
STATUTORY INSTRUMENTS

1993 No. 985

BUILDING SOCIETIES

**The Building Societies (Designation
of Qualifying Bodies) Order 1993**

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|-------------------------------|---------|-----------------------|
| <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 18(2)(c) of the Building Societies Act 1986⁽¹⁾, 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) Order 1993 and shall come into force on 1st May 1993.

Interpretation

2. In this Order, except where the context otherwise requires—

“the Act” means the Building Societies Act 1986;

“body” means a body corporate of the description specified in column 1 of Part I of Schedule 1 to this Order;

“the relevant power”, in relation to a body, means the power for the exercise of which, as specified in column 3 of Part I of Schedule 1 to this Order, that body is designated as suitable, and

“society” means a building society.

Designation of bodies corporate

3.—(1) Each body corporate of the description specified in column 1 of Part I of Schedule 1 to this Order is designated for the purposes of section 18 of the Act (power to invest in subsidiaries and other associated bodies) and within that Part of that Schedule—

(1) 1986 c. 53.

- (a) the corresponding item in column 2 specifies, where that body corporate comes within the description so specified, the meaning of that description for the purposes of this Order;
 - (b) the corresponding item in column 3 specifies that the body is designated as suitable for investment and support (but not for support only);
 - (c) the corresponding item in column 4 specifies the purposes for which (in addition to the purposes permitted by section 18(4) of the Act) the exercise of the relevant power by a society is permitted in relation to that body, and
 - (d) the corresponding item in column 5 specifies the condition subject to which the exercise of the relevant power by a society is permitted in relation to that body.
- (2) Part II of Schedule 1 to this Order shall have effect—
- (a) so as to supplement Part I thereof, and
 - (b) in respect of interpretation of that Schedule.

Amendments of previous Orders

4. The following Orders shall have effect subject to the amendments set out in Schedule 2 to this Order: the Building Societies (Designation of Qualifying Bodies) Order 1990(2); the Building Societies (Designation of Qualifying Bodies) Order 1991(3); the Building Societies (Designation of Qualifying Bodies) (No. 2) Order 1991(4); the Building Societies (Designation of Qualifying Bodies) Order 1992(5); the Building Societies (Designation of Qualifying Bodies) (No. 2) Order 1992(6); the Building Societies (Designation of Qualifying Bodies) (No. 3) Order 1992(7), and the Building Societies (Designation of Qualifying Bodies) (No. 4) Order 1992(8).

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.1990/1434.
(3) S.I. 1991/357.
(4) S.I. 1991/2581.
(5) S.I. 1992/649.
(6) S.I. 1992/650.
(7) S.I. 1992/651.
(8) S.I. 1992/652.

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 1

PART I

DESCRIPTION OF DESIGNATED BODY CORPORATE

| Column 1 Specified description | Column 2 Specified definition | Column 3 Specified relevant power | Column 4 Specified purposes | Column 5 Specified condition |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------------------------------------------------------------------------------------------------|------------------------------------|
| Funding body | A specified type of body corporate (not being one excluded by the particular restrictions for funding bodies), which is a subsidiary of the society, formed for the purposes of, or the objects of which include, any or all of the following activities— (a) borrowing money and receiving deposits from any person for any of the purposes described in (b), (c), and (d) below, and for the purpose of any activity which is within the powers of the society to carry on; (b) lending money to the society; (c) holding funding body assets; | Investment and support. | Enabling the body to carry on any of the activities which are described in paragraphs (a) to (d) in column 2. | The standard asset provision. |

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| Column 1 Specified description | Column 2 Specified definition | Column 3 Specified relevant power | Column 4 Specified purposes | Column 5 Specified condition |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------------|------------------------------------|
| | (d) entering into and effecting any contract which conforms to a description, and any terms within that description, prescribed for the time being in an order made under section 23(2) of the Act(9) as if, within that description: (i) references to “society” were references to “funding body”, and (ii) references to “participant” were references to a party to such a contract to which the funding body is | | | |

(9) See the Building Societies (Prescribed Contracts) Order 1993, S.I. 1993/984.

