

1990 No. 1089

BUILDING SOCIETIES

**The Building Societies (Designation of Qualifying Bodies)
(Amendment) (No. 4) Order 1990**

<i>Made - - - -</i>	<i>17th May 1990</i>
<i>Laid before Parliament</i>	<i>18th May 1990</i>
<i>Coming into force</i>	<i>22nd June 1990</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^(a), 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) (Amendment) (No. 4) Order 1990 and shall come into force on 22nd June 1990.

Amendment of previous Order

2. The Building Societies (Designation of Qualifying Bodies) Order 1988^(b), shall have effect subject to the amendments set out in the Schedule to this Order.

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 17th May 1990.



Norman Digance
Secretary to the Commission

We consent to this Order

David Lightbown
Kenneth Carlisle

17th May 1990 Two of the Lords Commissioners of Her Majesty's Treasury

^(a) 1986 c.53.

^(b) S.I. 1988/1196, as amended by S.I. 1988/1393, 1989/215, 1816, 1990/351, 352 and 514.

AMENDMENTS TO THE BUILDING SOCIETIES (DESIGNATION OF QUALIFYING BODIES) ORDER 1988

1. In Part I of the Schedule (bodies corporate, and descriptions of bodies corporate, designated) there shall be substituted for the item numbered 10A and its related entries an item numbered "10A" comprising the following entries in the columns of that Part—

- (a) in column 1 (specified name or description), "Girobank plc",
- (b) in column 2 (specified registration number or definition), "1950000",
- (c) in column 3 (specified relevant power), "Investment and support or support.",
- (d) in column 4 (specified purposes (if any)), "The specified purposes in relation to Girobank plc.",
- (e) in column 5 (specified limits and conditions (if any)),

"(1) The standard asset provision.

(2) The condition for investment in Girobank plc.

(3) The mortgage business certification condition for appropriate mortgage companies modified so as to have effect—

(a) as if Girobank plc were an appropriate mortgage company; and,

(b) as if paragraphs 6A(2)(b) and (c) of Part II of this Schedule did not apply—

(i) to the making of any loan which a building society which holds shares in Girobank plc at the time when the loan is made would have power to make otherwise than as an advance secured on land; or,

(ii) to the making of any loan which, by virtue of paragraph 8(2)(b) of Part II of the Schedule, would not constitute an activity of Girobank plc falling within the range of activities from which a society is restricted."

2. In Part II of the Schedule (interpretation), after paragraph 6A (meaning of mortgage business certification condition for appropriate mortgage companies) there shall be inserted the following paragraphs—

"Meaning of the specified purposes in relation to Girobank plc

6B. In this Schedule "the specified purposes in relation to Girobank plc" means any of or all the following purposes—

(1) Facilitating the provision of banking services by the society, by Girobank plc or any other associated body of the society including in the case of Girobank plc the lending of money to the public on the security of land by loans corresponding to advances secured on land and the acceptance of deposits of money in the course of deposit-taking business.

(2) Enabling Girobank plc to perform its obligations and to discharge its functions under any agreement entered into between the Secretary of State, the Post Office and Girobank plc in relation to the Universal Postal Union established on 10th July 1964 or any agreement or instrument made by and pursuant to that Union.

(3) Enabling Girobank plc to acquire and hold liquid assets in accordance with the Building Societies (Liquid Asset) Regulations 1987(a) but with the word "deposit" in those regulations having the meaning in section 5 of the Banking Act 1987 which it would have for the purposes of that Act were not section 5(3)(a) and (c) (which excludes sums paid by banks and lending businesses) included therein.

Meaning of the condition for investment in Girobank plc

6C.—(1) In this Schedule "the condition for investment in Girobank plc" means a condition to the effect that a society shall not acquire shares in Girobank plc where the society is aware, and shall dispose of such shares in Girobank plc as it holds as soon as it is conveniently practicable to do so without undue loss where the society becomes aware, that Girobank plc:

(a) has a subordinate organisation which is not within the prescribed range,

(b) is a market maker, or

(c) is conducting business which includes activities in the range from which the society is restricted.

(a) S.I. 1987/1499 amended by S.I. 1989/1701.

(2) For the purposes of subparagraph (1) above, a subordinate organisation comes within the prescribed range where it is—

- (a) a body corporate individually specified in column 1 of Part I of this Schedule,
- (b) a body corporate of a description specified in column 1 of Part I of this Schedule which is a one tier organisation, or
- (c) The Office of the Banking Ombudsman."

3. In Part II of the Schedule, for paragraph 8 (meaning of activities in the range from which a society is restricted) there shall be substituted the following paragraph—

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

8.—(1) For the purposes of paragraphs 6C(1)(c) and 7 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—
 - (i) in the case of an appropriate financial service vehicle, an appropriate mortgage company, an appropriate territorial corporation or Girobank plc, either a restriction derived from the Act or any instrument under the Act or a restriction assumed by the society; or,
 - (ii) in the case of an appropriate estate agency vehicle, either a restriction specified in Part III of Schedule 8 to the Act and relating to a power to provide a financial service within the meaning of section 34(11) of the Act or a restriction assumed by the society.

