
STATUTORY INSTRUMENTS

1993 No. 2833

BUILDING SOCIETIES

The Building Societies (Aggregation) Rules 1993

Made - - - - *18th November 1993*
Laid before Parliament *23rd November 1993*
Coming into force - - *31st December 1993*

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by sections 7(10) and (11), 8(3) and (4) and 20(9) and (10) of the Building Societies Act 1986(1), hereby makes the following Rules:

Title and commencement

1. These Rules may be cited as the Building Societies (Aggregation) Rules 1993 and shall come into force on 31st December 1993.

Interpretation

2.—(1) In these Rules—

- (a) “the Act” means the Building Societies Act 1986;
- (b) “attributable assets”, in relation to a body, means the aggregate of its class 1 assets, its class 2 assets and its class 3 assets, less the aggregate of its excluded assets, and for the purposes of classifying the assets of the body Part III of the Act (advances, loans and other assets) shall apply as it applies for the purposes of classifying the assets of a society;
- (c) “corresponding membership rights” has the meaning given by section 18(17);
- (d) “deposit liabilities”, in relation to a body, means liabilities in respect of the principal of, and interest payable on, money deposited with the body which are not—
 - (i) excluded liabilities; or
 - (ii) liabilities incurred in the course of providing a service for the time being specified in Part I of Schedule 8 to the Act (powers to provide services) other than a banking service;

(1) 1986 c. 53; section 7 has been amended by S.I. 1987/378, 1670 and 1990/2363 and the prescribed percentage for the purposes of subsection (3) was increased by S.I. 1987/2131; new limits were specified for the purposes of section 20(2) and (3) by S.I. 1988/1142; Schedule 8 was substituted by S.I. 1988/1141 and amended by S.I. 1989/839 and 1992/509.

- (e) “excluded assets”, in relation to a body, means commercial assets (namely class 1 assets, class 2 assets or class 3 assets) of the body which—
 - (i) are represented by a liability of the society or another relevant body associated with the society; or
 - (ii) if the body is an insurance company within the meaning of section 96 of the Insurance Companies Act 1982⁽²⁾, are assets representing the fund or funds maintained by the company under section 28(1)(b) of that Act in respect of its long term business;
- (f) “excluded liabilities”, in relation to a body, means liabilities of the appropriate kind (namely non–retail liabilities as defined in rule 3(2) or deposit liabilities as defined in (d) above) which are represented by assets of the society or another relevant body associated with the society;
- (g) “holds”, in relation to shares or corresponding membership rights, means holds directly or through another body (or bodies) corporate or partly directly and partly through another body (or bodies) corporate and other derivatives of “hold” shall be construed accordingly;
- (h) “relevant body”, in relation to a building society, means a body corporate in which the society holds shares or corresponding membership rights, where—
 - (i) the body is a subsidiary undertaking of the society; or
 - (ii) the relevant percentage of shares or corresponding membership rights held by the society, or by another relevant body associated with the society (for which purpose the definition of “the relevant percentage” in (j) below shall apply with the substitution of references to that other body for references to the society), or by the society and any such body, is 15% or more,
 and in these Rules such a body is said to be “associated” with the society; and
- (j) “the relevant percentage”, in relation to a body associated with a building society, means the percentage of shares or corresponding membership rights held by the society in the body determined in accordance with section 838(4) to (10) of the Income and Corporation Taxes Act 1988⁽³⁾ with the substitution in that section of “shares or corresponding membership rights” for “ordinary share capital” and “holds” (and other derivatives of “hold” as appropriate) for “owns” (and other derivatives of “own”).

(2) In these Rules, except where otherwise stated, a reference to a section is a reference to a section of the Act, a reference to a rule is a reference to a rule in these Rules and a reference in a rule to a paragraph is a reference to a paragraph of that rule.

Aggregation of liabilities in respect of non–retail funds and deposits

3.—(1) Where a building society is associated with a relevant body there shall be attributed to the society for the purposes of section 7(3)—

- (a) for the purposes of determining the liabilities of the society in respect of its non– retail funds and deposits, the relevant percentage of the non–retail liabilities of the body; and
- (b) for the purposes of determining the total liabilities in respect of shares in or money deposited with the society, the relevant percentage of the deposit liabilities of the body.

(2) In paragraph (1) “non–retail liabilities” means liabilities of the body in respect of its non–retail funds and deposits of the kind described in section 7(4) which are not—

- (a) excluded liabilities; or

(2) 1982 c. 50.

(3) 1988 c. 1.

(b) liabilities in respect of which an election is in force in respect of the society under section 7(5),

and for the purposes of this paragraph references in section 7 to a building society, except in relation to shares in the society, shall be construed as references to the body.

