

1988 No. 1393

BUILDING SOCIETIES

**The Building Societies (Designation of Qualifying
Bodies) (Amendment) Order 1988**

<i>Made</i> - - - -	<i>27th July 1988</i>
<i>Laid before Parliament</i>	<i>4th August 1988</i>
<i>Coming into force</i>	<i>30th August 1988</i>

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 18(2)(c) of the Building Societies Act 1986(a), and of all other powers enabling it in that behalf, hereby makes the following Order:

Title and commencement

1. This Order may be cited as the Building Societies (Designation of Qualifying Bodies) (Amendment) Order 1988 and shall come into force on 30th August 1988.

Amendment of previous Order

2. The Building Societies (Designation of Qualifying Bodies) Order 1988(b) shall have effect subject to the amendments set out in the Schedule to this Order.

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 27th July 1988.



P. H. Gevers
Secretary to the Commission

We consent to this Order

Peter Lloyd
David Lightbown
Two of the Lords Commissioners
of Her Majesty's Treasury

27th July 1988

AMENDMENTS TO THE BUILDING SOCIETIES (DESIGNATION OF QUALIFYING BODIES) ORDER 1988

1. To Part I of the Schedule (bodies corporate, and descriptions of bodies corporate, designated) there shall be added after the item numbered 10 an item numbered "10A" comprising the following entries in the columns of that Part—

- (a) in column 1 (specified name or description), "LondonClear Limited",
- (b) in column 2 (specified registration number or definition), "2108186",
- (c) in column 3 (specified relevant power), "Investment and support.",
- (d) in column 4 (specified purposes (if any)),
 "(1) Facilitating the provision of banking services by the society or any associated body of the society.
 (2) Facilitating the provision of investment services by the society or any associated body of the society.
 (3) Facilitating the raising of funds and borrowing of money by the society or any associated body of the society.", and
- (e) in column 5 (specified limits and conditions (if any)), "—".

2. In Part II of the Schedule (interpretation), in place of paragraph 4 (meaning of group interest provision) there shall be substituted the following paragraph—

"4.—(1) In this Schedule "the group interest provision" means a condition to the effect that—

- (a) where a society holds shares or corresponding membership rights in an appropriate vehicle and becomes aware that and a subordinate organisation of that appropriate vehicle is within the prohibited range, the society shall dispose of those shares or corresponding membership rights as soon as it is conveniently practicable to do so without undue loss, and
- (b) where a society has a relevant interest in a relevant body corporate, the society shall, within four months of the end of each financial year of that relevant body corporate at which year end the society has such an interest, seek to obtain a group income certificate in relation to that relevant body corporate, and, if no such certificate as is required by this paragraph is so obtained by the society for two successive financial years of the relevant body corporate, the society shall—
 - (i) notify the Commission in writing, within 14 days of the end of the four months following the end of the second such financial year, that subparagraph (ii) below applies to it,
 - (ii) as soon as it is conveniently practicable to do so without undue loss, dispose of sufficient shares or corresponding membership rights that it ceases to have a relevant interest in that body corporate, and
 - (iii) within 14 days following that cessation, notify the Commission in writing thereof.

(2) For the purposes of subparagraph (1)(a) above, a subordinate organisation comes within the prohibited range where it comes within a description in paragraph 7(2)(b), (c), (d) or (e) below (or would do if it were a vehicle subject to the provisions of subparagraph 7(2) below).

- (3) For the purposes of subparagraph (1)(b) above, "relevant interest" means—
 - (a) shares or corresponding membership rights in a body corporate which is not a company limited by shares, or
 - (b) sufficient shares in a body corporate which is a company limited by shares to give the society direct ownership or direct and indirect ownership (determined as specified in the definition of "subordinate organisation" in paragraph 10 below) of 15 per cent or more of the ordinary share capital (as defined within that definition) of that company.

(4) For the purposes of subparagraph (1)(b) above, "relevant body corporate" means an appropriate vehicle which has any subordinate organisation which is not an associated body of the society.

- (5) For the purposes of this paragraph—
 - (a) "group income certificate", in relation to a relevant body corporate, means a certificate signed by a director of the relevant body corporate (and adequately supported by a report of its auditors) stating that at least 60 per cent of the consolidated gross income of the relevant body corporate and its subordinate

organisations for the financial year to which the certificate relates was derived, subject to subparagraph (6) below, from carrying on qualifying activities, and

(b) "qualifying activities" means activities the purpose of enabling a qualifying body to carry on which is a purpose for which the society has power to invest in or support a qualifying body.

(6) For the purposes of subparagraph (5)(a) above—

(a) in calculating the consolidated gross income of the relevant body corporate and its subordinate organisations derived from carrying on qualifying activities, any income derived by such a subordinate organisation, or by an appropriate vehicle other than an appropriate estate agency vehicle, from activities which are qualifying activities only if they are undertaken together with estate agency work shall be deemed to be derived from carrying on activities which are not qualifying activities, and

(b) a certificate is adequately supported by a report of the auditors of a relevant body corporate where the auditors have reported at least to the effect that—

(i) they have examined the certificate,

(ii) they have inquired into the affairs of the relevant body corporate, and obtained information from the society, to an extent necessary to consider whether there is any significant likelihood that the certificate is untrue in any material particular, and

(iii) they consider that there is no significant likelihood that the certificate is untrue in any material particular."

3. In Part II of the Schedule, in paragraph 5 (meaning of investment and support limit for general insurance companies), in subparagraph (a) after the words "associated bodies" in both places where they appear there shall be inserted the words "and subordinate organisations".

4. In Part II of the Schedule, in paragraph 6 (meaning of business percentage certification condition for estate agency vehicles), subparagraph (2) shall be amended as follows—

(a) in paragraph (b) after the word "untrue" there shall be added the words "in any material particular", and

(b) in paragraph (c) after the word "untrue" there shall be added the words "in any material particular".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Building Societies (Designation of Qualifying Bodies) Order 1988, which designates corporate bodies and types of corporate body as suitable for investment or support by building societies under section 18 of the Building Societies Act 1986. The main amendments are contained in paragraphs 1 and 2 of the Schedule to this Order.

Paragraph 1 designates LondonClear Limited for the purposes of section 18 as a body corporate suitable for investment and support by building societies.

Paragraph 2 revises the group interest provision contained in paragraph 4 of Part II of the Schedule to the previous order. This provision is a condition which applies to corporate bodies (other than general insurance companies) designated by description which have subordinate organisations (that is to say organisations in which the designated body has at least a 5 per cent interest). The condition imposes two duties on a society investing in such a designated body.

First, if the society discovers that any subordinate organisation of the designated body is conducting business in the "prohibited range" (as defined in new paragraph 4(2)), the society must dispose of its interest in the designated body as soon as conveniently practicable without undue loss. Business in this prohibited range is market making, lending money (except by a stockbroker in the ordinary course of buying or selling investments as agents), taking deposits in a manner requiring authorisation under the Banking Act 1987 (c.22), and activities which the society itself cannot undertake because it has not adopted the necessary power or because the activities would contravene a restriction on the extent of a power, which it has adopted.

Secondly, except where the designated body is a company in which the society has an interest of less than 15 per cent, the society must seek to obtain a certificate for each financial year of the designated body to the effect that at least 60 per cent of the consolidated gross income of the designated body and its subordinate organisations was derived from carrying on activities for which the society has power to provide investment or support. If not such certificate is obtained for two successive financial years, the society must cease having an interest in the designated body (or reduce its interest to less than 15 per cent if the designated body is a company).

85p net

ISBN 0 11 087393 9