

*The following are the Special Conditions of Issue of the PPDS as varied in accordance with resolutions in writing passed by the holders of the PPDS on 18 January 2018. The following supersedes and replaces the original Special Conditions of Issue of the PPDS with effect from 19 January 2018.*

### **Special Conditions of Issue of the PPDS**

The PPDS (as defined below) are issued subject to, and with the benefit of, these special conditions of issue (the "**Conditions**", and each a "**Condition**").

#### **1. General**

- 1.1 The "**Society**" means West Bromwich Building Society.
- 1.2 "**PPDS**" means the 3,650 Profit Participating Deferred Shares of the Society.
- 1.3 Terms defined in the rules of the Society for the time being (the "**Rules**") will, unless the context otherwise requires, have the same meanings when used in these Conditions.
- 1.4 PPDS holders are entitled to the benefit of, are bound by, and are deemed to have notice of, the Rules. In the event of any conflict between the Rules and these Conditions, the Rules shall prevail, save that in the event of any conflict between these Conditions and Appendix 2 to the Rules, these Conditions will prevail (but subject always to the overriding cap on maximum level of distributions in respect of the PPDS set out in Appendix 2 to the Rules).
- 1.5 The PPDS:
  - (a) are deferred shares for the purposes of section 119 of the Act;
  - (b) are classified for the purposes of the Rules as permanent interest bearing Shares;
  - (c) are not protected deposits for the purposes of the Financial Services Compensation Scheme established under the Financial Services and Markets Act 2000; and
  - (d) are not withdrawable.
- 1.6 The PPDS may be held jointly by up to four Persons.
- 1.7 The PPDS rank junior to the Existing PIBS.
- 1.8 Upon a transfer of a PPDS, the Society will procure that the new PPDS holder is issued with a PPDS Certificate within 30 days of the lodging of the instrument of transfer if he so requests.
- 1.9 Rights to Conversion Benefits to which a PPDS holder may become entitled by reason of its holding of PPDS shall not be required to be assigned to a charity nominated by the Society pursuant to any scheme for charitable assignment established by the Society for the time being. In the event that a PPDS holder is a Member of the Society other than by reason of its holding of PPDS and has made a declaration to assign any Conversion Benefits to a charity, that assignment declaration shall not apply to Conversion Benefits derived from its holding of PPDS. If there is a conflict between these Conditions and any other provisions for the assignment of Conversion Benefits derived from PPDS held by any PPDS holder, whenever the assignment of Conversion Benefits is made, these Conditions shall prevail. For these purposes, "**Conversion Benefits**" shall mean any benefits which a Person has a right to

receive as a Shareholding Member under the terms of any future transfer of the Society's business to a company and the term "**Society**" shall extend to any Transferee Society and to any mutual society which is a holding company of a Successor Entity for the purposes of the Mutuels Transfer Act.

- 1.10 The PPDS are not capable of being admitted to listing or trading on, or being dealt in on, any stock exchange in the United Kingdom or elsewhere and the Society will not at any time make any application to any stock exchange for the PPDS to be listed or otherwise traded.
- 1.11 The definitions in Condition 16 shall apply in these Conditions.
- 1.12 References to a Condition are to a Condition set out herein.

## **2. Form, transfer and title**

- 2.1 The PPDS are in registered form and are transferable in accordance with the Rules in integral multiples of one PPDS.
- 2.2 No legal transfer of a PPDS shall be valid unless made in the form endorsed on the PPDS Certificate or in such other form as the Board may agree, which form shall be presented to the Registrar.
- 2.3 Legal title to the PPDS will pass upon registration of such transfer in the PPDS Register and, upon request, the Registrar shall, on behalf of the Society, issue a PPDS Certificate in respect of such holding (which will be made available at the offices of the Registrar which office will, where the Registrar is the Society, be the Principal Office).

## **3. PPDS Register**

- 3.1 The Society shall procure that the PPDS Register, in which shall be entered the name and address of each PPDS holder, is maintained in accordance with these Conditions. Each PPDS holder shall notify the Registrar immediately of any change in its name or address and shall produce such evidence of change of name or address as the Registrar may reasonably require.
- 3.2 Transfers and other documents or instructions relating to, or affecting the title of, any PPDS shall be recorded in the PPDS Register. No charge shall be made in respect of any entry in the PPDS Register. The PPDS Register shall be maintained at the Principal Office or at such other place as the Society and the Registrar shall agree and notify to the PPDS holders.
- 3.3 The Society shall procure that the Registrar shall, on behalf of the Society, issue a PPDS Certificate in respect of each holding of all PPDS held by each PPDS holder (or, in the case of a joint holding of PPDS, the first named holder, but indicating on the PPDS Certificate the names of all such joint PPDS holders) within 30 days after one is requested.
- 3.4 The Society shall procure that, forthwith after each occasion on which the Principal Value is increased or decreased in accordance with Condition 5.2, 5.3, 8.1(b), or 8.3(a), there shall be endorsed on the PPDS Register (where applicable, by the time stipulated in Condition 8.7):
  - (a) the amount of any increase or decrease in the Principal Value of the PPDS held by each PPDS Holder,
  - (b) the date of any such increase or decrease, and

- (c) the Principal Value of the PPDS held by each PPDS Holder immediately after such increase or decrease.