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| Column 1 Specified description | Column 2 Specified definition | Column 3 Specified relevant power | Column 4 Specified purposes | Column 5 Specified condition |
|--------------------------------------|-------------------------------------|-----------------------------------------|-----------------------------------|------------------------------------|
| | also a party. | | | |

PART II INTERPRETATION

Meaning of specified type of body corporate

1. In this Schedule “specified type of body corporate” means a body corporate which is—
- (a) a body corporate formed in a member State other than the United Kingdom,
 - (b) a body corporate formed in a relevant British overseas territory (within the meaning of section 14 (power to make advances secured on land overseas) of the Act), or
 - (c) a body corporate formed in any of the following countries:
United States of America, Japan, Canada and Switzerland.

Meaning of standard asset provision

2. In this Schedule “the standard asset provision” means a condition to the effect that—
- (a) the relevant power is not available to a society which does not for the time being have a qualifying asset holding, but
 - (b) the cessation of its availability does not require the disposal of any property or rights.

Meaning of funding body asset

3. In this Schedule “funding body asset” means any asset which is of a description and is held in such circumstances as may be prescribed for the time being by Regulations made under section 21(7) of the Act⁽¹⁰⁾ as if, where applicable in those Regulations:

- (a) references to “liquid asset” were references to “funding body asset”, and
- (b) references to “society” were references to “funding body”,

and that any conditions prescribed by those Regulations with which a society must comply are complied with by the funding body.

Specification of particular restrictions for funding bodies

4.—(1) In this Schedule “the particular restrictions for funding bodies” means the provisions set out in sub-paragraph (2) below.

- (2) A body corporate is not a funding body for a society where—
- (a) it is a market maker,
 - (b) it is an authorised institution, or its business requires it to be authorised, for the purposes of the Banking Act 1987⁽¹¹⁾ or it otherwise carries on a deposit taking business in the United Kingdom within the meaning of section 6 of the Banking Act 1987,

⁽¹⁰⁾ See the Building Societies (Liquid Assets) Regulations 1991, S.I. 1991/2580 amended by S.I. 1992/2930.

⁽¹¹⁾ 1987 c. 22.

- (c) its business includes activities in the range from which the society is restricted within the meaning of paragraph 5 below, or
- (d) it owns 5% or more of shares or corresponding membership rights in another body corporate which the society does not have power to invest in and support or support.

Meaning of activities in the range from which a society is restricted

5. For the purposes of paragraph 4(2)(c) above an activity of a body corporate is an activity in the range from which a society is restricted where it is an activity which the society could not undertake by reason of the fact that—

- (a) it has not adopted a particular adoptable power, whether because the power is not available to it or for any other reason, or
- (b) the activity would be in contravention of a restriction upon the extent of a power the society has adopted being either a restriction derived from the Act or any instrument under the Act or a restriction assumed by the society.

Other definitions

6. In this Schedule, except where the context otherwise requires—

“investment” in the definition of “market maker” has the meaning which it bears in section 1 (investment business) of the Financial Services Act 1986(12);

“market maker” means—

- (a) in relation to the United Kingdom, a market maker in securities of a particular kind,
- (b) in relation to any country or territory outside the United Kingdom, a person who holds himself out at all normal times as willing to buy and sell at a price specified by him investments of a particular kind which are traded on any exchange in that country or territory;

“market maker in securities of a particular kind” means a person who, for the purposes of subsection (4) of section 67 (depository receipts) of the Finance Act 1986(13), is so described in section 69(7) (depository receipts: supplementary) of that Act.

SCHEDULE 2

Article 4

Amendments to the Building Societies (Designation of Qualifying Bodies) Order 1990

1. In Part II of the Schedule—

- (a) in paragraph 4(2) there shall be deleted “(c)”, and
- (b) in paragraph 7 there shall be deleted sub-paragraph (2)(c).

