
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Gibraltar (Miscellaneous
Amendments) (EU Exit) Regulations 2019**

PART 2

Gibraltar related amendments

The Insurers (Reorganisation and Winding Up) Regulations 2004

2. The Insurers (Reorganisation and Winding Up) Regulations 2004(1) apply in relation to the winding up or reorganisation of Gibraltarian insurers, or the determination of Gibraltarian rights in relation to the winding-up or reorganisation of UK insurers—

- (a) as if the amendments made by the CIU (EU Exit) Regulations 2019 had not been made; and
- (b) subject to the modifications set out in Schedule 1.

The Credit Institutions (Reorganisation and Winding Up) Regulations 2004

3. The Credit Institutions (Reorganisation and Winding Up) Regulations 2004(2) apply in relation to the winding up or reorganisation of Gibraltarian credit institutions, or the determination of Gibraltarian rights in relation to the winding-up or reorganisation of UK credit institutions—

- (a) as if the amendments made by the CIU (EU Exit) Regulations 2019 had not been made; and
- (b) subject to the modifications set out in Schedule 2.

The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005

4.—(1) The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005(3) apply in relation to the winding up or reorganisation of Gibraltarian insurers, or the determination of Gibraltarian rights in relation to the winding-up or reorganisation of UK insurers—

- (a) as if the amendments made by the CIU (EU Exit) Regulations 2019 had not been made; and
 - (b) subject to the modifications set out in paragraphs (2) to (8).
- (2) Regulation 2(4) applies as if, in paragraph (1)—
- (a) in the definition of “the association of underwriters known as Lloyd’s”, at the end there were inserted “as it had effect immediately before exit day”;

(1) [S.I. 2004/353](#).

(2) [S.I. 2004/1045](#).

(3) [S.I. 2005/1998](#).

(4) Regulation 2 was amended by [S.I. 2015/575](#). There are other amendments to this regulation which are not relevant to this instrument.

- (b) in the definition of “overseas insurance business”, for “an EEA State” there were substituted “the United Kingdom or Gibraltar”.
- (3) Regulation 10(5) applies as if, in paragraph (2)—
 - (a) for “the EEA regulators” there were substituted “the Gibraltar regulators”;
 - (b) “in every EEA State” was omitted.
- (4) Regulation 34 applies as if, in the heading, for “EEA regulators” there were substituted “Gibraltar regulators”.
- (5) Regulation 37 applies as if—
 - (a) in the heading, for “EEA creditor”, there were substituted “Gibraltar creditor”;
 - (b) for “EEA creditors”, there were substituted “Gibraltar creditors”;
 - (c) for “an EEA creditor”, each time it occurs, there were substituted “a Gibraltar creditor”.
- (6) Regulation 45(6) applies as if, in paragraph (1), for “EEA” there were substituted “Gibraltar”.
- (7) Regulation 46 applies as if, in paragraph (4), for “EEA” there were substituted “Gibraltar”.
- (8) Regulation 48 is to be ignored.

The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

- 5. In Part 1 of Schedule 3 to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005(7)—
 - (a) in the heading to the Part, after “EEA” insert “or Gibraltar”;
 - (b) in sub-paragraph (a), after “an EEA State” insert “or in Gibraltar”;
 - (c) in sub-paragraph (b), after “situated” insert “or (where its head office is situated in Gibraltar), in Gibraltar”.

The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018

- 6. In Regulation 6(2) of the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018(8), in point (A2) of the inserted text—
 - (a) in point (a), at the end, omit “and”;
 - (b) at the end of point (b), insert—
 - “and
 - (c) Gibraltar”.

The Friendly Societies (Amendment) (EU Exit) Regulations 2018

- 7.—(1) The Friendly Societies (Amendment) (EU Exit) Regulations 2018(9) are amended as follows.
 - (2) In regulation 9, in the new paragraph (a), after “United Kingdom” insert “or Gibraltar”.
 - (3) In regulation 10, in the new paragraph (a), after “United Kingdom” insert “or Gibraltar”.
 - (4) In regulation 12(a)(i), in the new text, after “the United Kingdom” insert “or Gibraltar”.

(5) Regulation 10 was amended by [S.I. 2013/472](#).
(6) Regulation 45 was amended by [S.I. 2007/851](#).
(7) [S.I. 2005/1529](#).
(8) [S.I. 2018/1199](#).
(9) [S.I. 2018/1039](#).

The Market Abuse (Amendment) (EU Exit) Regulations 2019

8.—(1) The Market Abuse (Amendment) (EU Exit) Regulations 2019 are amended as follows.

