflective pricing of flood insurance for household premises<sup>7</sup>.

2.4 The Water Act also provides that the FR Scheme will be administered by a body, such as a company, which will be designated as such by the Secretary of State. This body is the FR Scheme administrator.<sup>8</sup>

2.5 The FR Scheme sits within a legislative framework, in particular:

- Part 4 of the Water Act
- The Regulations
- The Designation Regulations

2.6 The FR Scheme administrator will comply with the relevant statutory and regulatory requirements including the Financial Conduct Authority Handbook and

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<sup>5</sup> Section 64, Water Act 2014

<sup>6</sup> Section 64 (2)(a) Water Act 2014

<sup>7</sup> Section 64 (2)(b) Water Act 2014

<sup>8</sup> Section 65, Water Act 2014



guidance and the PRA Handbook and guidance in so far as they apply to the FR Scheme.

- 2.7 The FR Scheme administrator will enter into inwards reinsurance arrangements with relevant insurers in order to implement the FR Scheme.
- 2.8 The FR Scheme is designed to operate for up to 25 years from the date of Royal Assent to the Water Act.

### 3. **Description of the Scheme**

- 3.1 Reinsurance is a way for insurers to insure themselves against large scale losses, in this case caused by flood, with other insurers. The FR Scheme is intended to encourage the availability and affordability of insurance for policyholders by helping relevant insurers to reduce the adverse consequences of large claims in relation to flood.
- 3.2 Under the FR Scheme, relevant insurers will sell home insurance to their policyholders in the usual way, but then may transfer all or some of the Flood Risk Element of such home insurance to the FR Scheme administrator. This means that the Flood Risk Element of such home insurance may be ceded to the FR Scheme administrator via inwards reinsurance arrangements between the relevant insurer and the FR Scheme administrator.
- 3.3 The insurance policies eligible for the FR Scheme are described in **section 4** of this Scheme Document.
- 3.4 Relevant insurers may choose to be a Member or a Non-Member. This choice will not affect the ability to cede to or the requirements of ceding Flood Risk Elements to the FR Scheme administrator. If a relevant insurer chooses to be a Member then they will be required to enter into membership arrangements with the FR Scheme administrator and the other Members. Membership will provide the relevant insurer with certain voting rights in relation to the FR Scheme administrator and the possibility of receiving a return of any contributions made to the FR Scheme administrator during the course of being a Member (as described in **sections 5.1.5.3 to 5.1.5.5** (inclusive)). The Secretary of State is a special corporate member of the FR Scheme administrator with certain limited rights agreed with Flood Re Limited.
- 3.5 If a policyholder's household premises is flooded, then that policyholder will deal with their insurer in the usual way to get their claim paid. The contractual responsibility for paying out to the policyholder, if a valid claim is made, still rests with the relevant insurer. However, the relevant insurer may then recover claims from the FR Scheme administrator in accordance with the inwards reinsurance arrangements on the Flood Risk Element of insurance policies ceded to the FR Scheme.
- 3.6 The FR Scheme administrator's liability as reinsurer will be circumscribed, both in terms of the operation of the reinsurance and the attributes of risks (properties and policies) that may be ceded to it and which could give rise to payable claims. These aspects are covered in **section 4** of this Scheme Document.
- 3.7 The funding for the FR Scheme is described in **section 5** of this Scheme Document.

