STATUTORY INSTRUMENTS

1988 No. 1196

BUILDING SOCIETIES

The Building Societies (Designation of Qualifying Bodies) Order 1988

Made - - - -	*8th July 1988*
Laid before Parliament	*12th July 1988*
Coming into force	*30th August 1988*

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) Order 1988 and shall come into force on 30th August 1988.

Interpretation

2. In this Order, except where the context otherwise requires–

"the Act" means the Building Societies Act 1986;

"appropriate vehicle" means a body corporate individually specified or of a description specified in column 1 of Part I of the Schedule to this Order;

"the relevant power", in relation to an appropriate vehicle, means the power for the exercise of which, as specified in column 3 of Part I of the Schedule to this Order, that appropriate vehicle is designated as suitable; and

"society" means a building society.

Designation of bodies corporate

3.—(1) Each appropriate vehicle individually specified or of a description specified in an item in column 1 of Part I of the Schedule hereto 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–

(a) the corresponding item in column 2 specifies, where that appropriate vehicle is individually so specified, the number under which it is registered under the Companies Act 1985**(b)** or, where that appropriate vehicle comes within a description so specified, the meaning of that description for the purposes of this Order,

(b) the corresponding item in column 3 specifies, subject to article 4 below, whether that appropriate vehicle is designated–

(i) as suitable for investment and support or support, or

(ii) as suitable for investment and support (and accordingly not for support in the absence of investment),

(a) 1986 c.53.
(b) 1985 c.6.

(c) the corresponding item (if any) 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 appropriate vehicle, and

(d) the corresponding item (if any) in column 5 specifies the provision (if any) for different descriptions of societies in relation to which, the limits (if any) on the extent to which, and the conditions (if any) subject to which, the exercise of the relevant power by a society is permitted in relation to that appropriate vehicle.

(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 the interpretation of that Schedule.

Transitional provision

4. Nothing in this Order shall take away the power of a society to continue to support, in consequence of a resolution under section 18(9) of the Act (linking by resolution) in force at the time when this Order comes into force, any body corporate designated by any of the Orders revoked in article 5 below.

Revocation of previous Orders

5. The Building Societies (Designation of Qualifying Bodies) Order 1986**(a)**, the Building Societies (Designation of Pension Companies) Order 1987**(b)**, the Building Societies (Designation of Qualifying Bodies) (Amendment) Order 1987**(c)** and the Building Societies (Designation of Relevant Estate Agencies) Order 1988**(d)** are hereby revoked.

In witness whereof the common seal of the Building Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 7th July 1988.

L.S.

P. H. Gevers
Secretary to the Commission

We consent to this Order

Peter Lloyd
Tony Durant
8th July 1988 Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 1986/1715, amended by S.I. 1987/2018.
(b) S.I. 1987/1871.
(c) S.I. 1987/2018.
(d) S.I. 1988/23.

SCHEDULE

Articles 2 and 3

PART I

BODIES CORPORATE, AND DESCRIPTIONS OF BODIES CORPORATE, DESIGNATED

Item	*Column 1* Specified name or description	*Column 2* Specified registration number or definition	*Column 3* Specified relevant power	*Column 4* Specified purposes (if any)	*Column 5* Specified limits and conditions (if any)
1.	Electronic Funds Transfer Limited	1762109	Investment and support or support.	—	—
2.	Funds Transfer Sharing Limited	1850222	Investment and support or support.	—	—
3.	LINK Interchange Network Limited	2012106	Investment and support or support.	—	—
4.	APACS (Administration) Limited	1935025	Investment and support or support.	Facilitating the provision of banking services by the society or any associated body of the society.	—
5.	BACS Limited	1023742	Investment and support or support.	Facilitating the provision of banking services by the society or any associated body of the society.	—
6.	CHAPS and Town Clearing Company Limited	1962902	Investment and support or support.	Facilitating the provision of banking services by the society or any associated body of the society.	—
7.	Cheque and Credit Clearing Company Limited	1962903	Investment and support or support.	Facilitating the provision of banking services by the society or any associated body of the society.	—
8.	EftPos UK Limited	1952127	Investment and support or support.	(1) Facilitating the provision of banking services by the society or any associated body of the society. (2) Enabling or facilitating the operation of facility accounts by the society or any associated body of the society.	The standard asset provision, except in the case of the purpose specified in paragraph (1) in column 4 of this item.