#### **4. Dividends**

- 4.1 The Board may declare dividends in respect of the PPDS in respect of any Financial Year in such amounts as the Board may determine in its sole and absolute discretion, subject to the other provisions of this Condition 4. No dividends shall be payable in respect of the Final Period.
- 4.2 The aggregate amount of dividends declared by the Board in respect of the PPDS in respect of a Financial Year shall be in such amount as the Board may determine in its sole and absolute discretion at the time when the Board approves the Relevant Accounts in respect of such Financial Year, but not in any event exceeding in aggregate the Available Dividend Amount in respect of such Financial Year.
- 4.3 No dividend shall be declared or paid in respect of the PPDS in respect of any Financial Year if at the relevant time (and after taking account of any increase in Principal Value effected, and the making of any debit or credit to the PPDS Reserve Account required, in respect of that Financial Year in accordance with Condition 5.2 or 5.3):
  - (a) the Principal Value is less than the Original Principal Value; or
  - (b) such dividend would constitute a breach of Condition 5.5.
- 4.4 Dividends on the PPDS are non-cumulative. In the event that no dividend is declared in respect of the PPDS in respect of any Financial Year or the aggregate dividends declared in respect of the PPDS in respect of any Financial Year are less than the Available Dividend Amount in relation to such Financial Year, no PPDS holder shall have any right to any dividend in respect of that Financial Year other than the actual amount of dividend declared (if any) in respect of that Financial Year in accordance with these Conditions.
- 4.5 The amounts of the Net Profits, Net Losses and Available Dividend Amount in respect of any Financial Year shall be determined by reference to the consolidated income statement in the Relevant Accounts in respect of such Financial Year and shall be as set out in an Auditors' Report addressed to the Society for the purpose of this Condition 4 and delivered for consideration by the Board when the Board meets to approve such Relevant Accounts and determines whether or not to declare a dividend in respect of the PPDS in respect of that Financial Year.
- 4.6 The Society shall procure that details of the Net Profits or, as the case may be, Net Losses and of the Available Dividend Amount, and details of the amount of dividends declared in respect of the PPDS (if any), for each Financial Year, are set out in the Annual Accounts for that Financial Year.
- 4.7 Any dividend in respect of the PPDS shall be paid not later than the date on which the Society holds its Annual General Meeting at which the Relevant Accounts in respect of the relevant Financial Year are laid before Members, unless under the terms of the Existing PIBS or any future issuance of permanent interest bearing shares, such dividend cannot be paid at that time by reason of an interest payment on the Existing PIBS or such other permanent interest bearing shares having been cancelled or required to be reduced pursuant to condition 4(3)(b) of the special conditions of issue of the Existing PIBS or the conditions of such other

permanent interest bearing shares, in which case it shall be payable as soon as is permitted under the terms of the Existing PIBS or such other permanent interest bearing shares.

4.8 [DELETED]

4.9 [DELETED]

4.10 [DELETED]

4.11 All dividends in respect of the PPDS shall be declared and payable to the PPDS holders pro rata according to the number of PPDS held by them on the Record Date.

4.12 No dividend or other moneys payable in respect of a PPDS shall bear interest against the Society. Any amount representing principal of or a dividend on a PPDS in respect of which no cheque or warrant has been cashed and no payment claimed shall cease to be payable after 12 years from the due date and shall revert to the Society.

4.13 The Society undertakes to take such steps as are necessary to give effect to the provisions of this Condition 4 (including, but not limited to, instructing the Auditors to prepare and deliver the reports required by Condition 4.5).

4.14 All reports, notifications, opinions, advice, determinations, certificates, calculations, quotations and decisions given, expressed or made by the Auditors for the purposes of this Condition 4 (an "**Auditors' Report**") or under Condition 8.5(a) shall (in the absence of wilful default, bad faith or manifest error) be binding on the Society, the Registrar and all PPDS holders and (in the absence as aforesaid) no liability shall attach to the Auditors in connection with any such report or the exercise or non-exercise of its powers, duties and discretions in that regard.

## **5. PPDS Reserve Account and Adjustment of Principal Value**

5.1 The Society shall maintain a PPDS Reserve Account to which there shall be debited and credited the amounts described below in respect of each Financial Year.

5.2 In the event that there are Net Profits in respect of any Financial Year:

- (a) there shall be added to the aggregate Principal Value (in accordance with this Condition 5) of all the PPDS then in issue an amount equal to the Participation Percentage of any Net Profits in respect of such Financial Year, provided that no such increase shall be made to the extent that it would cause such aggregate Principal Value immediately following such increase to exceed the aggregate of the Original Principal Value of all the PPDS then in issue, and
- (b) an amount equal to any remaining balance of the Participation Percentage of any Net Profits in respect of the Financial Year shall be credited to the PPDS Reserve Account.