- 3.8 Within the context of the purpose of the FR Scheme, the FR Scheme administrator will (in particular), have regard to the following in discharging its functions:
- 3.8.1 the need to ensure economy, efficiency and effectiveness in the discharge of those functions;
  - 3.8.2 the need to act in the public interest; and
  - 3.8.3 the need to ensure propriety and regularity in the operation of the FR Scheme.<sup>9</sup>
- 3.9 The FR Scheme administrator will designate the person who acts as its Chief Executive Officer as the “Responsible Officer” of the FR Scheme.<sup>10</sup> The Responsible Officer has the following specific responsibilities in relation to the FR Scheme:
- 3.9.1 accountability to Parliament for the stewardship of the FR Scheme, including management of its finances;
  - 3.9.2 accountability to Parliament for the economy, efficiency and effectiveness with which the FR Scheme administrator uses resources in discharging its functions under the FR Scheme;
  - 3.9.3 accountability to Parliament for propriety and regularity in the operation of the FR Scheme;
  - 3.9.4 accountability to Parliament in respect of any reports laid under regulation 24 of the Regulations; and
  - 3.9.5 the laying of a copy of the audited accounts of the FR Scheme and the annual report of its auditor before the House of Commons, no later than 3 (three) months after the end of the financial year to which those accounts and annual report apply<sup>11</sup>.
- 3.10 The FR Scheme administrator will also have regard to the need to manage the transition to risk-reflective pricing of flood insurance for household premises<sup>12</sup>. This process is described in **section 7** of this Scheme Document.

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<sup>9</sup> Section 20, The Flood Reinsurance Scheme (Funding and Administration) Regulations 2015

<sup>10</sup> Section 23, The Flood Reinsurance Scheme (Funding and Administration) Regulations 2015

<sup>11</sup> Section 23, The Flood Reinsurance Scheme (Funding and Administration) Regulations 2015

<sup>12</sup> Section 22, The Flood Reinsurance Scheme (Funding and Administration) Regulations 2015

#### 4. **Scope of the FR Scheme**

##### *General*

- 4.1 Relevant insurers will be permitted to cede the Flood Risk Element of a buildings policy, contents policy or combined policy for household premises to the FR Scheme administrator, by entering into inwards reinsurance arrangements with the FR Scheme administrator and paying the appropriate premium.

##### *Definition of "home insurance" and "household premises"*

- 4.2 The Regulations require the Scheme Document to set out certain criteria relating to the definitions of "home insurance" and "household premises". These relate to the scope of the FR Scheme in terms of the liability of relevant insurers to pay levies and what insurance policies may be ceded to the FR Scheme administrator. These criteria are set out below in **sections 4.3 to 4.9**.

##### *Liability of relevant insurers to pay levies and/or contributions*

The Regulations require relevant insurers to pay levies and/or contributions for home insurance policies which they underwrite.

- 4.3 **"home insurance"** means a contract of insurance which:

- 4.3.1 includes cover for any risk of damage to, or loss or destruction of, either or both:

4.3.1.1 a dwelling; or

4.3.1.2 the contents of a dwelling; and

- 4.3.2 meets the criteria set out in **section 4.4** below.

- 4.4 This **section 4.4** sets out the criteria for **"home insurance"** in accordance with regulation 2 of the Regulations:

- 4.4.1 The insurance contract must cover the contents of a dwelling and/or the structure of a dwelling which may include fixtures and fittings, swimming pools, permanently fixed hot tubs, tennis courts, patios, terraces, service tanks, drains, septic tanks, pipes and cables, central heating fuel storage tanks, driveways, footpaths, garden walls, hedges, gates and fences.

- 4.4.2 The insurance contract must be held in the name of, or on trust for, one or more individuals or by the personal representative of an individual.

- 4.4.3 The dwelling or its contents must be insured on an individual basis.

- 4.4.4 The individual (or one of the individuals) referred to in Section 4.4.2, above, or their immediate family, must live in the dwelling for some or all of the time (whether or not with others) or the dwelling must be unoccupied.

*Eligibility to cede*

- 4.5 Only the Flood Risk Element of a combined policy, a buildings policy or a contents policy for **“household premises”** is eligible for re-insurance under the FR Scheme.

Acceptance of household premises for inwards reinsurance by the FR Scheme administrator will be subject to conditions in the inwards reinsurance arrangements between the relevant insurer and the FR Scheme administrator.

