

PPF Treatment of Asset-Backed Contributions (2015/16)

Background

The 2015/16 levy year is the first year for which there are specific requirements for trustees wishing to seek credit for Asset Backed Contribution structures ('ABCs') in the calculation of the PPF levy. Previously the value of the ABC submitted by trustees was just treated as an 'other asset' which reduced the deficit for levy purposes. The PPF was concerned that insufficient consideration was being given to how the value of the underlying asset might be affected by employer insolvency. In December 2014, following consultations in May and October, the PPF published its new levy rules for 2015/16.

Overview of requirements

Trustees will be required to certify annually the value of the ABC investment. To do so they will need to obtain an annual valuation of the underlying assets from an appropriately qualified valuer and certify the value as the lower of:

- a) The **'Fair Value'** – usually the value from the latest scheme accounts. NOTE the PPF will allow the calculation to be modified by removing any allowance for credit risk relating to the employers or guarantors, which would be expected to produce a higher value
- b) The **'Stressed Insolvency Value'** – the amount trustees could reasonably rely on recovering on insolvency given their legal rights under the ABC. The stress factors within the PPF's standard guidelines should be applied to this value

For levy purposes, the PPF will strip out any value attributed to the ABC within the submitted s179 (PPF basis) valuation and replace it with the value certified by the trustees. The calculations should be as at the date of the latest Scheme accounts. The deadline for submitting ABC certificates is 31 March 2015.

Stressed Insolvency Value

This must be carried out by an appropriately qualified **'ABC Valuer'** (eg Argyll Financial). The ABC valuer will need to draw on their own professional expertise and the expertise of others and produce a valuation report for the trustees as follows:

- The valuation should assume that all employers and guarantors have become insolvent
- The effect of the insolvency of the employers on other group entities that are involved in the ABC
- The trustees' powers to realise the ABC assets and their step-in rights should be considered



- The ABC Valuer should use their judgement and expertise to consider the practicality of sale, costs of sale, number of potential buyers and other claims on the assets
- It should be assumed that the sale will need to be made quickly (between 6 and 9 months)
- The standard PPF asset stress factors should be applied – eg for property the value should be adjusted by -6% and for receivables the value should be adjusted by -22%

Requirement to obtain legal advice

It is a requirement that legal advice should be provided to inform the ABC Valuer's assessment. As a minimum the legal adviser should provide a summary covering the legal structure and enforceability rights (such as step-in rights) of the trustees.

Trustees must also certify that they have received appropriate legal advice that the ABC:

- a) is legally binding, valid and enforceable and
- b) does not breach employer-related investment regulations

Reliance

The PPF insists that it must be allowed to rely on the valuation and the advice that feeds into it so that it would have a direct claim against the ABC Valuer (and/or other advisers) in the event of a negligent valuation. This is to deter excessive values that lead to PPF levies that do not reflect the risk exposure of the PPF.

The ABC valuation and the advice which the ABC Valuer is relying on to provide the valuation must contain a standard wording that creates a duty of care to the PPF and confirms that the PPF may rely on the valuation in calculating the PPF levy. NOTE this is not required from the adviser that prepared the Fair Value unless the allowance for credit risk has been removed.

Further, the ABC Valuer and any adviser involved must confirm that it has professional indemnity cover in place and the PPF will "look critically" at amounts lower than £1m.

DISCLAIMER

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