



Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

MF

PRIME MINISTER

NEW CROSS BUILDING SOCIETY

The Action which the Chief Registrar of Friendly Societies has taken against this building society and which has been handled in strict confidence will become public knowledge on Tuesday 17 January. It is one of the largest building society cases of this kind for some years and is bound to attract considerable press attention. The background was set out in Margaret O'Mara's letters of 26 August to Tim Flesher and 21 December to Andrew Turnbull.

2. In brief the Chief Registrar concluded from the cumulative evidence of the behaviour of the society's management, including breaches of statutory requirements, that there was a significant risk of loss to investors, and that he should intervene as soon as possible to protect investors before any real losses occurred. With my consent, he accordingly made, in August, a Statutory Order preventing the society from taking further investments. The society challenged the order in the courts, but, the Court of Appeal having found decisively in his favour on all points, it will take effect, and on 17 January. It will become public then - and there remains a risk of an advance leak.

3. When he decided to intervene, the Chief Registrar took account of the fact that making the order would itself cause some immediate problems for investors. The society would have to put a temporary stop on withdrawals, because there would otherwise be a run. But the Registrar judged that the society would be able to repay investors in full in due course.



4. It is now virtually certain that the period of delay has been reduced to about two months. Under pressure from the Registrar (helped by a strong lead from the Court of Appeal), the New Cross board has reluctantly accepted that its members' interests would be best served by a transfer of engagements to another society. The Woolwich has agreed to accept the transfer (in effect a merger of the societies). The legal processes, including the necessary vote by New Cross members, should be completed in about two months. New Cross members will then be able to get their money from the Woolwich in full, if that is what they want. The delay in access to their money is unfortunate, but unavoidable, and is of course far better than the position they might well have faced at some stage if action had not been taken.

5. As envisaged in the summer, I plan to issue on 17 January a White Paper explaining what has been done. It is important to get our position on the record, and the White Paper form, attracting Parliamentary privilege, is appropriate given that the rationale for the action taken necessarily implies some criticism of the society's management. Our announcement will be low key, and designed to reassure the public about building societies in general. I attach a proof copy of the key part of the White Paper text, which will be supplemented by appendices, including the full text of the Chief Registrar's decision. The White Paper, the Treasury's Press Notice about the case, and the press briefing will make it clear that he acted as he did in order to intervene in time to avoid a real risk of substantive losses to investors at a later stage. That should, I suggest, be the main point which you might wish to make if the matter is raised with you in the House on 17 January: my office will of course be providing fuller briefing in the usual way.

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10 DOWNING STREET

From the Private Secretary

12 January 1984

New Cross Building Society

You telephoned me this afternoon to say that the White Paper on the New Cross Building Society, a draft of which was attached to the Chancellor's minute to the Prime Minister of 11 January, would have to be published today because of the earlier than expected announcement of the Court's decision.

This is just to say that the Prime Minister saw the Chancellor's minute before the time of publication, and was content.

DB

Miss Margaret O'Mara,
H.M. Treasury.

CONFIDENTIAL

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NSPM

AT 12/1

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

12 January 1984

Andrew Turnbull Esq
10 Downing Street
LONDON SW1

Dear Andrew,

NEW CROSS BUILDING SOCIETY

As I have told David Barclay, the news of this case has broken today. The Court decided this afternoon to release their judgement at 5.00 pm, because of increasing indications that the press would otherwise pre-empt them.

The White Paper was therefore laid before Parliament just after 5.00 pm today and the Treasury Press Notice issued immediately afterwards.

... I enclose copies of both documents.

Yours sincerely,

Margaret O'Mara

MISS M O'MARA



H. M. TREASURY

Parliament Street, London SW1P 3AG, Press Office: 01-233 3415
Telex 262405

12 January 1984

NEW CROSS BUILDING SOCIETY

The Chief Registrar of Friendly Societies has today announced that he has made two orders in respect of the New Cross Building Society, which have the effect of prohibiting the society from taking further investments, and ending its trustee status. They take effect tonight.