(2) In regulation 9(2)—

(a) in sub-paragraph (a)(i)—

(i) in paragraph (aa), after “UK regulated market” insert “, Gibraltar regulated market”;

(ii) in paragraph (bb), after “UK MTF” insert “, Gibraltar MTF”;

(iii) in paragraph (cc), after “UK OTF” insert “, Gibraltar OTF”;

(b) for sub-paragraph (b), substitute—

“(b) in paragraph 4, for “the Union and in a third country” substitute “the United Kingdom, in Gibraltar and in a third country”.”.

(3) In regulation 10(2)—

(a) in paragraph (e), in the inserted text—

(i) after point (6B), insert—

“(6C) ‘Gibraltar regulated market’ means a regulated market which is authorised and functions regularly and in accordance with Part 3 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar⁽¹⁰⁾”;

(ii) after point (7B), insert—

“(7C) ‘Gibraltar multilateral trading facility’ or ‘Gibraltar MTF’ means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar”;

(iii) after point (8B), insert—

“(8C) ‘Gibraltar organised trading facility’ or ‘Gibraltar OTF’ means a multilateral system—

(a) which is not a regulated market or an MTF;

(b) in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract, in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar”;

(b) in paragraph (g), in the inserted text, after point (10B), insert—

“(10C) ‘Gibraltar trading venue’ means a Gibraltar regulated market, a Gibraltar MTF or a Gibraltar OTF”;

(c) in paragraph (j)—

(i) after “the United Kingdom”, the first time it occurs, insert “or Gibraltar”;

(ii) after “the United Kingdom” the second time it occurs, insert “or Gibraltar respectively”;

(d) in paragraph (q), in the inserted text, after point (36), insert—

“(36A) ‘GFSC’ means the Financial Services Commission of Gibraltar”.

(4) In regulation 10(3), after “UK trading venue” insert “, Gibraltar trading venue”.

⁽¹⁰⁾ Act. No. 2006/32 of Gibraltar, as last amended by L.N. 2017/135.

- (5) In regulation 10(5)—
- (a) in sub-paragraph (a)(i), after “FCA” insert “, GFSC”;
 - (b) in sub-paragraph (b), after point (b) of the new paragraph 3, insert—
 - “(c) where shares have been admitted to trading or are traded on a Gibraltar trading venue, the issuer must report to the GFSC each transaction relating to the buy-back programme, including the information referred to in Article 5(3) of Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse (as it applies in Gibraltar after exit day).”;
 - (c) in sub-paragraph (c)(i), after point (ii) of the new point (b), insert—
 - “(iii) where the securities or associated instruments are traded on a Gibraltar trading venue, to the GFSC in accordance with Article 5(5) of Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse (as it applies in Gibraltar after exit day).”;
 - (d) in sub-paragraph (e), in the new paragraph 6—
 - (i) in point (a), after point (ii), insert—
 - “(iii) as that Regulation forms part of the law of Gibraltar, where the trading takes place on a Gibraltar trading venue;”
 - (ii) after point (c), insert—
 - “(d) any equivalent provisions made by the GFSC which specify the conditions which buy-back programmes and stabilisation measures referred to in paragraphs 1 and 4 must meet, including conditions for trading, restrictions regarding time and volume, disclosure and reporting obligations and price conditions, where the trading takes place on a Gibraltar trading venue.”
- (6) In regulation 10(6)(a), after paragraph (iv) insert—
- “(e) the Government of Gibraltar;
 - (f) any special purpose vehicle of the Government of Gibraltar;
 - (g) any special purpose vehicle created by the Government of Gibraltar and the United Kingdom or one or more Member States.”
- (7) In regulation 11—
- (a) in paragraph (1)(a), after “United Kingdom,” insert “Gibraltar,”;
 - (b) in paragraph (5), in sub-paragraph (a)(i), after “UK trading venue”, both times it occurs, insert “, Gibraltar trading venue”;
 - (c) in paragraph (6), in sub-paragraph (a), in the inserted text—
 - (i) at the end of point (a), omit “or”;
 - (ii) after point (b), insert—
 - “or
 - (c) in relation to a market in Gibraltar, in accordance with Article 13 of Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse as it applies in Gibraltar after exit day.”.
- (8) In regulation 12(4), in paragraph 3(2) of the inserted text, in the words after point (b), after “United Kingdom” insert “, in Gibraltar”.
- (9) In regulation 13—
- (a) in paragraph (3)(d), after “the FCA” insert “, the GFSC”;

(b) in paragraph (5)(b)(i), after paragraph (aa), insert—

“(aba) after “regulatory authorities” insert “(including authorities in Gibraltar)”,”;

The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019

9.—(1) The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 are amended as follows.

