Lower 2016/17 PPF levies overall, but a sting in the tail for incorrectly classified “Last Man Standing” schemes?

At a glance

The Pension Protection Fund has proposed very few changes for the 2016/17 pension protection levy.

The parameters the PPF sets to calculate the levy remain unchanged from last year, but improvements in employers’ and guarantors’ Experian scores have more than offset the negative impact of the continued low yield environment. As a result the PPF expects to collect £615 million in levies in 2016/17 – £20 million less than it aimed to collect in 2015/16.

Schemes that prior to 2015/16 had incorrectly classified themselves as “Last Man Standing” could find themselves on the receiving end of a substantial bill in respect of the discount previously provided.

Key deadlines for the 2016/17 levy process are set out at the end of this note.

Key Actions

Employers

Reassess budget for the estimated 2016/17 levy demand where this is met directly by the employer and consider risk-reduction measures it would be beneficial to implement.

Ensure that the data held by Experian for the scheme’s sponsoring employers is complete and accurate. Monitor and, where possible, improve the Experian scores.

Consider whether any PPF consultation points are pertinent to the scheme’s levy.

Trustees

Obtain an initial 2016/17 levy estimate and identify potential actions to minimise the levy.

If previously classified as a “Last Man Standing” scheme, but not taken legal advice confirming the position, consider taking that advice now.
**The Detail**

On 21 September, the Pension Protection Fund published a consultation document containing its proposals for the 2016/17 pension protection levy. The PPF has at the same time published its 2016/17 draft determination along with related technical documents.

The consultation, which closes on 22 October, is by and large limited to a few minor amendments to the levy calculation. Final details are expected to be confirmed in December.

The parameters the PPF sets to calculate the levy, in particular the levy scaling factor and the scheme-based levy multiplier, have not changed. And whilst market conditions, and in particular the persisting low yield environment, would have pushed the total levy estimate higher, this has been more than offset by improvements in employer and guarantor Experian scores. The net effect is an overall drop in the PPF levy estimate for 2016/17 – down to £615 million (from £635 million in 2015/16).

**Comment**

After the substantial changes made last year it comes as no surprise that the PPF has sought to deliver limited changes for the 2016/17 levy, in keeping with its stated aim of maintaining stability and predictability over three year cycles.

Challenging market conditions meant that many expected levies to rise for 2016/17, but the improvements in employer and guarantor Experian scores (no doubt in part due to work trustees and employers have done) has more than counterbalanced this.

**Re-invoicing of incorrectly classified “Last-Man Standing” schemes**

Perhaps the biggest news is the PPF’s announced intention to investigate those schemes that had classified themselves as “Last Man Standing” (LMS) before 2015/16 but, following an email request from the PPF last year, told the PPF that they had received legal advice that they were not in fact LMS in structure.

Such schemes can expect to be contacted by the PPF with the intention of re-invoicing previous levies. The costs to schemes in this position could be substantial, as there was a 10% risk-based levy discount applied in each levy season before 2015/16.

The PPF has also considered the appropriate treatment for schemes that chose not to take legal advice or did not respond to its email request. The PPF intends to wait until it sees whether these schemes confirm this year that they have received legal advice confirming their LMS status – this time through the scheme return – before deciding whether to investigate them further.
Comment

Those schemes who thought it might not be worthwhile to obtain legal advice on their LMS status for the 2015/16 levy season might find they have a much bigger decision to make now.

Changes to Experian insolvency scores

The PPF has confirmed that insolvency scores to be used in 2016/17 levy calculations will be averaged over the year to 31 March 2016, with scores being taken at the end of each month. This is in line with the approach operated previously under D&B, and an extension of the 6-month period adopted last year to ease the transition to Experian’s insolvency risk model.

There are welcome proposals to simplify the processes for certifying mortgage exclusions to Experian, in particular:

- recertification will not be needed every year, other than immaterial mortgages; and
- the new draft rules make clear that a refinance mortgage is not a new mortgage if it only re-states/confirms an existing unreleased mortgage, and can be certified for exclusion.

