

# **HELP TO BUY: MORTGAGE GUARANTEE SCHEME**

**17 NOVEMBER 2017**

**AMENDED SCHEME RULES**

**HM Treasury**

## CONTENTS

Clause	Page
1. Interpretation .....	1
2. Commencement and Term .....	15
3. Eligible Loans .....	15
4. Information to be Provided to Borrower .....	19
5. Loans Ineligible or Ceasing to be Eligible .....	19
6. Lending and Arrears etc. Policies and Practices .....	23
7. Loan to Value Bands: Lender Notice to Treasury.....	23
8. Suspension of Guarantee Obligations.....	24
9. Level of Contingent Liabilities: Notice by Treasury .....	26
10. Scheme Limit: Scheme Closure.....	27
11. When Claims may be Made .....	27
12. Reduction of Claims .....	28
13. Monthly Accounts and Remittances for Claims.....	29
14. Recoveries from Borrower and Third Parties after Claim Paid .....	32
15. Audit .....	33
16. Information to be Provided to Treasury.....	39
17. Commercial Fee .....	39
18. Adjustment of Commercial Fee for EU-Related Reasons .....	41
19. Claims Disputes .....	43
20. Commercial Fee Disputes.....	43
21. Administration Disputes .....	44
22. Notices etc. ....	45
23. Data Protection.....	45
24. Confidentiality.....	47
25. Governing Law and Jurisdiction.....	50
26. Scotland.....	50
27. Northern Ireland.....	50
28. Amendments to Rules .....	51
29. Outsourcing .....	52
30. Transitional.....	52
31. Scheme Publicity .....	54

### Schedule

1. Information to be Provided to Treasury.....	55
Part 1 (Eligible Loan Data) .....	55
Part 2 (Lending Policy Questionnaire) .....	57
Part 3 (Changes to Lending Policy) .....	59
2. Form of Declaration: Second Homes.....	60
Part 1 New Loans.....	60
Part 2 Remortgage Loans .....	61
3. Credit-Impaired Borrowers .....	62
4. Claims: Information to be Submitted for Eligible Loans.....	63
5. Modifications: Scotland.....	66
6. Modifications: Northern Ireland.....	67

On 8 October 2013 the Commissioners of Her Majesty's Treasury published the Rules of the Scheme (as defined below). These are the Rules of the Scheme as amended with effect from 13 December 2013, 1 October 2014, 8 April 2015, 24 July 2015, 31 December 2016 and as further amended with effect from 15 December 2017.

## **PART 1 – INTRODUCTORY**

### **1. INTERPRETATION**

#### 1.1 In these Rules:

- (a) “Allowable Costs” in relation to a Delinquent Loan means all costs, fees and charges that the Lending Group Member may reasonably and properly incur, including:
- (i) all fees and charges due under the Mortgage Terms; and
  - (ii) all council tax, service charges and building insurance premiums, taxes, levies or duties attributable to the Property paid or payable by the Lending Group Member; and
  - (iii) all property protection and preservation expenses paid or payable by the Lending Group Member which have been incurred by the Lending Group Member whilst preserving the condition of the Property; and
  - (iv) all estate agents' fees including advertising costs, valuation and management fees (including fees for property management services carried out whilst the Property is in possession, whether carried out by the Lending Group Member or a third party); and
  - (v) the costs paid or payable by the Lending Group Member in obtaining possession and/or sale of the Property and all associated legal fees; and
  - (vi) all other legal fees associated with possession, foreclosure and/or sale of the Property; and
  - (vii) the costs paid or payable by the Lending Group Member in pursuing Recovered Monies in relation to the Delinquent Loan and all associated legal fees,

but excluding any costs to which the Lending Group Member is not entitled under equity or common law or under Chapters 12 and 13 of MCOB, office expenses of the Lending Group Member and salaries of officials or employees of the Lending Group Member;

- (b) “Arrears” in relation to a mortgage loan means a failure by the borrower to make payment as and when due to the mortgage lender in accordance with the terms of the mortgage loan where such payment remains outstanding (and the Arrears are to be quantified as being the total amount of such outstanding payments);
- (c) “Arrears and Possessions Procedures” means a written policy and procedures put in place by a Lending Group Member in accordance with Chapter 13 of MCOB;
- (d) “Borrower” means the person or persons who receive an Eligible Loan from a Lending Group Member, and includes any person who is or has become liable to repay the Loan (in whole or in part) to the Lending Group Member;
- (e) “Business Day” means a day other than a Saturday, Sunday or a public holiday in England and Wales;
- (f) “Buy-To-Let Loan” means a loan made to one or more borrowers to be secured by a mortgage over a property which is either (i) let at the date the mortgage is granted or (ii) intended by the borrower or borrowers to be let either at that time or in the future;
- (g) “calendar year” means the period from 1 January to 31 December;
- (h) “Claim” means each individual Recoverable Loss which is or has been notified to the Treasury in accordance with rule 13;
- (i) “Claim Amount Adjustment” has the meaning set out in rule 19.1;
- (j) “Closure Date” means:
  - (i) 1 July 2017; or
  - (ii) (if earlier than (i)), the date on which a Closure Notice takes effect as specified in rule 10.2;
- (k) “Closure Notice” has the meaning set out in rule 10.1;
- (l) “Commencement Date” in relation to a Lender or any other Lending Group Member means 2 January 2014 or (if later) the date of the Deed of Adherence relating to the relevant Lender or (if later) the date specified as such in the Deed of Adherence (or a supplement thereto);
- (m) “Commercial Fee” in relation to a Lender means the Commercial Fee payable by the Lender to the Treasury in accordance with Part 10 of these Rules;

- (n) “Confidential Information” has the meaning set out in rule 24.1;
- (o) “CRD4” means, together, (i) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, or such other directive as may come into effect in place thereof, and (ii) Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 or such other regulation as may come into effect in place thereof;
- (p) “Customer” means the person or persons who apply to a Lending Group Member for a Loan which is intended to be an Eligible Loan under the Guarantee;
- (q) “Data Protection Legislation” means all applicable laws and regulations relating to the protection of Personal Data and privacy in any applicable jurisdiction including, without limitation, the EU Data Protection Directive 95/46/EC, the EU Directive on Privacy and Electronic Communications 2002/58/EC, the DPA, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426), the Regulation of Investigatory Powers Act 2000, the Data Protection (Processing of Sensitive Personal Data) Order 2000 (S.I. 2000/417), any and all subordinate legislation enacted thereunder and any applicable decisions or guidance (whether statutory or non-statutory) or codes of practice issued by the UK Information Commissioner's Office relating to the processing of personal data or privacy, all as the same may be amended or re-enacted from time to time;
- (r) “Date of Completion” in relation to an Eligible Loan means the date on which the Loan is drawn down by the Borrower (or, in relation to a Loan falling within (ii) or (iii) of the definition of Internal Remortgage Loan, the date on which the relevant amendment or variation takes effect);
- (s) “Deed of Adherence” in relation to a Lender means the deed of adherence entered into between the Treasury and the Lender (as the same may be amended or supplemented from time to time in accordance with the provisions set out therein, in these Rules and/or in the Deed of Guarantee), under which the Lender agrees to participate in the Scheme and to comply with, to be bound by, and to be entitled to the benefit of, these Rules and the Deed of Guarantee;
- (t) “Deed of Guarantee” means the Deed of Guarantee dated 3 October 2013 and executed by the Treasury (as the same may be amended from time to time in accordance with the

provisions set out therein, in these Rules and/or in the relevant Deed of Adherence), under which the Treasury agree to guarantee each Lender against losses incurred by the Lender and its other Lending Group Members in relation to defaults under Eligible Loans to the extent set out therein, in these Rules and in the Deed of Adherence relating to that Lender;

- (u) “Default” in relation to an Eligible Loan means that the Borrower meets the definition of default as applicable under CRD4 and the Prudential Regulation Authority's implementation thereof as it applies to the Lender;
- (v) “Default Date” in relation to an Eligible Loan in Default means the first date on which the definition of Default is satisfied in relation to the Default to which the Claim relates;
- (w) “Delinquent Balance” in relation to a Delinquent Loan means (i) in relation to an Expected Loss, the Principal Balance outstanding, or expected to be outstanding, at the end of the Required Period, and (ii) in any other case, the Principal Balance at the date on which the Property is sold by the Lending Group Member or is otherwise sold pursuant to a Voluntary Sale (and in all cases plus any Interest which has been capitalised by the Lending Group Member in accordance with its Arrears and Possessions Procedures and less any capital payments made by the Borrower not already factored into the Principal Balance);
- (x) “Delinquent Loan” means an Eligible Loan which is in Arrears by an amount which is greater than the minimum monthly payment which the Borrower is required to pay to the Lending Group Member, and for which the Arrears are not repaid resulting in (i) the Lending Group Member taking possession of the Property (whether by repossession, voluntary repossession or abandonment), or (ii) the Property being sold to an arm’s length purchaser on arm’s length terms by the Lending Group Member or pursuant to a Voluntary Sale, or (iii) Arrears being (or, in the case of an Expected Loss, being expected to be) outstanding for a period equal to, or greater than, the Required Period;
- (y) “Disputed Claim” means a Claim which is disputed by the Treasury and in respect of which the Treasury have notified the Lender in accordance with rule 13.5(b);
- (z) “DPA” means the Data Protection Act 1998;
- (aa) “EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 (as it has effect from time to time);
- (bb) “Effective Date” in relation to a Lender, where the Deed of Adherence relating to such Lender states that rule 30 shall apply in relation to such Lender, means the date specified as such in the Deed of Adherence;

- (cc) “Eligible Lender” means an entity incorporated in an EEA State which:
  - (i) is an undertaking whose business includes the provision of mortgage loans to persons in the United Kingdom; and
  - (ii) has permission under Part 4A of the Financial Services and Markets Act 2000 to enter into Regulated Mortgage Contracts in the United Kingdom;
- (dd) “Eligible Loan” means a Loan that is, and continues to be, eligible under the Guarantee in accordance with these Rules;
- (ee) “Event of Insolvency” in relation to a Lender means any one or more of:
  - (i) the inability of the Lender or any of its other Lending Group Members to pay its debts as they fall due; or
  - (ii) the entry into liquidation either compulsory or voluntary (except for the purpose of amalgamation or reconstruction) of the Lender or any of its other Lending Group Members; or
  - (iii) the passing of a resolution for a creditor's winding up of the Lender or any of its other Lending Group Members; or
  - (iv) the making of a proposal by the Lender or any of its other Lending Group Members to its creditors for a composition in satisfaction of its debts or a scheme of arrangement of its affairs, other than any composition or arrangement entered into by the Lender or such other Lending Group Member in connection with the refinancing and/or restructuring of liabilities owed to its financial creditors; or
  - (v) the application to the court (or the filing of documents with the court) for an administration order or any steps taken in relation to the appointment of a receiver or administrative receiver or administrator of or in relation to the Lender or any of its other Lending Group Members or any of their assets; or
  - (vi) the Lender or any of its other Lending Group Members becoming subject to the special resolution regime under the Banking Act 2009;
- (ff) “Excluded Loss” means any Loss (or part of any Loss):
  - (i) resulting directly or indirectly from, or incurred as a consequence of:

- (A) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, nationalisation, requisition or destruction of or damage to property by or under the order of any government or public or local authority; or
  - (B) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component of it; or
  - (C) fraudulent or criminal acts (including, without limitation, fraudulent misrepresentation) on the part of the Lender or any of its other Lending Group Members or their directors, officers, employees or agents or any other person acting on behalf of the Lender or such other Lending Group Member, in each case whilst acting in their respective capacities as directors, officers, employees or agents of, or acting on behalf of, the Lender or such other Lending Group Member; or
- (ii) in respect of which (and to the extent that) the Lender or any of its other Lending Group Members can claim or recover (x) from any insurance relating to the Property or (y) under any guarantee or from any other source of funds (excluding, for the avoidance of doubt, any insurance not relating to the Property) which the Lender or such other Lending Group Member has available to it as a direct result of a failure by a Borrower to make a payment under the Loan;
- (gg) “Existing Loan” in relation to a Replacement Loan means the existing mortgage loan (as referred to in the definition of Replacement Loan) which is, or is to be, repaid or treated as repaid, in whole or in part, by such Replacement Loan;
- (hh) “Expected Loss” in relation to a Delinquent Loan for which Arrears are or are expected to be outstanding for a period equal to, or greater than, the Required Period means, without double counting, an amount equal to the Delinquent Balance plus the Allowable Costs (and where not incurred the Lending Group Member’s reasonable estimate of such costs) and plus Interest and less the Expected Proceeds of Sale;
- (ii) “Expected Proceeds of Sale” in relation to a Delinquent Loan means the proceeds that the Lending Group Member reasonably estimates it would receive following a sale of the Property on the basis of:



- (i) an exchange of contracts relating to such sale taking place on or about the date of the Claim; and
- (ii) the sale being between a willing buyer and a willing seller in an arm's length transaction in which the parties had acted knowledgeably and prudently on the basis that the property was being repossessed and/or sold by an Eligible Lender acting in accordance with the duties set out in MCOB;
- (jj) "External Remortgage Loan" means a Replacement Loan in relation to which the Existing Loan was granted by a mortgage lender which is not the Lending Group Member or another member of the Lender's Group;
- (kk) "Fair Processing Information" has the meaning set out in rule 23.4;
- (ll) "FOI Act" means the Freedom of Information Act 2000 and any other laws or regulations relating to the disclosure of information to which the Treasury are subject (and the Treasury shall be responsible for determining at their absolute discretion whether they are subject to such laws or regulations);
- (mm) "Group" in relation to a person other than a natural person means the person, any holding company (as defined in the Companies Act 2006) and any subsidiary (as defined in the Companies Act 2006) of any holding company of that person for the time being;
- (nn) "Group Remortgage Loan" means a Replacement Loan which is not (i) an Internal Remortgage Loan or (ii) a Replacement Loan which the Lender can confirm is an External Remortgage Loan;
- (oo) "Guarantee" in relation to a Lender means, together, the Deed of Guarantee and the Deed of Adherence relating to the Lender;
- (pp) "Guarantee Year" means (beginning on the Commencement Date relating to the Lender) the first, second or third calendar year (or part of a calendar year) during which the Guarantee applies in respect of new Eligible Loans;
- (qq) "Guarantor Mortgage Loan" means a Loan in relation to which a person who is not the Borrower provides a guarantee, security, cash deposit or other source of funds, in an amount equal to 10% (ten per cent.) or more of the Original Principal Balance, as recourse available to the Lending Group Member in the event of a failure by the Borrower to make a payment due under the Loan;

