
STATUTORY INSTRUMENTS

1996 No. 1669

**The Financial Institutions (Prudential
Supervision) Regulations 1996**

PART III

BUILDING SOCIETIES

Refusal and revocation of authorisation by Commission

6.—(1) After subsection (3) of section 9 of the Building Societies Act (initial authorisation to raise funds and borrow money) there shall be inserted the following subsection—

“(3A) The Commission shall not grant authorisation to a society if it appears to the Commission that—

- (a) the society is closely linked with any person; and
- (b) the society’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Commission of its supervisory functions in relation to the society;

and in this Act ‘non-EEA laws’ means laws of a country or territory outside the European Economic Area and ‘non-EEA administrative provisions’ shall be construed accordingly.”

(2) After subsection (5) of section 41 of that Act (power to direct application to renew authorisation), there shall be inserted the following subsection—

“(5A) The Commission shall not grant renewed authorisation to a society if it appears to the Commission that—

- (a) the society is closely linked with any person; and
- (b) the society’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Commission of its supervisory functions in relation to the society.”

(3) After paragraph (c) of subsection (3) of section 43 of that Act (revocation of authorisation), there shall be inserted the following paragraph—

“(cc) it appears to the Commission that—

- (i) the society is closely linked with any person; and
- (ii) the society’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Commission of its supervisory functions in relation to the society;”

(4) After subsection (3) of section 44 of that Act (reauthorisation) there shall be inserted the following subsection—

“(3A) The Commission shall not grant reauthorisation to a society if it appears to the Commission that—

- (a) the society is closely linked with any person; and
- (b) the society’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Commission of its supervisory functions in relation to the society.”

(5) In subsection (1) of section 119 of that Act (interpretation), after the definition of “mortgage debt” there shall be inserted the following definitions—

““non-EEA laws” has the meaning given by section 9(3A) and “non-EEA administrative provisions” shall be construed accordingly;”.

Disclosure of information by Commission

7.—(1) In subsection (5) of section 53 of the Building Societies Act (confidentiality of certain information obtained by Commission), for paragraph (b) there shall be substituted the following paragraph—

- “(b) by the Bank, of any of the following functions, namely—
 - (i) its functions under the Banking Act 1987;
 - (ii) its functions as a monetary authority;
 - (iii) its functions as a supervisor of money market and gilt market institutions; and
 - (iv) its functions as a supervisor of systems for the transfer of funds between credit institutions and their customers.”

(2) In subsection (7) of that section—

- (a) for paragraph (b) there shall be substituted the following paragraph—
 - “(b) by the Secretary of State, of any functions of his under the Insurance Companies Act 1982, Part XIV of the Companies Act 1985, Part XIII of the Insolvency Act 1986, the Financial Services Act 1986 or Part II, III or VII of the Companies Act 1989;”and
- (b) in paragraph (c), after the word “documents)” there shall be inserted the words “Part XII of the Insolvency (Northern Ireland) Order 1989;”.

(3) After subsection (12) of that section there shall be inserted the following subsection—

“(12A) Nothing in subsection (1) above prohibits the disclosure of information to the persons specified in the first column of the following Table if, in the opinion of the Commission, it is desirable or expedient that the information should be disclosed with a view to facilitating the discharge—

- (a) by the Commission, of any of its functions under this Act; or
- (b) by that person of the functions specified in relation to him in the second column of that Table.

TABLE

<i>Person</i>	<i>Function</i>
1 An inspector appointed under Part XIV of the Companies Act 1985 or Part XV of the Companies (Northern Ireland) Order 1986 or, so	Functions under that Part or, so far as so relating, that section.

<i>Person</i>	<i>Function</i>
far as relating to offences involving securities of a company, section 177 of the Financial Services Act 1986.	
2 A person authorised to exercise powers under section 84 of the Companies Act 1989.	Functions under that section, so far as relating to the breach of any law relating to companies.
3 A recognised clearing house (within the meaning of the Financial Services Act 1986).	Functions in its capacity as a clearing house recognised under the Financial Services Act 1986 so far as they are exercisable in relation to defaults or potential defaults by market participants.
4 A person approved under the Uncertificated Securities Regulations 1995 as an operator of a relevant system (within the meaning of those Regulations).	Functions as a person so approved so far as they are exercisable in relation to defaults or potential defaults by market participants.
5 A recognised supervisory body (within the meaning of Part II of the Companies Act 1989 or Part III of the Companies (Northern Ireland) Order 1990).	Functions in its capacity as such a body under that Part, or functions in relation to disciplinary proceedings against auditors.
6 A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 or Article 350 of the Insolvency (Northern Ireland) Order 1989).	Functions in its capacity as such a body under that Act or Order or functions in relation to disciplinary proceedings against insolvency practitioners (within the meaning of that Act or Order).
7 A supervisory authority in another EEA State.	Functions in its capacity as a supervisor of systems for the transfer of funds between credit institutions and their customers.””

(4) In subsection (14) of that section, after the definition of “authority” there shall be inserted the following definition—

“‘EEA State’ means a State other than the United Kingdom which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;”

(5) At the beginning of subsection (15) of that section, there shall be inserted the words “Subject to subsection (15A) below,”.

(6) After that subsection there shall be inserted the following subsection—

“(15A) Subsection (15) above shall not apply to disclosures made by virtue of subsection (12A) above, or to disclosures made with a view to facilitating the discharge of any of the following functions, namely—

- (a) functions of the Secretary of State under Part XIV of the Companies Act 1985, Part XIII of the Insolvency Act 1986 or Part II of the Companies Act 1989 or, so far as relating to the breach of any law relating to companies, under section 83 of the Companies Act 1989; or
- (b) functions of the Department of Economic Development in Northern Ireland under Part XV of the Companies (Northern Ireland) Order 1986, Part XII of the

Insolvency (Northern Ireland) Order 1989 or Part III of the Companies (Northern Ireland) Order 1990.”.

(7) After subsection (3B) of section 54 of the Building Societies Act (information disclosed to Commission from other sources) there shall be inserted the following subsection—

“(3C) Before the Commission discloses information to any person under subsection (3B) (b)(i) above, it shall notify the relevant supervisory authority which disclosed the information to the Commission of the name and responsibilities of that person.”

Communication by auditor etc. with Commission

8.—(1) In subsection (8) of section 82 of the Building Societies Act (auditor’s duties to Commission), for the words “The auditors of a building society” there shall be substituted the words “The following, namely—

- (a) the auditors of a building society;
- (b) an accountant appointed by a building society to make a report under section 52(5)(d) above; and
- (c) (i) they are also the auditors of the society; or
(ii) one of them is an accountant appointed by the society to make a report under section 52(5)(d) above.”.

(2) In subsection (9) of that section—

- (a) for the words “the auditors of building societies” there shall be substituted the words “such persons” as are mentioned in paragraph (a), (b) or (c) of subsection (8) above; and
- (b) for the words “any auditor” there shall be substituted the words “any such person”.