
STATUTORY INSTRUMENTS

1993 No. 989

BUILDING SOCIETIES

The Building Societies (Designation of Qualifying Bodies) (No. 2) 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) (No. 2) 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 the Schedule 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 the Schedule 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 the Schedule 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.

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- (a) the corresponding item in column 2 specifies, where a 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 conditions subject to which the exercise of the relevant power by a society is permitted in relation to that body.
- (2) Part II of the Schedule to this Order shall have effect—
- (a) so as to supplement Part I thereof, and
 - (b) in respect of interpretation of that Schedule.

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

We consent to this Order,

Irvine Patnick
Tim Wood
Two of the Lords Commissioners of Her
Majesty's Treasury

1st April 1993

SCHEDULE

Articles 2 and 3

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 conditions |
|--------------------------------------|--|---|---|---|
| Mortgage indemnity insurance body | A specified type of body corporate (not being one excluded by the particular restrictions for mortgage indemnity insurance bodies) which is a single tier organisation formed for the purposes of, or the objects of which include, carrying on in any member State or in any country or territory listed in paragraph 2(c) of Part II of the Schedule hereto, any or all of the following activities— (i) mortgage indemnity insurance business; (ii) investment of premiums which have been obtained by the body in the course of carrying on mortgage indemnity insurance business; | Investment and support | Enabling the body to carry on any activity listed in column 2 for which purpose the body may be formed. | The standard asset provision. The ownership condition. |

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| Column 1 Specified description | Column 2 Specified definition | Column 3 Specified relevant power | Column 4 Specified purposes | Column 5 Specified conditions |
|--------------------------------------|--|---|-----------------------------------|-------------------------------------|
| | (iii) entering into and effecting insurance contracts against risks incurred by the body in carrying on the activity referred to in (i) above; | | | |
| | (iv) any activity which is ancillary or necessary for the purpose of carrying on any of the activities referred to in (i), (ii) and (iii) above. | | | |

PART II

INTERPRETATION

Meaning of standard asset provision

1. 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 specified type of body corporate

2. In this Schedule “specified type of body corporate” means a body corporate which is—
 - (a) a company or industrial and provident society,
 - (b) a body corporate formed in a member State other than the United Kingdom,
 - (c) a body corporate formed in any of the following countries or territories:
 - Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, Switzerland, Isle of Man, Jersey, Guernsey and Alderney.

Meaning of single tier organisation

3. In this Schedule “a single tier organisation” is a body which does not have the capacity to hold 5% or more of shares or corresponding membership rights in another body corporate, and any shares or corresponding membership rights which the body holds in another body corporate are held for the purpose of investing premiums which have been obtained for the purposes of carrying on mortgage indemnity insurance business.

Meaning of carrying on mortgage indemnity insurance business

4.—(1) For the purposes of this paragraph—

“advance” means any advance which is secured on land situated in the United Kingdom or in any country or territory designated under section 14 (power to make advances secured on land overseas) of the Act;

“mortgagor” means any person to whom the society has made an advance;

“society” means any society which owns shares or corresponding membership rights in the body.

(2) In this Schedule, “carrying on mortgage indemnity insurance business” means that the body enters into an agreement (“the agreement”) with a society whereby the body, subject to the conditions specified below, agrees to indemnify the society against loss incurred by the society.

(3) For the purposes of sub-paragraph (2) above the conditions are that:

- (i) the loss arises following failure by a mortgagor to make due payment in respect of an advance, and
- (ii) the body pays the society the amount specified in the agreement following sale of the land in respect of which that advance has been made.

Meaning of the ownership condition

5. In this Schedule “the ownership condition” means that all shares or corresponding membership rights in the body are owned by one or more societies.

Specification of particular restrictions for mortgage indemnity insurance bodies

6.—(1) In this Schedule the “particular restrictions for mortgage indemnity insurance bodies” means that a body corporate is not a mortgage indemnity insurance body for a society where—

- (a) for the purpose of carrying on mortgage indemnity insurance business the body is neither authorised nor otherwise entitled to carry on such business in any member State nor in any country or territory listed in paragraph 2(c) above, nor (where applicable) a candidate for authorisation in any such State, country or territory, and
- (b) its business includes any prohibited activity.

(2) For the purposes of sub-paragraph (1)(b) above, a prohibited activity means the following—

- (i) any activity which is not listed in column 2 of Part I of the Schedule to this Order as an activity for which purpose the body may be formed, or
- (ii) any activity which is not one for which purpose a society may invest in and support the body by virtue of section 18(4) of the Act.

Meaning of candidate for authorisation

7. For the purposes of this Schedule a body corporate is “a candidate for authorisation” in respect of the carrying on of mortgage indemnity insurance business if it has been formed with a view to

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being authorised in that respect and is applying, or is taking steps to apply, for authorisation in that respect.

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 “mortgage indemnity insurance body” as a further type of designated body.

2. A mortgage indemnity insurance body is a body corporate owned by one or more building societies formed in any member State, or in any of the following countries or territories: Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, Switzerland, Isle of Man, Jersey, Guernsey and Alderney. The purposes for which the body may be formed include carrying on mortgage indemnity insurance business. Mortgage indemnity insurance business is defined to mean entering into insurance contracts with any society which has invested in the body, for the purpose of reducing risk of loss which may be incurred by that society in respect of that society’s mortgage lending business.

3. Investment is defined by section 18 of the Act as acquiring and holding shares or corresponding membership rights in and forming and taking part in forming bodies corporate. Support is defined by that section as provision of loans, grants, guarantees, services or property to bodies corporate.