5.3 In the event that there are Net Losses with respect to any Financial Year:

- (a) an amount equal to the Participation Percentage of any Net Losses with respect to the Financial Year shall be debited to the PPDS Reserve Account, subject to Condition 5.5, and

- (b) the aggregate of the Principal Value of the PPDS shall be reduced, subject to Condition 5.9, by an amount equal to any remaining balance of the Participation Percentage of any Net Losses with respect to the Financial Year.
- 5.4 Subject to Condition 5.5, and following the making of any debit or credit to the PPDS Reserve Account in respect of that Financial Year which is required by Conditions 5.2 and 5.3, there shall be also debited to the PPDS Reserve Account the aggregate amount of any dividends declared in respect of the PPDS in respect of any Financial Year.
- 5.5 No debit shall be made to the PPDS Reserve Account, and no dividend shall be declared in respect of the PPDS, to the extent that it would cause the balance on the PPDS Reserve Account to be less than zero immediately thereafter.
- 5.6 The amount of relevant credits and debits to the PPDS Reserve Account shall be made on, and any increase or decrease in the Principal Value pursuant to this Condition 5 shall take effect on, the Determination Date.
- 5.7 Any increase or decrease in the aggregate Principal Value shall be effected pro rata in relation to each PPDS.
- 5.8 The Society shall:
  - (a) cause any increase or decrease in the aggregate Principal Value under this Condition 5 to be notified to the Registrar forthwith after the Determination Date, and the Registrar to endorse the PPDS Register accordingly in accordance with Condition 3.4;
  - (b) procure that details of the amounts of any increase or decrease in the aggregate Principal Value or the PPDS Reserve Account in respect of each Financial Year are set out in the Annual Accounts for that Financial Year;
  - (c) display on its main corporate web site:
    - (i) details of the Principal Value for the time being, and the dates and amounts of any adjustments thereto effected in accordance with this Condition 5;
    - (ii) details of the amount standing to the credit of the PPDS Reserve Account for the time being; and
    - (iii) details of the Participation Percentage for the time being, and the dates and amounts of any adjustments thereto effected in accordance with Condition 6.6, Condition 8 or Condition 9; and
  - (d) give the PPDS holders not less than 14 days' advance notice of each Record Date.
- 5.9 Notwithstanding any other Condition, the Principal Value of each PPDS shall not in any circumstances be reduced to less than £100 for each PPDS. If this Condition 5.9 prevents a reduction in the Principal Value by any amount of Net Losses in circumstances where such reduction would (but for this Condition 5.9) otherwise be required by these Conditions, such amount of Net Losses shall (to the extent that they cannot be so applied in reducing Principal Value) be ignored in determining any further increases or decreases in Principal Value, or debits or credits to the PPDS Reserve Account, under these Conditions.

- 5.10 In the event that any dividend is declared but not subsequently paid by its due date, the entries in the PPDS Reserve Account in respect of such dividend shall be reversed.
- 5.11 For the avoidance of doubt, and notwithstanding any other provision of these Conditions, references in these Conditions to an increase or reduction in, or an adjustment to, the Principal Value do not result in, and shall not be construed as references to, an increase or reduction in, or adjustment to, the principal amount of the PPDS. Any increase or reduction in, or adjustment to, the Principal Value shall be notional only (and, accordingly, the principal amount of the PPDS shall not be increased, reduced or adjusted) unless and until a Crystallisation Event occurs. Upon the occurrence of a Crystallisation Event, the principal amount of the Relevant PPDS will be adjusted to reflect the Principal Value of such Relevant PPDS at such time (as determined in accordance with these Conditions, including Condition 8 where applicable).

A "**Crystallisation Event**" will occur:

- (a) (in respect of all PPDS) if there is a liquidation of the Society; and/or
- (b) (in respect of those PPDS which are so repurchased or reduced only) if the Society repurchases, or reduces the principal amount of, any PPDS with the prior permission of the Supervisory Authority, in accordance with prevailing Capital Regulations,

and, for these purposes, a "liquidation of the Society" shall include:

- (i) a Winding-up or Dissolution of the Society; and
- (ii) a Transaction Dissolution.

As used in this Condition 5.11, "**Relevant PPDS**" means, with respect to a Crystallisation Event, those PPDS in respect of which such Crystallisation Event has occurred, being:

- (A) in the case of a Crystallisation Event under paragraph (a) above, all PPDS outstanding at the time of the liquidation of the Society; and
- (B) in the case of a Crystallisation Event under paragraph (b) above, only those PPDS which are repurchased or reduced at the relevant time.

## **6. Repayment and Purchase**

- 6.1 The PPDS constitute permanent non-withdrawable deferred shares (as defined in the Act) in the Society and have no specified final maturity. The PPDS will become repayable only as provided in this Condition 6.
- 6.2 The PPDS will become repayable on the Dissolution Date, but only if and subject to the condition that all sums due from the Society to Creditors claiming in the winding-up or dissolution have been paid in full.
- 6.3 The claims of PPDS holders in a Winding-up or Dissolution of the Society will be for:
- (a) any dividends on their PPDS which have been resolved by the Board to be payable in accordance with these Conditions but which have not been paid, and
  - (b) the Original Principal Value (or, if less, the Principal Value) of their PPDS

and PPDS holders will not be entitled to any further participation in any final surplus upon a Winding-up or Dissolution of the Society.

- 6.4 The Society may, having obtained prior Relevant Supervisory Consent, and by agreement with the relevant PPDS holder, purchase any of the PPDS at any price and on such other terms as may be agreed with the relevant PPDS holder.
- 6.5 [DELETED]
- 6.6 If some, but not all, of the PPDS are purchased by the Society in accordance with this Condition 6, the Participation Percentage shall be reduced with immediate effect from the amount immediately prior to such purchase by the proportion that the number of PPDS so purchased bears to the number of PPDS in issue immediately prior to such purchase.
- 6.7 All PPDS repaid or purchased by the Society as aforesaid shall be cancelled forthwith and such PPDS may not be reissued or resold.
- 6.8 Subject to applicable law, no holder of PPDS may exercise, claim or plead any right of set-off, compensation or retention in respect of any amount owed to it by the Society in respect of, or arising under or in connection with the PPDS and each holder of PPDS shall, by virtue of his holding of any PPDS, be deemed, to the fullest extent permitted under applicable law, to have waived all such rights of set-off, compensation or retention. Notwithstanding the preceding sentence, if any of the amounts owing to any holder of PPDS by the Society in respect of, or arising under or in connection with the PPDS is discharged by set-off, such holder shall, subject to applicable law, immediately pay an amount equal to the amount of such discharge to the Society (or, in the event of its winding-up or dissolution, the liquidator or other insolvency official of the Society) and, until such time as payment is made, shall hold an amount equal to such amount in trust for the Society (or the liquidator or insolvency official of the Society (as the case may be)) and accordingly any such discharge shall be deemed not to have taken place.

