
STATUTORY INSTRUMENTS

1995 No. 3063

BUILDING SOCIETIES

**The Building Societies (Designation of
Qualifying Bodies) (No. 2) Order 1995**

<i>Made</i>	- - - -	<i>4th December 1995</i>
<i>Laid before Parliament</i>		<i>7th December 1995</i>
<i>Coming into force</i>	- -	<i>1st July 1996</i>

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 18(2)(c) and (3) of the Building Societies Act 1986(1), 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 1995 and shall come into force on 1st July 1996.

Interpretation

2. In this Order—

“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;

“the relevant power” means the power of investment or investment and support;

“the Schedule” means the Schedule to this Order; and

“society” means a building society.

Designation of bodies corporate

3.—(1) Any body corporate of the description specified in column 1 of Part I of the Schedule 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 the Schedule—

- (a) the corresponding item in column 2 specifies the meaning of that description for the purposes of this Order,
- (b) the corresponding item in column 3 specifies what the body is designated as suitable for,
- (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 and paragraph (2) below) 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) In addition to the purposes specified in column 4, the exercise of the relevant power by the society is also permitted for the purpose of enabling the body to carry on any additional activities which it is within the power of that body to carry on under its memorandum and articles of association (or equivalent constitutional documents), provided that those activities—

- (a) do not extend to activities referred to in paragraph 2(2) of Part II of the Schedule which would prevent a body corporate from being a body (as defined in article 2 above), and
 - (b) are carried on together with activities mentioned in column 4 in relation to that body.
- (3) Part II of the Schedule shall have effect—
- (a) so as to supplement Part I thereof, and
 - (b) in respect of the interpretation of the Schedule.

Amendment of earlier Order

4. In paragraph 6(6)(b) of Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) (No. 3) Order 1993(2) there shall be added after the words “this Schedule” the words “or of a personal lines insurance body as specified in the Schedule to the Building Societies (Designation of Qualifying Bodies) (No. 2) Order 1995”.

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.

4th December 1995.

Joy Dennis
Secretary to the Commission

We consent to this Order.

4th December 1995

S. Burns
B. Wells
Two of the Lords Commissioners of Her
Majesty’s Treasury

(2) S.I.1993/2706, to which there are amendments not relevant to this Order.

THE SCHEDULE

Article 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
Personal lines insurance body.	A specified type of body corporate (not being one excluded by the particular restrictions for personal lines insurance bodies), formed for the purpose of, or the objects of which include, the carrying on of insurance business of one or more of the classes specified in Part I of Schedule 2 (general business) to the Insurance Companies Act 1982 ⁽³⁾ in any member State or any country or territory mentioned in paragraph 1(c) of Part II of the Schedule.	Investment or investment and support (but not for support only).	(1) Enabling the body to carry on any of the activities which are described in column 2. (2) Facilitating the provision of insurance services by the society or any associated body of the society.	(1) The standard condition. (2) The qualifying activities condition.

PART II

INTERPRETATION

Meaning of “specified type of body corporate”

1. In this Schedule “specified type of body corporate” means a body corporate which is—
 - (a) a company or an industrial and provident society,

⁽³⁾ 1982 c. 50; Part I of Schedule 2 was amended by S.I. 1987/2130.

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- (b) a body corporate formed in a member State other than the United Kingdom, or
- (c) a body corporate formed in any of the following territories and countries:
 - the Channel Islands, the Isle of Man, Iceland, Liechtenstein, Norway and Switzerland.

Meaning of “particular restrictions for personal lines insurance bodies”

2.—(1) In this Schedule the “particular restrictions for personal lines insurance bodies” means the provisions set out in sub-paragraph (2) below.

- (2) A body corporate is not a personal lines insurance body for a society where—
 - (a) it is neither authorised nor otherwise entitled to carry on in any member State or any country or territory mentioned in paragraph 1(c) above, nor (where applicable) a candidate for authorisation to carry on in any such member State, country or territory, insurance business of any class specified in Part I of Schedule 2 to the Insurance Companies Act 1982; or
 - (b) it carries on any activities otherwise than in connection with or for the purposes of its insurance business; or
 - (c) subject to sub-paragraphs (3) and (4) below, it effects, or carries out, a contract of insurance with a person that is not an individual; or
 - (d) it comes within the description of a mortgage indemnity insurance body as specified in the Schedule to the Building Societies (Designation of Qualifying Bodies) (No. 2) Order 1993(4).
- (3) A body corporate is not prevented from being a personal lines insurance body for a society where it effects, or carries out, a contract of insurance—
 - (a) with a person (not being an individual) that holds the policy jointly with an individual who occupies land in which the person holds an interest, which insures the person or the individual against the risk of loss of or damage to the buildings so occupied or the chattels of such person or individual which are usually kept on or in such land and buildings and any other risks which are commonly insured against together with such risks;
 - (b) with a housing association or housing trust, which insures the housing association or housing trust against the risk of loss of or damage to buildings and any other risks which are commonly insured against together with such risks; or
 - (c) with the society or any subsidiary undertaking or associated body of the society.
- (4) A body corporate is not prevented from being a personal lines insurance body for a society where it effects, or carries out, a contract of reinsurance with another body corporate which insures against risks which—
 - (a) are of a kind which, if insured against by a body corporate, would not prevent that body corporate from being a personal lines insurance body for a society; and
 - (b) arise under a contract of insurance effected and carried out by that other body corporate where—
 - (i) that other body corporate is a subsidiary undertaking or associated body of the society, or
 - (ii) the contract has been arranged by the society or any subsidiary undertaking or associated body of the society.
- (5) For the purposes of sub-paragraph (2) above—

(4) S.I. 1993/989, amended by S.I. 1993/2706.