- (rr) “Independent Expert” in relation to a Disputed Claim (or any other dispute to which rules 19.2 to 19.5 apply) means a person with whom neither the Lender nor the Treasury has or have any connection and who is an expert in relation to the matters that are the subject of the Disputed Claim (or such other dispute);
- (ss) “Interest” in relation to a Delinquent Loan means the unpaid interest due to the Lending Group Member under the Mortgage Terms up until (i) the date of sale of the Property by the Lending Group Member or otherwise pursuant to a Voluntary Sale, or (ii) the expiry of the period of nine (9) months from the Default Date (whichever is the earlier);
- (tt) “Internal Remortgage Loan” means (i) a Replacement Loan in relation to which the Existing Loan was granted by the Lending Group Member, (ii) a Loan treated as an Internal Remortgage Loan pursuant to rule 5.2 or (iii) any Loan granted by the Lending Group Member not previously subject to the terms of the Guarantee in respect of which the Lending Group Member agrees any amendment to, or variation of, the terms thereof;
- (uu) “Lender” means an Eligible Lender which has agreed with the Treasury to participate in the Scheme and with which the Treasury has entered into a Deed of Adherence;
- (vv) “Lending Group Member” in relation to a Lender means:
- (i) the Lender (or any division, brand or trading operation of the Lender specified as a Lending Group Member in the Deed of Adherence relating to the Lender or a supplement thereto); and
  - (ii) any other member of the Lender’s Group that is an Eligible Lender (or any division, brand or trading operation of such an entity), in each case that has been specified as a Lending Group Member in the Deed of Adherence relating to the Lender or a supplement thereto;
- (ww) “lending policy” means the guidelines and criteria developed by the Lending Group Member and used by its employees to determine whether an applicant for a Loan should be granted or refused the Loan;
- (xx) “Lending Policy Questionnaire” means a questionnaire in the form set out in Part 2 of Schedule 1 to these Rules;
- (yy) “Loan” means a loan (or, provided that they are granted at the same time, loans) granted by the Lending Group Member which is (or, in respect of more than one loan, are) secured by a mortgage over property;

- (zz) “Loan to Value” in relation to a Loan means the Original Principal Balance of the Loan (inclusive of any arrangement or other fees payable by the Borrower as at the Date of Completion, other than where such fees are paid by the Borrower on or before the Date of Completion using funds that do not form part of the amount that is being advanced or that would otherwise have been advanced) expressed as a percentage of the Value of the Property (except that, if the Loan to Value would fall below the lowest Loan to Value range to which the Lending Group Member's participation in the Scheme (in relation to Loans of the relevant type) extends if the arrangement or other fees payable by the Borrower as at the Date of Completion were excluded, then such fees shall be excluded for the purposes of calculating the Loan to Value and accordingly the Loan shall not be an Eligible Loan);
- (aaa) “Loss” in relation to a Delinquent Loan means, without double counting, (i) where the Property has not been sold, the Expected Loss or (ii) where the Property has been sold, the Delinquent Balance plus the Allowable Costs and Interest and less the proceeds of sale of the Property;
- (bbb) “MCOB” means the Mortgages and Home Finance: Conduct of Business Sourcebook as contained in the Financial Conduct Authority’s Handbook as from time to time amended, consolidated, modified, extended, re-enacted or replaced (and references to MCOB shall, where the context permits, include the changes thereto pursuant to the Mortgage Market Review from the date on which such changes come into force);
- (ccc) “month” means the period from one day in a calendar month to the numerically corresponding day in the following calendar month or, if there is no such numerically corresponding day, the last day in the following calendar month;
- (ddd) “mortgage” includes charge, and in relation to a Loan means a mortgage over a Property granted as security for the Loan;
- (eee) “Mortgage Market Review” means the changes to be made to MCOB published by the Financial Services Authority in its Policy Statement PS12/16: Mortgage Market Review: Feedback on CP11/31 and Final Rules dated October 2012 (as such Final Rules may be amended prior to coming into force on 26 April 2014);
- (fff) “Mortgage Offer” in relation to a Loan means an offer of the Loan by the Lending Group Member to the Customer made in writing;

- (ggg) “Mortgage Terms” in relation to a Loan means the terms of the Lending Group Member in relation to the Loan, including the Mortgage Offer and the mortgage terms and conditions as may be amended from time to time;
- (hhh) “Net Loss” in relation to a Delinquent Loan granted by a Lending Group Member means an amount equal to the Loss less any Excluded Losses;
- (iii) “New Loan” means a Loan which is not a Remortgage Loan;
- (jjj) “Offset Mortgage Loan” means a Loan in relation to which the outstanding balance by reference to which interest is calculated is determined by subtracting a credit balance on one or more accounts held with the Lender or a member of its Group from the amount owing under the Loan;
- (kkk) “Original Principal Balance” in relation to an Eligible Loan means the original amount of the Loan advanced by the Lending Group Member to the Borrower on the Date of Completion (and including any amount retained by the Lending Group Member in respect of essential work to the Property);
- (lll) “Parties” means the Treasury and the Lender;
- (mmm) “Principal Balance” in relation to an Eligible Loan and at any relevant time means the Original Principal Balance less any capital repayments that have been made, or are treated by the Lending Group Member as having been made, by the Borrower at or prior to that time;
- (nnn) “property” means a freehold, leasehold or commonhold dwelling;
- (ooo) “Property” in relation to a Loan means the property which is the subject of the mortgage securing the Loan;
- (ppp) “Publicly-Assisted Loan” means a Loan granted for the purchase of a property where:
  - (i) the deposit for the purchase is paid in whole or in part by a local authority, or by any other public authority, and for this purpose–
    - (A) a public authority includes a person who makes funds available for deposits using money for the expenditure of which a local authority or other public authority is accountable, but

- (B) a Loan is not a Publicly-Assisted Loan only by reason of the deposit being funded in whole or part by the Treasury’s Help to Buy: ISA scheme; or
  - (ii) part of the purchase price is paid using funds borrowed from a local authority or other public authority; or
  - (iii) the Loan is subject to another Government-supported scheme (such as NewBuy or MI New Home) (but, for the avoidance of doubt, not including the Funding for Lending Scheme);
- (qqq) “Quarter” means a period of three consecutive calendar months;
- (rrr) “Recoverable Loss” in relation to a Delinquent Loan granted by a Lending Group Member means:
- (i) (A) the Net Loss; or
  - (B) if lower, an amount calculated in accordance with the following formula:  $(LTV - 80\%) \times V$   
 where:  
 LTV is the Loan to Value of the Loan (and for the avoidance of doubt expressed as a percentage); and  
 V is the Value of the Property; or
  - (C) if lower, AL,  
 where:  
 AL is (x) where the Property has been sold, an amount calculated in accordance with the definition of Loss, where the reference to “proceeds of sale of the Property” shall be replaced with a reference to “80% of the Value” and (y) where the Property has not been sold, an amount calculated in accordance with the definition of Expected Loss, where the reference to “Expected Proceeds of Sale” shall be replaced with a reference to “80% of the Value”;
- multiplied by,
- (ii) ninety five per cent. (95%),

subject to a minimum of zero;

- (sss) “Recovered Monies” means all sums recovered, received or treated by the Lending Group Member as recovered or received by or on behalf of the Lending Group Member (whether from the Borrower or from any third party) in relation to a Shortfall or an Expected Loss (including, without limitation, by exercise of any right of netting, set-off or contribution available to the Lending Group Member or by sale by the Lending Group Member to a third party of any or all of its rights against the Borrower);
- (ttt) “Regulated Mortgage Contract” means a Loan which is a regulated mortgage contract within the meaning set out in Article 61(3) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544);
- (uuu) “Relevant Personal Data” means any and all Personal Data that is transferred by or on behalf of a Lending Group Member to the Treasury in connection with the Guarantee;
- (vvv) “Remortgage Loan” means an External Remortgage Loan, a Group Remortgage Loan or an Internal Remortgage Loan;
- (www) “Replacement Loan” means a Loan granted by the Lending Group Member to one or more borrowers which is to be applied, or treated by the Lending Group Member as applied, in whole or in part in the repayment of an existing mortgage loan (which is secured by the same property as such Loan) to one or more of such borrowers (whether such existing mortgage loan was granted by the Lending Group Member or another mortgage lender);
- (xxx) “Representatives” means:
  - (i) (in relation to the Treasury) UKAR SPV, the Treasury Solicitor and the officials, employees, agents, professional advisers (including without limitation solicitors, auditors, insurers and accountants) and contractors of the Treasury, UKAR SPV and the Treasury Solicitor; and
  - (ii) (in relation to the Lender) the directors, officers, employees, agents, professional advisers (including without limitation solicitors, auditors, insurers and accountants), contractors and delegates of or to the Lender or any of its other Lending Group Members;
- (yyy) “Required Period” means twenty four (24) months from the Default Date (or in the event that CRD4 shall provide for another period, that other period, as from the date on which the relevant provision of CRD4 takes effect), minus three (3) months;

- (zzz) “Scheme” means the Help to Buy: mortgage guarantee scheme launched by the Treasury in January 2014, as the same may be amended from time to time;
- (aaaa) “Scheme Limit” means the maximum amount for the time being set aside by Her Majesty's Government for contingent liabilities under the Scheme;
- (bbbb) “Shortfall” in relation to each Eligible Loan means all and any sums due to the Lending Group Member from the Borrower following the sale of the Property by the Lending Group Member or otherwise pursuant to a Voluntary Sale (and which for the avoidance of doubt does not include any monies paid to the Lender by the Treasury in accordance with the Guarantee);
- (cccc) “Specified Rate” means, in respect of each calendar year, a rate per annum, determined by the Treasury as at approximately 1:00 p.m. (London time) on the first Business Day of such year, equal to the higher of (i) the fixed rate per annum applicable to the National Loans Fund for public sector lending, published by the UK Debt Management Office (shown on the web page [http://www.dmo.gov.uk/index.aspx?page=PWLB/NLF\\_Rates](http://www.dmo.gov.uk/index.aspx?page=PWLB/NLF_Rates) in the column headed "Rate" under the column headed "Maturity" under the column headed "New Loan Rates"), which would be payable in respect of a public sector loan whose maturity date falls during the period of one year thereof, and (ii) the aggregate of the London inter-bank offer rate for sterling deposits of one year maturity, as shown on Reuters screen page LIBOR 01 and Bloomberg ticker BBAM01, and a margin of one per cent. (1.00%) per annum (and, in each case, if the agreed page is unavailable at the relevant time on which such determination is to take place or is replaced or the service ceases to be available, the Treasury may specify another time on which such determination is to take place or such other page or service displaying the appropriate rate after consultation with the Lender);
- (dddd) “Term” means the period beginning on the Commencement Date relating to the Lender and ending on the Termination Date;
- (eeee) “Termination Date” means the later of:
- (i) 23:59 Greenwich Mean Time on 31 December 2023; and
  - (ii) the date on which all obligations and liabilities of the Treasury and the Lender under the Guarantee have been discharged in full and in accordance with the Guarantee;
- (ffff) “Treasury” means the Commissioners of Her Majesty's Treasury;
- (gggg) “UKAR SPV” means UKAR Corporate Services Limited;

- (hhhh) “Valuation” in relation to a Property means a professional valuation of the Property which is relied upon by the Lending Group Member for the purpose of making the Eligible Loan;
- (iii) “Value” in relation to a Property means the value of the Property as at the Date of Completion, which shall be deemed to be the value expressed in the Valuation or (if lower) the purchase price of the Property, except that, where any amount is retained by the Lending Group Member in respect of essential work to the Property, the value shall be deemed to be:
- (i) the value that the Property would have if the essential works were carried out (as shown in the Valuation) or (if no such value is shown in the Valuation) the aggregate of the value expressed in the Valuation and the amount retained by the Lending Group Member; or (if lower)
  - (ii) the aggregate of the purchase price of the Property and the amount retained by the Lending Group Member;
- (jjjj) “Voluntary Sale” in relation to an Eligible Loan in Default means a sale of the Property by the Borrower in order to repay all or part of the Loan where the Lending Group Member consents to such sale as an alternative to taking possession and in accordance with MCOB;
- (kkkk) “year” means the period from one day in a calendar year to the numerically corresponding day in the following calendar year;
- (llll) unless the context requires otherwise, the singular includes the plural and vice versa;
- (mmmm) references to persons include bodies corporate, firms, unincorporated associations and governmental, semi-governmental and local authorities or agencies;
- (nnnn) references to any statute, any Treaty or any provision of a statute or Treaty include references to that statute, Treaty or provision as amended, modified, re-enacted or re-adopted from time to time, and to instruments, regulations, orders, directions, guidance or other measures made under it and in force from time to time;
- (oooo) references to any instrument, regulation, order, direction, guidance or other measure include references to that instrument, regulation, order, direction, guidance or measure as amended, modified, re-enacted or re-adopted from time to time;
- (pppp) references to these Rules (or any of them) or any other document are to these Rules (or the relevant rule) or such document as in force and amended from time to time; and



(qqqq) words and phrases used or construed in the Guarantee have the same meaning or construction as in the Guarantee.

## **2. COMMENCEMENT AND TERM**

- 2.1 In relation to each Lender and each other Lending Group Member, these Rules have effect from the Commencement Date relating to that Lender or such other Lending Group Member (as the case may be) until the Termination Date of the Guarantee relating to the relevant Lender.
- 2.2 In relation to each Lender, references in these Rules to (i) “the Lender” shall be to such Lender, (ii) “the Deed of Adherence” shall be to the Deed of Adherence relating to such Lender and (iii) “the Guarantee” shall be to the Guarantee relating to such Lender.
- 2.3 In relation to each Eligible Loan, references in these Rules to “the Lending Group Member” shall (unless the context otherwise requires) be to the Lending Group Member that granted the Loan.
- 2.4 Each Lender (a) shall procure that any third party administrator engaged by the Lending Group Member or another member of the Lender’s Group in relation to each Eligible Loan complies with the obligations under these Rules expressed to be applicable to the Lending Group Member and (b) shall be responsible for all acts and omissions of any such third party administrator to the same extent as if such acts and omissions were performed or not performed, as applicable, by it.