## 7. Payments

- 7.1 All payments in respect of the PPDS will be made by sterling cheque or warrant drawn on a bank or building society in the United Kingdom and posted on the Business Day immediately preceding the relevant due date to the PPDS holder appearing in the PPDS Register at the close of business on the fifteenth day before the relevant due date (the "**Record Date**") at his address shown in the PPDS Register on the Record Date. Every cheque shall be made payable to the order of the Person or Persons entitled or to such other Person as the Person or Persons entitled may in writing direct and payment of the cheque shall be a good discharge to the Society. Any joint holder or other Person jointly entitled to a PPDS as aforesaid may give receipts for any dividend or other moneys payable in respect of the PPDS.
- 7.2 Upon application of the PPDS holder to the Society, in the form from time to time prescribed by the Society, the payment may be made by transfer on the due date to a sterling account maintained by the payee with a bank or building society in the United Kingdom which has been notified to the Society not less than ten days before the due date for payment.
- 7.3 All payments in respect of the PPDS shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature ("**Taxes**") imposed or levied by or on behalf of the United Kingdom or any political subdivision or any authority thereof or therein having power to tax, unless the withholding or deduction of the Taxes is required by law.

## 8. Succession and transfers

8.1 Upon an amalgamation by the Society with another building society under section 93 of the Act or a transfer of the whole (or a part containing the PPDS) of the engagements of the Society to another building society under section 94 of the Act (such other building society being the "**Transferee Society**"):

- (a) the PPDS (other than any PPDS held by the Transferee Society, which shall be cancelled upon the occurrence of such amalgamation or transfer) shall become profit participating deferred shares in the Transferee Society on the following terms of this Condition 8.1;
- (b) immediately prior to the Transaction Time the aggregate Principal Value of the PPDS shall be:
  - (i) increased by the capitalisation of the amount (if any) standing to the credit of the PPDS Reserve Account (after taking account of any adjustments required by virtue of Condition 8.5) and the application thereof in paying up a further amount on the PPDS: or
  - (ii) subject to Condition 5.9, decreased by an amount equal to the amount by which (1) the Participation Percentage of any Net Losses determined in accordance with Condition 8.5 exceeds (2) the amount standing to the credit of the PPDS Reserve Account;
- (c) any such increases or decreases shall take effect pro rata in relation to each PPDS immediately prior to the Transaction Time;
- (d) accordingly the profit participating deferred shares in the Transferee Society held by each PPDS holder as a consequence of such amalgamation or transfer will be in a principal value as increased or decreased by the operation of the preceding provisions of this Condition 8.1, and that principal value shall be the original principal value of those profit participating deferred shares in the Transferee Society; and
- (e) the terms and conditions of the profit participating deferred shares in the Transferee Society shall:
  - (i) be:
    - (A) such as to secure that, subject to Relevant Supervisory Consent, they will be treated as Core Tier One Capital or its equivalent (if any) for the purposes of Applicable Regulatory Capital Requirements and, subject thereto
    - (B) in all material respects identical to the terms of the PPDS, except as provided in this Condition 8.1 and Condition 8.2; and
  - (ii) not later than the time at which notice is given to Members of resolutions to be proposed to approve such amalgamation or transfer, be available for inspection by PPDS holders during usual business hours at the Principal Office and, if different, at the specified office of the Registrar.

