
STATUTORY INSTRUMENTS

1993 No. 984

BUILDING SOCIETIES

The Building Societies (Prescribed Contracts) Order 1993

<i>Made</i>	- - - -	<i>1st April 1993</i>
<i>Laid before Parliament</i>		<i>2nd April 1993</i>
<i>Coming into force</i>	- -	<i>1st May 1993</i>

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 23(2) and (4) 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 1993 and shall come into force on 1st May 1993.

Interpretation

2.—(1) In this Order—

“the Act” means the Building Societies Act 1986,

“interest” means, except where otherwise stated, any interest payable in respect of money including interest determined by reference to the fluctuations in the value or price of property of any description or in an index or other factor derived from such value or price,

“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 are prescribed in Article 3,

“security”, except in Part IV of the Schedule hereto, means an asset which is of a character which societies 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 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. The following descriptions of contract are hereby prescribed for the purposes of section 23(1) of the Act, namely, 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 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 forward and futures contracts in Part IV of the Schedule hereto.

4. A society without a qualifying asset holding is hereby prescribed as a description of society under section 23(4) of the Act in relation to which it is hereby provided that section 23(3) of the Act shall not have effect as regards the exercise, by it, of the following powers which are hereby prescribed namely to effect contracts prescribed in paragraph 2 of Part I, in paragraph 2 of Part III and in paragraph 3 of Part IV of the Schedule hereto.

Revocation of previous Orders

5. The Building Societies (Prescribed Contracts) Order 1988(2) and the Building Societies (Prescribed Contracts) (Amendment) Order 1991(3) are hereby revoked.

Transitional provision

6. 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 1st April 1993.

L.S.

Norman Digance
Secretary to the Commission

(2) S.I.1988/1344, amended by S.I. 1991/2582.
(3) S.I. 1991/2582.2

We consent to this Order

1st April 1993

Irvine Patnick
Tim Wood
Two of the Lords Commissioners of Her
Majesty's Treasury

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SCHEDULE

Article 3

PART I

TERMS FOR SWAP CONTRACTS

1. A society agrees with a participant (whether by a single agreement or by a series of agreements) that each will pay money to or to the order of the other on terms which are calculated to substitute for a cash flow of the society 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. A society agrees with a participant (whether by a single agreement or by a series of agreements) that each will pay money to or to the order of the other on terms which are calculated to substitute for a cash flow of the society 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 (not being interest rates determined by reference to the fluctuations in the value or price of property of any description or in an index or other factor derived from such value or price) by which such payments or receipts are calculated or in a combination of those factors.

PART II

TERMS FOR OPTION CONTRACTS

A society agrees with a participant (whether by a single agreement or by a series of agreements) that, in consideration for 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 buy from or sell to the payee either a specified security or a specified amount of a specified security at a specified price.

PART III

TERMS FOR SWAP OPTION CONTRACTS

1. A society agrees with a participant (whether by a single agreement or by a series of agreements) 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.

2. A society agrees with a participant (whether by a single agreement or by a series of agreements) 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 paragraph 2 of Part I of this Schedule.

PART IV

TERMS FOR FORWARD AND FUTURES CONTRACTS

1.—(1) A society agrees with a participant (whether by a single agreement or by a series of agreements) that the society will at specified times:

- (a) pay to or receive from the participant a sum or sums of money where the amount, if any, to be paid or received is to be determined by reference to the extent to which specified rates of interest or specified prices differ as between the beginning and the end of specified periods or at a specified time or times, or at specified times fall outside a specified range of interest rates or prices; and, or,
- (b) transfer to the participant a holding or holdings of securities in return for a sum or sums of money where the amount, if any, to be paid is to be determined by reference to the extent to which specified rates of interest or specified prices differ as between the beginning and the end of specified periods or at a specified time or times, or at specified times fall outside a specified range of interest rates or prices.

(2) In this paragraph, “securities” means securities issued by the government of any of the following: any member State of the European Community, Canada, Japan, Sweden, Switzerland and the United States of America.

2. A society agrees with a participant (whether by a single agreement or by a series of agreements) that the society will at a specified time or specified times make a payment of a sum or sums of money in exchange for other money where the amounts of currency to be paid and received are determined by reference to a specified price, at a specified time, of currency for delivery at the end of a specified period or periods.

3.—(1) A society agrees with a participant (whether by a single agreement or by a series of agreements) that the society will at specified times pay to or receive from the participant a sum or sums of money where the amount, if any, to be paid or received is to be determined by reference to the extent to which specified rates of interest differ as between the beginning and the end of specified periods or at a specified time or times, or at specified times fall outside a specified range of interest rates.

(2) In this paragraph “interest” means an interest payable in respect of money but not interest determined by reference to the fluctuations in the value or price of property of any description or in an index or other factor derived from such value or price.

EXPLANATORY NOTE

(This note is not part of the Order)

This order prescribes swap contracts, option contracts, swap option contracts and forward and future contracts in relation to interest rate and currency risks 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 prescribed contracts is only available to a building society which has adopted the power in section 23. Societies which do not have a qualifying asset holding may only enter into

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interest rate swap contracts providing such contracts do not include an interest rate determined by reference to the fluctuations in value or price of property of any description or in an index or other factor derived from such value or price. 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 1988 as amended by the Building Societies (Prescribed Contracts) (Amendment) Order 1991. Under those Orders swap contracts, interest rate option contracts, swap option contracts and interest rate forward and futures contracts were prescribed and remain so under this Order. The validity of prescribed contracts entered into under those Orders is preserved by article 6.