Item	*Column 1* Specified name or description	*Column 2* Specified registration number or definition	*Column 3* Specified relevant power	*Column 4* Specified purposes (if any)	*Column 5* Specified limits and conditions (if any)
9.	The Joint Credit Card Company Limited	1001425	Investment and support or support.	(1) Facilitating the provision of banking services by the society or any associated body of the society. (2) Enabling or facilitating the operation of facility accounts by the society or any associated body of the society.	The standard asset provision.
10.	Visa International Service Association	FC9816	Investment and support or support.	(1) Facilitating the provision of banking services by the society or any associated body of the society. (2) Enabling or facilitating the operation of facility accounts by the society or any associated body of the society.	The standard asset provision.
11.	European lending company	A company with the objects of carrying on in a member state other than the United Kingdom businesses which consist wholly or mainly in lending money on the security of land and do not (where that is not the whole business) include lending on land in the United Kingdom.	Investment and support.	Enabling the company to carry on the businesses referred to in (and not excluded by) column 2 of this item.	(1) The standard asset provision. (2) The group interest provision.
12.	Housing association	A body corporate within the meaning of "housing association" in section 1 of the Housing Associations Act 1985(a) or article 114 of the Housing (Northern Ireland) Order 1981(b).	(1) Where the housing association is a one tier organisation, investment and support or support. (2) Otherwise, investment and support.	—	(1) The standard asset provision. (2) The group interest provision.

(a) 1985 c.69.
(b) S.I. 1981/156 (N.I. 3).

Item	*Column 1* Specified name or description	*Column 2* Specified registration number or definition	*Column 3* Specified relevant power	*Column 4* Specified purposes (if any)	*Column 5* Specified limits and conditions (if any)
13.	Housing trust	A body corporate within the meaning of "housing trust" in section 2 of the Housing Associations Act 1985 or article 114 of the Housing (Northern Ireland) Order 1981.	(1) Where the housing trust is a one tier organisation, investment and support or support. (2) Otherwise, investment and support.	—	(1) The standard asset provision. (2) The group interest provision.
14.	Pension vehicle	A type A body corporate formed for the purpose of, or the objects of which include, the carrying on of the business of acting as trustee in respect of pension schemes or descriptions of them.	(1) Where the pension vehicle is a one tier organisation, investment and support or support. (2) Otherwise, investment and support.	Enabling the pension vehicle to act as trustee in respect of a pension scheme, other than one which requires the investment of any of the funds within the scheme in shares in or deposits with a society of which the pension vehicle which acts as trustee in respect of the scheme is a subsidiary.	The group interest provision.
15.	Appropriate financial service vehicle	A type A body corporate (not being one excluded by the particular restrictions for financial service vehicles) formed for the purpose of, or the objects of which include, the carrying on of investment business within the meaning of section 1 (investments and investment business) of the Financial Services Act 1986(a).	(1) Where the appropriate financial services vehicle is a one tier organisation, investment and support or support. (2) Otherwise, investment and support.	(1) Enabling the financial service vehicle to carry on relevant investment business. (2) Facilitating the provision of investment services by the society or any associated body of the society.	(1) The standard asset provision. (2) The group interest provision.

(a) 1986 c.60; Schedule 1 was amended by S.I. 1988/318, 496 and 803.

Item	*Column 1* Specified name or description	*Column 2* Specified registration number or definition	*Column 3* Specified relevant power	*Column 4* Specified purposes (if any)	*Column 5* Specified limits and conditions (if any)
16.	Appropriate life insurance vehicle	A type A body corporate (not being one excluded by the particular restrictions for life insurance vehicles) formed for the purpose of, or the objects of which include, the carrying on of insurance business of a class specified in Schedule 1 (long term business) to the Insurance Companies Act 1982(a).	(1) Where the appropriate life assurance vehicle is a one tier organisation, investment and support or support. (2) Otherwise, investment and support.	(1) Enabling the life insurance vehicle to carry on the business referred to in column 2 of this item (notwithstanding that the lending of money to members of the public on the security of land by loans corresponding to advances secured on land may be carried on in connection with that business). (2) Facilitating the provision of insurance services by the society or any associated body of the society.	(1) The standard asset provision. (2) The group interest provision.
17.	Appropriate general insurance company	A company (not being one excluded by the particular restrictions for general insurance companies) the objects of which include the carrying on of insurance business of a class or classes specified in Part I of Schedule 2 (general business) to the Insurance Companies Act 1982.	Investment and support.	(1) Enabling the general insurance company to carry on the business referred to in column 2 of this item (notwithstanding that the lending of money to members of the public on the security of land by loans corresponding to advances secured on land may be carried on in connection with that business). (2) Facilitating the provision of insurance services by the society or any associated body of the society.	(1) The standard asset provision. (2) The investment and support limit for general insurance companies.