The PPF proposes to convert accounts published in a currency other than sterling at the exchange rate in force at the most recent accounts date. This is a change from last year where the relevant exchange rate on 1 April 2015 was used in all cases.

The PPF also proposes to make clear that companies filing abbreviated accounts with Companies House who then submit full accounts to Experian will be able to submit previous years’ full accounts as well. This is with the proviso that full accounts are provided for all of the relevant years, with no “picking and choosing” the optimum approach for each year. Experian will then be able to calculate changes consistently over the three-year period considered by their model.

The PPF is consulting on whether:

- there could be an extension in the credit rating mortgage exclusion to also cover private credit ratings (from a credit rating agency – S&P, Moody’s or Fitch);
- charges over bank accounts - where a party agrees to put money into a bank account if certain events occur - should be tested for exclusion from the Experian score calculation on immateriality grounds based on the amount actually deposited into the account or the maximum potential amount; and
- employers currently with no Experian score that are given an “industry average” rating could be given a “scheme average” rating instead, where at least half of the scheme’s employers (by membership) are scored.
There is good news regarding Experian levy bands. Whilst there are more employers than expected with the best levy band (29% against an expected 20%) the PPF is not intending to change the levy band boundaries until the end of this levy triennium.

**Comment**

As for 2015/16, most of the components of the Experian score are driven from items in a sponsor’s published accounts. In some cases it is possible to make significant improvements to Experian scores through relatively minor adjustments to the accounts. Particular examples include disclosing actual figures for certain items which were previously shown as zero on grounds of materiality and, where there are a significant number of part-time employees, disclosing the full-time equivalent figure.

**Other changes**

There have been a handful of other changes to the PPF’s intended approach, the most important of which are:

- adjustments to the asset-backed contribution (ABC) arrangement guidance – the PPF proposes to make the recertification process less onerous, potentially without the need for legal advice and with a lighter touch valuation. The PPF does, however, warn that it may take a more rigorous approach to approving ABCs in future now the certification process is more familiar; and
- updated guidance on certifying contingent assets, which consolidates the thoughts previously given in the PPF’s Guarantor Strength [factsheet](#) issued in January.

The PPF notes that it is considering the effect of many companies moving to Financial Reporting Standard 102 (FRS 102), which is likely to affect those companies’ Experian scores from 2017/18 onwards. The scheme sponsors likely to be most affected are those who participate in multi-employer defined benefit schemes but account for them on a defined contribution basis under the current exemption. Those entities will in future have to disclose accounting deficits somewhere in the group balance sheets. The PPF would like to hear from such sponsors to understand how FRS 102 is likely to impact their accounts.

**Deadlines for the 2016/17 levy season**

In a change from previous years, the timing of the deadline on 31 March 2016 has been extended from 5pm to midnight. This is aimed at preventing schemes taking advantage of the previous loophole that would have allowed them to submit 31 December 2014 PPF valuations within the statutory fifteen month deadline, but after the 5pm cut-off for data used in levy calculations.
The main PPF levy deadlines are as follows:

- midnight at the end of 31 March 2016 for the compulsory submission of scheme returns (including any voluntary section 179 valuations) and certification/re-certification of asset backed contributions, mortgages (to Experian) and contingent assets;
- 5pm on 29 April 2016 for certification of deficit-reduction contributions; and
- 5pm on 30 June 2016 for certification of full block transfers that have taken place before 1 April 2016.

**Summary of PPF consultation points**

The PPF has asked for comments on the following:

- the scope, definition and processes for mortgage exclusion certificates;
- asset-backed contribution arrangement certification and guidance;
- keeping the levy bands stable for the 2016/17 levy season;
- the treatment of scheme or industry average insolvency scores;
- the voluntary submission of historic full accounts to Experian; and
- the date of conversion of non-sterling accounts.

If any of these issues significantly affect your scheme/employers and you would like to influence the PPF consultation, please speak to your LCP contact.

**Comment**

With very little change in the levy process there’s a danger that schemes just continue with the levy mitigation tools they used last year. That might still be the best way forward for some, but schemes should be actively considering what else they can do to improve their Experian scores or otherwise reduce their pension protection levy.
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