(2) In regulation 32(2)(b), after “United Kingdom”, insert “or Gibraltar”.

(3) In regulation 53—

(a) in paragraph (a), after “United Kingdom”, insert “or Gibraltar”;

(b) in paragraph (b), in the opening words of the new paragraph (b), after “Kingdom)” insert “or of Gibraltar”.

(4) In regulation 56, after paragraph (b), insert—

“(c) in the appropriate place, insert—

““qualifying credit institution” includes a credit institution which is authorised under the law of Gibraltar relied on immediately before exit day to implement the capital requirements directive.””

(5) In regulation 88, for paragraph (f), substitute—

“(f) for subsection (10), substitute—

“(10) For the purposes of this section “qualifying credit institution” includes a credit institution which is authorised under the law of Gibraltar relied on immediately before exit day to implement the capital requirements directive.””

(6) In regulation 106, omit paragraph (2).

(7) In regulation 184(3), after “United Kingdom” insert “or Gibraltar”.

The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019

10.—(1) The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019(11) are amended as follows.

(2) In regulation 7(2), in the new paragraph (1)—

(a) insert, at the appropriate places—

““financial conglomerate” has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004(12), as amended by the Financial Conglomerates and Other Financial Groups (Amendments etc.) (EU Exit) Regulations 2019(13);

“FSC” means the Financial Services Commission of Gibraltar”;

“Gibraltarian insurance undertaking” means an undertaking which—

(a) has its head office in Gibraltar;

(b) is authorised by the FSC to carry on one or more classes of insurance business within the meaning of section 2(1) of the Financial Services (Insurance Companies) Act of Gibraltar(14); and

(11) S.I. 2019/****.

(12) S.I. 2004/1862.

(13) S.I. 2019/****.

(14) Act. No. 1987-10.

- (c) would require authorisation in accordance with Article 14 of the Solvency 2 Directive if the United Kingdom were a member State;”;
 - ““Gibraltarian reinsurance undertaking” means an undertaking which—
 - (a) has its head office in Gibraltar;
 - (b) is authorised by the FSC to carry on insurance business limited to reinsurance within the meaning of section 2(1A) of the Financial Services (Insurance Companies) Act of Gibraltar; and
 - (c) would require authorisation in accordance with Article 14 of the Solvency 2 Directive if the United Kingdom were a member State;”;
 - ““mixed financial holding company” means a parent undertaking other than a regulated entity, which, together with its subsidiaries, at least one of which is a regulated entity which has its head office in the United Kingdom or in Gibraltar, constitutes a financial conglomerate;”;
 - (b) in the definition of “insurance holding company”—
 - (i) after “reinsurance undertakings, the first time it occurs, insert “or Gibraltarian insurance or reinsurance undertakings,”;
 - (ii) at the end insert “or a Gibraltarian insurance or reinsurance undertaking”;
 - (c) in the definition of “mixed-activity insurance holding company”—
 - (i) after “reinsurance undertaking”, the first time it occurs, insert “or Gibraltarian insurance or reinsurance undertaking”;
 - (ii) at the end insert “or a Gibraltarian insurance or reinsurance undertaking”;
 - (d) in the definition of “non-UK solvency 2 parent”, in paragraph (b), at the end insert “and Gibraltar”;
 - (e) in the definition of “regulated entity” insert at the end “(as amended by the Financial Conglomerates and Other Financial Groups (Amendments etc.) (EU Exit) Regulations 2019), read as if the reference in paragraph (b) of that definition to insurance undertakings and reinsurance undertakings included a reference to Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings”;
 - (f) in the definition of “third country”, at the end, insert “or Gibraltar”;
 - (g) in the definition of “third country insurance undertaking”, at the end insert “but does not include a Gibraltarian insurance undertaking”;
 - (h) in the definition of “third country reinsurance undertaking”, at the end insert “but does not include a Gibraltarian reinsurance undertaking”;
 - (i) in the definition of “UK solvency 2 parent”, after “United Kingdom” insert “or Gibraltar”.
- (3) In regulation 8(3), after new regulation 4B, insert—

“Powers in relation to Gibraltar undertakings

4C.—(1) If this regulation applies, the PRA may impose any requirement in relation to a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking (the Gibraltarian undertaking) which it could impose if—

- (a) the undertaking’s permission was a Part 4A permission (as defined by section 55A(5) of FSMA(15)); and

(15) Section 55A was substituted, with ss. 55B to 55Z4, for ss. 40 to 55 of the Financial Services and Markets Act 2000 (c.8) by s. 11(2) of the Financial Services Act 2012 (c.21).