(2) Notwithstanding subparagraph (1) above, an activity of a body corporate is not an activity within the range from which a society is restricted where it is an activity which comprises—

- (a) except in the case of Girobank plc, the continuation, during the first fifteen months following the date on which the body corporate first became associated with the society, of any activity carried on as part of the business of that body corporate immediately before that date; or,
- (b) in the case of Girobank plc—
 - (i) holding shares in The Office of the Banking Ombudsman,
 - (ii) holding, within the period of twelve months beginning with the date of association, any debt arising under an agreement corresponding to a facility agreement made between an individual and Girobank plc, before the date of association, where the limit corresponding to the facility limit under that agreement exceeds the limit for the time being specified under section 16 of the Act, provided that no increase is made in the limit allowed under that agreement after that date,
 - (iii) holding any debt owed by a local authority in Great Britain arising from a loan (other than a loan corresponding to an advance secured on land) made before the date of association,
 - (iv) holding, within the period of twelve months beginning with the date of association, any debt arising from a loan (other than a loan corresponding to an advance secured on land or a loan made under an agreement corresponding to a facility agreement) made to a person other than an individual before the date of association,
 - (v) holding, within the period of twelve months beginning with the date of association, any debt arising under an agreement which was entered into before the date of association and which relates to the acceptance of bills of exchange or to the issue of letters of credit, and performing, within the period of twelve months beginning with the date of association, any obligation arising under such an agreement,
 - (vi) performing, within the period of six months beginning with the date of association, any contract of a prescribed description within the meaning of section 23 of the Act which was entered into before the date of association for a purpose other than that specified in that section, or
 - (vii) investing and supporting or supporting, during the first fifteen months following the date of association Society for Worldwide Inter Bank Financial Telecommunication S.C., Eurocard International S.A. and MasterCard International Incorporated.

(3) In this paragraph "the date of association", in relation to a society, means the date on which Girobank plc first became associated with that society."

4. In Part II of the Schedule, in paragraph 10 (other definitions)–

- (a) for the definition of "facility account" there shall be substituted the following definition–
" "facility account", "facility agreement" and "facility limit" have the meanings which they respectively bear in the Building Societies (Limited Credit Facilities) Order 1987(a);"; and
 - (b) after the definition of "land services" there shall be inserted the following definition–
" "local authority in Great Britain" has the meaning which it bears in Schedule 8 to the Act;".
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(a) S.I. 1987/1975 amended by S.I. 1988/1141.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Building Societies (Designation of Qualifying Bodies) Order 1988, "the 1988 Order", which designates corporate bodies and types of corporate body as suitable for investment or support by building societies under section 18 of the Building Societies Act 1986, by designating Girobank plc as such a body. In so designating Girobank plc the Order revokes the designation of LondonClear Limited which societies no longer have a need for.

Girobank plc is designated as suitable for investment and support by a building society, or for support in the absence of investment (article 2 and paragraph 1(c) of the Schedule). Investment is defined by section 18 of the Act as acquiring and holding shares in and forming, or taking part in forming, bodies corporate. Support is defined by that section as the provision of loans, grants, guarantees, services or property to bodies corporate.

The designation of Girobank plc is subject to the conditions set out in paragraph 1(e) of the Schedule to the Order.

First the power to invest in or support Girobank plc is available only to a building society which has a qualifying asset holding. A building society has a qualifying asset holding where the aggregate value of its total commercial assets is not less than £100 million (section 118 of the Act).

Secondly, the Order provides that Girobank plc is not suitable for investment or support by a building society if it has a subordinate organisation outside a prescribed range. The prescribed range comprises The Office of the Banking Ombudsman, bodies individually designated in the 1988 Order, and bodies designated by description in that Order which do not have the capacity to have subordinate organisations. A subordinate organisation is one in which a designated body has an interest of at least 5 per cent.

Thirdly, the power for a society to invest in or support Girobank plc is not available if Girobank plc engages in market making or, apart from the exceptions specified in the new paragraph 8 in paragraph 3 of the Schedule to the Order, if its business includes activities which the society itself has no power to undertake because the society has not adopted the necessary adoptable power or because the activities would contravene a restriction on the extent of a power which the society had adopted.

Fourthly, the power for a society to invest in or support Girobank plc is subject to the condition that, Girobank plc must maintain systems similar to those required of building societies for the safe custody of documents and for assessing the adequacy of security. A further condition is that Girobank plc is limited to making loans which the society itself would have had power to make had the borrower been a member of the society, and the mortgages are required, subject to limited exceptions, to be transferable without the consent of the borrower.

For a limited transitional period the exceptions to the restrictions on the activities of Girobank plc include the continuation of overdrafts in excess of £10,000 per individual arranged before the date Girobank plc becomes associated with the society provided there is no increase in the limits allowed on such overdrafts, and of corporate loans (other than secured loans and overdrafts), debts relating to acceptances of bills of exchange and letters of credit, and forward rate agreements arranged before that date.