- 8.2 The participation percentage applicable to the profit participating deferred shares in the Transferee Society shall be such lower percentage than that applicable to the PPDS immediately prior to the Transaction Time as is, in the opinion of an Independent Investment Bank, fair and reasonable to reflect the proportion that the Core Tier One Capital of the Society immediately prior to the Transaction Time bears to the Core Tier One Capital of the Transferee Society immediately after the Transaction Time (after taking account of any bonus distribution made pursuant to the terms of such amalgamation or transfer). The Society shall procure that the appropriate Participation Percentage is applied to those Net Profits arising in that part of a Financial Year ending at the Transaction Time, and the appropriate participation percentage determined in accordance with this Condition 8.2 is applied to the net profits of the Transferee Society arising after the Transaction Time.
- 8.3 Upon a transfer by the Society of the whole of its business in accordance with section 97 of the Act to a company (a "**Successor Entity**", which expression includes a subsidiary of a mutual society as referred to in the Mutuels Transfer Act) the Successor Entity will, in accordance with section 100(2)(a) of the Act, as from the Transaction Time, assume a liability (subject to this Condition 8) to each qualifying Member of the Society in respect of a deposit made with the Successor Entity corresponding in amount to the value of the qualifying Shares held by such Member in the Society. The liability so assumed by the Successor Entity in respect of each PPDS shall be their Principal Value, determined on the basis that:
- (a) immediately prior to the Transaction Time, the aggregate Principal Value of the PPDS shall be:
    - (i) increased by the capitalisation of the amount (if any) standing to the credit of the PPDS Reserve Account (after taking account of any adjustments required by virtue of Condition 8.5) and the application thereof in paying up a further amount on the PPDS; or
    - (ii) subject to Condition 5.9, decreased by an amount equal to the amount by which (1) the Participation Percentage of any Net Losses determined in accordance with Condition 8.5 exceeds (2) the amount standing to the credit of the PPDS Reserve Account;
  - (b) any such increases or decreases shall take effect pro rata in relation to each PPDS immediately prior to the Transaction Time; and
  - (c) the liability so assumed to each PPDS holder as a consequence of such transfer will be in respect of a non-transferable subordinated deposit (a "**Deposit**") in an amount of the Principal Value of that PPDS holder's PPDS, as increased or decreased by the operation of the preceding provisions of this Condition 8.3.
- 8.4 Each Deposit will be applied at the Transaction Time (or as soon as reasonably practicable thereafter) on behalf of the PPDS holder in the subscription of such number of ordinary shares in the Successor Entity, ranking *pari passu* in all respects with the then existing ordinary shares of the Successor Entity, as, in the determination of an Independent Investment Bank, have an aggregate market value immediately following such subscription of an amount of as near as practicable to, but not less than, the aggregate Principal Value of the PPDS (as increased or decreased by the operation of Condition 8.3) held by the PPDS holder at the Transaction Time.
- 8.5 Prior to the time when any Transaction takes effect (a "**Transaction Time**");

- (a) the Society shall procure that interim accounts are prepared for the period from the commencement of that Financial Year and ending at the end of the month prior to the month in which the Transaction Time falls, and that those accounts ("**Interim Accounts**") are reviewed, to then current interim report standard, by the Auditors and approved by the Board;
  - (b) when the Board approves the Interim Accounts it shall also determine:
    - (i) the amounts of the Net Profits, Net Losses and Available Dividend Amount in respect of that Financial Year, by reference to the consolidated income statement in the Interim Accounts in respect of such Financial Year and its estimate of the likely Net Profits or Net Losses of the Society for the period between the date to which the Interim Accounts were prepared and the Transaction Time, such determination to be made by the Board acting in good faith; and
    - (ii) whether or not to declare a dividend in respect of the PPDS in respect of that Financial Year;
  - (c) where the Board makes determinations under Condition 8.5(b)(i) or 8.5(b)(ii):
    - (i) Conditions 4.2 to 4.4 (inclusive), 4.6, 4.11, 4.11 and 4.14 (but not the other Conditions in Condition 4) shall apply thereto;
    - (ii) any dividend determined to be payable under Condition 8.5(b)(ii) shall be payable no later than one month after the relevant Determination Date and Condition 4.7 shall otherwise apply thereto; and
    - (iii) Conditions 5.2 to 5.9 (inclusive) shall apply thereto, modified so far as necessary in each case; and
  - (d) the Society will make the Interim Accounts available for inspection by PPDS holders during usual business hours at the Principal Office and, if different, at the specified office of the Registrar.
- 8.6 The Society undertakes to procure that it and any Transferee Society or Successor Entity will comply with the terms of this Condition 8 in relation to any amalgamation or transfer referred to in Condition 8.1 or 8.3 and as if, in the case of a Transferee Society, references in Condition 4 to the "Board" include the board of directors of the Transferee Society or a duly authorised committee thereof.
- 8.7 The Society shall cause any increase or decrease in the Principal Value under this Condition 8 to be notified to the Registrar, and the Registrar to endorse the PPDS Register accordingly in accordance with Condition 3.4, immediately prior to the relevant Transaction Time.
- 8.8 The Society undertakes to enter into all agreements and take such other steps as are necessary to give effect to the provisions of this Condition 8 (including, but not limited to, the appointment of an Independent Investment Bank and instructing the Auditors to review any Interim Accounts).
- 8.9 All reports, notifications, opinions, advice, determinations, certificates, calculations, quotations and decisions (each a "**Report**") given, expressed or made by an Independent Investment Bank for the purposes of this Condition 8 or Condition 9 or the Board under

Condition 8.5(b) shall (in the absence of wilful default, bad faith or manifest error) be binding on the Society, the Registrar and all PPDS holders and (in the absence as aforesaid) no liability shall attach to the Independent Investment Bank or the Board in connection with any Report or the exercise or non-exercise of its powers, duties and discretions in that regard. The Independent Investment Bank shall owe no client duties to the holders of PPDS or securities in the Successor Entity or Transferee Society.

## **9. Acquisitions of Mutual Societies**

9.1 This Condition 9 applies to the transfer:

- (a) to the Society of the whole or part of the engagements of another building society under section 94 of the Act or the Banking Act 2009 or any successor or similar legislation; and
- (b) to a subsidiary of the Society of the business of another mutual society under the Mutuels Transfer Act,

(each a "**Mutual Acquisition**").

9.2 The Participation Percentage shall be adjusted with effect from the completion of any Mutual Acquisition to such percentage as is lower than that immediately previously applicable to the PPDS as is, in the opinion of an Independent Investment Bank, fair and reasonable to reflect the increase in the Core Tier One Capital of the Society effected by the Mutual Acquisition (after taking account of any bonus distribution made pursuant to the terms of the Mutual Acquisition). The Society shall procure that the appropriate Participation Percentage is applied to those Net Profits arising in that part of a Financial Year ending on completion of any Mutual Acquisition, and the adjusted Participation Percentage determined in accordance with this Condition 9.2 is applied to those Net Profits arising in the remainder of that Financial Year, respectively.