- (b) the PRA was entitled to exercise its power under section 55M(3) of FSMA.
- (2) This regulation applies if—
 - (a) the Gibraltarian undertaking is contravening, or is at material risk of contravening, in respect of its activities in the United Kingdom, any requirement applying to that undertaking in or under these Regulations, the Solvency 2 Regulation, or UK law which implemented or the Solvency 2 directive (“a relevant requirement”);
 - (b) the undertaking has, in purported compliance with any relevant requirement imposed on it, knowingly or recklessly given the PRA information which is false or misleading in a material particular; or
 - (c) subject to paragraph (3), it is desirable to impose the requirement in order to advance any of the PRA’s objectives.
- (3) The PRA may not impose a requirement in reliance on paragraph (2)(c) if doing so would, before exit day, have been considered to constitute financial supervision of the undertaking unless the conditions in paragraph (4) are satisfied.
- (4) The conditions in this paragraph are satisfied if—
 - (a) the requirement to be imposed is necessary and appropriate to protect against the risk of disruption to the continuity of financial services that could, in the opinion of the PRA, threaten financial stability in the United Kingdom;
 - (b) the FSC has not, in the opinion of the PRA, taken measures to ensure the contravention or risk of contravention is remedied; and
 - (c) no reorganisation measures have been commenced by the FSC or other authorities in Gibraltar in relation to the undertaking.
- (5) For the purposes of this regulation, “reorganisation measures” means any measures by the FSC or other Gibraltarian authorities which are intended to preserve or restore the financial situation of the Gibraltar insurance or reinsurance undertaking concerned (“the relevant undertaking”) and which affect pre-existing rights of parties other than the relevant undertaking itself, including but not limited to measures involving the possibility of a suspension of payments, suspension or enforcement measures or reduction of claims.
- (6) Nothing in this regulation affects the powers of the FSC or any other Gibraltarian authority.

Procedure on the exercise of powers under regulation 4C

- 4D.**—(1) A requirement takes effect—
- (a) immediately, if the notice given under paragraph (3) states that that is the case;
 - (b) on such date as may be specified in the notice; or
 - (c) if no date is specified in the notice, when the matter to which it relates is no longer open to review.
- (2) A requirement may be expressed to take effect immediately (or on a specified date) only if the PRA, having regard to the ground on which it is exercising the power under regulation 4C, considers that it is necessary for the requirement to take effect immediately (or on that date).
- (3) If the PRA proposes to impose a requirement under regulation 4C on a Gibraltar insurance or reinsurance undertaking, or imposes such a requirement with immediate effect, it must give the undertaking written notice.
- (4) The notice must—
- (a) give details of the requirement;
 - (b) inform the undertaking of when the requirement takes effect;

- (c) state the PRA's reasons for imposing the requirement and for its determination as to when the requirement takes effect;
 - (d) inform the undertaking that it may make representations to the PRA within such period as may be specified in the notice (whether or not it has referred the matter to the Upper Tribunal); and
 - (e) inform it of its right to refer the matter to the Upper Tribunal.
- (5) The PRA may extend the period allowed under the notice for making representations.
- (6) If, having considered any representations made by the undertaking, the PRA decides—
- (a) to impose the requirement proposed, or
 - (b) if it has been imposed, not to rescind the requirement,
- it must give the undertaking written notice.
- (7) If, having considered any representations made by the undertaking, the PRA decides—
- (a) not to impose the requirement proposed,
 - (b) to impose a different requirement from that proposed, or
 - (c) to rescind a requirement which has effect,
- it must give it written notice.
- (8) A notice given under paragraph (6) must inform the undertaking of its right to refer the matter to the Upper Tribunal.
- (9) A notice under paragraph (7)(b) must comply with paragraph (4).
- (10) If a notice informs a person of the person's right to refer a matter to the Upper Tribunal, it must give an indication of the procedure on such a reference."
- (4) In regulation 9—
- (a) in paragraph (2), in the new regulation 9A—
 - (i) for paragraph (a), substitute—
 - “(a) insurance or reinsurance undertakings—
 - (i) which are a participating undertaking in at least one insurance undertaking, reinsurance undertaking, Gibraltarian insurance undertaking, Gibraltarian reinsurance undertaking, third-country insurance undertaking or third-country reinsurance undertaking; or
 - (ii) the parent undertaking of which is a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking;”
 - (ii) in paragraph (b), after “United Kingdom” insert “or Gibraltar”;
 - (b) in paragraph (2), in the new regulation 9B—
 - (i) in the opening words, after “reinsurance undertaking” insert “, or participating Gibraltarian insurance or reinsurance undertaking”;
 - (ii) after sub-paragraph (a), insert—
 - “(aa) another Gibraltar insurance or reinsurance undertaking;”;
 - (iii) in the words after sub-paragraph (c)—
 - (aa) after “United Kingdom” the first time it occurs, insert “or Gibraltar”;
 - (bb) for the words from “ultimate” to the end of the regulation, substitute “ultimate UK solvency 2 parent which has its head office in the United Kingdom or in Gibraltar.”.
 - (c) in paragraph (3)—

