EXPLANATORY MEMORANDUM TO THE PENSION PROTECTION FUND (LIMIT ON BORROWING) ORDER 2005

2005 No. 339

1. This memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by command of her Majesty.

2. Description

2.1 The Board of the Pension Protection Fund (PPF) is established under section 107 of the Pensions Act 2004 (c. 35) ("the Pensions Act"), with functions under section 110 to hold manage and apply a fund to be known as the Pension Protection Fund and a fund to be known as the Fraud Compensation Fund.

2.2 Section 115(1) enables the Board to borrow so that it can exercise its functions, and Section 115(3) provides for the borrowing limit to be set by order.

2.3 This order specifies the borrowing limit as £25 million.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative background

4.1 This Order is made under powers in the Pensions Act and is subject to the negative procedure. It is the first use of the power under the Pensions Act 2004.

4.2 Article 2 of this Order specifies that the borrowing limit for the purposes of section 115(3) of the Pensions Act shall be £25 million.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Background

7.1 The PPF will pay compensation to members of eligible occupational pension schemes where the sponsoring employer is insolvent and the scheme has insufficient assets to pay benefits at a level at least equal to the amount the PPF will provide.

7.2 The PPF will also take on responsibility for fraud compensation (on 1 September 2005), from the Pensions Compensation Board, under part 2 chapter 4 and section 302.

7.3 The Pensions Compensation Board has similar borrowing powers, under section 78 of the Pensions Act 1995, and has a borrowing limit of £15 million.

7.4 For the PPF, the power to borrow is designed to ensure that the Board does not have to sell off assets it is holding at times when it would not receive a good price - to smooth the peaks and troughs of the economic cycle.

7.5 For the Fraud Compensation Fund, the power to borrow enables any short term deficiency in the fund's balance to be addressed prior to the Board raising a fraud compensation levy under section 189. Borrowing is not designed to be a long-term method of funding the Pension Protection Fund or the Fraud Compensation Fund.

7.6 The aim of this instrument is to place a suitable limit on the level of commercial borrowing by the PPF Board to manage its short term liquidity.

7.7 The Board must account for any borrowing in its annual reports and accounts.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Cathy Twamley at the Department for Work and Pensions Tel: 020 7962 8675 or email: cathy.twamley@dwp.gsi.gov.uk can answer any queries regarding this instrument.

16 February 2005