9.3 The Society undertakes to take such steps as are necessary to give effect to the provisions of this Condition 9 (including, but not limited to, instructing an Independent Investment Bank to prepare and deliver the report required by this Condition).

## **10. Unclaimed interest**

Rule 48 (Sale of untraceable owner) shall not apply to the PPDS.

## **11. Replacement of PPDS Certificates**

A PPDS holder who has lost a PPDS Certificate shall immediately give notice in writing of such loss to the Society at its Principal Office. If a PPDS Certificate is damaged or alleged to have been lost, stolen or destroyed, a new PPDS Certificate representing the same PPDS shall be issued by the Society to the PPDS holder upon request, subject to delivery up of the old PPDS Certificate or (if alleged to have been lost, stolen or destroyed) subject to compliance with such conditions as to evidence and indemnity as the Society may think fit and to payment of any exceptional expenses of the Society incidental to its investigation of the evidence of such alleged loss, theft or destruction. The new PPDS Certificate will be made available at the offices of the Registrar.

## **12. Variation of these Conditions**

- 12.1 These Conditions may only be varied by the Society with:
- (a) Relevant Supervisory Consent, and
  - (b) except as provided in Condition 12.5, the consent in writing of the holders of three-quarters of the number of PPDS for the time being in issue or with the sanction of a resolution passed at a separate meeting of the PPDS holders held in accordance with Condition 13.
- 12.2 The Society undertakes not to initiate any change to the Rules that is both (a) inconsistent with the provisions of these Conditions and (b) materially prejudicial to the interests of the PPDS holders in that capacity.
- 12.3 These Conditions do not limit the rights of Members to change the Rules.
- 12.4 Any amendment to the Rules which is both (a) inconsistent with the provisions of these Conditions and (b) materially prejudicial to the interests of the PPDS holders in that capacity shall not limit any rights of PPDS holders to bring an action for breach of contract against the Society in circumstances where the Society is in breach of the terms of these Conditions nor afford the Society any defence to any claim made in any such proceedings.
- 12.5 The Society shall be entitled, without the need for the consent or approval of the PPDS holders, to make any variations to these Conditions which it determines in good faith, following consultation with an independent adviser, are not materially prejudicial to the interests of the PPDS holders in that capacity. The Society will notify the PPDS holders of any such variation, which shall be binding upon all PPDS holders. An independent adviser consulted pursuant to this Condition will act as an expert only and to the fullest extent permitted by law will not thereby assume any responsibility or liability towards the PPDS holders.

## **13. Meetings of PPDS holders**

- 13.1 The Society alone may at any time convene a separate meeting of the PPDS holders. Every meeting shall be held at such place as the Society may approve.
- 13.2 At least 21 clear days' notice, calculated back from the final date for the receipt of proxies under Condition 13.11, specifying the hour, date and place of the meeting shall be given to the PPDS holders entered in the PPDS Register at the close of business on the day following 35 days prior to the date specified for the meeting by sending it by post to their respective addresses as shown in the PPDS Register. The notice shall specify generally the nature of the business to be transacted at the meeting and the terms of any resolution to be proposed to alter these Conditions.
- 13.3 Any Person (who may, but need not, be a PPDS holder) nominated in writing by the Society shall be entitled to take the chair at every meeting but if no nomination is made or if at any meeting the person nominated shall not be present within 15 minutes after the time appointed for holding the meeting, the PPDS holders present shall choose one of their number who is present to be chairman.
- 13.4 At any meeting one or more Persons present in person or by proxy and holding or representing in aggregate not less than one-third of the number of PPDS for the time being in

issue shall form a quorum for the transaction of business and no business (other than the choosing of a chairman) shall be transacted at any meeting unless the requisite quorum shall be present at the commencement of business. Every question submitted to the meeting (other than the choosing of a chairman which will be decided by a show of hands by a simple majority) shall be taken on a poll and, in order to be passed, must be supported by one or more Persons present and holding PPDS or being proxies and representing in aggregate not less than three quarters of the number of PPDS represented at such meeting voting.

- 13.5 If within half an hour after the time appointed for any meeting a quorum is not present, the meeting shall stand adjourned for such period, being not less than 14 days nor more than 42 days, and at such place as may be appointed by the chairman and if at the adjourned meeting a quorum shall not be present within half an hour from the time appointed for the adjourned meeting, the PPDS holder or holders present in person or by proxy at the adjourned meeting shall be a quorum.
- 13.6 Notice of any adjourned meeting shall be given in the same manner as notice of an initial meeting but as if 10 were substituted for 21 in Condition 13.2.
- 13.7 A poll shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting.
- 13.8 The chairman may with the consent of (and shall if directed by a resolution of) the meeting adjourn any meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than business left unfinished or not reached at the meeting from which the adjournment took place.
- 13.9 Any director or officer of the Society and its professional advisers may attend and speak at any meeting of the PPDS holders. Save as provided in the preceding sentence, no Person shall be entitled to attend and speak nor shall any Person be entitled to vote at any such meeting unless he is a PPDS holder or is a proxy thereof.
- 13.10 At any meeting of the PPDS holders, every PPDS holder who is present in person or by proxy shall have one vote for every PPDS held.
- 13.11 A PPDS holder entitled to attend a separate meeting of the PPDS holders:
  - (a) may appoint one Person (whether a PPDS holder or not) as his proxy to attend and, on a resolution, to vote at such meeting instead of him; and
  - (b) may direct the proxy how to vote at the meeting.