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- (a) a body corporate is “a candidate for authorisation” if it has been formed with a view to being authorised in respect of the carrying on of insurance business and is applying or is taking steps to apply for authorisation in that respect; and
- (b) any activities that are treated by section 16(2) of the Insurance Companies Act 1982 as carried on in connection with insurance business shall be treated as carried on in connection with insurance business.

Meaning of “standard asset condition”

3. In this Schedule “the standard asset condition” 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, unless the society is one to which sub-paragraph (b) below applies;
 - (b) the society is a successor to two or more societies which have amalgamated and that society does not have a qualifying asset holding by reason only that it does not have any annual accounts as referred to in section 118(2) of the Act, provided that at least one society to which the amalgamated society is a successor had a qualifying asset holding immediately before the specified date referred to in section 93(3)(b) of the Act;
 - (c) the cessation of the availability of the relevant power to such a society as is referred to in sub-paragraph (a) or (b) above because that society no longer has a qualifying asset holding does not require the disposal of any property or rights.

Meaning of “qualifying activities condition”

- 4.—(1) In this Schedule “the qualifying activities condition” means a condition to the effect that—
- (a) where a society holds 5 per cent. or more of the issued shares or corresponding membership rights in a body and becomes aware that any subordinate organisation of that body is, for the time being, excluded by the particular restrictions for personal lines insurance bodies, the society shall, as soon as it is conveniently practicable to do so without undue loss, dispose of sufficient of its shares or corresponding membership rights so that it ceases to hold 5 per cent. or more of the issued shares or corresponding membership rights in that body,
 - (b) within four months after the end of each financial year of a body in which the society, at such financial year end, holds 15 per cent. or more of the issued shares or corresponding membership rights, the society shall satisfy itself whether, for such financial year, at least 60 per cent. of the gross income of that body, or if that body has any subordinate organisations, at least 60 per cent. of the consolidated gross income of the body and such subordinate organisations, is derived from carrying on qualifying activities, and
 - (c) if, for two successive financial years of a body less than 60 per cent. of the gross income (or, if appropriate, consolidated gross income) is derived from carrying on qualifying activities, the society shall, as soon as it is conveniently practicable to do so without undue loss, dispose of sufficient of its shares or corresponding membership rights so that it ceases to hold 15 per cent. or more of the issued shares or corresponding membership rights in that body.
- (2) For the purposes of this paragraph—
- (a) “qualifying activities” means activities for the purpose of which a society has power to invest in or support a qualifying body; however “additional activities” of the kind mentioned in article 3(2) above shall not be qualifying activities, and

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- (b) “subordinate organisation” means a body corporate in which another body corporate holds, directly or indirectly, 5 per cent. or more of the issued shares or corresponding membership rights where—
- (i) “holds directly or indirectly” means that a body corporate holds shares or corresponding membership rights in another body corporate either directly or through another body corporate (or bodies corporate), or partly directly and partly through another body corporate (or bodies corporate);
 - (ii) methods the same as those set out in section 838 (subsidiaries) of the Income and Corporation Taxes Act 1988⁽⁵⁾ shall be used to determine an indirect holding as if references to “own” in that section were references to “hold”, and other derivatives of “own” shall be construed accordingly; and
 - (iii) references to “ordinary share capital” in section 838 of the Income and Corporation Taxes Act 1988 shall be read as references to shares, or as the case may be, corresponding membership rights in a body corporate.

Other definitions

5. In this Schedule—

“chattels” means—

(a) in relation to England and Wales and Northern Ireland, all personal chattels including things in action and money, and

(b) in relation to Scotland, all corporeal and incorporeal moveable property and money;

“housing association” has the meaning which it bears in section 1 of the Housing Associations Act 1985⁽⁶⁾ or article 3 of the Housing (Northern Ireland) Order 1992⁽⁷⁾;

“housing trust” has the meaning which it bears in section 2 of the Housing Associations Act 1985 or article 3 of the Housing (Northern Ireland) Order 1992; and

“insurance business” has the same meaning as in the Insurance Companies Act 1982.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates a “personal lines insurance body” as a description of body corporate designated as suitable for investment or investment and support (but not for support only) by building societies under section 18 of the Building Societies Act 1986.

A personal lines insurance body is a company or an industrial and provident society, or a body corporate formed in any member State (other than the United Kingdom) or in any of the following territories and countries: the Channel Islands, the Isle of Man, Iceland, Liechtenstein, Norway and Switzerland. The purposes for which it may be formed include the carrying on in any of those places

⁽⁵⁾ 1988 c. 1.

⁽⁶⁾ 1985 c. 69; section 1 was amended by paragraph 6 of Schedule 2 to the Housing (Scotland) Act 1988 (c. 43).

⁽⁷⁾ S.I. 1982/1725 (N.I.15).

of insurance business of one or more of the classes specified in Part I of Schedule 2 (general business) to the Insurance Companies Act 1982.

With certain exceptions, the insurance business of a personal lines insurance body is restricted to the insurance of individuals. Those exceptions are: buildings and contents insurance for a person (not being an individual) that holds the policy jointly with an individual who occupies land in which the person holds an interest; buildings insurance for housing associations and housing trusts; insurance for the building society investing in the body or for any subsidiary undertaking or associated body of the society; and re-insurance of any risks of a kind which a personal lines insurance body is permitted to insure directly arising under a contract of insurance effected by another body corporate where (i) that other body corporate is a subsidiary undertaking or associated body of the society or (ii) the contract has been arranged by the society or any subsidiary undertaking or associated body of the society.

A compliance cost assessment of the effect that this instrument would have on the cost of business is available from the Secretary, Building Societies Commission, 15 Great Marlborough Street, London W1V 2LL.