2. The Chancellor of the Exchequer has today laid before Parliament a White Paper (New Cross Building Society) (Cmnd9033) setting out the reasons for the orders and the background to them. It includes the Chief Registrar's Decision.

3. Two related events have also occurred today:-

- (i) the Court of Appeal has handed down its judgments on an appeal by the Chief Registrar in respect of these orders;
- (ii) The Boards of the New Cross Building Society and the Woolwich Equitable Building Society are also announcing today that they have reached agreement in principle on a transfer of the New Cross' engagements to the Woolwich: a merger. If the transfer of engagements is approved it should be completed in mid-March. In the meantime the New Cross have closed their offices and put a temporary stop on withdrawals.

The New Cross Building Society

4. The New Cross Building Society (the New Cross) has grown rapidly. It had £13 million total assets at the end of 1976 and 103 million at the end of 1982. At present it has about £150 million.

Why Orders Have Been Made

5. From time to time over the last five years the Registry of Friendly Societies expressed its concern to the management of the New Cross that the latter was not doing all that it should to protect the interests of investors. This particularly occurred after the society either failed to meet the minimum reserve requirements specified for trustee status (at the end of 1979 and at the end of 1981) or came near to failing (at the end of 1980). After the first occasion (1979) an Assistant Registrar pointed out that the management's policies had made the society vulnerable and sought reconsideration of those policies. On the second occasion (1980) the then Chief Registrar suggested that the New Cross ought to moderate its growth to consolidate its reserves position. After the third occasion (1981) the present Chief Registrar served notice of his intention to revoke designation if the society did not modify its policies: he withdrew that notice after receiving certain assurances about future policies.

6. During the spring and summer of 1983, the Chief Registrar became aware successively that at the end of 1982 the society had failed to meet another of the requirements for trustee status, that it had broken in 1981 and 1982 the statutory limits on 'special advances' (advances to companies and to individuals in large amounts) that its policy for growth in 1983 would again put in question its reserves position, and that the arrangements for direction and management of the society were inappropriate and unsatisfactory for a rapidly growing society of the size which the New Cross had now reached. This led the Chief Registrar to the conclusion that the management was not exercising the standards of care appropriate for holders of money from investors expecting repayment of a £ in the £.

7. The Chief Registrar foresaw a distinct risk of the society over-reaching itself, either in terms of business policies or administration. That could have precipitated a crisis, possibly within months, possibly within a year or two by which time the management intended the New Cross to be much larger. In such circumstances investors would no longer be able to count on repayment in full. The Chief Registrar therefore judged, after hearing representations from the society, that, despite the immediate effects for investors of making the orders, the balance of interest of present and future investors lay decisively in making the order now to avoid the clear risk of more substantive and widespread damage in the future.

The Orders

8. The Chief Registrar made the first order under Section 1 of the House Purchase and Housing Act 1959. It revokes the designation of the New Cross Building Society under that section. Shares and deposits with the New Cross Building Society are no longer authorised investments for trust funds governed by the Trustee Investments Act 1961. (Investments of trust funds not governed by the Act are not necessarily affected.)
9. The Chief Registrar made the second order with the consent of the Treasury under section 48 of the Building Societies Act 1962, applying subsection (2) of that section to the New Cross Building Society. This prohibits the society from accepting deposits or otherwise borrowing money (subject to certain limited exceptions) and from accepting money by way of subscription for shares.
10. The orders were originally made in August 1983 and were due to come into effect on 2nd September 1983. They were however stayed by the Court when the society applied for leave for judicial review. In the first instance, a Queen's Bench Judge sitting in chambers quashed the orders. The Chief Registrar appealed. The Court of Appeal sitting in camera unanimously upheld the appeal on 21 December. The Court refused the New Cross leave to appeal. But it temporarily stayed the orders while the New Cross petitioned the House of Lords for such leave. The New Cross has now decided not to proceed with that petition.

