
STATUTORY INSTRUMENTS

1992 No. 1612

BUILDING SOCIETIES

**The Building Societies (Supplementary
Capital) (Amendment) Order 1992**

<i>Made</i>	- - - -	<i>2nd July 1992</i>
<i>Laid before Parliament</i>		<i>7th July 1992</i>
<i>Coming into force</i>		
<i>Article 4(e)</i>		<i>30th September 1993</i>
<i>Remainder</i>		<i>1st August 1992</i>

The Building Societies Commission with the consent of the Treasury, in exercise of the powers conferred on it by section 45(5) of the Building Societies Act 1986(1) thereby makes the following Order:

Title

1. This Order may be cited as the Building Societies (Supplementary Capital) (Amendment) Order 1992.

Commencement

2. Article 4(e) of this Order shall come into force on 30th September 1993 and all other provisions thereof shall come into force on 1st August 1992.

Interpretation

3. In this Order—

“issue term”, “subordinated long term debt”, “supplementary capital” and “supplementary financial resources” have the meanings which they respectively bear in the Supplementary Capital Order, and

“the Supplementary Capital Order” means the Building Societies (Supplementary Capital) Order 1988(2) .

(1) 1986 c. 53.

(2) S.I. 1988/777.

Amendment of the Supplementary Capital Order

4. The Supplementary Capital Order shall have effect subject to the following amendments:
- (a) in Article 2 (interpretation), for the definition of “balance sheet”, there shall be substituted the following definitions—
 - ““the Designated Capital Resources Order” means the Binding Societies (Designated Capital Resources) Order 1992(3),
 - “group accounts” has the meaning which it bears in the Designated Capital Resources Order,
 - “primary capital” has the meaning assigned to it in Article 7(2) of the Designated Capital Resources Order,”
 - (b) in Article 2, after the definition of “society”, there shall be inserted the following definition — ““subsidiary undertaking” has the meaning assigned to it in Article 5 of the Building Societies Act 1986 (Modifications) Order 1991(4), and”
 - (c) in Article 4(1) (overall limit on extent of aggregation), the words “as shown in the society’s latest balance sheet” shall be deleted,
 - (d) for Article 4(2) there shall be substituted the following paragraph—
 - “(2) Where a society has subsidiary undertakings, the determination in paragraph (1) above shall be made on a consolidated basis, by reference to the group accounts and accounting records of the society and its subsidiary undertakings,”
 - (e) in the Schedule, in Part I, in paragraph 1(2) (specification of supplementary capital), for the words “where the issue terms relating to that subordinated long term debt contain any disqualifying term.” there shall be substituted the following—
 - (a) “where the issue terms relating to that subordinated long term debt contain any disqualifying term, or
 - (b) at any time when the terms on which shares in the society other than deferred shares are held, whether contained in the society’s rules or otherwise, enable those shares to be written down.”
 - (f) in the Schedule, to Part II (disqualifying terms) there shall be added the following paragraphs—

“Interest to increase by more than a specified percentage

3. An issue term which provides that the rate of interest or, as the case may be, margin, payable on subordinated debt will, or will in specified circumstances, increase by more than

- (a) 1% in a single step;
- (b) 1% in aggregate by a number of steps in any period of five years; or
- (c) 2% in aggregate by a number of steps without limit of time, ascertained in accordance with paragraph 4 below, is a disqualifying term for the purposes of paragraph 1(2) of Part I of this Schedule.

4.—(1) The increase in the rate of interest for the purposes of an issue of subordinated debt the issue terms whereof specify a stepped rate, is to be ascertained—

(3) S.I. 1992/1611
 (4) S.I. 1991/1729.