- 4.6 **“household premises”** means:

4.6.1 a dwelling; or

4.6.2 a building in the United Kingdom<sup>13</sup> which is held for private residential use and comprises two or three residential units, and includes any garage, shed or other building which forms part of, and is enjoyed with, the building,

which (in either case) meets the criteria set out in **sections 4.7 to 4.9** below.

- 4.7 This **section 4.7** together with **sections 4.8** and **4.9** set out the criteria for **“household premises”** in accordance with regulation 5 of the Regulations:

4.7.1 In the case of a dwelling:

4.7.1.1 if it is in England, it must be in valuation band A to H for Council Tax as set out in section 5(2) of the Local Government Finance Act 1992;

4.7.1.2 if it is in Wales, it must be in valuation band A to I for Council Tax as set out in section 5(3) of the Local Government Finance Act 1992;

4.7.1.3 if it is in Scotland, it must be in valuation band A to H for Council Tax as set out in section 74(2) of the Local Government Finance Act 1992;

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<sup>13</sup> Excluding Isle of Man and Channel Islands.

- 4.7.1.4 if it is in Northern Ireland, it must have a value as at 1<sup>st</sup> January 2005 as set out in the Rates (Capital Values, etc.) (Northern Ireland) Order 2006; and
  - 4.7.1.5 it must have been added to the Council Tax Valuation list (or equivalent) or been constructed (as determined by such list) before 1 January 2009.
- 4.7.2 In the case of a building falling within **section 4.6.2** of the definition of **“household premises”** (above), each of the residential units:
  - 4.7.2.1 if it is in England, must fall within **section 4.7.1.1**;
  - 4.7.2.2 if it is in Wales, must fall within **section 4.7.1.2**;
  - 4.7.2.3 if it is in Scotland, must fall within **section 4.7.1.3**;
  - 4.7.2.4 if it is in Northern Ireland, must fall within **section 4.7.1.4**;  
and
  - 4.7.2.5 must have been added to the Council Tax Valuation list (or equivalent) or been constructed (as determined by such list) before 1 January 2009.
- 4.8 The **“household premises”** must also be covered by a contract of insurance which:
  - 4.8.1 includes cover for any risk of damage to, or loss or destruction of, either or both –
    - 4.8.1.1 the household premises; or
    - 4.8.1.2 the contents of the household premises which consists of a dwelling; and
  - 4.8.2 meets the following criteria set out in **section 4.9**.
- 4.9 The criteria mentioned in **section 4.8.2** are:
  - 4.9.1 The insurance contract must be held in the name of, or on trust for, one or more individuals or by the personal representative of an individual.
  - 4.9.2 The household premises or its contents must be insured on an individual basis.
  - 4.9.3 The insurance contract must cover the contents of household premises and/or insurance falling within criterion provided in **section 4.9.4** or **section 4.9.5**.

- 4.9.4 If the insurance contract is a buildings policy or a combined policy which (in either case) covers a dwelling:
- 4.9.4.1 the dwelling is held on a freehold basis or is a commonhold unit for the purposes of Part I of the Commonhold and Leasehold Reform Act 2002 or is a flat in a tenement for the purposes of the Tenements (Scotland) Act 2004 or, if the dwelling is held on a leasehold basis, the leaseholder insures the structure of the dwelling, and
  - 4.9.4.2 the individual (or one of the individuals) referred to in **section 4.4.2** or their immediate family, must live in the dwelling for all or some of the time (whether or not with others) or the dwelling must be unoccupied.
- 4.9.5 If the insurance contract is a buildings policy or a combined policy, which (in either case) covers household premises which fall within **section 4.6.2** of the definition of "**household premises**", the household premises are held on a freehold basis and are insured by the freeholder or by an owner of a share of the freehold who lives, for all or some of the time (whether or not with others), in one of the residential units.

