

## ABC Appendix

### Summary

This is an Appendix to the Board's Determination under Section 175(5) of the Act in respect of the 2023/24 Levy Year. For the avoidance of doubt, Rule A1.2(10) applies to this Appendix so that in a case of a Segregated Scheme, each segregated section shall be treated as if it were a separate Scheme for the purposes of the Rules, and where a Segregated Part of a Scheme has been created on or before 31 March 2023, each of the Segregated Part(s) and the remainder of the Scheme shall be treated as if they were each a separate Scheme for the purposes of the Rules. References to Schemes shall be construed accordingly.

### Definitions and Interpretation

- 1 Unless defined in this Appendix, expressions defined in the Rules shall have the meanings set out herein.
- 2 In order to comply with the requirements of this Appendix, an ABC Certificate must:
  - (1) contain the information set out in paragraph 3 of this Appendix;
  - (2) state an ABC Value for the ABC Arrangement to which it relates which has been arrived at in the manner set out in paragraph 4 of this Appendix; and
  - (3) contain the certifications required by paragraph 6 of this Appendix.
- 3 The information to be contained in the ABC Certificate or Partial ABC Certificate is as follows:
  - (1) In respect of each Trustee LP:
    - (a) Full name;
    - (b) Type of organisation (legal form);
    - (c) Registration number (if applicable); and
    - (d) Full address.
  - (2) In respect of the ABC Arrangement:
    - (a) The date on which it was entered into;
    - (b) The Actual s179 ABC Amount (if any); and
    - (c) The amount of the ABC Payment(s) (if any).

- (3) The date of the Scheme's most recent Section 179 Valuation or, in a case to which Part F of the Rules applies, relevant Post-Transfer Valuation.
- (4) Confirmation of whether the Scheme's most recent certificate in respect of a Deficit Reduction Contribution Submitted for the purposes of a previous Levy Year included in either amount "a" (where the certification was carried out in respect of Levy Year 2017/18 or earlier, or alternatively for Levy Year 2018/19 or later under Option Alpha) or in amount "RC + SC" (where the certification was carried out for Levy Year 2018/19 or later under Option Beta) either or both of the following (and if so, which):
  - (a) the amount paid to the Scheme trustee for the purposes of purchasing its interest in the Trustee LP;
  - (b) any Coupon Payments.

For the purpose of this sub-paragraph, the terms "a", Option Alpha, "RC + SC" and Option Beta are to be construed in accordance with the Deficit Reduction Contributions Appendix for the relevant Levy Year relating to the Scheme's most recent certificate in respect of a Deficit Reduction Contribution.

- (5) Confirmation that the ABC Arrangement is not a Recent Scheme Funded ABC.

4 The ABC Value contained in the ABC Certificate is to be arrived at as follows:

- (1) It must be contained in a valuation prepared by a professional valuer on behalf of the Scheme trustee, the Trustee LP or the Second LP (but, in each case, disclosed to the Scheme trustee).
- (2) The valuer must be an appropriate professional who meets the criteria set out in guidance issued by the Board and has Appropriate Indemnity Cover in place.
- (3) The valuation must be in writing and must state the assumptions on which it is based.
- (4) The valuer must have been supplied for the purposes of the valuation with Appropriate Legal Advice:
  - (a) from one or more Appropriate Solicitor(s);
  - (b) which provides a summary of the legal structure and enforceability of the ABC Arrangement and of the Scheme trustee's rights under it in the event that the relevant circumstances set out in paragraph 5 of this Appendix were to arise; and
  - (c) which meets any requirements set out in guidance issued by the Board.

The valuer may make appropriate assumptions in its valuation based upon that Appropriate Legal Advice, provided that the Appropriate Solicitor(s) have expressly accepted that their advice may be relied upon by the Board for the purposes of calculating the Levies in accordance with guidance issued by the Board.