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

Item	*Column 1* Specified name or description	*Column 2* Specified registration number or definition	*Column 3* Specified relevant power	*Column 4* Specified purposes (if any)	*Column 5* Specified limits and conditions (if any)
18.	Appropriate estate agency vehicle	A type B body corporate (not being one excluded by the particular restrictions for estate agency vehicles) formed for the purpose of, or the objects of which include, the carrying on of estate agency work.	Investment and support.	(1) Enabling the vehicle to carry on estate agency work together with other activities so far as those other activities do not extend to activities within the scope of the particular restrictions for estate agency vehicles. (2) Facilitating the provision of land services by the society or any associated body of the society.	(1) The group interest provision. (2) The business percentage certification condition for estate agency vehicles.

PART II

INTERPRETATION

Meaning of standard asset provision

1. In this Schedule "the standard asset provision" means a provision 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 type A and type B body corporate

2. In this Schedule–

(a) "type A body corporate" means a body corporate which is–

(i) a company or an industrial and provident society, or

(ii) a body corporate formed in a member state other than the United Kingdom, and

(b) "type B body corporate" means a body corporate which is–

(i) a company or an industrial and provident society,

(ii) a body corporate formed in a member state other than the United Kingdom, or

(iii) a body corporate formed in a relevant British overseas territory (within the meaning of section 14 (power to make advances secured on land overseas) of the Act).

Meaning of one tier organisation

3. In this Schedule "one tier organisation" means a body corporate which does not have the capacity to have subordinate organisations.

Meaning of group interest provision

4. In this Schedule "the group interest provision" means a condition to the effect that where a society holds shares or corresponding membership rights in a body corporate–

(a) the society shall seek to ensure that each subordinate organisation of the body corporate becomes associated with the society, and

(b) where any period of three months has passed on each day of which the number of subordinate organisations of the body corporate which are associated with the society is less than the total number of subordinate organisations of that body corporate the society shall–

(i) notify the Commission in writing of that fact within 14 days of the end of that period,

(ii) dispose of its shares or corresponding membership rights in that body corporate as soon as it is conveniently practicable to do so without undue loss, and

(iii) within 14 days following that disposal, notify the Commission in writing thereof,

but nothing in this paragraph shall be taken to add to the powers of a society to invest in or support any body corporate.

Meaning of investment and support limit for general insurance companies

5. In this Schedule "the investment and support limit for general insurance companies" means–

(a) that the power to invest in an appropriate general insurance company may be exercised only to the extent that the aggregate shareholding of the society and of its associated bodies in that company will not thereby equal or exceed 15 per cent of the equity share capital of that company or otherwise cause the society, or the society and its associated bodies in combination, to be a controller of that company for the purposes of the Insurance Companies Act 1982, and

(b) that the power to support an appropriate general insurance company does not include the power to guarantee the discharge of any of its liabilities.

Meaning of business percentage certification condition for estate agency vehicles

6.—(1) In this Schedule "the business percentage certification condition for estate agency vehicles" means a condition to the effect that where a society holds shares or corresponding membership rights in an appropriate estate agency vehicle–

(a) the society shall for each financial year of the vehicle ending more than 18 months after the acquisition of such shares or rights seek to obtain within four months after the end of that year a certificate signed by a director of the vehicle (and adequately supported by a report of its auditors) stating that at least 40 per cent of the gross income of the vehicle (or, where the vehicle has subordinate organisations, of the consolidated gross income of the vehicle and those subordinate organisations) for that year was derived from the carrying on of estate agency work carried on in countries in which the society, at any time in that year, carried on the business of making advances secured on land, and

(b) if no such certificate is obtained by the society for two successive financial years of the estate agency vehicle, the society shall dispose of its shares or corresponding membership rights in that vehicle as soon as it is conveniently practicable to do so without undue loss.

(2) For the purposes of subparagraph (1) above a certificate is adequately supported by a report of the auditors of an estate agency vehicle where the auditors have reported at least to the effect that–

(a) they have examined the certificate,

(b) they have inquired into the affairs of the vehicle, and obtained information from the society, to an extent necessary to consider whether there is any significant likelihood that the certificate is untrue, and

(c) they consider that there is no significant likelihood that the certificate is untrue.

Specification of particular restrictions

7.—(1) In this Schedule "the particular restrictions for financial service vehicles" means the provisions set out in subparagraph (2) below, "the particular restrictions for life insurance vehicles" means the provisions set out in subparagraph (3) below, "the particular restrictions for general insurance companies" means the provisions set out in subparagraph (4) below and "the particular restrictions for estate agency vehicles" means the provisions set out in subparagraph (5) below.