- (a) for the purposes of paragraph 3(a) above, by deducting from the rate of interest specified for the period immediately after the increase the rate of interest specified for the period immediately before the increase;
 - (b) for the purposes of paragraph 3(b) above, by deducting from the highest rate of interest specified for any part of any period of five years, the lowest rate of interest specified for any other part of that period; and
 - (c) for the purposes of paragraph 3(c) above, by deducting from the highest rate of interest specified for any period, the lowest rate of interest specified for any other period.
- (2) The increase of the margin for the purpose of an issue of subordinated debt the issue terms whereof specify a floating rate, being a market rate varied by a margin, is to be ascertained in the manner set out in subparagraph (1) above, save that references to the rate of interest specified shall be read as references to the margin specified.
- (3) In this paragraph—
- “a stepped rate” means a rate of interest which increases or reduces from time to time by steps specified in time and amount;
 - “a floating rate” means a rate of interest which is ascertained by reference to a specified market rate or by reference to a specified market rate varied by a specified margin; and
 - “a market rate” means
 - (a) a rate being one of, or an average of, any published rates of interest applicable from time to time for the purpose of calculating interest on debt or other financial obligation arising from transactions between institutions which are authorised for the purposes of the Banking Act 1987;
 - (b) a rate being one of, or an average of, any published rates of interest applicable from time to time for the purpose of calculating interest payable on any class of securities issued in the United Kingdom by Her Majesty’s Government;
 - (c) the rate of interest payable on such interest bearing shares in the society as have from time to time the lowest rate of interest; or
 - (d) the rates of interest payable on such interest bearing shares in the society as have from time to time the highest rate of interest.”
- (g) in the Schedule, in Part III (interpretation), in paragraph 4, there shall be inserted, after the definition of “key date”, the following definition—
- ““rate” in relation to interest means the rate per annum and “floating rate”, “market rate” and “stepped rate” have the respective meanings assigned by paragraph 4 of Part II of this Schedule,” and
- (h) in the Schedule, in Part III, in paragraph 4, there shall be inserted, after the definition of “shares”, the following definition—
- ““specified” means specified by issue terms,”.

Transitional provision

5. Nothing in Article 4(f) above shall affect the specification as supplementary capital of supplementary financial resources of a building society relating to subordinated long term debt advanced prior to the date on which that paragraph comes into force, unless an issue term of such debt is varied after that date to have the effect described in paragraph 3 of Part II of the Schedule to the Supplementary Capital Order as affected by this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

L.S.

30th June 1992.

Norman Digance
Secretary to the Commission

We consent to this Order

2nd July 1992

Irvine Patnick
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Building Societies (Supplementary Capital) Order 1988 (“the 1988 Order”), which specifies supplementary capital as a capital resource which building societies may aggregate with their reserves to assess the adequacy of their reserves and other designated capital resources under section 45(3) of the Building Societies Act 1986.

The specification of supplementary capital under the 1988 Order is narrowed in two respects. First, with effect from 30th September 1993, the Order excludes the aggregation of supplementary capital if the rules of the society permit any shares apart from deferred shares to be written down (article 4(e)). Secondly, it excludes supplementary capital which is issued upon terms which provide that the rate of interest payable will increase by more than a specified percentage (article 4(f)). There is a saving of supplementary capital already issued upon such terms, provided its terms are not subsequently revised to offend the Order (article 5).

The overall limit on the extent to which supplementary capital may be aggregated with reserves is also varied. Under article 4(1) of the 1988 Order, the amount of supplementary capital which may be aggregated may not exceed 50 per cent of a society’s primary capital. Primary capital is redefined (by reference to the Building Societies (Designated Capital Resources) Order 1992) as a society’s reserves and verified interim profit plus any deferred shares falling to be aggregated under other Orders made under section 45(5), less any intangible assets and any interim loss. Article 4(d) introduces a requirement for a society with subsidiary undertakings to calculate the limit on the aggregation of its supplementary capital by reference to its group accounts. Subsidiary undertakings are defined for this purpose, by reference to the Building Societies Act 1986 (Modifications) Order 1991, in the same terms as for companies’ accounts.

The Order gives effect, in relation to supplementary capital issued by building societies, to the provisions of the European Communities Council Directive on the own funds of credit institutions (89/299/EEC) (OJNo. L124, 5.5.89, p.16) defining subordinated loan capital which may be included in the own funds of a credit institution and imposing a limit on the extent to which such subordinated loan capital may be counted as own funds for solvency and prudential purposes.