

*These notes refer to the Building Societies (Funding) and Mutual Societies (Transfers) Act 2007 (c.26) which received Royal Assent on 23rd October 2007*

# **BUILDING SOCIETIES (FUNDING) AND MUTUAL SOCIETIES (TRANSFERS) ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 1: Funding limit for building societies***

10. Subsection (1) amends section 7 of the Building Societies Act 1986 (“the 1986 Act”) to make it possible for the Treasury to change the funding limit for building societies.
11. New subsection (6A) enables the Treasury to make an order providing that the limit on non-member funding in section 7(1) has effect as if the current limit of 50% were a greater amount, up to a maximum of 75%, specified in the order. The order may also prohibit societies from applying the increased percentage unless they have passed a resolution of the kind specified in the order.
12. New subsection (6B) provides that an order under subsection (6A) is of no effect unless there is also an order in place under new section 90B, giving members equality with creditors in dissolution and winding up. This aims to protect the position of members: if no order were made under s.90B, an increase in wholesale (non-member) funding would put them at greater risk in the event of an insolvency, as funds would be used to satisfy a larger pool of creditors first.
13. New subsection (6C) provides that an order under subsection (6A) may not be amended or revoked if the effect is to reduce the percentage specified in the order. The purpose is to ensure that the funding limit, once increased, cannot be reduced. If the Treasury were able to raise the funding limit and later reduce it, that could deter building societies from taking advantage of the raised funding limit. There would be no certainty that they could continue to use that amount of wholesale funding in the future.
14. New subsection (8A) requires an order under subsection (6A) to be approved in draft by affirmative resolution in each House of Parliament before it is made.
15. Subsection (2) amends section 5 of the 1986 Act, which requires the purpose or principal purpose of a building society to be that of making loans secured on residential property which are funded substantially by its members.
16. New subsection (11) gives the Treasury a power to amend section 5(1)(a) of the 1986 Act so as to alter the extent to which loans are required to be funded by the society’s members. This will ensure that the requirement in section 5 is consistent with the revised funding limit, as that will allow societies to have less member funding.
17. New subsections (12) and (13) give the Treasury a power to make consequential, saving, supplementary or transitional provision. This includes provision amending specified provisions of the Act, concerning the functions of the Financial Services Authority, amalgamations and societies’ memoranda. This will ensure that those sections are consistent with section 5 as amended.

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18. New subsection (14) requires an order made under the section to be approved in draft by affirmative resolution in each House of Parliament before it is made.