#### *Liability Limit*

- 4.10 The FR Scheme administrator's liability to relevant insurers is capped at an annual aggregate loss amount which will be set in pounds sterling and communicated to the Secretary of State by Flood Re Limited's Chief Executive Officer and has been incorporated by reference as part of the FR Scheme (the "**Liability Limit**").
- 4.11 The Liability Limit is calculated using computer modelling techniques to produce a forecast of the number of policies that will be ceded to the FR Scheme; their level of risk (based on the frequency and costs of historical flood events); and a prudent addition to allow for a margin of error and uncertainty in the forecasts. The Liability Limit is set with consideration to paragraph 7b of the Memorandum of Understanding from June 2013 agreed between Government and the Association of British Insurers and in accordance with the assurance process set out in section 4.13.
- 4.12 For each financial year, the amount of the Liability Limit will be adjusted for the percentage increase or decrease in the consumer prices index for the immediately preceding calendar year. Subject to these adjustments, the Liability Limit is set for successive periods of 3 (three) years and will be kept under review by the FR Scheme administrator throughout this period to ensure that it continues to reflect the parameters described in **section 4.11**. Any changes to the Liability Limit, including any proposed by the FR Scheme administrator out of cycle due to

exceptional circumstances, will be effected in accordance with the assurance process described in Section 4.13.

- 4.13 In order to enable the Secretary of State to consider the impact on public sector finances, Flood Re must write to the Secretary of State with the proposed Liability Limit figure for the next three-year period, providing supporting rationale by 15th February of the preceding calendar year. Once received by the 15<sup>th</sup> February, then the Secretary of State can accept or provide reasons for concern by 30th April the same year. Where the Secretary of State has provided reasons for concern the Secretary of State and Flood Re must work together to agree a figure by 16<sup>th</sup> May. Flood Re is obliged to keep the Liability Limit under review.
- 4.14 Should claims on the FR Scheme administrator exceed the Liability Limit, relevant insurers will continue to be liable to policyholders in accordance with the terms of the insurance policy sold. The FR Scheme administrator will only be proportionally liable to relevant insurers in accordance with the terms of the inwards reinsurance arrangements.



## 5. **Funding**

### *Sources of funding*

5.1 The FR Scheme is funded through a number of sources. These are:

5.1.1 Inwards reinsurance premium associated with ceded policies.

The FR Scheme administrator charges relevant insurers for inwards reinsurance premiums in respect of the Flood Risk Element of a combined policy, a buildings policy or a contents policy, no more than the amount specified in the Schedule to the Regulations for each such policy corresponding with the relevant valuation band as defined by regulations 15, 16 and 18 or the relevant Flood Re category as defined by regulations 17 and 18 of the Regulations.

The reinsurance premium thresholds are adjusted each year, in line with the change in value of the consumer prices index in accordance with the Regulations.

5.1.2 A levy which is required to be paid by all relevant insurers in accordance with section 66(1)(a) of the Water Act and regulation 8 of the Regulations (a "**Type A payment**"). This is also known as "Levy 1".

The aggregate amount of Type A Payments payable by all relevant insurers is set by the Regulations. This is subject to any modifications which may be made by amending regulations.

Upon winding up of the scheme, and once all claims and other liabilities have been paid, the residual sum of Type A payments shall be provided to the government.

5.1.3 Earnings on investments made by the FR Scheme administrator.

5.1.4 Recoveries from outwards reinsurance.

5.1.5 Any further payments to be paid by all relevant insurers in accordance with section 66(1)(b) of the Water Act and regulations 10 and 11 of the Regulations (a "**Type B payment**"). This is also known as "Levy 2".

5.1.5.1 Type B payments may be paid either as:

(a) a levy by relevant insurers; or

(b) a contribution by relevant insurers who are Members, if so requested by the FR Scheme administrator and so paid by the relevant insurer.

