To: Departmental Private Finance Units

SoPC 4 Addendum April 2012: Amended Refinancing Provisions

This letter is being sent to Departmental Private Finance Units to notify them of a further amendment\(^1\) to the refinancing provisions of “Standardisation of PFI Contracts Version 4” ("SoPC4") which has been made in the light of the current state of the financing market. This further amendment, primarily to clauses 34.2 and 34.7, together with a new definition of Margin Gain:

- ensures that where there is a reduction in margin arising as a result of a Qualifying Refinancing, 90% of the Refinancing Gain arising from such reduction will be paid to the Authority;
- clarifies the sharing with the Authority of any other Refinancing Gain;
- specifies how costs are allocated to a Margin Gain which forms part of a Refinancing Gain.

The effect of these changes, taken together, is intended to address the potential for a 'windfall' increase in distributions to equity should significant improvements in debt market pricing occur in the future.

For clarity, the amended refinancing clauses listed in the Addendum hereto show all changes from the original SoPC 4 drafting. Please note however that the changes introduced by this Addendum are primarily the new clause 34.2 (a) and the new definition of Margin (while the bulk of changes to clause 34.2 (b) were introduced by previous addenda and are already part of standard wording).

The application of these further revised provisions is mandatory for all PFI projects that have not yet reached financial close as at the date of this letter.

Authorities should be aware of the impact that changes in funding terms can have on the allocation of risks and benefits within a project and that notwithstanding the focus of the new gain share amendment on lender margin, scrutiny should be given to all commercial terms of refinancing proposals, not just margin. If an Authority receives bank term sheets

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\(^1\) Previously amended by Addenda of October 2008 and April 2009
constructed along different lines to the traditional market norm for long-term PFI transactions, they are encouraged to discuss with their sponsoring departments and HM Treasury.

Should you wish to discuss the application of the Addendum with HM Treasury please contact Rachel Nodder, James Ballingall or Paul Curtis.

Yours sincerely

[Signature]

Jo Fox
Head of PPP Policy, HM Treasury