- (5) The valuer may take into account advice from any other professional adviser for the purposes of the valuation, and may make appropriate assumptions in its valuation based upon that advice provided that the professional adviser concerned has expressly accepted that their advice may be relied upon by the Board for the purposes of calculating the Levies in accordance with guidance issued by the Board. The valuer must be supplied for the purposes of the valuation with advice from an Appropriate Asset Valuer which meets any requirements set out in guidance issued by the Board, if it does not itself have the requisite experience referred to in that definition.
  - (6) The valuer may rely upon the value attributed to the Scheme trustee's interest in the Trustee LP in the Latest Scheme Accounts as being accurate.
  - (7) The stated value must be the lower of:
    - (a) the Fair Value; and
    - (b) the Stressed Insolvency Value, as defined in paragraph 5 of this Appendix.
  - (8) Where the ABC Arrangement is being recertified, the valuer, for the purposes of determining whether a full or a refreshed valuation is required, must have regard to the valuation prepared for the purposes of the previous certification.
  - (9) The reports of the valuer, Appropriate Asset Valuer, Appropriate Solicitor and any other professional adviser must state that they are aware of the "Guidance in relation to Asset-Backed Contributions" published by the Board on its website.
- 5 The "Stressed Insolvency Value" means the amount the Scheme trustee could reasonably rely upon recovering, pursuant to its rights under the ABC Arrangement, in the event that all of the Employers and Certified Guarantors in relation to the Scheme suffered an insolvency event for the purposes of section 121 of the Act. Such amount must be calculated:
- (1) applying the appropriate stress factor (in accordance with the table titled 'Asset stress factors – Tier 1' set out in paragraph 4.2 of the Transformation Appendix) to the value of any ABC Asset(s) which are taken into account in determining that amount;
  - (2) as at the same date that the Fair Value is calculated;
  - (3) taking into account the advice referred to in paragraphs 4(4) and 4(5) of this Appendix; and
  - (4) substantially in accordance with guidance issued by the Board.

6 The certifications required to be contained in the ABC Certificate are as follows:

- (1) On the basis of advice provided to the Scheme trustee, Trustee LP or Second LP (and, in each case, disclosed to the Scheme trustee) by the appropriate professional referred to in paragraph 4(2) of this Appendix (and the other professionals who have given advice for the purposes of allowing the certification of the ABC Value), the Scheme trustee believes that the ABC Value contained in the ABC Certificate has been arrived at in accordance with the requirements of paragraph 4 of this Appendix and in a manner substantially consistent with any guidance issued by the Board.
- (2) Either:
  - (a) The professional valuer referred to in paragraph 4(2) of this Appendix has confirmed in its valuation report (in a manner consistent with guidance issued by the Board) that the Board may rely upon all aspects of its report for the purposes of calculating the Levies and that report includes all advice necessary to arrive at the ABC Value in accordance with guidance issued by the Board; or
  - (b) The professional valuer referred to in paragraph 4(2) of this Appendix and all other professional advisers who have given advice for the purposes of allowing the certification of the ABC Value have confirmed, in their valuation report or (as applicable) other advice (in a manner consistent with guidance issued by the Board), that the Board may rely upon the valuation or (as applicable) other advice for the purposes of calculating the Levies.
- (3) Having regard to Appropriate Legal Advice received by the Scheme trustee from one or more Appropriate Solicitor(s) who have confirmed in their advice (in a manner consistent with guidance issued by the Board) that the Board may rely upon their advice for the purposes of calculating the Levies, the Scheme trustee believes that:
  - (a) the ABC Arrangement is legally binding, valid and enforceable; and
  - (b) the value of the Scheme trustee's interest in the Trustee LP does not fall to be excluded from the value of the Scheme's assets by virtue of regulation 3(b)(iii) of the Valuation Regulations.
- (4) Where the ABC Asset(s) consists of or includes real estate, the Trustee LP or, as applicable, the Second LP, or entity which has issued the loan note to the Trustee LP, has obtained:
  - (a) where a single property forms the ABC Asset, a certificate of title in respect of that ABC Asset from an appropriately qualified person, which is dated no earlier than 7 days before the date on which the ABC Arrangement came into effect; and

- (b) where more than one property forms the ABC Asset, certificates of title or other appropriate evidence of title (consistent with guidance issued by the Board) for those properties forming the certified ABC Value.
- (5) The Standard ABC Confirmations.