A proxy shall be appointed by an instrument in writing which shall be in such form and include such declarations as the Board may from time to time determine. The instrument shall enable the PPDS holder appointing the proxy to direct him how to vote and, if the instrument is not in the form specified by the Society or is not signed by the appointer, the appointment of the proxy shall be invalid. The appropriate forms of declaration shall, with such additional or amended wording as the Board may consider appropriate, be used in the case of a body corporate. If the appropriate declaration is not included in the instrument, the appointment of the proxy shall be invalid. The instrument appointing a proxy or a representative shall be deposited at the Principal Office not less than 48 hours before the day appointed for holding the meeting, or adjourned meeting, and in default the instrument shall not be treated as valid. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll but, save as provided by this Condition 13.11, a proxy shall have no right to

13.11 speak at the meeting. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental disorder of the appointer or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of a PPDS in respect of which the proxy is given, provided that no intimation in writing of such death, mental disorder, revocation or transfer shall have been received by the Society at its Principal Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

- 13.12 Any resolution passed at a meeting duly convened and held in accordance with these provisions shall be binding upon all the PPDS holders whether or not present at the meeting and whether or not voting and each of them shall be bound to give effect to the resolution accordingly and the passing of any resolution shall be conclusive evidence of the circumstances justifying the passing of the resolution. Notice of any resolution duly passed by the PPDS holders shall be given in writing to each PPDS holder by the Society within 14 days of the passing of the resolution, provided that the non-publication of the notice shall not invalidate the resolution.
- 13.13 Minutes of all resolutions and proceedings at every meeting shall be made and duly entered in books to be from time to time provided for that purpose by the Society and any minutes purporting to be signed by the chairman of the meeting at which resolutions were passed or proceedings had shall be conclusive evidence of the matters contained in the minutes and until the contrary is proved every meeting in respect of the proceedings of which minutes have been so made and signed shall be deemed to have been duly held and convened and all resolutions passed or proceedings had to have been duly passed or had.
- 13.14 The accidental omission to send notice of a separate meeting or to send any document required to be sent with the notice or otherwise before the meeting to, or the non-receipt of notice of a separate meeting or any such document as aforesaid by, any Person entitled to receive notices or documents shall not invalidate the proceedings at that meeting.

#### **14. Further issues**

- 14.1 The Society shall be at liberty from time to time without the consent of the PPDS holders to create and issue:
- (a) other profit participating deferred shares ranking *pari passu* (save for the first dividend payment thereon) with the PPDS; or
  - (b) other deferred shares upon such other special terms of issue as the Society may at the time of issue determine.
- 14.2 If, on or prior to 31 March 2014, the Society issues further profit participating deferred shares or other Core Tier One Capital with a right to participate in a percentage of the profits of the Society ("**Further Capital**"), that Further Capital shall have its own separate participation percentage and, subject as provided in Condition 14.3, the Participation Percentage and the related dividend entitlement with respect to the then existing PPDS shall not be reduced by reason of such issue.
- 14.3 If:

- (a) the Society issues Further Capital pursuant to a re-capitalisation of the Society in order to comply with any Applicable Regulatory Capital Requirements or other requirement of, or to meet individual capital guidance provided by, a Supervisory Authority and
- (b) the terms of the Further Capital are such that the aggregate of the Participation Percentage of the PPDS and the participation percentages of all the Further Capital immediately following such issue would together account for more than 100% of the profits of the Society and its subsidiary undertakings,

the Society may, subject to Condition 14.4, but without any further sanction from the PPDS holders, reduce the Participation Percentage with effect from the time of such issue to such level as would (when taken together with any other reductions referred to in Condition 14.4(b)) reduce to 100% the amount of the profits of the Society and its subsidiary undertakings accounted for by the PPDS and all the Further Capital immediately following such issue.

14.4 The Society shall not reduce the Participation Percentage under Condition 14.3 unless:

- (a) it has received Relevant Supervisory Consent; and
- (b) it also makes corresponding proportionate reductions taking effect at the same time in the participation percentages of all Further Capital.

## 15. Notices

All notices regarding PPDS shall be valid if sent by post to the PPDS holders at their respective addresses in the PPDS Register. Any such notice shall be deemed to have been given on the second Business Day following the mailing of such notice.

## 16. Definitions

For the purpose of these Conditions:

"**Act**" means the Building Societies Act 1986, as amended for the time being, whether before or after the date on which any PPDS are issued.

"**Applicable Regulatory Capital Requirements**" means any requirements contained in Capital Regulations from time to time applicable to the Society.

"**Auditors**" means the auditors of the Society for the time being.

"**Auditors' Report**" has the meaning given in Condition 4.14.

"**Available Dividend Amount**" in respect of any Financial Year means an amount equal to the Net Profits for that Financial Year multiplied by the Participation Percentage.

"**Business Day**" means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London.

"**Capital Regulations**" means the rules and regulations of the Supervisory Authority in effect from time to time that require the Society to meet minimum capital adequacy requirements.