Disregard of liabilities of societies for the purposes of section 7(3)

4. In determining for the purposes of section 7(3) the liabilities of a building society there shall be disregarded those liabilities that are represented by assets of any relevant body with which the society is associated.

Aggregation of liabilities in respect of deposits

5. Where a building society is associated with a relevant body there shall be attributed to the society for the purposes of section 8(1) the relevant percentage of the deposit liabilities of the body.

Disregard of liabilities of societies for the purposes of section 8(1)

6. In determining for the purposes of section 8(1) the liabilities of a building society there shall be disregarded those liabilities that are represented by assets of any relevant body with which the society is associated.

Aggregation of assets

7.—(1) Where a building society is associated with a relevant body there shall be attributed to the society for the purposes of section 20 the relevant percentage of the attributable assets of the body.

(2) Subject to paragraph (3), class 1 assets of the body shall be attributed as class 1 assets of the society, and so on for classes 2 and 3, except (in the case of class 1 only) if the aggregate amount of class 1 assets attributed to a society under paragraph (1) exceeds 15% of the society's total commercial assets (including those attributed under paragraph (1)) the excess shall be attributed to class 2.

(3) Assets shall be attributed as class 1 assets of the society only if the society is satisfied in relation to the advances constituting those assets that if made by the society they would have qualified as class 1 advances, and similarly in respect of class 2 assets.

(4) Where before the coming into force of these Rules a society has obtained certificates under rule 7 of the Building Societies (Aggregation) Rules 1990(4) in respect of an asset, it may rely on those certificates in respect of that asset for the purposes of paragraph (3) above.

Disregard of assets of societies for the purposes of section 20

8.—(1) In determining the purposes of section 20 the asset holding of a building society, subject to paragraphs (2) and (3), there shall be disregarded those commercial assets that are represented by a liability of any relevant body with which the society is associated.

(2) The aggregate amount of assets of a society disregarded under paragraph (1) by virtue of being represented by a liability of a relevant body with which the society is associated ("relevant disregardable assets") shall not exceed the aggregate amount of assets of the relevant body attributed to the society under rule 7(1) ("relevant attributable assets").

(3) If a society's relevant disregardable assets comprise assets of both classes 2 and 3 and are (in aggregate) greater than the relevant attributable assets the society's class 3 assets shall be disregarded under this rule in priority to its class 2 assets.

(4) S.I. 1990/2362, amended by S.I. 1992/2748.

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

Revocation of previous Rules

9. The Building Societies (Aggregation) Rules 1990⁽⁵⁾ and the Building Societies (Aggregation) (Amendment) Rules 1992⁽⁶⁾ are hereby revoked.

In witness whereof the Common Seal of the Building Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 11th November 1993.

L.S.

T. F. Mathews
Commissioner

We consent to these Rules,

Timothy Wood
Andrew Mackay
Two of the Lords Commissioners of Her
Majesty's Treasury

18th November 1993

⁽⁵⁾ S.I. 1990/2362.
⁽⁶⁾ S.I. 1992/2748.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, which replace the Building Societies (Aggregation) Rules 1990, set out how certain assets and liabilities of bodies associated with building societies are to be attributed to societies for the purposes of the limits in section 7 (power to raise funds and borrow money and limit on non-retail funds and borrowing), 8 (proportion of liabilities to be in the form of shares) and 20 (commercial asset structure requirements) of the Building Societies Act 1986.

The Rules cover the assets and liabilities of bodies corporate which are subsidiary undertakings of societies or in which a society holds (directly or indirectly) 15% or more of the shares or corresponding membership rights. Assets and liabilities are attributed according to the percentage of shares or corresponding membership rights so held by the society. Section 838(4) to (10) of the Income and Corporation Taxes Act 1988 is applied for the purposes of determining the size of the percentage.

Assets are attributed according to the class into which they fall (as described in Part III of the 1986 Act) except that if the amount of class 1 assets to be attributed exceeds 15% of the total commercial assets of the society (after attribution) the excess is to be treated as class 2. Societies must satisfy themselves that assets attributed as class 1 or 2 would be so classified if they had made the advances constituting them themselves. Assets representing the fund or funds maintained by an insurance company in respect of its long term business are excluded from attribution.

The Rules also exclude intra-group assets and liabilities from attribution, and provide that in determining whether the limits in section 7, 8 and 20 have been complied with liabilities and assets of societies which are represented respectively by assets and liabilities of associated bodies are to be disregarded. However, assets of a society represented by liabilities of an associated body are disregarded only to the extent that an equal or greater amount of the associated body's assets are attributed under these Rules, and in case of any shortfall class 3 assets are disregarded in priority to class 2 assets.

The 1990 Rules and the Building Societies (Aggregation) (Amendment) Rules 1992 are revoked.