## **PART 2 – ELIGIBILITY**

### **3. ELIGIBLE LOANS**

- 3.1 A Loan is an Eligible Loan only if:
- (a) the mortgagee is a Lending Group Member; and
  - (b) the Loan is in pounds sterling; and
  - (c) the Date of Completion is on or after the Commencement Date relating to the Lending Group Member but before the Closure Date, and:
    - (i) where the Date of Completion is after 31 December 2016, the date on which the Customer makes their application for the Loan in writing to the Lending Group Member is on or before 31 December 2016, and

- (ii) where a Closure Notice has been given to the Lender, the date of the Mortgage Offer is not later than three (3) Business Days following the date on which the Closure Notice was given; and
- (d) the Loan is a repayment mortgage loan, and not interest only; and
- (e) the mortgage is a first-ranking mortgage (and not a second or subsequent mortgage); and
- (f) the Loan falls within a Loan to Value range specified in the Lender's current notice in respect of the Lending Group Member in effect under rule 7.1 or 7.2 at the Date of Completion and is of a type (that is, a New Loan or a type of Remortgage Loan) specified in such notice; and
- (g) in the case of an Internal Remortgage Loan or a Group Remortgage Loan:
  - (i) the Existing Loan is not in Arrears as at the date of the Mortgage Offer (or, in relation to a Loan falling within (ii) or (iii) of the definition of Internal Remortgage Loan, the date on which the relevant amendment or variation takes effect); and
  - (ii) the Lending Group Member and (if applicable) the other member of the Lender's Group which granted the Existing Loan has no record of any failure by the borrower(s) to make payment as and when due to the Lending Group Member or such other member of the Lender's Group, as applicable, in the twelve (12) months preceding the date of the Mortgage Offer (or, in relation to a Loan falling within (ii) or (iii) of the definition of Internal Remortgage Loan, the date on which the relevant amendment or variation takes effect); and
- (h) the Loan is granted to one or more individuals:
  - (i) in the case of a New Loan, for the purchase by them; or
  - (ii) in the case of a Remortgage Loan, to be applied, or treated by the Lending Group Member as applied, in repayment of a loan to them for the purchase by them (or the Loan is treated as an Internal Remortgage Loan as a result of changes to a loan to them for the purchase by them),

of a residential property situated in the United Kingdom as the sole registered owners of the property, or as the only registered co-owners of it (and not as part of a shared ownership or shared equity scheme); and
- (i) the Lending Group Member either:

- (i) obtained a statement by the individual (or, where there is more than one individual, at least one of the individuals) as part of its/their mortgage application process to the effect that none of the individuals referred to in rule 3.1(h) is the owner (in whole or in part) of an interest in any other dwelling (wherever situated); or
- (ii) is in possession of a declaration by the individual(s), in the form set out in Part 1 of Schedule 2 to these Rules (in the case of a New Loan) or Part 2 of Schedule 2 to these Rules (in the case of a Remortgage Loan), to the effect that none of the individuals referred to in rule 3.1(h) is the owner (in whole or in part) of an interest in any other dwelling (wherever situated),

and the Lending Group Member is not aware that this is not the case; and

- (j) subject to rule 3.2, the Loan is a Regulated Mortgage Contract, which is not a Buy-To-Let Loan, and the Lending Group Member has not granted the borrower any consent to let, and accordingly at least one of those individuals intends to reside in the Property once it is purchased; and
- (k) the purchase price for the Property is not more than £600,000 (six hundred thousand pounds sterling); and
- (l) no part of the Property is being purchased with funds received from a Publicly-Assisted Loan; and
- (m) the Loan is granted by the Lending Group Member only after the Lending Group Member has:
  - (i) satisfied itself that the borrower is not (or, where there is more than one borrower, that none of the borrowers are) credit-impaired (as defined in Schedule 3 to these Rules); and
  - (ii) assessed that the Loan is affordable for the borrower (or, if more than one, the borrowers together) by (x) conducting an affordability assessment that takes into account the borrower's (or, if more than one, each of the borrowers') income, committed expenditure, and basic essential expenditure and quality-of-living costs, (y) conducting an affordability stress test against future interest-rate rises and (z) verifying the borrower's (or borrowers', as applicable) income as applied for the purpose of conducting the affordability assessment; and
- (n) the Loan is not (and has not become) ineligible under rule 5; and

- (o) the Loan is not an Offset Mortgage Loan or a Guarantor Mortgage Loan; and
- (p) in the case of a Remortgage Loan involving the advance of additional funds, the Lending Group Member either:
  - (i) obtained a statement by the individual (or, where there is more than one individual, at least one of the individuals) as part of its/their mortgage application process to the effect that none of such additional funds are to be used to purchase an interest in any other dwelling (wherever situated); or
  - (ii) is in possession of a declaration by the individual(s), in the form set out in Part 2 of Schedule 2 to these Rules, to the effect that none of such additional funds are to be used to purchase an interest in any other dwelling (wherever situated),

and the Lending Group Member is not aware that this is not the case; and

- (q) unless the date of the Mortgage Offer is before 1 October 2014, the amount of the Loan is less than an amount equal to the borrower's gross annual income (or, where there is more than one borrower, the borrowers' joint gross annual income) multiplied by 4.5; and
- (r) unless the date of the Mortgage Offer is before 1 October 2014, the Loan is not the subject of a mortgage indemnity guarantee, insurance or similar product that is designed, in return for the payment of a premium or fee, to make good the Lending Group Member against any losses resulting from default by the borrower in respect of the Loan,

provided that, (with the exception of rules 3.1(f) and 3.1(m)(ii) above) where the Loan consists of more than one loan granted by the Lending Group Member at the same time and secured over the same property, the Loan is an Eligible Loan only if the above requirements are satisfied in respect of each such loan.

3.1A The Treasury may substitute from time to time a different multiple of gross annual income to the multiple specified in rule 3.1(q) by giving notice to the Lender a reasonable time before the change takes effect.

3.2 A Loan is not prevented from being an Eligible Loan as a result of rule 3.1(j) if:

- (a) the Borrower is a member of the Regular Forces or the Reserve Forces (each as defined in section 374 of the Armed Forces Act 2006); and
- (b) he or she is unable to reside in the Property once it is purchased due to his or her continuing a service posting in that capacity; and

- (c) where the Loan is granted with consent by the Lending Group Member to the Borrower to let, such consent is granted in accordance with the Lending Group Member's normal policies to enable the Borrower to continue to undertake that service posting.

3.3 The Lender shall procure that each Lending Group Member shall act in good faith and use all reasonable endeavours to determine whether each Loan is an Eligible Loan.

#### **4. INFORMATION TO BE PROVIDED TO BORROWER**

4.1 In relation to each Loan which is intended to be an Eligible Loan, the Lender shall procure that the relevant Lending Group Member shall provide the Borrower, before the Borrower is obliged to make the first payment in accordance with the Mortgage Terms, with a letter, in hard copy or electronic form, in the form specified by the Treasury. Such letter shall include reference to the Fair Processing Information, unless the Treasury agree that the Fair Processing Information may be given in another manner.

#### **5. LOANS INELIGIBLE OR CEASING TO BE ELIGIBLE**

5.1 A Loan is not an Eligible Loan if at the Date of Completion the Guarantee is inoperative in relation to the Lender (due to its suspension, termination or for any other reason).

5.2 An Eligible Loan ceases to be eligible under the Guarantee (and the Guarantee ceases to apply in relation to it) if:

- (a) subject as provided below, the terms of the Loan or the mortgage are changed (except where
  - (i) the change relates solely to the rate of interest and/or the manner in which such rate is set or determined (including, without limitation, a change from fixed to variable or discounted to fixed, and whether such change shall occur in accordance with the terms of the Loan or on the application of the Borrower),
  - (ii) the change is as a result of the Lending Group Member amending its standard terms applicable to borrowers generally,
  - (iii) the change is limited to the addition of a further Borrower or the subsequent release of such a person as a Borrower or
  - (iv) where the changes are limited to those made for the purpose of assisting the Borrower as part of a forbearance process); or
- (b) the Borrower grants a tenancy or lease of the Property to another person with the consent of the Lending Group Member, unless:
  - (i) the consent was given after the Date of Completion for the purpose of assisting the Borrower as part of a forbearance process; or

- (ii) the consent was given after the Date of Completion to a Borrower who is a member of the Regular Forces or the Reserve Forces (each as defined in section 374 of the Armed Forces Act 2006) to enable them to undertake a service posting in that capacity; or
  - (iii) the consent was given after the Date of Completion for compassionate reasons relating to the Borrower (including without limitation due to the death of a family member, the breakdown of a relationship or the Borrower moving to a care home or nursing home) and the Lending Group Member has obtained a statement from the Borrower as to the reason; or
  - (iv) the consent was given more than 12 months after the Date of Completion for reasons related to the employment of the Borrower and the Lending Group Member has obtained a statement from the Borrower as to the reason; or
- (c) the Lending Group Member grants a further Loan (excluding, for the avoidance of doubt, a Remortgage Loan in respect of the Eligible Loan) to the Borrower (or, if more than one, to any of the Borrowers) which is secured by a mortgage over property.

For the avoidance of doubt, the reference in rule 5.2(a) to the terms of the Loan or the mortgage being changed includes without limitation a reference to an advance of additional funds, a fresh grant of security (whether over the same property or a different property) or the release of one or more of the original Borrowers. In the event that the terms of the Loan or the mortgage are changed (other than as permitted by rule 5.2(a) (i), (ii), (iii) or (iv)), the amended Loan shall be treated as an Internal Remortgage Loan and shall cease to be eligible under the Guarantee unless the requirements of these Rules for Internal Remortgage Loans to be eligible under the Guarantee (including, without limitation, rule 3, rule 7.3, rule 16 and rule 17) are satisfied at that time by the Lender in relation to it.

5.3 Subject to rule 5.4, an Eligible Loan ceases to be eligible under the Guarantee (and the Guarantee ceases to apply in relation to it) if it (or any rights, obligations or interests in it or the mortgage securing it) is or are assigned or transferred to a person other than the Lending Group Member without the prior written consent of the Treasury.

5.4 An Eligible Loan (and any rights, obligations or interests in it or the mortgage securing it) may be assigned or transferred by the Lending Group Member to another person (or from that person to another person) where:

- (a) the Treasury have agreed to the assignment or transfer in writing in advance of it taking place; or
- (b) the assignment or transfer meets the conditions in rule 5.5.

5.5 The conditions are that the assignment or transfer is to:

- (i) another of the Lender's Lending Group Members; or
- (ii) the Bank of England to be utilised as collateral in any operations under the Bank of England's Sterling Monetary Framework, or the Funding for Lending Scheme, but in each case only for so long as the Lending Group Member remains economically exposed to such Eligible Loan pursuant to such operations, or the Funding for Lending Scheme; or
- (iii) a body corporate (or such other legal entity suitable for such purpose) in the course of securitisation or the issuance of covered bonds (whether or not the covered bonds are regulated under the Regulated Covered Bonds Regulations 2008) or any other process whereby funding is raised directly or indirectly on the security of the Eligible Loan (each such process being a "mortgage-backed funding arrangement") provided that:
  - (A) the Eligible Loan continues to be serviced by the Lending Group Member or another member of the Lender's Group (or a third party administrator engaged by the Lending Group Member or another member of the Lender's Group) or, as a result of the insolvency or otherwise of the Lending Group Member or such other member of the Lender's Group, the servicing of the Eligible Loan is assumed by another Lender, by a member of such other Lender's Group or by another entity that has undertaken to the Treasury (in a form satisfactory to the Treasury) to comply with and to be bound by all the provisions of these Rules expressed to be applicable to a Lender (the "Successor Servicer") (or by a third party administrator engaged by such Successor Servicer) (and references in these Rules to the Lender or (as the case may be) the Lending Group Member shall thereupon be deemed, so far as the context permits, to mean the Successor Servicer except that the Successor Servicer will not be liable for any prior breach of these Rules by the original Lender); and

- (B) the treatment of that Eligible Loan by the Lending Group Member or such other member of the Lender's Group (or, as the case may be, the third party administrator) does not differ from the treatment of other Loans included in the mortgage-backed funding arrangement; and
- (C) the internal assurance functions of the Lender, the Lending Group Member and the Treasury have full access to the information and documentation relating to the Eligible Loan in order to assess compliance by the Lender with its obligations under these Rules in relation to such Eligible Loan as if the assignment or transfer had not been effected.

5.6 Notwithstanding rule 5.4, the benefit of the Guarantee may not be assigned or transferred by the Lender to any other person without the prior consent in writing of the Treasury. In the event that the Treasury do give such consent, references in these Rules and the Deed of Guarantee to the Lender shall be read as references to such assignee or transferee, and the remaining provisions of these Rules and the Deed of Guarantee shall be read and construed accordingly.

5.7 If an Eligible Loan (or rights, obligations or interests in it or the mortgage securing it) is or are assigned or transferred by the Lending Group Member to another person (or from that person to another person) in accordance with rule 5.4, then (except to the extent that the Treasury agree otherwise in giving consent under rule 5.4(a) or the context otherwise requires) any Loss suffered or expected to be suffered by the assignee or transferee shall be deemed for the purposes of these Rules and the Guarantee to be a Loss suffered or expected to be suffered by the Lending Group Member (and not by the assignee or transferee) such that the Lender shall be as entitled to make a Claim, and receive payment in respect thereof, in respect of such Eligible Loan as if the Eligible Loan (or such rights, obligations or interests) had not been assigned or transferred (and in such a case the measure of the Lending Group Member's Loss shall be the same as the measure of the assignee's or transferee's actual Loss), and all references in these Rules or the Guarantee to the Lending Group Member in relation to:

- (a) costs, fees, charges or expenses of the Lending Group Member; or
- (b) amounts owing, payable, paid or treated as paid to the Lending Group Member; or
- (c) sale, possession, foreclosure or other proceedings by the Lending Group Member; or
- (d) recoveries by the Lending Group Member,

shall be deemed to include references to such assignee or transferee.



## **PART 3 – LENDING AND ARREARS ETC. POLICIES AND PRACTICES**

### **6. LENDING AND ARREARS ETC. POLICIES AND PRACTICES**

6.1 The Lender must ensure that, when acting in connection with the Scheme and throughout the process of originating, administering and managing Eligible Loans (including its approach to arrears and repossessions), the Lender, each member of the Lender's Group and any third party administrator engaged by the Lender or by a member of its Group:

- (a) acts in accordance with the objective of the Scheme to support the provision of high loan-to-value residential mortgages to borrowers who can afford them; and
- (b) acts in accordance with the ordinary-course of business, lending, fraud, arrears and repossessions policies, practices and procedures of the Lender and its Group (including the policies, practices and procedures which the relevant Lending Group Member would apply in the ordinary course of business when originating, administering, structuring, managing, recovering arrears or seeking repossession in relation to any Loan which is equivalent or similar to an Eligible Loan), to the extent consistent with (i) the business, lending, fraud, arrears and repossessions policies, practices and procedures of a reasonable and prudent mortgage lending organisation, (ii) regulatory principles and standards applicable to it and (iii) good industry practice; and
- (c) acts in a fair and equitable way and without distorting its normal distribution of mortgage lending, or its approach to arrears and repossessions, beyond the changes that are necessary to meet the Scheme's objectives.

