
STATUTORY INSTRUMENTS

1988 No. 1344

BUILDING SOCIETIES

The Building Societies (Prescribed Contracts) Order 1988

Made - - - -

25th July 1988

Laid before Parliament

29th July 1988

1st October 1988

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 23(2) of the Building Societies Act 1986(1), and of all other powers enabling it in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Building Societies (Prescribed Contracts) Order 1988 and shall come into force on 1st October 1988.

Interpretation

2.—(1) In this Order—

“the Act” means the Building Societies Act 1986,

“participant” means a party to a prescribed contract to which a society is also a party,

“prescribed contract” means an agreement or a series of agreements the terms of which include terms having the effect of—

- (a) the terms set out for swap contracts in Part I of the Schedule hereto,
- (b) the terms set out for sterling interest rate option contracts in Part II of the Schedule hereto,
- (c) the terms set out for swap option contracts in Part III of the Schedule hereto, or
- (d) the terms set out for sterling interest rate forward and futures contracts in Part IV of the Schedule hereto,

“security”, except in Part IV of the Schedule hereto, means an asset which is of a character which societies, or societies of particular descriptions, may hold under section 21 (liquid assets) of the Act or which comprises rights under a prescribed contract whose terms include terms having the effect of the terms set out for sterling interest rate forward and futures contracts in Part IV of the Schedule hereto, and

“society” means a building society.

(2) Where reference is made in this Order to any matter within the terms of a prescribed contract being specified, that matter shall be treated for the purposes of this Order as so specified if it is specified or referred to within or can be implied from the terms of that contract, or if it is to be determined in a manner which is set out in that contract.

Prescribed contracts

3.—(1) Subject to paragraph (2) below, a society may, for the purposes of section 23(1) of the Act (which empowers societies with qualifying asset holdings to hedge), effect prescribed contracts.

(2) Where the security specified in a prescribed contract to which Part II of the Schedule hereto relates is an asset which is of a character which only societies of a particular description may hold under section 21 of the Act, the power to effect that contract is available only to a society of that description.

Revocation of previous Orders

4. The Building Societies (Prescribed Contracts) Order 1986(2) and the Building Societies (Prescribed Contracts) (Amendment) Order 1987(3) are hereby revoked.

Transitional provision

5. Nothing in this Order shall be taken to invalidate any contract effected by a society as a prescribed contract in accordance with any Order in force under section 23(2) of the Act at the time when the contract was effected.

In witness whereof the common seal of the Building Societies Commission is hereto fixed, and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 22nd July 1988.

P. H. Gevers
Secretary to the Commission

We consent to this Order

Mark Lennox-Boyd
David Lightbown
Two of the Lords Commissioners of Her
Majesty's Treasury

25th July 1988

(2) S.I.1986/2098, amended by S.I. 1987/1500.

(3) S.I. 1987/1500.

SCHEDULE

Article 2

PART I

terms for swap contracts

1. A society agrees with a participant (whether by a single agreement with him or by a series of agreements to at least one of which he is a party) that each will pay money to or to the order of the other on terms which are calculated to substitute for a cash flow relating to assets or liabilities, or a combination of assets and liabilities, of the society, (without affecting the terms of any rights reflected by such assets or any obligations reflected by such liabilities), a different cash flow, whether the difference lies in the number or frequency of the payments or receipts (or combination of payments and receipts) comprising the cash flows, in the interest rates by which such payments or receipts are calculated, in the currency in which such payments are made or receipts are taken, or in any combination of those factors.

2. In this Part of this Schedule, “cash flow” means payments, receipts, or any combination of payments and receipts.

PART II

terms for sterling interest rate option contracts

A society agrees with a participant (whether by a single agreement with him or by a series of agreements to at least one of which he is a party) that in consideration for the payment by one party to the agreement to the other of specified sums of money in sterling, the payer will have the right at specified times or during a specified period to buy from or sell to the payee a specified security or a specified amount of a specified security at a specified price in sterling.

PART III

terms for swap option contracts

A society agrees with a participant (whether by a single agreement with him or by a series of agreements to at least one of which he is a party) that, in consideration of the payment by one party to the agreement to the other of specified sums of money, the payer will have the right at specified times or during a specified period to enter into a prescribed contract on specified terms with the payee such terms including terms having the effect of the terms set out for swap contracts in Part I of this Schedule.

PART IV

terms for sterling interest rate forward and futures contracts

1. A society agrees with a participant (whether by a single agreement with him or by a series of agreements to at least one of which he is a party) that one party to the agreement will at specified times pay sums of money in sterling or transfer gilts to the other, where the liability (if any) for making such payment or transfer, the amount (if any) to be paid, and the value of gilts (if any) to be transferred are to be determined by reference to the extent to which specified rates of interest or specified prices in sterling differ as between the beginning and the end of specified periods or at specified times or fall outside a specified range of interest rates or prices at specified times.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2. In this Part of this Schedule, “gilts” means securities issued in the United Kingdom by Her Majesty’s Government.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes swap contracts, sterling interest rate option contracts, swap option contracts and sterling interest rate forward and futures contracts as types of contract which a building society may enter into under section 23 of the Building Societies Act 1986 for the purpose of reducing the risk of loss.

The power to enter into such contracts is only available to a building society which has a qualifying asset holding and has adopted the power in section 23. A building society has a qualifying asset holding where the aggregate value of its total commercial assets is not less than £100 million.

Article 4 of this Order revokes the Building Societies (Prescribed Contracts) Order 1986 (which prescribed sterling interest rate swaps and capital and interest currency swaps) and the Building Societies (Prescribed Contracts) (Amendment) Order 1987 (which varied the specification of participants). The validity of prescribed contracts entered into under those Orders is preserved by article 5.