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SCHEDULES

SCHEDULE 16

MERGERS: SUPPLEMENTARY PROVISIONS

.....
Modifications etc. (not altering text)

C1 Sch. 16 excluded by S.I. 1986/2168, art. 9(2)(b)(3)

PART II

NOTIFICATION OF PROPOSALS FOR MERGER

.....
Modifications etc. (not altering text)

C1 Sch. 16 Pt. II (paras. 2–6) excluded by S.I. 1986/2169, art. 10

Preliminary

2 In this Part of this Schedule—

“merger” means an amalgamation of building societies under section 93 or a transfer of all the engagements of one building society to another under section 94; and “merger” has a corresponding meaning;

“merger proposal”, in relation to a building society, means a proposal in writing, by another building society desiring to merge with it, for the societies to merge, with or without terms for the merger; and “proposer” has a corresponding meaning;

“merger resolutions”, in relation to a building society, means the resolutions required for the approval of a merger of the society with another building society under section 93(2) or 94(2);

“merger statement” means a statement containing the requisite particulars of a merger proposal; and

“requisite particulars”, in relation to a merger proposal, means the particulars required by paragraph 3(2) below to be given in a merger statement.

.....
Modifications etc. (not altering text)

C2 Definition applied (1.6.1999) by S.I. 1999/1215, reg. 3(6)

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Duty to notify members

3 (1) Subject to sub-paragraph (3) below, it shall be the duty of a building society receiving a merger proposal to send, in accordance with this Part of this Schedule, a merger statement in respect of the proposal to every member entitled to notice of a meeting of the society.

(2) A merger statement must contain the following particulars—

- (a) the fact that a merger proposal has been made, and
- (b) the identity of the proposer,

with or without other particulars regarding the proposal.

(3) Sub-paragraph (1) above does not require a merger statement to be sent to members if the proposer has requested in writing that the requisite particulars are to be treated as confidential; and, where such a request is made and is at a later date withdrawn in writing, the society receiving the proposal shall, for the purposes of this Part of this Schedule, treat the proposal as having been received on that date instead of any earlier date.

4 (1) A building society shall include in or with every notice of its annual general meeting a merger statement with respect to any merger proposal, other than a proposal of which notice has already been given under this paragraph,—

- (a) received by it during the period of 12 months ending with the ninth month of the last financial year of the society before that meeting; or
- (b) treated by paragraph 3(3) above as having been received by it during the last three months of that financial year;

and the society may also include, under this sub-paragraph, a merger statement with respect to any proposal received, or treated as received, by it after the end of either period.

^{F1}(2) In any case where merger resolutions are to be moved at any meeting of a building society, every notice of the meeting shall have included in or with it—

- (a) a merger statement with respect to any merger proposal, other than a proposal of which notice has already been given under this paragraph, received by it more than 42 days before the date of the meeting; and
- (b) a transfer proposal notification with respect to any transfer proposal so received by it.

^{F2}(2A) [Where a merger statement or a transfer proposal notification is required to be sent to a person in or with the notice of a meeting of the society under sub-paragraph (1) or (2)—

- (a) in a case where notice of a meeting is given electronically to a person in accordance with paragraph 22A of Schedule 2, the merger statement or transfer proposal notification may be sent to him electronically only if it is sent to the same electronic address and at the same time as the notice;
- (b) in a case where notice of a meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send the statement or notification shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.

(2B) The conditions of this sub-paragraph are satisfied in the case of a merger statement or transfer proposal notification if—

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- (a) the society and that person have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the merger statement or transfer proposal notification in question;
 - (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the meeting, it notifies him of—
 - (i) the publication of the merger statement or transfer proposal notification on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or notification may be accessed, and how it may be accessed; and
 - (d) the statement or notification is published continuously on that web site throughout the period beginning when the person is notified in accordance with paragraph (c) and ending with the conclusion of the meeting.
- (2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (1) or (2)—
- (a) a statement or notification is published for a part, but not all, of the period mentioned in sub-paragraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- that failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (2B) from being treated as fulfilled in relation to section 95(4)(c).]
- (3) In this paragraph and paragraph 5 below—
- “transfer proposal” has the same meaning as in Part IA of Schedule 17;
 - “transfer proposal notification” means a transfer proposal notification (within the meaning of that Part) required to be sent to members by paragraph 5B(1) of that Schedule.]

Textual Amendments

- F1** Sch. 16 Pt. II para. 4(2)(3) substituted for Sch. 16 Pt. II para. 4(2) (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 66(2)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(1)(xx)**
- F2** Sch. 16 para. 4(2A)-(2C) inserted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), **26(1)**

Duty to notify [F3 Authority]

Textual Amendments

- F3** Word in cross-heading substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 211(a)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

- 5 (1) Where a building society sends a merger statement [F4 or transfer proposal notification] to its members under paragraph 4 above in connection with a meeting of

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the society, it shall send a copy of the statement [^{F5}or notification] to the [^{F6}Authority] at least 14 days before the date of the meeting.

- (2) The [^{F6}Authority] shall keep the copy of a merger statement [^{F7}or transfer proposal notification] received by it from a building society in the public file of that society.

Textual Amendments

- F4** Words in Sch. 16 Pt. II para. 5(1) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 66(3)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(I)(xx)**
- F5** Words in Sch. 16 Pt. II para. 5(1) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 66(3)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(I)(xx)**
- F6** Words in Sch. 16 para. 5 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 211(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2
- F7** Words in Sch. 16 Pt. II para. 5(2) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 66(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(I)(xx)**

Penalty

- 6 [^{F8}(1)] If default is made by a building society in complying with paragraph 4(1), 4(2) or 5 above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; and so shall any officer who is also guilty of the offence.

- [^{F9}(2) Where, in a case in which paragraph 4(2A)(b) is relied on for compliance with a requirement under sub-paragraph (1) or (2) of paragraph 4(2)—

- (a) a merger statement or transfer proposal notification is published for a part, but not all, of the period mentioned in sub-paragraph (2B)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

no offence is committed under this paragraph by reason of that failure.]

Textual Amendments

- F8** Sch. 16 para. 6(1) renumbered (20.3.2003) by *The Building Societies Act 1986 (Electronic Communications) Order 2003* (S.I. 2003/404), arts. 1(1), **26(2)**
- F9** Sch. 16 para. 6(2) inserted (20.3.2003) by *The Building Societies Act 1986 (Electronic Communications) Order 2003* (S.I. 2003/404), arts. 1(1), **26(2)**

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