Position of Investors in the New Cross

11. On the evidence available to the Chief Registrar, the assets of the society are sufficient to enable all investors to be paid in full in due course. When the society will be in a position to resume payments depends on progress with the proposed merger. The agreement in principle between the boards of the Woolwich Equitable Building Society and the New Cross was reached through the good offices of the Building Societies Association. It is subject to further inquiries by the Woolwich to confirm that the merger will have no material effect on the financial position of the Woolwich and to the approval of members of the New Cross. It is hoped that it can be completed by mid-March. If and when it is completed investors will again have access to their funds, if they wish it. If the merger is not completed, full repayment will take significantly longer.

NOTE FOR EDITORS

These two orders have been made by the Chief Registrar of Friendly societies, who is charged with the duty of supervising building societies in the interests of investors and has certain statutory powers to that end. The section 48 order required Treasury consent before it could be made, and this was given.

The White Paper sets out the reasons for the orders, immediate consequences and the position for investors in the New Cross. Since it went to press, the operative date for the orders has been advanced from 17 January to 13 January 1984. It covers the position of funds received by the society since December 12 1983 which have been paid into Court, and the position of trust funds, following revocation of 'trustee status'. The detailed grounds for the orders are reviewed in full in the Chief Registrar's Decision reproduced at Appendix 5 to the White Paper. The Annex to this note draws attention to the key passages in the Decision.

Decision by the Chief Registrar

This document was issued to the New Cross Building Society by the Chief Registrar after considering its written representations, and the submissions made on its behalf by leading Counsel. (It was the 'record' for the purpose of the subsequent judicial review.) The length of treatment of different aspects reflects the pattern of the New Cross representations, rather than the relative importance of particular grounds.

The grounds and considerations for the orders are reviewed in sections 5 to 14 and 17. In each case the ground as originally put to the society is in italics at the head of the section, and the Chief Registrar's conclusions on it are at the end in bold type.

The main exposition is to be found in the following passages:-

11.6 to 11.8 and Annex	Characteristics of the New Cross.
11.31 to 11.35	Significance for a building society of effective board control.
13.5 to 13.6	Framework of law and prudential supervision to protect investors in building societies.
13.7 to 13.10	Significance of failure to comply with special advance provisions of Building Societies Act 1962.
14.5	Significance of other failures to protect interests of members.
15.4 to 15.9	Balance of interests of investors in relation to revocation of trustee status.
18.2 to 18.4	Balance of interests in relation to section 48 order.
19.1 to 19.2	Conclusion.

File

ECONOMIC SECRETARY

FROM J.M. BRIDGEMAN

16th January, 1984

cc: Chancellor

Sir Peter Middleton
Mr. Cassell
Mr. Monck
Mr. Hall (IDT)
Mr. Page (IDT)
Mr. Pirie
Mr. Saunders
Mr. Munrow (T.Sol)
Parliamentary Clerk
Mr. Devlin
Mrs. Hay
Mr. Whitehead

New Cross Building Society: PM's Questions

No 10 have asked for the briefing to reach them by 5pm this evening.

2. I attach a reworking of the existing briefing, regrouped to take account of press comment and criticism.
3. I should be grateful if you would, in particular, refer to the paragraph of rebuttal of attacks on the Registry's competence. I find it somewhat invidious to draft that myself.

J.M.B.

(J.M. Bridgeman)

NEW CROSS BUILDING SOCIETY

Points to Make

This was a timely intervention to avoid the future risk of a loss of money to investors. The stable door was closed before the horse had bolted.

