

## SCHEDULE 1

Articles 2 and 3

### RELEVANT FORM OF SECURITY

1. The form of security which may be taken for a territory advance is the form (known in Gibraltar as a mortgage)–

- (a) acknowledging a mortgage debt and obliging the borrower to pay it, and
- (b) securing payment of that mortgage debt on land in Gibraltar, in respect of which the following provisions of this Schedule are satisfied.

2. Circumstances in which the relevant form of security may be taken for an advance–

- (a) do not, subject to Article 6 above, include circumstances in which payment of the mortgage debt is to be secured on any equitable interest in land; and
- (b) do not include circumstances in which provision is included as respects either the capital or the interest element in the mortgage debt that the amount due to the society may be adjusted by reference to any index of prices (whether housing prices or other prices) or to a share in the open market value of the land.

3.—(1) A territory advance shall be classified as a class 1 advance for the purposes of the requirements of Part III of the Act for the structure of commercial assets where the society at the time when it makes the advance is satisfied that–

- (a) the borrower is an individual;
- (b) the land comprising the security is exclusively for the residential use of–
  - (i) the borrower, or
  - (ii) the borrower and any person residing with the borrower;
- (c) the amount advanced will not exceed the value of the land comprising the security (after deducting from that value any mortgage debt of the borrower to the society outstanding under a relevant form of security relating to that land);
- (d) the land comprising the security will not be security for any advance other than an advance by the society (except where that other advance is postponed to the society's advance); and
- (e) any right of the spouse (if any) of the borrower relating to the land comprising the security will be subject to the rights of the society under the relevant form of security taken for the advance.

(2) For the purposes of subparagraph (1) above and paragraph 4 below, where a society makes an advance by instalments, the reference to the time when the society makes the advance is a reference to the time when it pays the first of the instalments.

4. A territory advance shall be classified as a class 2 advance for the purposes of the requirements of Part III of the Act for the structure of commercial assets where the society at the time when it makes the advance is satisfied that the requirements of paragraph 3(1)(c), (d) and (where applicable) (e) above are satisfied but is not satisfied that the requirements of paragraph 3(1)(a) and (b) above are satisfied.

5. If at any time when an advance treated by virtue of this Order as a class 1 advance or a class 2 advance for the purposes specified in paragraphs 3 and 4 above is outstanding the society is satisfied, on notice given to it by the borrower, that there has been a change in the use of the land comprising the security and is satisfied that, had the use been so changed before the making of the advance, the advance would instead have been a class 2 advance or a class 1 advance, as the case may be, for those purposes, the advance shall be reclassified accordingly as from that time.

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6. The relevant form of security may only be taken for an advance under section 14 of the Act in circumstances in which the advance is classifiable as a class 1 advance under paragraph 3 above or a class 2 advance under paragraph 4 above.