

**THE BOARD OF THE PENSION PROTECTION FUND**

**Guidance in relation Contingent Assets**

**Part 4**

**Type C Contingent Assets**

2018/2019

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# **1 THE GUIDANCE**

## **1.1 Guidance Introduction**

1.1.1 The Guidance in relation to Contingent Assets is comprised of four Parts. These are:

- (a) Part 1 - General Requirements;
- (b) Part 2 - Type A Contingent Assets (group company guarantees);
- (c) Part 3 - Type B Contingent Assets (charges over assets); and
- (d) Part 4 - Type C Contingent Assets (letters of credit / bank guarantees)

(the "**Contingent Asset Guidance**").

1.1.2 All four Parts that comprise the Contingent Asset Guidance incorporate (where still relevant to this levy year) the information in the previous guidance that collectively related to Type A, Type B and Type C Contingent Assets in the Contingent Asset Guidance for 2017/2018.

1.1.3 This Part 4 of the Contingent Asset Guidance covers specific requirements in respect of Type C contingent assets and should be read in conjunction with Part 1 of the Contingent Asset Guidance.

## **2 TYPE C CONTINGENT ASSETS**

### **2.1 General**

2.1.1 Type C Contingent Assets are letters of credit or demand guarantees issued to the trustees for an amount in sterling.

2.1.2 The Board has published two Type C standard forms: Types C(i) and C(ii). Each can form the basis of a letter of credit or a demand guarantee. It is not possible to "mix and match" elements from each standard form.

2.1.3 The Board will also recognise surety bond arrangements within its existing Type C(i) and C(ii) Contingent Asset standard form agreements, and has updated the agreements accordingly.

2.1.4 Both form C(i) and form C(ii) may now be issued by any "acceptable financial institution" (as defined in paragraph 4(2) of the Contingent Asset Appendix) as a result of the Board's decision to allow for surety bond arrangements within both the C(i) and C(ii) standard forms.

2.1.5 Type C(i) arrangements contain "evergreen" provisions allowing a demand if they are not renewed or replaced. Type C(ii) arrangements have a fixed term but must support a defined schedule of deficit-reduction contributions.

2.1.6 Both forms aim to prevent deterioration in the scheme's funding level. The evergreen Type C(i) will remain in place until replaced by cash in the scheme. The value of the letter of credit may be reduced if the scheme funding position improves. There is no obligation on the employer to make deficit-reduction contributions.

2.1.7 Type C(ii) arrangements have a fixed term chosen by the parties. The employer must make deficit-reduction contributions via a pre-prepared schedule (as well as regular contributions under the scheme's schedule of contributions). Each contribution reduces the value of the asset by an equivalent amount so that at the end of the term the total deficit-reduction contributions made will equal the initial value. A demand may be made

under the Type C(ii) arrangement if any planned contribution is missed or an insolvency event occurs.

## **2.2 Format**

2.2.1 The certification and documentation requirements for Type C Contingent Assets are set out in paragraphs 38-43 of the Contingent Asset Appendix.

## **2.3 Requirements as to the Purchaser as Employer's Associate**

2.3.1 The purchaser of the Type C Contingent Asset must be an Employer's Associate, as defined in paragraph 4(7) of the Contingent Asset Appendix. See paragraph 5.7 of Part 2 of the Contingent Asset Guidance for further information.

## **2.4 Recognition for levy purposes**

2.4.1 Where there is more than one Type C Contingent Asset, the values are simply added together for the purposes of the levy.

2.4.2 Full details of how Type C Contingent Assets are recognised for levy purposes can be found at paragraphs 17 and 18 of the Contingent Asset Appendix.

## **2.5 Re-execution and recertification**

2.5.1 Provided it is executed on the 2017/18 recognised standard form before 18 January 2018, the submission of a Type C(i) Contingent Asset which is on the same terms as, and replaces, the previous recognised arrangement (under the "evergreen" provisions) which is due to expire should be treated as a recertification rather than as a new Contingent Asset.

2.5.2 For submissions of Type C(i) Contingent Assets replacing a previous recognised arrangement (under the "evergreen" provisions) where the replacement is entered into on the January 2017 version of the standard form, the Board will accept these as recertifications so long as the following supporting documents are provided in advance of the relevant submission deadlines:

- (a) Certified copy of the agreement;
- (b) Copy of the Contingent Asset certificate;
- (c) Copy of the legal opinion, if one has been obtained; and
- (d) Blacklined document showing changes from the standard form, or confirmation of no changes.

2.5.3 A new Type C(i) agreement executed on or after 18 January 2018 which does not replace an existing arrangement must be on the new standard form, and all the requirements for a new Contingent Asset will need to be met.