(2) A body corporate is not an appropriate financial service vehicle for a society where–

(a) the body is not an exempted person under the Financial Services Act 1986 and is neither an authorised person under that Act nor a candidate for authorisation under that Act,

(b) it is a market maker,

(c) its business includes lending money, secured or unsecured, on its own account, save insofar as the subscription for or the purchase or sale of investments on behalf of any other person, in advance of being put in funds by or on behalf of that other person to complete that transaction, comprises or gives rise to such lending,

(d) it is an authorised institution, or its business requires it to be authorised, for the purposes of the Banking Act 1987(a), or

(e) its business includes activities in the range from which the society is restricted.

(3) A body corporate is not an appropriate life insurance vehicle for a society where–

(a) the body is neither authorised under section 3 (authorisation by Secretary of State) or by section 4 (existing insurance companies) of the Insurance Companies Act 1982 nor a candidate for authorisation under Section 3 of that Act to carry on insurance business of any class specified in Schedule 1 to that Act,

(b) it is a market maker, or

(c) the body or any subordinate organisation of the body comes within the description of an appropriate general insurance company as specified in this Schedule.

(4) A company is not an appropriate general insurance company for a society where–

(a) the company is not authorised under section 3 or by section 4 of the Insurance Companies Act 1982 to carry on insurance business including business of a class or classes specified in Part I of Schedule 2 to that Act, or

(b) the company is not a company limited by shares.

(5) A body corporate is not an appropriate estate agency vehicle for a society where–

(a) the business of the body corporate includes the lending of money, secured or unsecured, on its own account,

(b) it is a market maker,

(c) it is an authorised institution, or its business requires it to be authorised, for the purposes of the Banking Act 1987, or

(d) its business includes activities in the range from which the society is restricted.

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

8. For the purposes of paragraph 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, 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,

except where that activity comprises 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.

Meaning of candidate

9. For the purposes of this Schedule–

(a) a body corporate is "a candidate for authorisation" in respect of the carrying on of any business if it has been formed with a view to being authorised in that respect and is applying, or is taking steps to apply, for authorisation in that respect, and

(b) a scheme is "a candidate for approval" under or for the purposes of any enactment if it has been prepared with a view to obtaining approval under or, as the case may be, for the purposes of that enactment and steps are being taken towards obtaining that approval.

(a) 1987 c.22.

Other definitions

10. In this Schedule, except where the context otherwise requires–

"banking services" has the meaning which it bears in Schedule 8 to the Act;

"company limited by shares" has the meaning which it bears for the purposes of the companies Act 1985 or the Companies (Northern Ireland) Order 1986(**a**);

"equity share capital" has the meaning which it bears for the purposes of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986;

"estate agency work" has the meaning which it bears in the Estate Agents Act 1979(**b**);

"facility account" has the meaning which it bears in the Building Societies (Limited Credit Facilities) Order 1987(**c**);

"insurance services" has the meaning which it bears in Schedule 8 to the Act;

"investment", in respect of the expressions "the subscription for or the purchase or sale of investments", "investment business" and "relevant investment business", and in the definition of the last expression and of "market maker", has the meaning which it bears in section 1 (investment business) of the Financial Services Act 1986;

"investment services" has the meaning which it bears in Schedule 8 to the Act;

"land services" has the meaning which it bears in Schedule 8 to the Act;

"market maker" means–

(a) in relation to the United Kingdom, a market maker in securities of a particular kind,

(b) in relation to any country or territory outside the United Kingdom, a person who holds himself out at all normal times as willing to buy and sell at a price specified by him investments of a particular kind which are traded on any exchange in that country or territory;

"market maker in securities of a particular kind" means a person who, for the purposes of subsection (4) of section 67 (depositary receipts) of the Finance Act 1986(**d**), is so described in section 69(7) (depositary receipts: supplementary) of that Act;

"pension scheme" means–

(a) a retirement benefits scheme within the meaning of, and which is approved or a candidate for approval by the Commissioners of Inland Revenue for the purposes of, Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(**e**) (retirement benefit schemes), or

(b) a personal pension scheme within the meaning of, and which is approved or a candidate for approval by the Commissioners of Inland Revenue under, Chapter IV (personal pension schemes) of that Part of that Act;

"relevant investment business" means investment business relating to investments falling within–

(a) any paragraph other than paragraph 10 (long term insurance contracts) or 11 (rights and interests in investments) of Part I of Schedule 1 to the Financial Services Act 1986, or

(b) paragraph 11 of that Part of that Schedule so far as it is not related to paragraph 10 of that Part of that Schedule; and

"subordinate organisation" means, in relation to a body corporate, another body corporate of which the first owns directly or indirectly 5 per cent or more of the ordinary share capital, and for this purpose–

(a) "ordinary share capital"; shall have the meaning which it has in section 832 (interpretation) of the Income and Corporation Taxes Act 1988, and

(b) direct and indirect ownership shall be determined in accordance with methods the same as those set out in section 838 (subsidiaries) of that Act for determining whether a body corporate is a class of subsidiary of another.