6.2 If the Lender or another member of its Group engages another person to manage its arrears and repossession operations, the Lender must procure that that person, in its approach to arrears and repossessions, does not treat Loans which are subject to the Guarantee differently from those which are not.

## **PART 4 – PARTICIPATION IN SCHEME: LOAN TO VALUE BANDS**

### **7. LOAN TO VALUE BANDS: LENDER NOTICE TO TREASURY**

7.1 No later than five (5) Business Days before the date of the Deed of Adherence relating to each Lending Group Member the Lender must notify the Treasury in writing whether, in respect of such Lending Group Member, such Lending Group Member's participation in the Scheme on and from the Commencement Date extends to Loans in any or all of the following Loan to Value ranges:

- (a) more than eighty per cent. (80%) and less than or equal to eighty five per cent. (85%); and/or
- (b) more than eighty five per cent. (85%) and less than or equal to ninety per cent. (90%); and/or
- (c) more than ninety per cent. (90%) and less than or equal to ninety five per cent. (95%),

and, in each case, whether such participation extends to (i) Loans of all types (that is, New Loans and Remortgage Loans), (ii) Loans of all types other than Internal Remortgage Loans or (iii) New Loans only.

- 7.2 Subject to prior consultation with the Treasury, the Lender may, on behalf of any Lending Group Member, at any time on or after the Commencement Date relating to that Lending Group Member give the Treasury a further notice of the kind described in rule 7.1 which supersedes the original notice under rule 7.1 or any subsequent notice under this rule 7.2. Any such notice shall take effect at the end of the last day of the calendar month in which it is given (unless it is given less than five (5) Business Days before the end of that calendar month, in which event it shall take effect at the end of the last day of the immediately following calendar month) or, if later, the date specified therein (provided that such date is no more than three (3) months following the date of the notice). For the avoidance of doubt, a notice under this rule 7.2 may be a notice that the Lending Group Member no longer wishes to participate in the Scheme (that is, in any Loan to Value range), in which case the Guarantee shall cease to apply in relation to any Eligible Loan of that Lending Group Member in respect of which the Date of Completion is after the date on which such notice takes effect (but without otherwise affecting any liability incurred under the Guarantee).
- 7.3 Each and every Eligible Loan granted by a Lending Group Member with a Date of Completion which falls during the period in respect of which a notice under rule 7.1 or 7.2 is in effect (and with a Loan to Value falling within the range(s) specified in such notice and being of a type specified in such notice) must be notified by the Lender to the Treasury under rule 16.1 and Schedule 1 to these Rules and shall be subject to the Guarantee.
- 7.4 The Lender shall procure that no Lending Group Member shall grant any Eligible Loans without the Lender notifying them to the Treasury in accordance with rule 7.3.

## **PART 5 – SUSPENSION OF GUARANTEE AND SCHEME CLOSURE**

### **8. SUSPENSION OF GUARANTEE OBLIGATIONS**

- 8.1 Where the Treasury are of the opinion that:

- (a) an Event of Insolvency has occurred or is likely to occur in relation to the Lender; or
- (b) the Lender or another of its Lending Group Members has, or may have, committed serious or persistent breaches of the regulatory requirements governing Regulated Mortgage Contracts; or
- (c) the Treasury or Her Majesty's Government are the subject of proceedings commenced in relation to the Guarantee brought under the Treaty on the Functioning of the European Union (or any legislation having force under that Treaty) and a suspension of the Guarantee is necessary to comply with a decision of the European Commission, the Court of Justice of the European Union or a court in the United Kingdom, or to reach or give effect to an agreed resolution of any such proceedings; or
- (d) it is necessary to suspend the operation of the Guarantee; or
- (e) an amount due to the Treasury by way of a Commercial Fee under Part 10 of these Rules remains outstanding more than three (3) months after the due date for payment; or
- (f) material information required to be provided to the Treasury under Part 9 of these Rules has not been provided in accordance with those provisions for at least three (3) consecutive months; or
- (g) either the Prudential Regulation Authority or the Financial Conduct Authority has advised the Treasury that in its opinion and having regard to its statutory objective the Lender's participation in the Scheme should be suspended; or
- (h) the Lender fails to perform or observe any of its obligations under these Rules or the Guarantee where such failure is material (in the opinion of the Treasury, acting reasonably) and (except where, in the opinion of the Treasury, acting reasonably, the failure is incapable of remedy, when no such continuation or notice as is referred to in this rule 8.1(h) will be required) the failure continues for a period of ten (10) Business Days following the giving of notice by the Treasury to the Lender requiring the same to be remedied,

the Treasury may serve a written notice on the Lender to that effect ("a Guarantee Suspension Notice").

8.2 Subject to rules 8.3 and 8.5, the Treasury shall not be liable for any Recoverable Losses in relation to any Eligible Loan in respect of which the Date of Completion is on or after the twentieth (20th) Business Day following the day on which a Guarantee Suspension Notice was received by the Lender pursuant to rule 8.1 (or such later day as may be specified in the Guarantee Suspension

Notice) (“the Guarantee Suspension Date”), unless the Eligible Loan is granted with the Treasury's prior written consent (in which case the Guarantee applies in relation to that Eligible Loan).

- 8.3 A Guarantee Suspension Notice suspends the applicability of the Guarantee to any Eligible Loan in respect of which the Date of Completion is on or after the Guarantee Suspension Date (subject to and in accordance with rule 8.2) but does not otherwise affect any liability incurred under the Guarantee.
- 8.4 The Treasury’s consent under rule 8.2 may be given in relation to specific Eligible Loans, or may be given in relation to categories of Eligible Loans, and may be given subject to any conditions which the Treasury consider appropriate.
- 8.5 The Treasury may serve a written notice (“a Revocation Notice”) on the Lender to the effect that a Guarantee Suspension Notice is revoked with effect on and from a date specified in the Revocation Notice (“the Suspension Revocation Date”); and if a Revocation Notice so states the Treasury shall be liable for any Recoverable Losses in relation to any Eligible Loan in respect of which the Date of Completion is on or after the Guarantee Suspension Date (or any later date specified in the Revocation Notice) but before the Suspension Revocation Date.
- 8.6 The reference in rule 8.1(c) to the commencement of proceedings includes a reference to the initiation of action by the European Commission under Article 258 of the Treaty on the Functioning of the European Union by notice given by letter to Her Majesty’s Government.
- 8.7 The application of rule 8.1(c), (d) or (g) is a matter to be determined by the Treasury.
- 8.8 Subject to rule 8.9 the Treasury must consult the Lender before deciding to serve a Guarantee Suspension Notice.
- 8.9 Rule 8.8 does not apply where the Treasury consider that prior consultation could materially prejudice their, or Her Majesty’s Government’s, rights or interests, or that it is not practicable in the circumstances (but in such a case the Treasury shall undertake such consultation (if any) as they are reasonably able to undertake, as soon as they are reasonably able to undertake it).

## **9. LEVEL OF CONTINGENT LIABILITIES: NOTICE BY TREASURY**

- 9.1 Where the Treasury are of the view that their total contingent liability under the Scheme has reached or is approaching £9,000,000,000 (nine billion pounds sterling) they shall give a written notice to the Lender to that effect.

## **10. SCHEME LIMIT: SCHEME CLOSURE**

- 10.1 Her Majesty's Government has made available £12,000,000,000 (twelve billion pounds sterling) as the Scheme Limit. Where the Treasury are of the view that their total contingent liability under the Scheme has reached or is approaching the Scheme Limit they shall give a written notice to the Lender to that effect ("a Closure Notice").
- 10.2 A Closure Notice takes effect at the beginning of the day which is three months after the day on which the Closure Notice is given to the Lender.
- 10.3 The Guarantee shall cease to apply in relation to any Eligible Loan in respect of which:
- (a) the Date of Completion is on or after the Closure Date; or
  - (b) the date of the Mortgage Offer is later than three (3) Business Days following the date on which a Closure Notice is given to the Lender,

but does not otherwise affect any liability incurred under the Guarantee.

## **PART 6 – REPOSSESSIONS AND CLAIMS**

### **11. WHEN CLAIMS MAY BE MADE**

- 11.1 Subject to rule 11.2, the Lender may make a Claim in respect of a Recoverable Loss if:
- (a) either:
    - (i) the Property has been sold and the extent of the Lending Group Member's Loss has been determined; or
    - (ii) the Claim is in respect of an Expected Loss; and
  - (b) a period of not more than twenty one (21) months has elapsed since the Default Date and, if the Claim is in respect of an Expected Loss, a period of not less than nineteen (19) months has elapsed since the Default Date; and
  - (c) a period of not more than seven (7) years has elapsed since the Date of Completion; and
  - (d) the Lender has submitted documentation, a list of which the Treasury shall have specified to the Lender prior to the Commencement Date relating to the Lender (and which may be updated by them, acting reasonably, from time to time), evidencing that, in relation to the relevant Delinquent Loan, the Lending Group Member (and any person engaged by the

Lending Group Member to manage its arrears and repossession operations) is or are to their knowledge not in breach of:

- (i) Section 13 of MCOB; or
- (ii) in the event of repossession, the Ministry of Justice's Pre-Action Protocol for Possession Claims based on Mortgage or Home Purchase Plan Arrears in Respect of Residential Property; and

(e) the Lender notified the Treasury of the Borrower's Default as part of the information provided pursuant to rule 16.1 (subject to rule 16.4) in respect of the calendar month in which the Lending Group Member became aware of the Default.

11.2 If, following payment of a Claim by the Treasury, the Lender or the Treasury become aware that the Delinquent Loan to which the Claim related was entered into, or actions or omissions in relation to these Rules and/or the Guarantee were taken or not taken in respect thereof, as a consequence of any fraudulent or criminal act (including, without limitation, fraudulent misrepresentation) on the part of the Lending Group Member, its directors, officers, employees or agents or any other person acting on behalf of the Lending Group Member, in each case as finally determined by a court, an arbitrator or any relevant United Kingdom regulatory authority, and which was not taken into account as an Excluded Loss in the calculation of the Recoverable Loss, the relevant Party shall promptly notify the other thereof. The Lender shall (i) return to the Treasury in full the amount paid by the Treasury in respect of the Claim (less an amount equal to the amount of any Recovered Monies previously allocated and paid to the Treasury in accordance with rule 14) and (ii) pay interest to the Treasury on such amount at the Specified Rate for the time being from the date of payment by the Treasury of such Claim, in each case within twenty (20) Business Days of the date of the notification.

11.3 For the avoidance of doubt, rule 11.2 is without prejudice to the obligation of the Lender to deduct Excluded Losses of which it is aware when calculating a Recoverable Loss in respect of which it makes a Claim.

## **12. REDUCTION OF CLAIMS**

12.1 If a Borrower pays any amount outstanding in respect of an Eligible Loan to the Lending Group Member before a Claim submitted to the Treasury in respect of that Loan has been paid, the Claim shall be recalculated and (if and to the extent relevant) deemed to be reduced accordingly.

### 13. MONTHLY ACCOUNTS AND REMITTANCES FOR CLAIMS

13.1 No later than ten (10) Business Days after the end of each calendar month, the Lender shall submit to the Treasury an account detailing:

- (a) each Claim which is being made in respect of that calendar month, and the total amount of such Claims (“C”); and
- (b) the amount of the Recovered Monies that have been allocated to the Treasury during that calendar month or that have been recovered or received (or treated as recovered or received) in respect of any Loan the Claim for which has been submitted to the Treasury but not yet paid (“RM”); and
- (c) the amount of any Claim Amount Adjustment (as determined in accordance with rule 13.5(e) and/or rule 19) agreed or determined during that calendar month (“CA”).

13.2 In respect of each Eligible Loan for which a Claim is made, the Lender shall also submit the information set out in Schedule 4 to these Rules together with the account referred to in rule 13.1.

13.3 The account shall include a calculation of the net amount payable in respect of such calendar month (“N”), where:

$$N = C - RM - CA.$$

13.4 If N is:

- (a) greater than zero, an amount equal to N is payable by the Treasury to the Lender; or
- (b) less than zero, an amount equal to the numerical value of N (disregarding the minus sign and the fact that it is negative) is payable by the Lender to the Treasury.

13.5 Any amount payable under rule 13.4 shall be paid by the relevant Party to the other no later than the last Business Day of the Quarter immediately following the calendar month in respect of which the account referred to in rule 13.1 is submitted or, if the Claim is in respect of an Expected Loss, no later than the last Business Day of the Quarter immediately following the end of the Required Period (“the Settlement Date”), subject to the following:

- (a) the Treasury shall have no obligation to pay a Claim on or before the Settlement Date unless they shall have received the account referred to in rule 13.1 and the information referred to in rule 13.2 by the deadline specified in rule 13.1 (and if such account and/or information is submitted late the relevant payment by the Treasury shall instead be payable on or before the

last Business Day of the Quarter immediately following (i) the calendar month in which the account and information are submitted (if submitted on or before the tenth (10th) Business Day of such calendar month) or, otherwise, (ii) the calendar month immediately following that in which the account and information are submitted); and

- (b) if in relation to any Claim the Treasury are not satisfied that the requirements of rule 3.1, rule 11.1 and this rule have been met or are not satisfied as to the calculation of any amount of Recovered Monies, they may notify the Lender of such fact, in which event the Claim shall be a Disputed Claim; and
- (c) if the Treasury notify the Lender of a Disputed Claim on or before the third (3rd) Business Day before the Settlement Date, the amount payable under rule 13.4 shall (if payable by the Treasury) be adjusted to the amount which the Treasury consider to be payable and (if payable by the Lender) shall remain as calculated by the Lender under rule 13.3; and
- (d) for the avoidance of doubt, nothing in these Rules shall prevent the Treasury notifying the Lender of a Disputed Claim under paragraph (b) above after the payment referred to in rule 13.4 has been made; and
- (e) if as a result of the dispute procedures set out in rules 19.1 to 19.5 the amount payable by one Party to the other under rule 13.4 is determined to be different from that actually paid (whether pursuant to rule 13.4 or paragraph (c) above), the amount of the balance (together with any amount of expenses payable by one Party to the other pursuant to rule 19.5) shall be a Claim Amount Adjustment for the purposes of rule 13.1(c).

