



STATUTORY INSTRUMENTS

S.I. No. 499 of 2008

ASSET COVERED SECURITIES ACT, 2001 (APPROVAL OF
TRANSFERS BETWEEN EBS BUILDING SOCIETY AND EBS
MORTGAGE FINANCE) ORDER 2008

(Prn. A8/1901)

ASSET COVERED SECURITIES ACT, 2001 (APPROVAL OF
TRANSFERS BETWEEN EBS BUILDING SOCIETY AND EBS
MORTGAGE FINANCE) ORDER 2008

WHEREAS EBS BUILDING SOCIETY (“EBS”) a building society incorporated in the State with registered number 139, having its chief office at The EBS Building, 2 Burlington Road, Dublin 4 and being deemed to be the holder of an authorisation for the purposes of section 17 of the Building Societies Act 1989 (No. 17 of 1989) and **EBS MORTGAGE FINANCE** (subject to paragraph 4 of this order, “**EBSMF**”) a company incorporated in the State with registered number 463791, having its registered office at The EBS Building, 2 Burlington Road, Dublin 4 and being the holder of a licence under section 9 of the Central Bank Act, 1971 (No. 24 of 1971) and registered as a designated mortgage credit institution under the Asset Covered Securities Act 2001 (No. 47 of 2001) (the “**Act**”), have submitted the Scheme (as defined below) to the Central Bank and Financial Services Authority of Ireland (the “**Central Bank**”) for its approval under section 58(4) of the Act;

AND WHEREAS Section 33C of the Central Bank Act 1942 (No. 22 of 1942) designates the Irish Financial Services Regulatory Authority (the “**Financial Regulator**”) as being the body responsible for carrying out the functions of the Central Bank under Section 58(4) of the Act;

AND WHEREAS the Scheme contains such details as the Financial Regulator requires with respect to the business or the assets which are or may be the subject of any Transfer (as defined below) and specifies the date or dates on which each Transfer is to take place or how that date or those dates are to be ascertained;

AND WHEREAS the Financial Regulator is satisfied as required under section 58(6) of the Act that the Scheme will achieve the purpose referred to in section 58(5) of the Act and that the conditions (if any) imposed by the Financial Regulator in respect of the Scheme have been or will be complied with;

AND WHEREAS EBS is associated with EBSMF within the meaning of section 58(12) of the Act and accordingly, the Financial Regulator is the relevant person for the purposes of section 58 of the Act and any Transfer between EBS and EBSMF;

NOW the Financial Regulator, in the exercise of the powers conferred on the Financial Regulator under section 58(6) of the Act hereby orders as follows:

1. This order may be cited as the Asset Covered Securities Act 2001 (Approval of Transfers between EBS Building Society and EBS Mortgage Finance) Order 2008.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th December, 2008.*

2. A word or expression that is used in this order and is used and defined in the Act has, unless the contrary intention appears, the same meaning in this order as in the Act.

3. A word or expression that is used in this order and is used and defined in the Scheme but not in the Act, has unless the contrary intention appears, the same meaning in this order as in the Scheme;

4. In this order (including the recitals to this order)—

“Act” has the meaning given to it in the first recital to this order;

“Agreement” means the Origination and Transfer Agreement dated 28 November 2008 between EBS and EBSMF providing for one or more transfers from time to time from a Transferor to a Transferee of Mortgage Business and/or Mortgage Assets;

“Commercial Mortgage Assets” has the meaning given to it in the Scheme;

“Commercial Mortgage Business” has the meaning given to it in the Scheme;

“EBS” has the meaning given to it in the first recital to this order;

“EBSMF” has the meaning given to it in the first recital to this order, subject as provided in the Scheme in relation to any manager appointed to EBSMF under the Act;

“Financial Regulator” has the meaning given to it in the second recital to this order;

“Mortgage Assets” has the meaning given to it in the Scheme;

“Mortgage Business” has the meaning given to it in the Scheme;