Amendments to the Building Society (Designation of Qualifying Bodies) Order 1991

2. In Part II of the Schedule—

- (a) in paragraph 3(2) there shall be deleted “(b)”, and
- (b) paragraph 4(2)(b) shall be deleted.

(12) 1986 c. 60.

(13) 1986 c. 41.

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Amendments to the Building Society (Designation of Qualifying Bodies (No. 2) Order 1991

3. In Part II of the Schedule—
- (a) in paragraph 2(2) there shall be deleted “(b)”, and
 - (b) paragraph 3(2)(b) shall be deleted.

Amendments to the Building Societies (Designation of Qualifying Bodies) Order 1992

4. In paragraph 3 of Part II of the Schedule—
- (a) in sub-paragraph (1)—
 - (i) there shall be substituted for the words “the borrower mortgages legal estate in land” the words “the borrower grants a mortgage of land”, and
 - (ii) there shall be substituted for the words “in such land” the words “in such mortgage”, and
 - (b) for sub-paragraph (2) there shall be substituted the following new sub-paragraph—
 - “(2) For the purposes of sub-paragraph (1) above—
 - (a) “a mortgage of land” means any of the following:
 - (i) a mortgage of a legal estate in land;
 - (ii) a mortgage of any title or interest in or over land which is situated outside England, Wales and Northern Ireland;
 - (iii) a heritable security over land, and
 - (iv) any form of security equivalent to a mortgage which acknowledges a debt, obliges the borrower to pay it and secures payment of that debt on land which is situated outside the United Kingdom, and
 - (b) “beneficial and legal, or beneficial interest in such mortgage” shall, if the land is situated outside England, Wales and Northern Ireland, mean any title in such mortgage.”.

Amendments of the Building Societies (Designation of Qualifying Bodies) (No. 2) Order 1992

5. In the Schedule—
- (a) in Column 2 of Part I there shall be deleted the words “which is a wholly-owned subsidiary of the society and”, and
 - (b) in paragraph 5 of Part II there shall be deleted the words ““wholly-owned subsidiary”” up to and including the words “wholly-owned subsidiaries of that society, and persons acting on behalf of that society.”.

Amendment of the Building Societies (Designation of Qualifying Bodies (No. 3) Order 1992

6. Paragraph 4(2)(ii) shall be deleted in Part II of the Schedule.

Amendments of the Building Societies (Designation of Qualifying Bodies) (No. 4) Order 1992

7. In Part II of the Schedule—
- (a) in paragraph 4(2) there shall be deleted “(c)”, and
 - (b) paragraph 6(2)(c) shall be deleted.

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order designates a description of body corporate as suitable for investment and support (but not for support only) by building societies under section 18 of the Building Societies Act 1986, so as to add “funding body” as a further type of designated body.

2. A funding body is a body corporate which is a subsidiary of a society and formed in any member State (other than the United Kingdom), any relevant British overseas territory (within the meaning of section 14 (power to make advances overseas) of the Act, or in any of the following countries: United States of America, Japan, Canada and Switzerland. The purposes for which it is formed include raising funds, holding assets equivalent to liquid assets held by building societies, entering into hedging contracts and lending money to the society which has invested in the funding body.

3. This Order also amends previous Orders made under section 18 of the Building Societies Act. The restriction that certain bodies designated by description (that is appropriate financial service vehicles, appropriate payment service vehicles, appropriate service vehicles and European financial service vehicles) may not lend money has been removed. Restrictions preventing certain designated bodies from investing in subordinate organisations which lend money have also been removed. The Building Societies (Designation of Qualifying Bodies) Order 1992 is amended to make provision for Scotland and countries outside the United Kingdom where an appropriate lending vehicle makes an advance which is indirectly secured on land. The Building Societies (Designation of Qualifying Bodies) (No. 2) Order 1992 is amended to remove the restriction that an appropriate holding vehicle must be a wholly-owned subsidiary of the society.