13.6 Where a Claim is in respect of an Expected Loss, the account referred to in rule 13.1 shall set out the calculation of the Expected Loss. The following provisions shall also apply to a Claim in respect of an Expected Loss (in addition to rule 14):

- (a) subject to paragraph (d) below, if following payment of the Claim by the Treasury the Property is sold, the Lender must prepare a reconciliation of the Expected Loss within twenty (20) Business Days of the completion of the sale, and the Loss shall be recalculated by reference to the proceeds of sale and after taking account of any Recovered Monies previously allocated in accordance with rule 14 (“the Actual Loss”) (and, for the avoidance of doubt, any such reconciliation shall not itself be a Claim); and
- (b) subject to rules 19.1 to 19.5, if the Actual Loss is greater than the amount paid by the Treasury in respect of the Expected Loss, the Treasury shall pay the difference to the Lender within twenty (20) Business Days of the reconciliation; and



- (c) subject to rules 19.1 to 19.5, if the Actual Loss is less than the amount paid by the Treasury in respect of the Expected Loss, the Lender shall pay the difference to the Treasury within twenty (20) Business Days of the reconciliation; and
- (d) if the Property is not sold by the date which is one (1) year after the date on which the Lender made the Claim (“the Cut-Off Date”), the Lender shall (i) return to the Treasury in full the amount paid by the Treasury in respect of the Claim (less an amount equal to the amount of any Recovered Monies previously allocated and paid to the Treasury in accordance with rule 14) and (ii) pay interest to the Treasury on such amount at the Specified Rate for the time being from the date of payment by the Treasury of the Claim, in each case within twenty (20) Business Days of the Cut-Off Date.

In the event that, following a Claim in respect of an Expected Loss, the Borrower repays sufficient Arrears due to the Lending Group Member in respect of a Loan such that it would no longer constitute a Delinquent Loan (i) the Lending Group Member shall promptly notify the Treasury, (ii) the Loan shall no longer be treated as a Delinquent Loan as at that date, (iii) the Claim in respect of such Loan shall be deemed to have been withdrawn, (iv) if payment of the Claim has been made by the Treasury, the Lender shall return to the Treasury in full the amount paid by the Treasury in respect of the Claim (less an amount equal to the amount of any Recovered Monies previously allocated and paid to the Treasury in accordance with rule 14) and (v) the requirement of rule 13.6(d) shall no longer apply in relation to that Claim. In the event that a subsequent Default shall occur in relation to such Eligible Loan, the Lender may make a fresh Claim in respect of such subsequent Default, subject to and in accordance with these Rules, and in relation thereto the Required Period shall be calculated by reference to the date of such subsequent Default.

- 13.7 All payments under this rule 13 by one Party to the other shall be made by or on behalf of the paying Party to such bank account as the receiving Party shall have notified in writing to the paying Party on or before the Commencement Date relating to the Lender (or, in the event of a change, notified not less than five (5) Business Days before the date on which the relevant payment is due).
- 13.8 If either Party fails to make a payment due under this rule 13 by the applicable due date, such Party shall be liable to pay interest to the other Party on the outstanding amount at the Specified Rate for the time being.
- 13.9 The Treasury shall have no responsibility for the allocation by the Lender between it and its other Lending Group Members of any monies paid to the Lender by the Treasury pursuant to these Rules or the Guarantee.

## **PART 7 – RECOVERIES**

#### **14. RECOVERIES FROM BORROWER AND THIRD PARTIES AFTER CLAIM PAID**

14.1 Save as permitted by rules 14.2 to 14.5 the Treasury waive any right of subrogation they may have against a Borrower and third parties (including, without limitation, solicitors and valuers) in respect of Claims paid under the Guarantee.

14.2 To the extent permitted by law, following payment of a Claim the Lender shall, or (as the case may be) shall procure that the relevant Lending Group Member shall, use commercially reasonable efforts to recover, seek and pursue, and reimburse itself in respect of, any Shortfall or Expected Loss (“Recovery Efforts”) from:

- (a) a Borrower in accordance with its Arrears and Possessions Procedures; and
- (b) any third party in accordance with normal business practice,

save that the Lending Group Member shall not be obliged to pursue any Recovery Efforts unless it, in its absolute discretion, considers it appropriate to do so. For the avoidance of doubt, Recovery Efforts shall include (i) exercise of any rights of netting, set-off and contribution available to the Lending Group Member and (ii) sale by the Lending Group Member to a third party of any or all of its rights against the Borrower.

14.3 The Lending Group Member shall at all times have conduct of all Recovery Efforts and the Treasury agree to be bound by all adjustments, settlements and compromises made by the Lending Group Member in seeking or pursuing any Loss.

14.4 Subject as provided in the last paragraph of rule 13.6, any Recovered Monies shall be allocated as follows as soon as reasonably practicable after receipt thereof by the Lending Group Member:

- (a) first, to the Lender in the discharge of all Allowable Costs paid or payable by the Lending Group Member in pursuing Recovered Monies and all associated legal fees; and
- (b) secondly, to the Lender, to the extent that the Recovered Monies when added to the proceeds of sale of the Property represent up to eighty per cent. (80%) of the Value of the Property; and
- (c) thirdly, to the Treasury in reimbursement of the amount paid by the Treasury in respect of the Claim; and
- (d) fourthly, as to the balance, to the Lender.

14.5 In relation to a Claim in respect of an Expected Loss:

- (a) the obligations of the Lender pursuant to this rule 14 to procure the pursuit of Recovery Efforts and to pass Recovered Monies to the Treasury shall continue notwithstanding the Guarantee terminating or ceasing to have effect; and
- (b) the provisions of rule 13.6 shall also apply.

## **PART 8 – AUDIT**

### **15. AUDIT**

#### *(a) Initial internal audit*

15.1 The Lender must, not later than six (6) months after the Date of Completion of the first Eligible Loan granted by a Lending Group Member (or, if the Treasury in its absolute discretion agrees, at the same time as the initial Annual Internal Audit is carried out pursuant to rule 15.5), ensure that its internal audit team carries out an audit (“an Initial Internal Audit”) of the activities of the Lender and each of its other Lending Group Members under the Scheme.

15.2 An Initial Internal Audit must test a sample of Loans to ensure that:

- (a) the requirements in rule 3.1 are complied with; and
- (b) the Loan was notified to the Treasury in accordance with rule 7.3; and
- (c) the requirements of rule 16 have been complied with and all information provided to the Treasury was complete and accurate as at the date given.

15.3 The sample of Loans for the purpose of the Initial Internal Audit must:

- (a) include Loans in respect of which the Date of Completion falls within the first two (2) months after the Date of Completion of the first Eligible Loan granted by a Lending Group Member; and
- (b) be at least the following size (calculated, in respect of each Lending Group Member, by reference to the total number of the Eligible Loans granted by such Lending Group Member at the date of commencement of the Initial Internal Audit):
  - (i) if the total number of the Eligible Loans granted by the Lending Group Member subject to the Guarantee is equal to or less than 20, each Eligible Loan; and

- (ii) if the total number of such Eligible Loans is greater than twenty (20) but equal to or less than two hundred and fifty (250), twenty (20) or ten per cent. (10%) of that total number (whichever is the greater); and
- (iii) if the total number of such Eligible Loans is greater than two hundred and fifty (250) but equal to or less than one thousand (1,000), twenty five (25) or five per cent. (5%) of that total number (whichever is the greater); and
- (iv) if the total number of such Eligible Loans is greater than one thousand (1,000), (x) fifty (50) or three per cent. (3%) of that total number (whichever is the greater) or, if lower, (y) 300.

15.4 No later than ten (10) Business Days following the expiry of the period referred to in rule 15.1 the Lender must submit a report in writing to the Treasury describing:

- (a) the findings of the Initial Internal Audit, the audit process undertaken and the evidence upon which the findings are based; and
- (b) any material divergences from the policies and procedures of the Lender or any of its other Lending Group Members, or from these Rules, that were detected in the audit, the management action recommended or adopted to address those divergences and the implementation timescale for such action.

(b) *Annual internal audit*

15.5 Not later than the end of October of each year (unless the Lender is granted a later deadline by the Treasury) the Lender must ensure that its internal audit team carries out an audit (“an Annual Internal Audit”) of the activities of the Lender and each of its other Lending Group Members under the Scheme.

15.6 An Annual Internal Audit must include an assessment of whether:

- (a) the Lender and each of its other Lending Group Members have in place policies and procedures (including internal controls and governance processes) to ensure compliance with these Rules; and
- (b) that the operational practices of the Lender and each of its other Lending Group Members comply with these Rules.

15.7 Not later than ten (10) Business Days following the expiry of each of the periods referred to in rule 15.5 the Lender must submit a report in writing to the Treasury describing:

- (a) the findings of the Annual Internal Audit for that period, the audit process undertaken and the evidence upon which the findings are based; and
- (b) any material divergences from the policies and procedures of the Lender or any of its other Lending Group Members, or from these Rules, that were detected in the audit (or in any previous Annual Internal Audit or the Initial Internal Audit), the management action recommended or adopted to address those divergences and the implementation timescale for such action.

(c) *Spot-checks*

15.8 Subject to rule 15.9, at any time prior to the Termination Date, and upon reasonable notice being given to the Lender, the Treasury (or an agent acting on behalf of the Treasury) may conduct an audit (“a Spot-Check”) of a sample of Loans originated by the Lender and its other Lending Group Members to ensure that these Rules have been complied with in relation to those Loans.

15.9 The maximum size of the sample of Loans audited during a Spot Check (calculated, in respect of each Lending Group Member, by reference to the total number of the Eligible Loans granted by such Lending Group Member at the date of commencement of the Spot Check) shall be:

- (a) if the total number of the Eligible Loans granted by the Lending Group Member subject to the Guarantee is equal to or less than two hundred and fifty (250), twenty (20) or ten per cent. (10%) of that total number (whichever is the greater); and
- (b) if the total number of such Eligible Loans is greater than two hundred and fifty (250) but equal to or less than one thousand (1,000), twenty five (25) or five per cent. (5%) of that total number (whichever is the greater); and
- (c) if the total number of such Eligible Loans is greater than one thousand (1,000), (i) fifty (50) or three per cent. (3%) of that total number (whichever is the greater) or, if lower, (ii) 300.

(d) *General*

15.10 An Initial Internal Audit, Annual Internal Audit, or Spot Check shall be based on such audit questions as the Treasury may consider to be appropriate. If and to the extent necessary to avoid any breach of applicable law (including, without limitation, the Data Protection Legislation), information relating to Loans which are outside the Scheme may be provided to the Treasury on an anonymised basis.

15.11 If during the course of a Spot Check the Treasury discover that:

- (a) the policies and procedures (including internal controls and governance processes) that the Lender and its other Lending Group Members have in place to ensure compliance with these Rules have not been complied with; or
- (b) these Rules have not been complied with in any material respect; or
- (c) the information provided by the Lender to the Treasury pursuant to these Rules is incomplete or inaccurate; or
- (d) no or insufficient progress has been made in relation to any recommendations arising from the Initial Internal Audit or a previous Annual Internal Audit or Spot Check.

details of the discoveries shall be brought to the Lender's attention in a report prepared by or on behalf of the Treasury, which will include any recommendations that the Treasury may have.

- 15.12 If a Spot Check discloses a significant number of instances of non-compliance (of any of the kinds specified in rule 15.11) the Treasury (or an agent acting on behalf of the Treasury) may:
- (a) conduct an additional Spot Check within a reasonable period and produce a further report to the Lender; and/or
  - (b) require the Lender to notify the Prudential Regulation Authority and/or the Financial Conduct Authority (or any successor body to either of them) of such instances of non-compliance.
- 15.13 If following a further report under rule 15.12(a) it is discovered (by a further Spot Check or otherwise) that remedial action has not been implemented by the Lender or that further instances of non-compliance are occurring, the Treasury may convene, upon reasonable notice, a meeting with representatives of the Lender.
- 15.14 The Lender shall send an appropriate representative to such a meeting, at which the Lender and the Treasury will use their best endeavours to agree a plan of action to address any outstanding matters arising from a Spot Check. An additional Spot Check may be conducted by the Treasury (or an agent acting on behalf of the Treasury) to assess the Lender's progress in implementing the plan of action.
- 15.15 In the event that mutual agreement between the Lender and the Treasury to resolve any outstanding matters cannot be achieved having followed the above process, the Treasury shall give the Lender ten (10) Business Days written notice to comply with the Treasury's recommendations.
- 15.16 If a notice given under rule 15.15 is not complied with to the satisfaction of the Treasury, the Treasury shall have the option to terminate the Guarantee as it applies to any new Loan in respect of which the Date of Completion is on or after the twentieth (20th) Business Day following notice in writing by the Treasury to the Lender (but without otherwise affecting any liability incurred under the Guarantee).
- 15.17 In the event that the Guarantee is terminated as stated in rule 15.16, the Treasury must immediately notify the Prudential Regulation Authority and the Financial Conduct Authority or any successor body to either of them.
- 15.18 For the avoidance of doubt, the provisions in rules 15.11 to 15.17 are without prejudice to the Treasury's rights to suspend the applicability of the Guarantee pursuant to rule 8.

## **PART 9 – PROVISION OF INFORMATION TO TREASURY**

### **16. INFORMATION TO BE PROVIDED TO TREASURY**

- 16.1 The Lender shall provide the information described in Part 1 of Schedule 1 to these Rules in writing or in electronic form to the Treasury on or as soon as practicable after the Date of Completion in respect of the relevant Eligible Loan or (as the case may be) within twenty (20) Business Days following the end of each calendar month during the Term (as indicated in that Part 1).
- 16.2 The Lender shall have completed the Lending Policy Questionnaire in respect of itself and each of its other Lending Group Members and submitted it in writing to the Treasury before the date of the Deed of Adherence relating to itself or such other Lending Group Member (as the case may be).
- 16.3 The Lender shall provide the information described in Part 3 of Schedule 1 to these Rules in writing to the Treasury within five (5) Business Days following the expiry of each period of six (6) calendar months during the Term.
- 16.4 If the Lender becomes aware of an error in any of the information provided by it to the Treasury (whether pursuant to rule 11, rule 13, this rule 16 or otherwise), it shall notify the Treasury thereof (and provide the corrected information to the Treasury) as soon as reasonably practicable.