2. There may be some / ^{inconvenience} for investors who need their money in the next two months before the transfer to the Woolwich can be completed. But the two societies are making payments in the case of hardship. Also, money which has been paid into the society since 12 December has been held in Court since then and will not be subject to the general embargo on repayments.
3. The position of investors would be far worse if the Chief Registrar had not intervened, and there had then been a crisis in the society in the way which he thought likely.
4. The breaches of the law and of the requirements for trustee designation were not mere technicalities. The Chief Registrar's grounds set out in the White Paper are cumulatively a formidable indictment of the management of the society. In particular compliance with the law and the protection of the interests of its investors were subordinated to the targets for the growth of the society.
5. The Chief Registrar's intervention was not without warning. He had tried last year the alternative of obtaining assurances from the management of the society as to its future conduct. He has no power to force a board reconstruction.
6. The Chief Registrar's intervention was not because the society had innovated or grown quickly. It was because the society had failed to do what was necessary to protect investors while doing so.
7. The lessons of this case for [the provisions for prudential supervision in any future legislation on building societies] [the staffing of the Registry] will be considered by my Rt. Hon. friend the Chancellor of the Exchequer.
- 8.. The Chief Registrar's Decision was not subject to appeal in the strict sense. But it was subject first to approval by my Rt. Hon. friend the Chancellor of the Exchequer, and then to judicial review. The Court of Appeal made it absolutely clear in their judgement that the Court could overturn the Decision if it considered that the Registrar had acted outside his powers, or if he failed to observe natural justice, or if he had shown bias, or if he had acted unreasonably. But the Court of Appeal unanimously and unequivocally upheld the Decision. In the words of the Master of the Rolls:-

'I can find no grounds whatsoever for quashing the Chief Registrar's orders.'

9. My Rt. Hon. friend the Chancellor of the Exchequer rejects the attacks by Mr. Rowland on the competence of the Chief Registrar and his staff. The Chief Registrar had considerable experience of building societies and other financial institutions during his career in the Treasury. Treasury Ministers agreed last year to strengthening the staff of the Registry. But this particular investigation was given priority and had the resources necessary to carry it through.

Other Societies

10. The grounds for the orders were specific to the New Cross. In several respects they were unique and unprecedented. There are no grounds for alarm about building societies in general[even though as the hon. member for Ipswich points out] there may be room for improvement in the quality of their annual returns of a few of them].

New Cross Building Society

Facts

(a) Society

1. £150 million total assets. Rapid growth: £13 million at the end of 1976, £103 million at end of 1982.
2. At the end of 1982 there were 22,300 investors, 3,300 borrowers. (Average investment £4,200 compared with £1,800 for societies generally.)

(b) Orders

3. S48 Order made 'if Chief Registrar considers it expedient in the interests of investors and depositors'(present and future), prohibits receipt of further investments.
4. Revocation of designation means that investment in the New Cross is no longer authorised for those trust funds which are governed by the Trustee Investments Act 1961.

(c) Existing Investors

5. Facts available to the Chief Registrar suggest society is still in position to pay £ in £ in due course.
6. Merger with Woolwich if approved by members of the New Cross, will enable normal payment in about two months. Management has suspended payments in the meantime.
7. Largest societies were prepared to help, if a merger had not proved practicable by accepting transfer of mortgages, subject to safeguards. This would have provided New Cross with funds to pay off investors over a period.
8. Investments since December 12 1983 have been placed in Court. They will be repaid from there, and so escape general freeze on repayments.
9. Trustees now formally have to reconsider how to invest trust money with the New Cross - if they are within the scope of the 1961 Act. However if the transfer goes through, the funds will be once again be in authorised investments (namely with the Woolwich) by the time it will be feasible to switch.

4. The performance of the management of the New Cross over several years, including breaches of statutory requirements, has been such that the Chief Registrar concluded that if the present management and existing policies continued there was a distinct risk of a crisis in this rapidly growing society. The New Cross would then not be able to repay investors in full. This might happen in a matter of months. Or it might be in a year or two, by which time the society planned to be much larger and so the consequences would be greater and more widespread. He therefore judged that, despite the immediate effects for investors of making the orders, the balance of interest of present and future investors lay decisively in favour of making the orders to avoid greater risks in the future.