- 5.1.5.2 The total additional amount requested from all relevant insurers at any one time (in respect of Type B payments) must not be more than the amount that the FR Scheme administrator considers appropriate for the prudent management of the FR Scheme or where the request is in compliance, or in order for the FR Scheme administrator to comply, with any Financial Services and Market Act obligation or any obligation arising from retained EU law, in line with regulation 11(1)(a)(i).
- 5.1.5.3 Type B payments made as contributions may be returned to the Members through a distribution by the FR Scheme administrator either (a) during the period of operation of the FR Scheme or (b) at or around the time of winding up of the FR Scheme.
- 5.1.5.4 A distribution pursuant to **section 5.1.5.3** is subject to:
- (a) approval of the board of directors of the FR Scheme administrator;
  - (b) approval by the Prudential Regulation Authority; and
  - (c) the FR Scheme administrator having sufficient capital to exceed its Solvency Capital Requirement by such amount as the board of directors of the FR Scheme administrator shall (at their sole discretion, subject to any relevant rules) determine is obligatory, necessary or prudent, or otherwise expedient or appropriate following such return of contribution and provided always that no return of a contribution shall be made prior to the fifth anniversary of the date of such contribution.
- 5.1.5.5 The FR Scheme administrator shall have no obligation to make any distribution pursuant to **section 5.1.5.3**.

*Calculation of the levies and contributions*

- 5.2 Levies and contributions are payable based on each relevant insurer's "**gross written premium**".
- 5.3 The levy payments and contributions required by the FR Scheme administrator shall be calculated as follows:

- 5.3.1 Each relevant insurer will pay a proportion of the total amount of the Type A payment and any Type B payment in accordance with that insurer's market share.
- 5.3.2 The calculation of the relevant insurer's market share is in accordance with regulation 8(1) to (4) and regulation 11(1) and (2) of the Regulations.
- 5.4 In order to calculate the levies and contributions, relevant insurers are required to provide to the FR Scheme administrator:
  - 5.4.1 such information as may be requested by the FR Scheme administrator in relation to their gross written premium; and
  - 5.4.2 any other information necessary to calculate the levies and contributions as may be requested by the FR Scheme administrator.

The FR Scheme administrator will provide details to each relevant insurer about the type, format, timing and method of delivery of such information, which will be determined by the FR Scheme administrator and notified to the relevant insurers not less than 30 days before such information is required unless the FR Scheme administrator reasonably requires a shorter notice period for the calculation of Type B payments.

- 5.5 The FR Scheme administrator may propose changes to the total amount of Type A payment to come into effect at the end of each 3 year period following 1st April 2022. Any such proposal must be submitted to the Secretary of State, with an indication of the revised total levy, no later than 12 months prior to the end of the current 3 year period. On receipt of a proposal, the Secretary of State must consider any recommendations in relation to the total amount of Type A payment. The FR Scheme administrator must provide any information requested by the Secretary of State to enable an actuarial review of any recommendations. If the proposal is approved, the Secretary of State will seek to update the total amount of Type A payment through an amendment to the Regulations. The FR Scheme administrator must confirm the proposed figure no later than six months prior to the end of the current 3 year period.

*Payment of the levies and contributions*

- 5.6 Once the amount of a Type A payment is ascertained by the FR Scheme administrator, it will notify the relevant insurers of the amount due to be paid to the FR Scheme administrator as a levy and the due date (or dates) for payment.
- 5.7 Once the amount of a Type B payment is ascertained by the FR Scheme administrator, it will notify the relevant insurers of the amount due to be paid to

the FR Scheme administrator in contributions or as a levy and the due date (or dates) for payment.

- 5.8 A relevant insurer must make a Type A payment or Type B payment when and in the amount requested. The FR Scheme administrator has a process for the review and adjustment of Type A payments and Type B payments as well as a procedure for the resolution of disputes regarding Type A payments and Type B payments between relevant insurers and the FR Scheme administrator. Any review process and dispute resolution procedure will be available to both Members and Non Members.
- 5.9 For the avoidance of any doubt, a Type A payment or a Type B payment must be made notwithstanding the possibility that following any review process or dispute resolution procedure, the amount of the Type A payment or Type B payment may be adjusted by reimbursement of any overpayment to the relevant insurer.