## **PART 10 – COMMERCIAL FEE**

### **17. COMMERCIAL FEE**

- 17.1 The amount of the Commercial Fee to be paid by the Lender to the Treasury shall be calculated, in respect of each Eligible Loan, as a percentage (“the Relevant Percentage”) of the Original Principal Balance of the Loan. The Relevant Percentage shall be that applicable for the Guarantee Year (or, if the Relevant Percentage is adjusted in accordance with rule 17.7, the relevant part of the Guarantee Year) in which the Date of Completion in respect of the Loan falls and for the range in which the Loan to Value of the Loan falls. Subject to rule 17.7, each of the Relevant Percentages shall be determined by the Treasury and notified to the Lender in writing or in electronic form:
- (a) prior to the Commencement Date relating to the Lender (in the case of the first Guarantee Year); or
  - (b) in accordance with rule 17.2 (in the case of the second and third Guarantee Years).
- 17.2 Notice by the Treasury under rule 17.1(b) must be given no later than three (3) months before the commencement of the Guarantee Year to which the notice relates.



- 17.3 The Lender shall be liable to pay to the Treasury the Commercial Fee calendar monthly in arrear in an amount equal to (a) the Relevant Percentage applicable for the Guarantee Year (or the relevant part thereof, as the case may be) in which the relevant calendar month (or part thereof) falls in accordance with rule 17.1 multiplied by (b) the aggregate of the Original Principal Balance in respect of all Eligible Loans (within each relevant Loan to Value range) granted by the Lender or another of its Lending Group Members and in respect of which the Date of Completion falls in the relevant calendar month.
- 17.4 In respect of each calendar month the Treasury shall notify the Lender in writing or in electronic form of the total amount payable by the Lender for that calendar month as soon as reasonably practicable, and no more than thirty (30) Business Days after the end of that calendar month, calculated in accordance with rule 17.3.
- 17.5 Subject to rule 20.1, the amount calculated pursuant to rule 17.3 must be paid:
- (a) by or on behalf of the Lender into a bank account operated by the Treasury specifically for that purpose the details of which are notified by the Treasury in writing to the Lender; and
  - (b) within twenty (20) Business Days of the receipt of a notice under rule 17.4.
- 17.6 In the event that the Lender notifies the Treasury in accordance with rule 16.4, and without prejudice to the Treasury's other rights under these Rules, the Treasury may recalculate the amount of the relevant Commercial Fee in the light of the corrected information provided under rule 16.4, and an appropriate adjusting payment shall be made by the relevant Party to the other in such manner as the Treasury may determine. If any such adjusting payment shall be payable to the Treasury, the Lender shall pay interest to the Treasury on the amount of such adjusting payment at the Specified Rate for the time being from the date on which the relevant Commercial Fee would have been payable if such error had not occurred.
- 17.7 If the conditions in rule 17.8 are met the Treasury may at any time during a Guarantee Year serve a notice in writing on the Lender stating that any one or more of the Relevant Percentages determined under rule 17.1 in relation to that Guarantee Year (or, where notice has been given under rule 17.1(b) in relation to the following Guarantee Year, such following Guarantee Year) is or are to be increased or decreased. Where a notice under this rule 17.7 has been given, the increase or decrease shall take effect in relation to Eligible Loans in the relevant Loan to Value range(s) in respect of which the Date of Completion falls in or after the calendar month immediately following that in which the notice is given (or, where the notice relates to the following Guarantee Year, Eligible Loans in the relevant Loan to Value range(s) in respect of which the Date of Completion falls in such following Guarantee Year). For this purpose, if the notice is given less than ten (10) Business Days before the

end of a calendar month, it shall be deemed to have been given in the immediately following calendar month.

17.8 The conditions are that:

- (a) the Treasury have consulted the Lender about the proposed change, and allowed a reasonable time for consideration of its response; and
- (b) the Treasury act reasonably in determining the change.

## **18. ADJUSTMENT OF COMMERCIAL FEE FOR EU-RELATED REASONS**

18.1 If the conditions in rule 18.2 are met the Treasury may at any time before the Termination Date serve a notice in writing on the Lender stating that the Commercial Fee determined under rule 17.1 (or adjusted under rule 17.7) in relation to any specified Guarantee Year or part thereof (including the current or any or all previous Guarantee Years or any part thereof) and any specified Loan to Value range is to be increased or decreased.

18.2 The conditions are that:

- (a) the Treasury have consulted the Lender about the proposed change, and allowed a reasonable time for consideration of its response; and
- (b) the Treasury act reasonably in determining the change; and
- (c) the Treasury or Her Majesty's Government are the subject of proceedings commenced in relation to the Guarantee or the Scheme brought under the Treaty on the Functioning of the European Union (or any legislation having force under that Treaty) and the increase is necessary to comply with a decision of the European Commission, the Court of Justice of the European Union or a court in the United Kingdom, or to reach or give effect to an agreed resolution of any such proceedings.

18.3 The reference in rule 18.2(c) to the commencement of proceedings includes a reference to the initiation of action by the European Commission under Article 258 of the Treaty on the Functioning of the European Union by notice given by letter to Her Majesty's Government.

18.4 The application of rule 18.2(c) is a matter to be determined by the Treasury.

18.5 Where a notice has been given under rule 18.1 increasing the Commercial Fee:

- (a) the Lender shall be liable to pay to the Treasury, in respect of Commercial Fees payable under rule 17.3 up to the day on which the notice is served, an amount equal to the Commercial Fee as modified by the notice multiplied by the number of Eligible Loans in respect of which a Commercial Fee is payable up to the time the notice was given, less any amount already paid or owing under rule 17.3; and
- (b) (if applicable) the Commercial Fee for the remainder of the Guarantee Year in which the notice was given shall be the Commercial Fee as modified by the notice.

18.6 The amount referred to in rule 18.5(a) must be paid:

- (a) by or on behalf of the Lender into a bank account operated by the Treasury specifically for that purpose the details of which are notified by the Treasury in writing to the Lender; and
- (b) within twenty (20) Business Days following the day on which the notice is given.

18.7 If rule 18.6(b) is not complied with the Lender shall be liable to pay interest to the Treasury on any outstanding amount at the Specified Rate for the time being from the date on which payment was due to the date of actual payment.

18.8 Where a notice has been given under rule 18.1 decreasing the Commercial Fee:

- (a) if the reduction occurs before the end of the second Guarantee Year the Treasury shall reflect the reduction in their determination of the Commercial Fee for the following Guarantee Year or Years; and
- (b) if the reduction occurs after the end of the second Guarantee Year the Treasury shall be liable to repay to the Lender any excess amount of Commercial Fee paid by it.

18.9 Any amount due to be paid to the Lender pursuant to rule 18.8(b) shall be paid by the Treasury within twenty (20) Business Days of the end of the third Guarantee Year.

18.10 If rule 18.9 is not complied with the Treasury shall be liable to pay interest to the Lender on any outstanding amount at the Specified Rate for the time being from the date on which payment was due to the date of actual payment.

18.11 The dispute procedure in rules 19.2 to 19.5 shall be applicable, with any necessary modifications, in respect of the calculation of amounts owing pursuant to a notice given by the Treasury under rule 18.1.

## **PART 11 – DISPUTES**

## **19. CLAIMS DISPUTES**

- 19.1 In the event of a Disputed Claim the Lender and the Treasury shall endeavour to reach an amicable agreement regarding the amount of any adjustment to the Disputed Claim (“a Claim Amount Adjustment”) within twenty (20) Business Days of the Treasury notifying the Lender of the Disputed Claim.
- 19.2 If the Lender and the Treasury are unable to reach agreement regarding the Disputed Claim within that period, then the Lender and the Treasury shall appoint an Independent Expert (“the Independent Expert”) to determine the dispute. If the Lender and the Treasury are unable to reach agreement regarding the appointment of the Independent Expert within five (5) Business Days, then either party may apply to the president for the time being of the Institute of Chartered Accountants in England and Wales to make the appointment.
- 19.3 The Lender and the Treasury shall make such written and/or oral submissions to the Independent Expert, and shall provide any documents or information, as the Independent Expert may require to determine the dispute based on his or her own skill, judgement and experience. For the avoidance of doubt, the Independent Expert shall act as an expert and not as an arbitrator.
- 19.4 The Independent Expert shall be required to submit a written report containing his or her findings and determinations in relation to the dispute to the Lender and the Treasury within twenty (20) Business Days of receipt of the submissions, documents and information referred to in rule 19.3.
- 19.5 The Independent Expert's report shall be final and binding on the Lender and the Treasury, and the Independent Expert shall determine whether the expenses of the dispute procedure set out in this rule 19 should be shared equally between the Lender and the Treasury or should be awarded solely against the Lender or the Treasury.

## **20. COMMERCIAL FEE DISPUTES**

- 20.1 If, following receipt of a notice under rule 17.4, the Lender disputes the calculation of the total amount of the Commercial Fee payable by the Lender for the relevant calendar month, the Lender shall within twenty (20) Business Days of the receipt of the notice:
- (a) advise the Treasury in writing of the basis on which it considers the calculation to be incorrect and the amount which, in the Lender’s opinion is payable; and
  - (b) provide to the Treasury such evidence as the Lender considers appropriate to support its position; and

- (c) pay to the Treasury the amount referred to in rule 20.1(a) into the bank account referred to in rule 17.5(a).
- 20.2 The Treasury shall consider any representations made and evidence provided by the Lender under rules 20.1(a) and 20.1(b) and, if they consider it appropriate to do so, recalculate the total amount payable by the Lender under rule 17.3.
- 20.3 The Treasury shall notify the Lender in writing of any decision under rule 20.2 within ten (10) Business Days of the receipt by the Treasury of the representations and evidence provided by the Lender pursuant to rules 20.1(a) and 20.1(b).
- 20.4 Subject to rules 19.1 to 19.5, if the amount payable in accordance with the Treasury's decision under rule 20.2 is greater than the amount paid by the Lender under rule 20.1(c) the Lender shall pay the balance to the Treasury within twenty (20) Business Days of the receipt by the Lender of the notice referred to in rule 20.3.
- 20.5 Subject to rules 19.1 to 19.5, if the amount payable in accordance with the Treasury's decision under rule 20.2 is less than the amount paid by the Lender under rule 20.1(c) the Treasury shall pay the balance to the Lender within twenty (20) Business Days of the receipt by the Lender of the notice referred to in rule 20.3.
- 20.6 If rule 17.5(b), 20.4 or 20.5 is not complied with the Lender or the Treasury (as applicable) shall be liable to pay interest to the Treasury or the Lender (as applicable) on any outstanding amount at the Specified Rate for the time being.
- 20.7 The Treasury and the Lender shall act reasonably in the exercise of their rights and obligations under rules 17.1 to 17.5 and rules 20.1 to 20.6 and shall endeavour to resolve any dispute informally.
- 20.8 In the event that a dispute cannot be resolved informally, rules 19.2 to 19.5 apply, with any necessary modifications, to a dispute under rules 17.1 to 17.5 and rules 20.1 to 20.6.

## **21. ADMINISTRATION DISPUTES**

- 21.1 The Treasury shall agree with the Lender processes and procedures for resolving any disputes relating to the administration of the Scheme to the extent not expressly set out in these Rules.

## **PART 12 - NOTICES, DATA PROTECTION AND CONFIDENTIALITY**

## **22. NOTICES ETC.**

- 22.1 A notice or other communication required or permitted to be given by the Treasury or the Lender pursuant to these Rules or the Guarantee shall be sent by email to an email address specified by the recipient Party in advance, and shall be marked as described in rule 22.5.
- 22.2 A notice or other communication sent in accordance with rule 22.1 shall be taken as delivered one (1) Business Day after being sent by email to the address specified.
- 22.3 Where a Party entitled to receive it so requests in advance (either generally or in relation to specific notices or other communications), a notice or other communication required or permitted to be given by the other Party pursuant to these Rules or the Guarantee shall also be delivered by hand at or mailed by first class certified mail to the address set forth at the start of the Deed of Adherence.
- 22.4 A notice or other communication sent by first class certified mail pursuant to rule 22.3 shall be taken to be sufficiently served and delivered two (2) Business Days after the date of posting.
- 22.5 A notice or other communication to the Treasury shall be marked for the attention of Director General Financial Services, and a notice or other communication to the Lender shall be marked for the attention of the person or persons specified in the Deed of Adherence.
- 22.6 A Party may change the details recorded for it in rule 22.5 or give a different address in the United Kingdom to which notices or communications are to be sent, by notice to the other Party in accordance with rules 22.1 to 22.4.

## **23. DATA PROTECTION**

- 23.1 For the purposes of these Rules, “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Process” and “Processing” have the meanings ascribed to them in the DPA.
- 23.2 Notwithstanding the remaining provisions hereof, in the event that a Party Processes any Relevant Personal Data as a Data Controller of such Relevant Personal Data pursuant to or in connection with these Rules or the Guarantee, that Party shall comply with all Data Protection Legislation (to the extent directly applicable to it) and such compliance shall include, but not be limited to, maintaining a valid and up to date registration or notification (where applicable) under the relevant Data Protection Legislation.
- 23.3 The Lender shall (and shall procure that each member of the Lender’s Group and each third party administrator engaged by the Lender or a member of its Group shall):

- (a) ensure that all Relevant Personal Data has been obtained and processed, and is disclosed to the Treasury, in compliance with all Data Protection Legislation; and
- (b) not do or omit to do anything in effecting a disclosure of Relevant Personal Data to the Treasury that would cause the Treasury to be in breach of any Data Protection Legislation; and
- (c) without limiting rule 23.3(b) above, promptly upon becoming aware thereof, notify the Treasury in respect of any Relevant Personal Data that becomes inaccurate or incomplete, and promptly provide the Treasury with a corrected and completed version of that Relevant Personal Data; and
- (d) do all such things as are reasonably requested by the Treasury to enable the Treasury to comply with the requirements of all Data Protection Legislation.

23.4 Without limiting rule 23.3, the Lender shall (and shall procure that each other member of the Lender's Group shall) provide to each Data Subject in respect of the Relevant Personal Data ("the Relevant Data Subjects") such information, in the form expressly approved in writing by the Treasury, as the Treasury consider to be necessary to identify the Treasury and details of each purpose for which the Treasury may Process Relevant Personal Data together with such other information as the Treasury consider to be necessary to satisfy the obligations of the Treasury under the first data protection principle set out in Part I of Schedule 1 to the DPA and paragraph 2 of Part II of Schedule 1 to the DPA (and any equivalent obligations under any other Data Protection Legislation) in respect of the Treasury's Processing of Relevant Personal Data pursuant to, or in accordance with, these Rules or the Guarantee ("the Fair Processing Information"). For the avoidance of doubt, all references to the Treasury for these purposes include references to UKAR SPV acting on their behalf.