5. The main specific grounds for the orders cited by the Chief Registrar were, in summary:—

- (i) the New Cross had failed in three of the last four years to meet the requirements of the regulations for trustee designation. Two lapses are exceptional, three unprecedented. These failures could, and should, have been avoided by prudent modification of policies;
- (ii) as a result the New Cross was ineligible to become a full member of the Building Societies' Investors' Protection Scheme at its start in 1982. The New Cross was still ineligible in 1983. It is the only society of any size not to have joined;

(iii) the New Cross had broken the special advance provisions of the Building Societies Act 1962 in both 1981 and 1982. Although the breaches were almost certainly not the result of a deliberate decision to flout the law, they were evidence that the management was not giving sufficient attention to complying with it;

(iv) the New Cross budget for 1983 projected a significant fall in the ratio of reserves to assets, largely due to the projected growth of assets by 60% in the year. There was a distinct risk of the New Cross's reserves again being inadequate in relation to the nature of its business. The management was once more putting the achievement of its growth targets in front of securing the safety of its investors' money;

(v) the arrangements for control of the society's business by the full board were inadequate. Major financial policy decisions had been taken by executives without proper consideration by the board: indeed in one important case the way of taking the decision could only be described as financial mismanagement;

(vi) the management had failed to meet the previous Chief Registrar's request that every building society should have properly documented systems of control. That request drew on the Registry's experience following major defalcations in the Grays and a few other societies.

6. The grounds included no allegation of fraud. Nor was the honesty of the members of the board and senior management in question. But cumulatively the grounds led the Chief Registrar to the conclusion that if the society continued with its present management and policies, including rapid growth, there would be a distinct risk of the society over-reaching itself, either in terms of business policies or administration. That could precipitate a crisis with the consequences for investors already described.



NBPM

AT 21/17

Cress

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

21 December 1983

Andrew Turnbull Esq
10 Downing Street
LONDON SW1

Dear Andrew,

NEW CROSS BUILDING SOCIETY

I wrote to Tim Flesher on 26 August telling him of the orders which the Chief Registrar of Friendly Societies had made against the New Cross Building Society and warning that the society might apply for judicial review.

It did so. In the first instance, the review was held by a Queen's Bench Judge in Chambers and he quashed the orders. The Court of Appeal heard the Chief Registrar's appeal in camera last week. As I told you last night, they are to give their judgement at 10.30 am today and it may become public immediately.

We know (in confidence) that the Court will uphold the orders. The most likely sequence is that the Court of Appeal will refuse the New Cross leave to appeal to the House of Lords but will grant it a stay of execution until the society has had an opportunity to apply to the House of Lords for such leave. If that leave is refused, then the orders will take effect and the matter will become public at that stage, probably towards the end of January. Meanwhile there is a growing risk of leak.

However, it has become apparent in the last few days that the Court might, as in the Guardian case, refuse a stay of execution. If this were to happen, the Treasury and Registry would need to make an announcement very quickly. The Chancellor proposes to do this by a written Parliamentary Answer of which I enclose a draft. It may need amendment in the light of the Court's judgement. The Answer would be supported by a White Paper laid in the House which would consist of the Chief Registrar's Decision, together with a short Ministerial introduction.

/.....I should

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I should emphasise that an announcement today is only a possibility. The more probable outcome is that an announcement will be made towards the end of January.

However, when the matter does become public, the Chairman of the society can be expected to attack the Registrar and the Treasury for causing a crisis for his society and needless anxiety to investors. With the Court of Appeal's judgement behind them Treasury Ministers will, of course, be ready to make it clear that investors' interests have in fact been protected by the Chief Registrar's action and our press briefing will take a similar line.

There will inevitably be a short period of anxiety for investors but it should be resolved within a matter of weeks. As the draft Answer makes clear, the society will have to consider whether it needs to put a temporary stop or limitation on withdrawals but on the evidence available to the Chief Registrar, it should eventually be able to pay a £ in the £ to all investors. The Chairman of the Building Societies Association has today confirmed that the largest member societies are willing to do all that they can to assist investors in the New Cross. There is a distinct possibility that a major society would be ready to accept a transfer of engagements subject to negotiation of suitable terms. In that case, investors should be able to receive full repayment, if they want it, within about three months.