“Schedule” has the meaning given to it in the Scheme;

“Schedule 1” means Schedule 1 to the Scheme entered into by EBS and EBSMF on the date of the Scheme;

“Scheme” means the scheme (for the transfer from a Transferor to a Transferee of Mortgage Business and/or Mortgage Assets including, without limitation, that contemplated by Schedule 1) dated 28 November 2008 made by EBS and EBSMF and submitted by them to the Financial Regulator for its approval pursuant to section 58 of the Act (including, the schedules thereto and Schedule 1) and the Agreement in so far as it relates to that scheme;

“Transfer” means a transfer pursuant to section 58 of the Act and in accordance with the Scheme of Mortgage Business and/or Mortgage Assets from the relevant Transferor to the relevant Transferee as specified or stated in Schedule 1 or another Schedule entered into by EBS and EBSMF in accordance with the Scheme;

“Transferee” in relation to:

- (a) the Transfer contemplated by Schedule 1, means EBSMF;
- (b) any other Transfer, means EBSMF or EBS as specified or stated in the relevant Schedule as “Transferee in respect of the Transfer”;

“Transferor” in relation to:

- (a) the Transfer contemplated by Schedule 1, means EBS; and
- (b) any other Transfer, means EBS or EBSMF as specified or stated in the relevant Schedule as “Transferor in respect of the Transfer”;

“Transfer Date” in relation to a Transfer (including, without limitation, that contemplated by Schedule 1), means the date(s) specified as the Transfer Date for the Transfer in the relevant Schedule;

“Transfer Mortgage Assets” has the meaning given to it in the Scheme;

“Transfer Mortgage Business” has the meaning given to it in the Scheme.

5. The Financial Regulator hereby approves, for the purposes of section 58 of the Act, each Transfer (including, without limitation, that contemplated by Schedule 1) to be made in accordance with the Scheme.

6. The Financial Regulator’s approval of each Transfer (including without limitation, that contemplated by Schedule 1) to be made in accordance with the Scheme for the purposes of section 58(5) of the Act shall be subject to the following conditions: A Transferor shall not make a Transfer to a Transferee of Commercial Mortgage Assets or Commercial Mortgage Business in accordance with the Scheme without giving prior written notification of such Transfer to the Financial Regulator in accordance with paragraph 2.2 of the Scheme and unless the Financial Regulator gives its prior written agreement to such Transfer.

7. A Transfer (including without limitation, that contemplated by Schedule 1), for the purposes of the Scheme, of Transfer Mortgage Business and/or Transfer Mortgage Assets as contemplated by Schedule 1 or, as applicable, another Schedule made in accordance with the Scheme, shall take effect as provided for in section 58(8) of the Act:

- (a) subject to any conditions on the approval of the relevant Transfer set out in paragraph 6 of this order; and
- (b) on the relevant Transfer Date determined in accordance with the Scheme and set out in the relevant Schedule.

8. On a Transfer (including, without limitation, that contemplated by Schedule 1) of Transfer Mortgage Business and/or Transfer Mortgage Assets as specified or stated in Schedule 1 or, as applicable, another Schedule made in accordance with the Scheme, as provided for in section 58(9):

- (a) the relevant Transferee has the same rights (including priorities) and obligations in respect of that business or those assets (as specified in the relevant Schedule) as the relevant Transferor had immediately before the relevant transfer took effect; and
- (b) the relevant Transferor ceases to have those rights and obligations.



GIVEN under the Official Seal ,
28 November 2008

PATRICK NEARY
Chief Executive of the Financial Regulator

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The order approves the transfer from time to time of all or part of the mortgage business and/or mortgage assets of EBS Building Society to EBS Mortgage Finance (or vice versa) in accordance with a transfer scheme submitted to the Central Bank and Financial Services Authority of Ireland under section 58 of the Asset Covered Securities Act 2001. The effect of the order is that the relevant provisions of section 58 of the Asset Covered Securities Act 2001 will apply to the transfer(s).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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