STATUTORY INSTRUMENTS

1985 No. 1150

BORROWING CONTROL

The Control of Borrowing (Amendment) (No. 2) Order 1985

Made - - -	*24th July* 1985
Laid before Parliament	*25th July* 1985
Coming into Operation	*29th July* 1985

The Treasury, in exercise of the powers conferred upon them by sections 1 and 3(4) of the Borrowing (Control and Guarantees) Act 1946(**a**) and of all other powers enabling them in that behalf, hereby make the following Order:—

1. This Order may be cited as the Control of Borrowing (Amendment) (No. 2) Order 1985 and shall come into operation on 29th July 1985.

2. The Control of Borrowing Order 1958(**b**) shall be amended by the substitution, for article 8A thereof, of the following article:

"8A.—(1) Subject to the provisions of this article, nothing in Part I of this Order applies to any transaction unless the transaction is effected by a local authority.

(2) The exemption contained in the foregoing paragraph shall not apply to —

(*a*) the issue of any securities mentioned in paragraphs 1 to 5 of Part II of Schedule 1 to the Trustee Investments Act 1961(**c**), unless the terms on which the securities are to be issued have, before the making of the issue, been approved by the Bank of England on behalf of the Treasury;

(*b*) the issue of any sterling securities (other than an issue of the kind described in sub-paragraph (*c*) of this paragraph) where the amount of money to be raised by the issue is not less than £3 million, unless either the issue is by or on behalf of an open ended investment trust company which is resident in the scheduled territories but outside the United Kingdom or

(i) the maximum amount to be raised by the issue, and

(**a**) 1946 c.58.
(**b**) S.I. 1958/1208; relevant amending instruments are S.I. 1970/708, 1972/1218, 1977/1602, 1979/794 and 1985/565.
(**c**) 1961 c.62.

(ii) the time at which or the period during which the issue is to be made,

have, before the making of the issue, been approved by the Bank of England on behalf of the Treasury;

(*c*) the issue of any sterling securities as part of a transaction to which the prohibition in section 1(1) of the Banking Act 1979(**a**) does not apply by reason of regulation 15 of the Banking Act 1979 (Exempt Transactions) Regulations 1983(**b**), where either the amount of money to be raised by the issue, or the aggregate amount to be raised by or on behalf of the body corporate in any period of twelve consecutive months by the issue and any other such issue, is not less than £3 million, unless

(i) the maximum amount to be raised by the issue, and

(ii) the time at which or the period during which the issue is to be made,

have, before the making of the issue, been approved by the Bank of England on behalf of the Treasury.

(3) In this article —

"open ended investment trust company" means a body corporate incorporated outside the United Kingdom and which is entitled to sell and repurchase investments in that body corporate and whose functions consist mainly in the holding of investments or other property;

"sterling securities" means securities in relation to which the principal, dividends, interest or subscription moneys (or any of them) are payable in sterling, or in relation to which there is an option (by whichever party exercisable) for any such payments to be made in sterling.

(4) For the purposes of this article a body corporate shall be deemed to be resident where the central management and control of its trade or business is exercised.".

3. The Orders set out in the Schedule to this Order are hereby revoked.

Ian B. Lang,
Donald Thompson,
Two of the Lords Commissioners
of Her Majesty's Treasury.

24th July 1985.

(**a**) 1979 c.37.

(**b**) S.I. 1983/1865; regulation 15 was inserted by S.I. 1985/564.

Article 3

SCHEDULE

REVOCATIONS

Column 1 Orders revoked	Column 2 References
The Control of Borrowing (Amendment) Order 1970.	S.I. 1970/708.
The Control of Borrowing (Amendment) Order 1972.	S.I. 1972/1218.
The Control of Borrowing (Amendment) Order 1977.	S.I. 1977/1602.
The Control of Borrowing (Amendment) Order 1979.	S.I. 1979/794.
The Control of Borrowing (Amendment) Order 1985.	S.I. 1985/565.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order further amends article 8A of the Control of Borrowing Order 1958, which confers a general exemption from the controls contained in Part I of that Order. Article 8A(2)(*b*) provides that the exemption does not apply to the issue of sterling securities where the amount of money to be raised is £3 million or more, unless either the issue is on behalf of an open ended investment company which is resident in the scheduled territories but outside the United Kingdom or the time at which the issue is to be made has been approved by the Bank of England. This Order provides for the Bank of England to approve the period during which the issue is to be made, as an alternative to the time at which it is made, and provides that the Bank of England's approval should be sought for the maximum amount to be raised, as well as for the timing of the issue.

The Control of Borrowing (Amendment) Order 1985 provided that, in addition to the restrictions in article 8A(2)(*b*), the exemption did not apply to the issue of sterling securities redeemable between one and five years after the date of issue, unless the time at which the securities were to be issued or the period during which such securities were to be issued and the aggregate amount of money to be raised during that period had been approved by the Bank of England. The Order revokes that provision and provides instead that, in addition to the restrictions in article 8A(2)(*b*), the exemption will not apply to an issue of sterling securities falling within regulation 15 of the Banking Act 1979 (Exempt Transactions) Regulations 1983 if the amount to be raised by the issue, or by that issue and any other such issue for the body corporate in a twelve month period, is £3 million or more, unless the Bank of England has approved the maximum amount of the issue and the time at which or period during which the issue is to be made.

Finally, the Order consolidates the text of article 8A and revokes earlier Orders for this purpose.

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