Yours sincerely,

Margaret O'Mara

MISS M O'MARA

CONFIDENTIAL

To ask Mr Chancellor of the Exchequer whether, in view of the widening of the activities of building societies, he has proposals for developing their prudential supervision.

Mr Ian Stewart

The Chief Registrar of Friendly Societies has the duty of supervising building societies in the interest of investors. My predecessor announced to the House on 14 February last that he had agreed to the strengthening of the Registry's staff to increase, amongst other things, the supervision of building societies in the more competitive conditions that now prevail.

The Government will be reviewing the future arrangements for supervision as part of their considerations of proposals for legislation to widen societies' powers. That review will also take account of experience gained by the Chief Registrar in the case of the New Cross Building Society, on which the Court of Appeal issued its judgement earlier today.

The Chief Registrar made two orders against the society in August this year. One, made under section 1 of the House Purchase and Housing Act 1959, removed its trustee designation. The other, made with the consent of the Treasury under section 48 of the Building Societies Act 1962, prohibited the society from taking further investments.

The operation of the orders was then stayed by the High Court pending judicial review. That review was conducted in camera. The Court of Appeal today upheld the orders, and refused to grant a further stay. They accordingly come into effect (today/tomorrow).

/The Chief Registrar

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The Chief Registrar made the orders because the performance of the society's management over a period, including breaches of statutory requirements, was such that he considered that if it continued with its present management and existing policies, there was a distinct risk of a crisis in a few months or years, as a result of which the society might not be able to repay investors a £ in the £.

The society will have to consider whether it needs to put a temporary stop or limitation on withdrawals. But, on the evidence available to the Chief Registrar it should eventually be able to pay a £ in the £ to all investors. The Chairman of the Building Societies Association has today confirmed that the largest member-societies are willing to do all they can to assist investors in the society. There is a distinct possibility that a major society would be ready to accept a transfer of engagements, subject to negotiation of suitable terms. In that case investors should be able to receive full repayment, if they want it, within about three months.

The full considerations which led the Chief Registrar to decide that it was in the interests of investors to make the orders are set out in a White Paper, which I am laying before the House today. Advance copies will be available today in the Vote Office and in the Library of the House. Full publication may not be before the holiday.

CONFIDENTIAL

HOUSING.

Organisation
& Structure

of Building Sols.
May 79

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NOTE FOR THE RECORD

New Cross Building Society

As expected, the Court of Appeal found in favour of the Treasury. The Building Society has been given a stay of execution until mid-January and an opportunity to apply to the House of Lords for leave to appeal. Meanwhile, the Building Society will continue to trade. It is important that no information on this leaks out. The PQ attached will be answered in some general way which gives no hint that there is a problem with an individual building society. I have asked the Press Office to deny knowledge of this, if asked, until they have had a chance to check back either with me or with Treasury Press Office.

AT

ANDREW TURNBULL

21 December, 1983



Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

26 August 1983

Tim Flesher Esq
10 Downing Street

MT.

Dear Tim,

NEW CROSS BUILDING SOCIETY

The Prime Minister will wish to be aware that the Chief Registrar of Friendly Societies has taken action against this medium-sized building society. The news will break on Thursday evening, unless the society seeks leave beforehand for judicial review of the Chief Registrar's decision. At present it is expected that investors will be repaid a £-in-the-£, but it seems inevitable that they will be subjected to the short term inconvenience of a moratorium on withdrawals while a reconstruction takes place.

Background

After many years of unremarkable performance, the New Cross began to grow very rapidly after 1975. Its assets have increased from £7.6 million to over £130 million today. At the end of 1982 it was the fiftieth largest society; by the end of 1983 it would have been about the fortieth. Its growth has been achieved by a combination of aggressive marketing, high interest rates to savers and an unconventional lending policy.