23.5 The Lender shall ensure that the Fair Processing Information is provided on or before the Date of Completion in respect of the relevant Eligible Loan.

23.6 To the extent that the Treasury's exercise of any of its rights under these Rules or the Guarantee would cause them to be subject to any law of a jurisdiction other than the United Kingdom that imposes obligations:

- (a) in respect of the use of information the same as or similar to Personal Data; or
- (b) which are similar in nature to any of those in the DPA and which apply to any information provided to the Treasury, in each case by or on behalf of the Lender or any member of the

Lender's Group or any relevant third party administrator pursuant to, or in accordance with, these Rules or the Guarantee,

the Lender shall (and shall procure that each other member of the Lender's Group and each third party administrator engaged by the Lender or a member of its Group shall) do all such things as may be necessary in order to ensure that access to and use of the information by the Treasury pursuant to, or in accordance with, these Rules or the Guarantee complies with that law. Without prejudice to the foregoing, the Lender shall notify the Treasury of the requirements of that law (as they relate to the Treasury's access to and use of the information pursuant to, or in accordance with, these Rules or the Guarantee) and shall discuss with the Treasury the steps that it intends to take, and shall keep the Treasury informed of the steps it does take, to comply with this rule 23.6.

23.7 The Lender acknowledges and agrees that nothing in these Rules or the Guarantee shall result or be deemed to result in the Lender or any other member of the Lender's Group or any relevant third party administrator, on the one hand, and the Treasury, on the other, becoming joint Data Controllers with respect to any Personal Data (including the Relevant Personal Data) or other information and accordingly the Treasury shall have no liability with respect to any breach of the obligations of the Lender or any other member of the Lender's Group or any relevant third party administrator as a Data Controller from time to time, and nor shall the Lender or any other member of the Lender's Group or any relevant third party administrator have any liability with respect to any breach of the obligations of the Treasury as a Data Controller from time to time (other than to the extent that any such breach of the obligations of the Treasury is caused by the Lender's breach of this rule 23).

23.8 Nothing in these Rules or the Guarantee shall require disclosure of "Sensitive Personal Data" (as defined in the DPA).

23.9 If and to the extent that the Treasury are or become a Data Controller in respect of any Relevant Personal Data, the Treasury shall not disclose Relevant Personal Data to third parties in response to a Data Subject access request unless they consider that they are obliged to do so by Data Protection Legislation.

## **24. CONFIDENTIALITY**

24.1 Subject to rules 24.2 to 24.6, each Party shall, and shall procure that its Representatives shall, keep confidential all confidential information relating to the other Party (and the other Party's business affairs) that it or its Representatives obtain in connection with these Rules or the Guarantee or the negotiations leading up to them ("Confidential Information"). Each Party shall, and shall procure that its Representatives shall, only use the Confidential Information in the proper performance of such Party's obligations and exercise of its rights under these Rules or the Guarantee and shall not



divulge any of the Confidential Information to any other person without the prior written consent of the other Party, unless permitted to do so by rule 24.2, 24.3, 24.4, 24.5 or 24.6.

24.2 A Party or its Representatives may disclose Confidential Information if and to the extent that:

- (a) such disclosure is required by law or by any competent regulatory body; or
- (b) the information is properly disclosed pursuant to an applicable rule, order or award in the course of proceedings before any court (or to any other person to whom a dispute is referred in accordance with these Rules or the Guarantee) to which that Party is a party; or
- (c) the information is disclosed on a confidential basis to that Party's Representatives in connection with these Rules or the Guarantee; or
- (d) the disclosure is agreed in writing from time to time by the Parties; or
- (e) the disclosure is to a ratings agency or an auditor of the Lender and is necessary to comply with a requirement of the agency or auditor.

24.3 Rule 24.1 does not apply to a Party in relation to Confidential Information to the extent that that Party can show:

- (a) that the information was already, or has subsequently become, published or publicly available for use other than through a breach of these Rules or the Guarantee or of any confidentiality obligation owed by that Party; or
- (b) that the information was already lawfully in its possession (without restriction on disclosure or use) before it obtained the information in connection with these Rules or the Guarantee or the negotiations leading up to them; or
- (c) that the information has subsequently lawfully been disclosed to it (without restriction on disclosure or use) by a person who is not a Party and who itself lawfully obtained the information and is not under any obligation restricting its disclosure or use; or
- (d) from its records that it has derived the same information independently of that obtained by it in connection with these Rules or the Guarantee or the negotiations leading up to them.

24.4 Rule 24.1 does not prevent the Treasury or its Representatives disclosing Confidential Information:

- (a) to Parliament (including any Committee of the House of Commons or the House of Lords) or to the European Commission; or

- (b) on a confidential basis, to any minister of the Crown, any UK government department, agency or authority, the Bank of England (including, without limitation, the Prudential Regulation Authority), the Financial Conduct Authority, the Financial Policy Committee or any other governmental, banking, taxation or regulatory agency or authority; or
- (c) for the purpose of reporting on the establishment, performance or operation of, or compliance with, the Scheme.

24.5 If the Treasury are requested to disclose any Confidential Information pursuant to the provisions of the FOI Act (an “FOI Request”), the Treasury shall (to the extent practicable and permissible under the FOI Act and consistent with the Code of Practice of the Secretary of State for Constitutional Affairs on discharge of public authorities' functions under Part 1 of the FOI Act):

- (a) notify the Lender in writing of the nature and content of such FOI Request as soon as practicable; and
- (b) prior to the making of a disclosure pursuant to an FOI Request, for a period of no less than five (5) Business Days (or if the Treasury consider there to be exceptional circumstances, such shorter period as the Treasury consider reasonably practicable) consult with the Lender as to:
  - (i) whether such FOI Request is valid; and
  - (ii) whether or not disclosure pursuant to the FOI Act is required; and
  - (iii) (if the Treasury determine that disclosure pursuant to the FOI Act is required) the scope and content of any proposed disclosure,

and, as part of such consultation process, the Treasury shall take into account any representation from the Lender as to whether the Confidential Information is commercially sensitive or falls within one or more of the exemptions set out in Part II of the FOI Act and any other representations from the Lender as to whether or not there is an obligation to disclose such Confidential Information and/or the extent of any such required disclosure; and

- (c) (if the Treasury determine that disclosure of any Confidential Information pursuant to the FOI Act is required and the Lender has objected to such disclosure or the extent of the proposed disclosure) give the Lender as much prior notice as is reasonably practicable prior to such disclosure being made; and

- (d) subject to the above, the Treasury shall be responsible for determining at their absolute discretion whether and to what extent disclosure of any Confidential Information pursuant to the FOI Act is required.

24.6 Nothing in this rule 24 shall restrict or prevent the publication by the Treasury of any information (whether Confidential Information or otherwise):

- (a) in accordance with any publication scheme (as defined in the FOI Act) adopted and maintained by the Treasury in accordance with the FOI Act; or
- (b) in accordance with any model publication scheme (as defined in the FOI Act) applicable to the Treasury as may be published from time to time by the UK Information Commissioner.

In deciding whether to publish information (whether Confidential Information or otherwise) in accordance with any publication scheme or model publication scheme in accordance with the preceding paragraph, the Treasury shall have due regard to whether, in their sole opinion, such information would be exempt from disclosure under the FOI Act.

24.7 The obligations in this rule 24 (together with any applicable exceptions and qualifications set out in this rule) shall survive the termination of the Guarantee.

## **PART 13 – LAW AND JURISDICTION**

### **25. GOVERNING LAW AND JURISDICTION**

- 25.1 These Rules and the Guarantee shall be governed by and construed in accordance with English law.
- 25.2 In relation to all matters arising under or in connection with these Rules or the Guarantee, the Parties submit to the exclusive jurisdiction of the English courts.

### **26. SCOTLAND**

- 26.1 To the extent that they apply in relation to Loans relating to Properties situated in Scotland, these Rules and the Guarantee shall apply with the modifications set out in Schedule 5.

### **27. NORTHERN IRELAND**

- 27.1 To the extent that they apply in relation to Loans relating to Properties situated in Northern Ireland, these Rules and the Guarantee shall apply with the modifications set out in Schedule 6.

## **PART 14 – SUPPLEMENTARY**

## **28. AMENDMENTS TO RULES**

- 28.1 Subject to rule 28.3 the Treasury may, at any time and at their exclusive and absolute discretion, amend or supplement the terms of these Rules or the Guarantee by giving written notice to the Lender, provided that such amendment or supplement does not:
- (a) prejudicially affect, or purport prejudicially to affect, any liabilities of the Treasury incurred under the Guarantee before such amendment or supplement takes effect; or
  - (b) otherwise have retrospective effect (unless it is to correct an error or omission of a wholly technical nature and the correction is not prejudicial to the rights or interests of the Lender).
- 28.2 Without limiting the discretion of the Treasury under rule 28.1, an amendment or supplement under rule 28.1 may be made where the Treasury or Her Majesty's Government are the subject of proceedings commenced in relation to the Guarantee or the Scheme brought under the Treaty on the Functioning of the European Union (or any legislation having force under that Treaty) and the amendment or supplement is necessary to comply with a decision of the European Commission, the Court of Justice of the European Union or a court in the United Kingdom, or to reach or give effect to an agreed resolution of any such proceedings.
- 28.3 The Treasury shall consult with the Lender and take into account its opinions and comments before making any amendment or supplement under rule 28.1, unless the Treasury determine that the proposed amendment or supplement should be implemented as a matter of urgency and it is not practicable for such consultation to take place.
- 28.4 An amendment or supplement under rule 28.1 does not take effect until the expiry of a period of twenty (20) Business Days following the day on which notice of the amendment or supplement is given to the Lender.
- 28.5 The Treasury must act reasonably when making any amendment or supplement under rule 28.1.
- 28.6 The reference in rule 28.2 to the commencement of proceedings includes a reference to the initiation of action by the European Commission under Article 258 of the Treaty on the Functioning of the European Union by notice given by letter to Her Majesty's Government.
- 28.7 The application of rule 28.2 is a matter to be determined by the Treasury.
- 28.8 The Treasury shall agree with the Lender processes and procedures for consultation with the Lender pursuant to rule 28.3 (including without limitation consultation with an appointed group of representatives of the Lenders collectively).

28.9 Without prejudice to rules 28.1 to 28.8, the Treasury may (in accordance with the provisions set out in the Deed of Guarantee) waive any breach by the Lender of any provision of these Rules on such terms as the Treasury may determine.

## **29. OUTSOURCING**

29.1 The Treasury may outsource any aspect of the administration of their rights and obligations under these Rules or the Guarantee to another person.

29.2 If the person referred to in rule 29.1 is a person other than UKAR SPV, the Treasury shall give prior written notice to the Lender.

29.3 The Lender acknowledges that the Scheme is being administered on behalf of the Treasury by UKAR SPV, and agrees that it shall, and shall procure that each of its other Lending Group Members shall, co-operate fully with UKAR SPV in relation to such administration. The Treasury accept responsibility for the acts and omissions of UKAR SPV as though they were the Treasury's own acts and omissions, and shall procure that UKAR SPV complies with the obligations under the Rules expressed to be applicable to the Treasury.

## **29A HELP TO BUY LIMITED**

29A.1 The Lender acknowledges that Help to Buy (HMT) Limited (a company owned by the Treasury, with registered number 8676596 and having its registered office at 1 Horse Guards Road London SW1A 2HQ) has, by an Agreement entered into between the Treasury and Help to Buy (HMT) Limited, taken on rights and obligations under these Rules in relation to the receipt of Commercial Fees, and the making of payments to the Lender in respect of Recoverable Losses.

29A.2 If Help to Buy (HMT) Limited, pursuant to the Agreement mentioned in rule 29A.1, pays to the Lender an amount to which the Lender is entitled in respect of a Recoverable Loss, the Lender shall accept the payment as satisfying all entitlement the Lender had to that amount.

29A.3 The Treasury accept responsibility for the acts and omissions of Help to Buy (HMT) Limited as though they were the Treasury's own acts and omissions, and shall procure that Help to Buy (HMT) Limited complies with the obligations under the Rules expressed to be applicable to the Treasury.

## **30. TRANSITIONAL**

30.1 This rule 30 shall apply in relation to the Lender if so stated in the Deed of Adherence.

- 30.2 Despite rule 3.1(c) a Loan in respect of which the Date of Completion is on or after the Effective Date and before the Commencement Date relating to the Lending Group Member is an Eligible Loan provided that it meets the requirements of these Rules (modified as set out in rule 30.3) at the Date of Completion and at the Commencement Date.
- 30.3 In relation to each such Loan, the requirements of these Rules shall apply with the following modifications:
- (a) in rule 3.1(c), the reference to the Commencement Date shall be a reference to the Effective Date; and
  - (b) in rule 3.1(f), the reference to “the Lender's current notice in respect of the Lending Group Member in effect under rule 7.1 or 7.2 at the Date of Completion” shall be a reference to “the Lender’s initial notice in respect of the Lending Group Member under rule 7.1”; and
  - (c) in rule 3.1, an additional requirement shall apply that at the Commencement Date relating to the Lending Group Member, so far as the Lending Group Member is aware, the Loan is not in Arrears; and
  - (d) in rule 4.1, the reference to “before the Borrower is obliged to make the first payment in accordance with the Mortgage Terms” shall be a reference to “within twenty (20) Business Days of the Commencement Date relating to the Lending Group Member”; and
  - (e) rule 5.1 shall not be applicable; and
  - (f) in rule 7.1, the first reference to the Commencement Date shall be a reference to the Effective Date; and
  - (g) in rule 7.2, the first reference to the Commencement Date shall be a reference to the Effective Date; and
  - (h) rule 7.3 shall be modified to “Each and every Eligible Loan granted by a Lending Group Member that falls within rule 30.2 must be notified by the Lender to the Treasury under rule 16.1 and Schedule 1 to these Rules and shall, on and from the Commencement Date relating to the Lending Group Member, be subject to the Guarantee”; and
  - (i) in rule 11.1(c), the reference to the Date of Completion shall be a reference to the Commencement Date relating to the Lending Group Member; and

- (j) in rule 16.1, the reference to “the Date of Completion in respect of the relevant Eligible Loan” shall be a reference to “the Commencement Date relating to the Lending Group Member”; and
- (k) rule 17.3 shall be modified by the addition at the end of “(provided that, in the case of the first calendar month of the first Guarantee Year, such Eligible Loans shall also include the Eligible Loans granted by the Lender or another of its Lending Group Members that fall within rule 30.2)”; and
- (l) in rule 23.5, the reference to the Date of Completion shall be a reference to the Commencement Date relating to the Lending Group Member.