#### *Excesses*

- 5.10 The FR Scheme administrator will consult with the Secretary of State on any changes to the excesses on reinsurance to be charged by the FR Scheme administrator. Excesses will be reviewed at least every 5 (five) years.

### **6. The Scheme's role in providing information on flood risk**

- 6.1 By 1st April of each year the FR Scheme administrator will provide the following information to relevant insurers who have in the immediately preceding financial year ceded insurance policies to the FR Scheme administrator under the FR Scheme (in accordance with the Regulations), so that a relevant insurer may supply that information to holders of those policies:
- 6.1.1 information about how to find out about the levels of flood risk in the area in which household premises are situated and general information about how to find out about how any flood risk may be managed;
  - 6.1.2 general information about the FR Scheme; and
  - 6.1.3 general information about the estimated impact of the transition referred to in regulation 22(1) of the Regulations on the cost of those insurance policies.<sup>14</sup>
- 6.2 Where the provision of the above information results in the transfer of personal data to a relevant insurer (at the discretion of the FR Scheme administrator), such

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<sup>14</sup> regulations 26 of the Regulations

transfer of personal data may be subject to data sharing arrangements between the FR Scheme administrator and the relevant insurer.

## 7. **Review and transition**

### *Transition Plan*

- 7.1 The FR Scheme is designed to operate for up to 25 years from the date of Royal Assent to the Water Act.
- 7.2 The FR Scheme administrator will have regard to the need to help manage the transition to risk-reflective pricing of flood insurance for household premises. The FR Scheme administrator will produce a plan relating to the management of this market transition to risk-reflective pricing of such flood insurance. The transition plan is intended to address the phasing out of the benefits of the FR Scheme over its lifetime. The FR Scheme administrator shall do the following:
- 7.2.1 Publish this transition plan on its website, within 3 (three) months of the coming into force of the regulations, setting out how this will be achieved.
- 7.2.2 Ensure that the transition plan will contain information about the steps that may be taken to manage the market transition to risk-reflective prices for flood insurance and general information about the estimated impact this might have on the amount of the Type A payments and Type B payments required and the level it sets for inwards reinsurance premiums for policies ceded to the FR Scheme administrator.
- 7.2.3 Update the transition plan at least every (five) years, to ensure that the industry and public have access to accurate information about how the price of flood insurance and benefits given by the FR Scheme administrator might change over the 25 year period.

### *Build Back Better*

- 7.3 The FR Scheme administrator may reimburse insurers who pay claims which include an amount of resilient and/or resistant repair, that can be above the flood-related loss, but the additional reimbursed amount should not exceed £10,000.
- 7.4 The FR Scheme administrator shall encourage the relevant insurers to provide the payment of insurance claims after a flood to include this additional amount, known as "build back better". This is designed to reduce the future risk of flooding to the property and the cost of future flood insurance claims.
- 7.5 The FR Scheme administrator will work with relevant insurers to contribute build back better data and insight to the wider external development of a robust evidence base on the impact of PFR which will later support the transition to risk reflective pricing of flood insurance for household premises. The FR Scheme administrator will work with insurers to develop eligibility criteria to ensure the criteria is fair and fit for purpose and will check that insurers are applying the

eligibility criteria fairly and consistently via their audit process. The FR Scheme administrator will also encourage relevant insurers to meet best practise when implementing build back better.

*Other*

- 7.6 Should the Board of Directors consider the voluntary winding up of Flood Re, the FR Scheme administrator will consult with the Secretary of State. In the event of wind-up, the FR Scheme administrator will consult the Secretary of State before any return of contributions is made to Members in accordance with **sections 5.1.5.3 to 5.1.5.5** (inclusive) of this Scheme Document. Such a return will be without prejudice to any regulations the Secretary of State may introduce pursuant to the Water Act.