The Registry of Friendly Societies has been monitoring the society closely during this period. Two developments have precipitated the present action. First, for the third time in four years, the society has failed to meet the requirements for designation as a trustee investment. (On the two previous occasions, the Registry allowed the society to retain its designation, the second time subject to some stringent conditions.) Secondly, it has come to light that in both 1981 and 1982 the society breached the special advances limit - the limit on all advances to bodies corporate and advances to individuals exceeding a certain sum (now £60,000 but at the time £37,500). When this provision was introduced in 1960, Parliament considered it so serious that it attached as penalties for failure to comply an unlimited fine or up to two years imprisonment. In the case of the New Cross,

/however,



however, the Chief Registrar accepts that the breaches were unintended and it is not expected that criminal proceedings will be instigated.

These matters would have become public in time and the Registry and the Government would have been obliged to justify their response to the situation. The Chief Registrar concluded that it was right for him to move before investors' money was put at risk. Thus, after hearing representations from the society, he has revoked its trustee designation and issued an order prohibiting it from accepting new money. This second order required Treasury consent. After careful consideration, the Chancellor agreed with the Chief Registrar's judgement and gave authority for Treasury consent.

The society's fundamental problem lies with its management. It has pursued a policy of growth, allied to higher risk lending than that undertaken by most societies, without ensuring that it has the reserves and the control systems to take the strain. It failed to introduce the documentation of control and inspection systems recommended by the Registry following the Grays affair and the failures over trustee designation requirements and special advances were symptomatic of this. They were avoidable but the society did not take the necessary action. With better management and effective control systems, the society's unconventional policies might have worked, leading to a welcome increase in consumer choice. But in practice the society has acted without proper regard to the interests of its investors.

Next steps

The Chancellor has agreed that the Chief Registrar's formal decision, which sets out in full the reasons for his action, should be published as a White Paper on Thursday evening, a few hours before the orders become operative. This is in order that the document should attract absolute privilege, given the heavy criticisms it contains of the society and its auditors. If, however, as looks increasingly likely, the society were to seek judicial review (whether in the belief that it could get the action overturned or simply to buy time), publication would be delayed. Following advice from Treasury Counsel, the Chief Registrar is confident that the Court would uphold him. It is thus more likely that the society would try to use any stay granted by the Court to construct a package which would persuade the Chief Registrar to re-designate it and revoke the order prohibiting new investments but he is very doubtful that it will be able to come up with satisfactory proposals.

/It therefore



It therefore seems probable that a reconstruction package will have to be implemented in conjunction with the Building Societies Association. A new management team would be brought in; a moratorium on withdrawals imposed; the mortgage book sorted out (there is at present a high proportion of arrears cases) and then sold off to other societies and the New Cross wound up. This somewhat complicated procedure would be necessary since the New Cross is too big simply to be taken over in its present form by another society. But it should be completed in a matter of months and investors would then be able to get their money back; they are likely to get a substantial proportion earlier.

There is a risk that the action taken against the New Cross could precipitate runs on other, apparently similar, societies. Press briefing will emphasise that the problems of the New Cross are sui generis. But contingency arrangements will be made for the support of other societies, if necessary.

Conclusion

This is an unusual case. Unlike earlier building society failures, such as Grays, there is no question of fraud. Unlike earlier crises involving other financial institutions, investors seem likely to get their money back in full. Here the prudential authority has taken action before the crisis comes to a head, instead of picking up the pieces afterwards. While the Bank of England has acted at a relatively early stage against some licensed deposit takers, none was of a scale remotely approaching that of the New Cross Building Society. For these reasons alone, the case is likely to attract a lot of interest and attention. The presentation of the Chief Registrar's action will need careful handling and the main press briefing will be cleared in advance with the Chancellor. It will make clear, inter alia, that the Chief Registrar acted with the Chancellor's support.

It is, of course, essential that the news does not leak prematurely. We have kept information about these events to a strict "need to know" basis and I should be grateful if you would do the same.

Yours sincerely,

Margaret O'Mara

MISS M O'MARA
Private Secretary



10 DOWNING STREET

Prime Minister

Mr. Thatcher asked
me to intercept this
letter and bring it
to your attention.

Peter Ewing
(only desk)

26. 8. 83.