(**a**) S.I. 1986/1032 (N.I. 6).
(**b**) 1979 c.38; section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 1, Part I, paragraph 40.
(**c**) S.I. 1987/1975.
(**d**) 1986 c.41.
(**e**) 1988 c.1.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates the Orders revoked by article 5 and makes further provision as to the bodies corporate which a building society may invest in or support under section 18 of the Building Societies Act 1986.

Article 3 designates for the purposes of that section those corporate bodies or types of corporate body specified in columns 1 and 2 of Part I of the Schedule.

The new types of body which are designated are those which the Order terms appropriate financial service vehicles, appropriate life insurance vehicles, appropriate general insurance companies and appropriate estate agency vehicles. Prior to the date on which this Order and the variation of Schedule 8 to the 1986 Act by the Building Societies (Commercial Assets and Services) Order 1988 (S.I. 1988/1141) came into force, societies could provide estate agency services to the extent then permitted by Schedule 8.

An appropriate financial service vehicle is a body corporate carrying on investment business which is an exempted or authorised person under the Financial Services Act 1986 or a candidate for authorisation under that Act and does not engage in specified activities such as market making, lending money and general deposit-taking (article 3(1)(a) and Schedule, Part I, item 15, and Part II, paragraph 7(2)).

An appropriate life insurance vehicle is a body corporate the objects of which include, and which is authorised or a candidate for authorisation to conduct, long term insurance business under the Insurance Companies Act 1982 (article 3(1)(a) and Schedule, Part I, item 16, and Part II, paragraph 7(3)).

An appropriate general insurance company is a company limited by shares the objects of which include, and which is authorised to conduct, general insurance business under the Insurance Companies Act 1982. A building society may not hold 15 per cent or more of the equity share capital of an appropriate general insurance company (article 3(1)(a) and Schedule, Part I, item 17, and Part II, paragraphs 5 and 7(4)).

An appropriate estate agency vehicle is a body corporate the objects of which include the carrying on of estate agency work and which does not engage in market making, lending money or general deposit-taking. It is a requirement that at least 40 per cent of its gross income is, and continues to be, derived from estate agency work in a country in which the society is carrying on the business of making advances secured on land (article 3(1)(a) and Schedule, Part I, item 18, and Part II, paragraphs 6 and 7(5)).

Particular companies designated in the Order are Electronic Funds Transfer Limited, Funds Transfer Sharing Limited, LINK Interchange Network Limited, APACS (Administration) Limited, BACS Limited, CHAPS and Town Clearing Company Limited, Cheque and Credit Clearing Company Limited, EftPos UK Limited, The Joint Credit Card Company Limited and Visa International Service Association. The Order also repeats the designation as qualifying bodies of United Kingdom companies doing business in other member states corresponding to building society mortgage business, housing associations, housing trusts and pension vehicles.

Qualifying bodies are categorised by column 3 of Part I of the Schedule as suitable for investment and support or support alone, or as suitable for investment and support but not support in the absence of investment. Investment is defined by section 18 of the 1986 Act as acquiring and holding shares or corresponding membership rights and forming, or taking part in forming, bodies corporate. Support is defined by that section to comprise the provision of loans, grants, guarantees, services or property to bodies corporate in which a society is investing or which it has resolved to support.

Column 4 specifies the purposes for which (in addition to the purposes permitted by section 18(4)) a society may invest in or support a qualifying body. Column 5 prescribes further limits and conditions on the power to invest in and support certain of the qualifying bodies. In relation to the bodies numbered 9 to 13 and 15, 16 and 17 in Part I the power is only available to building societies with 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 (1986 Act, section 118).

With the exception of investment in appropriate general insurance companies, there is a requirement that a society should seek to ensure that any organisation subordinate to any body corporate designated by description (that is to say an organisation in which the designated body has at least a 5 per cent interest) becomes the subject of investment and support by the society (Schedule, Part II, paragraph 4).

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