### **31. SCHEME PUBLICITY**

- 31.1 The Lender shall ensure, and shall procure that the other members of its Group (and its and their Representatives) shall ensure, that any written material (including website content and any names or logos) placed in the public domain for the purposes of publicising, promoting, explaining or recommending the Scheme shall be in a form permitted by the Treasury in guidelines issued by it from time to time or in a form otherwise approved by the Treasury (such approval not to be unreasonably withheld).
- 31.2 Approval by the Treasury under rule 31.1 may be given in general terms, in relation to certain categories of written material or in relation to specific material, and may be given subject to conditions.

## SCHEDULE 1

### INFORMATION TO BE PROVIDED TO TREASURY

#### PART 1

#### (ELIGIBLE LOAN DATA)

The information referred to in rule 16.1 is as follows.

##### Initial data

(when a Loan is entered into the Scheme)

Unique Reference
Lender
Brand
Previous mortgage arrears
Number of CCJs or equivalent
Value of CCJs or equivalent
Bankruptcy or IVA Flag
Opening Loan Value
Opening Loan origination date
Opening Loan Exposure
Original Loan to Value
Loan term
Flexible features flag
Initial Interest Rate
Interest Revision Date
Interest Rate Type
Reversion rate
Reversion type
ERC End Date
Primary Borrower Year of Birth
Primary Borrower type
Primary Borrower gross income
2nd Borrower Year of Birth
2nd Borrower gross income
3rd Borrower Year of Birth

##### Monthly data

Unique Reference
Lender
Brand
Reporting month
Current balance
Current exposure
Remaining term
Payment due
Customer payment amount
Current interest rate
Current Product Rate Type
Indexed property value
Current LTV
Behavioural PD
Behavioural EAD
Behavioural LGD
Account status
Collections status
Redemption date
Months in arrears
Arrears balance
Potential Impairment Indicators 1
Potential Impairment Indicators 2
Potential Impairment Indicators 3
Potential Impairment Indicators 4



3rd Borrower gross income
4th Borrower Year of Birth
4th Borrower gross income
Property type
Property postcode
New Property
Construction year
Valuation Amount
Original Valuation Type
New Loan, External Remortgage Loan, Group Remortgage Loan or Internal Remortgage Loan

Potential Impairment Indicators 5
Potential Impairment Indicators 6
Potential Impairment Indicators 7
Default date
Recovered monies after claim
Possession date

## PART 2

### (LENDING POLICY QUESTIONNAIRE)

*(To be completed in respect of the Lender and each of its other Lending Group Members)*

- (a) Describe your property valuation policy.
- (b) What restrictions do you have in place around lending on particular types of property?
- (c) What is the maximum number of loan applicants you accept?
- (d) What is the minimum age of a borrower that you accept for a mortgage, and what is the maximum age you allow them to be at the end of the mortgage term?
- (e) Do you have any minimum requirements for how long a borrower needs to be on the voters roll? If so, what are these?
- (f) What is the minimum period of employment and, if less than six (6) months, do borrowers have to prove they have passed probation?
- (g) What checks do you carry out of the customer's credit history, and what fraud checks do you undertake?
- (h) What is your policy on lending to those who are not UK nationals?
- (i) What are your Loan-to-Income and/or Debt Service Ratio caps for both joint and single incomes?
- (j) What types of income do you take into account in your affordability calculation, and how are they verified?
- (k) What types of expenditure do you take into account in your affordability calculation, and how is this validated?
- (l) How do you take account of future interest rate rises in your affordability assessments?
- (m) What is your policy on the source of a customer's deposit (i.e. whether from savings, 'gifted' or from other borrowing)?
- (n) Describe the governance arrangements for making amendments to your lending policies.
- (o) Do you distribute via a mortgage packaging firm? If so, please explain the exact nature of the outsourced arrangement and how you manage and oversee those arrangements.

- (p) What is the definition of loan default that you use?
- (q) What models and scorecards are used in making credit decisions? What is the governance process for making any changes in how these tools are used? What are the internal governance arrangements for the management of credit risk?
- (r) How do you govern and manage overrides to your policy? Do you have specific tolerance levels of overrides? If so, what are these?
- (s) Describe what, if any, further lending policies you will apply specifically to Help to buy mortgages (other than those required to meet scheme rules).
- (t) Do you have specific policies that only apply to high loan-to-value mortgages? Can you describe these.
- (u) What is your policy on allowing overpayments, underpayments or other payment flexibilities on your products?

### **PART 3**

#### **(CHANGES TO LENDING POLICY)**

A description of any material amendment to a Lending Group Member's lending policy within the period of six (6) months referred to in rule 16.3. For this purpose, a "material" amendment is one which would result in a change to any of the information provided by the Lender under rule 16.2.

**SCHEDULE 2**

**FORM OF DECLARATION: SECOND HOMES**

**PART 1**

**NEW LOANS**

**Declaration by Borrower**

To: [Lending Group Member's details]

From: [Borrower details]

SCHEME: HELP TO BUY

Dear Sirs

**LENDING GROUP MEMBER: [INSERT DETAILS]**

**BORROWER: [INSERT DETAILS]**

**PROPERTY: [INSERT DETAILS]**

[I/We] confirm that [I do not/none of us] [have/has] any interest in any dwelling (wherever situated).

OR

[I/We] presently have [an interest][interests] in a dwelling but [I/we] intend to complete the disposal of [that interest][each of those interests] on or before the date of completion of the purchase of the above property.

Yours faithfully

.....

Borrower

.....

Borrower

This form must be returned unamended (save for the words in square brackets or those areas expressly marked for amendment).

**PART 2**  
**REMORTGAGE LOANS**

**Declaration by Borrower**

To: [Lending Group Member's details]

From: [Borrower details]

SCHEME: HELP TO BUY

Dear Sirs

**LENDING GROUP MEMBER: [INSERT DETAILS]**

**BORROWER: [INSERT DETAILS]**

**PROPERTY: [INSERT DETAILS]**

[I/We] confirm that [I/none of us] [have/has] any interest in any dwelling (wherever situated) other than the above property.

AND (if additional funds are being advanced)

[I/We] have no intention to use any of the additional funds to be advanced to [me/us] to purchase [an interest][interests] in any other dwelling (wherever situated).

Yours faithfully

.....

Borrower

.....

Borrower

This form must be returned unamended (save for the words in square brackets or those areas expressly marked for amendment).

### **SCHEDULE 3**

#### **CREDIT-IMPAIRED BORROWERS**

A borrower is credit-impaired for the purpose of rule 3.1(m)(i) if the borrower is a customer who:

- (a) within the last two (2) years before the Date of Completion has owed overdue payments, in an amount equivalent to three (3) months' payments, on a mortgage or other loan (whether secured or unsecured), except where the amount overdue reached that level because of late payment caused by errors by a bank or other third party; or
- (b) has been the subject of one or more county court judgments, in respect of a debt or debts with a total value greater than £500 (five hundred pounds sterling), except for any debt satisfied one month or less from the date of the judgment or three (3) years or more before the Date of Completion; or
- (c) has been subject to an individual voluntary arrangement or bankruptcy order which was in force at any time within the last three (3) years before the Date of Completion.

If the date of the Mortgage Offer was before 8 April 2015, the definition in this Schedule applies as though the amendment made to paragraph (b) above on 8 April 2015 did not have effect.

## **SCHEDULE 4**

### **CLAIMS: INFORMATION TO BE SUBMITTED FOR ELIGIBLE LOANS**

Lenders will need to submit evidence of the following, in order for a Claim to be valid:

- (a) The mortgage securing the Loan is a first-ranking mortgage and the mortgagee is a Lending Group Member.
- (b) The Loan is secured against a residential property in the UK.
- (c) The Loan is secured against a property for which the purchase price was £600,000 (six hundred thousand pounds sterling) or less.
- (d) The Loan was a repayment mortgage loan, and not interest only, at the Date of Completion.
- (e) The Loan was a Regulated Mortgage Contract, and not a Buy-To-Let Loan, at the Date of Completion, and the Lending Group Member has not granted any consent to let, or the Loan complies with rule 3.2 or rule 5.2(b) (as the case may be).
- (f) The Loan falls within a Loan to Value range specified in the Lender's notice in effect under rule 7.1 or 7.2 in relation to the Lending Group Member at the Date of Completion and is of a type specified in such notice.
- (g) The Loan was granted to one or more individuals in compliance with rule 3.1(h).
- (h) The Date of Completion (and, if applicable, date of the Mortgage Offer and date of the Customer's application in writing) in relation to the Loan was/were within the dates specified by these Rules.
- (i) The Lending Group Member obtained a statement or declaration as referred to in rule 3.1(i)(i) or (ii), and confirms that it was not aware of such statement or declaration being incorrect.
- (j) The Lending Group Member has assessed that the Loan is affordable for the borrower (or, if more than one, the borrowers together) by (x) conducting an affordability assessment that takes into account the borrower's (or, if more than one, each of the borrowers') income, committed expenditure, and basic essential expenditure and quality-of-living costs, (y) conducting an affordability stress test against future interest-rate rises and (z) verifying the borrower's (or borrowers', as applicable) income as applied for the purpose of conducting the affordability assessment.



- (k) The Lending Group Member satisfied itself, before granting the Loan, that the borrower was not (or, where there was more than one borrower, that none of the borrowers were) credit-impaired as defined in Schedule 3 to these Rules.
- (l) The Lending Group Member has not breached the requirements referred to in rule 11.1(d)(i) and (ii).
- (m) No part of the Property was being purchased with funds received from a Publicly-Assisted Loan.
- (n) If the Loan is an Internal Remortgage Loan or a Group Remortgage Loan:
  - (a) the Existing Loan was not in Arrears as at the date of the Mortgage Offer (or date of amendment or variation, where applicable); and
  - (b) the Lending Group Member and (if applicable) the other member of the Lender's Group which granted the Existing Loan had no record of any failure by the borrower(s) to make payment as and when due to the Lending Group Member or such other member of the Lender's Group, as applicable, in the twelve (12) months preceding the date of the Mortgage Offer (or date of amendment or variation, where applicable).
- (o) The Loan was not an Offset Mortgage Loan or a Guarantor Mortgage Loan.
- (p) The Loan is not (and has not become) ineligible under rule 5.
- (q) If the Loan is a Remortgage Loan involving the advance of additional funds, the Lending Group Member obtained a statement or declaration as referred to in rule 3.1(p)(i) or (ii), and confirms that it was not aware of such statement or declaration being incorrect.
- (r) The Default Date and the following in respect of the amount of the Claim:
  - (i) the proceeds of sale (or a valuation report if the Claim is in respect of an Expected Loss);
  - (ii) the Principal Balance;
  - (iii) the Interest;
  - (iv) the Excluded Loss;
  - (v) all other Allowable Costs;
  - (vi) the Recovered Monies; and
  - (vii) the Net Loss.

- (s) Unless the date of the Mortgage Offer was before 1 October 2014, the amount of the Loan was, at the Date of Completion, less than an amount equal to the borrower's gross annual income (or, where there was more than one borrower, the borrowers' joint gross annual income) multiplied by the amount specified in rule 3.1(q).
  
- (t) Unless the date of the Mortgage Offer was before 1 October 2014, the Loan was not, at the Date of Completion, the subject of a mortgage indemnity guarantee, insurance or similar product designed, in return for the payment of a premium or fee, to make good the Lending Group Member against any losses resulting from default by the borrower in respect of the Loan.

## SCHEDULE 5

### MODIFICATIONS: SCOTLAND

These Rules apply with the following modifications in relation to Loans relating to Properties in Scotland:

- (a) in rule 1.1(e), the reference to “England and Wales” shall be a reference to “Scotland”;
- (b) in rule 1.1(ii)(i), the reference to “an exchange of contracts” shall be a reference to “a conclusion of missives (or equivalent binding contract)”;
- (c) in rule 1.1 (ddd), the reference to a “mortgage over a Property” shall be a reference to “a standard security within the meaning of the Conveyancing and Feudal Reform (Scotland) Act 1970”;
- (d) in rule 1.1(nnn), the reference to “freehold, leasehold or commonhold” shall be a reference to “heritable”;
- (e) in rule 1.1(jjjj), the reference to “possession” shall be a reference to “enforcement action (whether in the courts or otherwise)”;
- (f) in rules 5.4 and 5.5, the reference to “assignment” (wherever occurring) shall be a reference to “assignation”;
- (g) rule 11.1(d)(ii) shall be deleted and replaced with the following wording:  
  
“(ii) in the event of repossession, the requirements of section 24A of the Conveyancing and Feudal Reform (Scotland) Act 1970, section 5B of the Heritable Securities (Scotland) Act 1894, or the Applications by Creditors (Pre-Action Requirements) (Scotland) Order 2010; and”;
- (h) in rule 19.2, the reference to “in England and Wales” shall be a reference to “of Scotland”;
- (i) in Schedule 3, paragraph (b), the reference to “county court judgments” shall be a reference to “judgments of the Sheriff Court or Court of Session”; and
- (j) in Schedule 3, paragraph (c), the reference to “has been subject to an individual voluntary arrangement or bankruptcy order which was in force” shall be a reference to “has signed a trust deed or has been sequestrated”.

## **SCHEDULE 6**

### **MODIFICATIONS: NORTHERN IRELAND**

These Rules apply with the following modifications in relation to Loans relating to Properties in Northern Ireland:

- (a) in rule 1.1(e), the reference to “England and Wales” shall be a reference to “Northern Ireland”;
- (b) rule 11.1(d)(ii) shall be deleted and replaced with the following wording:

“(ii) in the event of repossession, the revised Pre-Action Protocol for Possession Proceedings Based on Mortgage Arrears in Respect of Residential Property dated 30 August 2011 and published by the Northern Ireland Courts and Tribunals Service; and”; and
- (c) in rule 19.2, the reference to “the president for the time being of the Institute of Chartered Accountants in England and Wales” shall be a reference to “the chairperson for the time being of the Chartered Accountants Ulster Society (a district society of Chartered Accountants Ireland)”.