**"Core Tier One Capital"** has the meaning given to "core tier one capital" in the Supervisory Authority's General Prudential Sourcebook (as amended, supplemented or updated from time to time) or any successor publication replacing it. Core Tier One Capital shall also be deemed to include, for the purposes of these Conditions, issued capital of the Society or any other entity regardless of name or designation which is treated as issued core tier one capital by the Supervisory Authority.

**"Creditors"** means (i) all creditors (including all subordinated creditors) of the Society, (ii) the holders of the Existing PIBS and (iii) all other Shareholding Members (other than holders of deferred shares) as regards the principal and interest due in respect of those Shares.

**"deferred shares"** has the meaning given in the Act.

**"Determination Date"** means a date on which the Relevant Accounts in respect of the relevant Financial Year are approved by the Board and the date upon which the Board approves any interim accounts under Condition 8.5(b).

**"Dissolution Date"** means the date that an instrument or order is made or an effective resolution is passed for a Winding-up or Dissolution of the Society.

**"Existing PIBS"** means the £75,000,000 6.15% permanent interest bearing shares of the Society issued on 29 July 2005.

**"Existing PIBS Successor Securities"** means securities in any Transferee Society or Successor Entity into which the Existing PIBS convert or are which are otherwise derived from the Existing PIBS in accordance with condition 8(1) or (2) of the special conditions of issue of the Existing PIBS.

**"Final Period"** means the financial period of the Society ending on the Dissolution Date.

**"Financial Year"** means any financial year commencing after 31 March 2009, including any shorter period commencing after 31 March 2009 and ending on a Transaction Dissolution, but excluding the Final Period.

**"Independent Investment Bank"** means independent investment bank appointed by the Society or the Successor Entity, as the case may be, under Condition 8 or Condition 9.

**"Interim Accounts"** has the meaning given in Condition 8.5(a).

**"Mutuals Transfer Act"** means the Building Societies (Funding) and Mutual Societies (Transfers) Act 2007, as amended for the time being, whether before or after the date on which any PPDS are issued.

**"Net Profits"** or **"Net Losses"** with respect to any Financial Year are the consolidated profits, or, as the case may be, losses of the Society and its subsidiaries during that Financial Year:

- (a) prior to any adjustment in respect of any dividends declared in respect of the PPDS;
- (b) after any provisions or payments in respect of tax which are recognised in the Society's consolidated income statement, but ignoring:
  - (i) any tax consequences for the Society of dividends declared in respect of the PPDS, and

- (ii) any provisions or payments in respect of tax in respect of any profits referred to in paragraph (e) of this definition;
- (c) after recognising any provision for interest in respect of the Existing PIBS and associated tax relief payable in respect of that Financial Year;
- (d) after any profits or losses attributable to minority interests; and
- (e) ignoring any profit arising on the arrangements whereby the PPDS were issued by the Society consequent upon, and in conjunction with, the repayment of other securities of, and loans made to, the Society.

**"Original Principal Value"** means £50,000 per PPDS, being the principal value of a PPDS at the time of its issue.

**"Participation Percentage"** means, as at the time that any determination of Available Dividend Amount is required to be made in accordance with these Conditions, 25% or such lower percentage as is produced by any reduction effected by Condition 6.6, Condition 8 or Condition 9.

**"PPDS Certificate"** means a certificate representing a holding of PPDS made out in the form prescribed by the Society, and constituting a "PIBS Certificate" for the purposes of the Rules.

**"PPDS holder"** means a Person whose name and address is entered in the PPDS Register as the holder of PPDS or, in the case of a joint holding of PPDS, the first person whose name is entered in the PPDS Register in respect of the joint holding of the PPDS.

**"PPDS Register"** means the records of the Society maintained for the purposes of the PPDS, and constituting a "PIBS Register" for the purposes of the Rules.

**"Principal Value"** means, at any time, the principal value of a PPDS at that time, being the Original Principal Value at the time of its issue, as subsequently decreased and/or increased in accordance with these Conditions.

**"Record Date"** has the meaning given in Condition 7.1.

**"Registrar"** means the Society or such other Person as is appointed as registrar by the Society for the time being in respect of the PPDS.

**"Relevant Accounts"** means, with respect to any Financial Year, the Annual Accounts of the Society for that Financial Year and, where the context so admits, includes any Interim Accounts.

**"Relevant Supervisory Consent"** means consent to the relevant matter from the Supervisory Authority:

- (a) in the form of a waiver of the Applicable Regulatory Capital Requirements or other requirement; or
- (b) where a formal waiver is not required, in any other written form.

**"Successor Entity"** has the meaning given to it in Condition 8.3.

**"Supervisory Authority"** means the Financial Services Authority (or any successor body performing for the time being the same or similar functions in relation to building societies in the United Kingdom (so long as the Society remains a building society) or banks in the United Kingdom (in the event that the Society transfers its business to a company pursuant to section 97 of the Act)).

**"Transaction"** means an amalgamation under section 93 of the Act or a transfer under section 94 of the Act as described in Condition 8.1 or a transfer under section 97 of the Act as described in Condition 8.3.

**"Transaction Dissolution"** means a dissolution of the Society under section 93(5), section 94(10), section 97(9) or section 97(10) of the Act.

**"Transaction Time"** has the meaning given in Condition 8.5.

**"Transferee Society"** has the meaning given in Condition 8.1.

**"Winding-up or Dissolution"** of the Society means a winding-up or dissolution of the Society, other than a Transaction Dissolution.

#### **17. Governing law**

The rights and obligations in respect of the PPDS and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law.