- (i) for sub-paragraph (b)(i), substitute—
 - “(i) in the first paragraph—
 - (aa) in sub-paragraphs (a) and (b), for “insurance undertaking or reinsurance undertaking” both times it appears, substitute “insurance undertaking, Gibraltarian insurance undertaking, reinsurance undertaking or Gibraltarian reinsurance undertaking”;
 - (bb) in sub-paragraph (a), for “an EEA State” substitute “the United Kingdom or Gibraltar”;
 - (cc) in sub-paragraph (b), after “reinsurance undertaking,” insert “Gibraltarian insurance undertaking, Gibraltarian reinsurance undertaking,”;
- (ii) for sub-paragraph (c), substitute—
 - “(c) in Table 1, in the second row—
 - (i) for “EEA solvency 2 parent” both times it occurs, substitute “UK solvency 2 parent”;
 - (ii) after “in accordance with” insert “the law of the United Kingdom or of Gibraltar which was relied on by the United Kingdom or Gibraltar respectively immediately before exit day to implement”;
- (d) for paragraph (5), substitute—

“(5) Omit regulation 12 (exclusion of undertaking from group supervision).”
- (e) after paragraph (5) insert—

“(5A) For regulation 13, substitute—
 - “**13.** The PRA may supervise an ultimate UK solvency 2 parent at group level in the United Kingdom where—
 - (a) the ultimate UK solvency 2 parent has its head office in Gibraltar; and
 - (b) the PRA is not the group supervisor.”

(5B) For regulation 14, substitute—
 - “**14.**—(1) The PRA must follow the procedure set out in this regulation when supervising an ultimate UK solvency 2 parent under regulation 13(1).
 - (2) Before deciding to exercise supervision, the PRA must consult the FSC and the ultimate UK solvency 2 parent.
 - (3) If the PRA decides to exercise supervision, the PRA must explain its decision to both the FSC and the ultimate UK solvency 2 parent.
 - (4) The PRA must recognise and apply any permission granted pursuant to the laws of Gibraltar which were relied on immediately before exit day to implement Article 231 or 233(5) of the Solvency 2 Directive, as those laws are amended from time to time, to the ultimate UK solvency 2 parent to calculate the group solvency capital requirement for insurance undertakings, reinsurance undertakings, Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings in the group on the basis of an internal model.”
- (f) in paragraph (6), in new regulation 15(1)(c), for “that is authorised by the PRA” substitute “, Gibraltarian insurance undertaking or Gibraltarian reinsurance undertaking”;
- (g) in paragraph (7), substitute—

“(7) In regulation 16 (choice of method)—

- (a) in paragraph (1), for “and the other supervisory authorities” substitute “and the FSC, if the FSC is”;
- (b) in paragraph (2)—
 - (i) in the opening words, for “EEA” substitute “UK”;
 - (ii) omit sub-paragraph (b).”;
- (h) in paragraph (8)—
 - (i) for sub-paragraphs (a) and (b), substitute—
 - “(a) in paragraph (2)(b)(ii) and (iii), for “a supervisory authority” substitute “the PRA (or, if paragraph (5) applies, the FSC);
 - (b) in paragraph (3), for “and the other supervisory authorities concerned in the supervision of the group”, substitute “and, if paragraph (5) applies, the FSC”.”;
 - (ii) in sub-paragraph (c), in the text inserted by that sub-paragraph, insert after paragraph (4)—
 - “(5) This paragraph applies if—
 - (a) the FSC is concerned in the supervision of the group; or
 - (b) the group contains a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking.”;
- (i) for paragraph (9), substitute—
 - “(9) In regulation 18 (related undertakings: calculation of group solvency)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (b), after “reinsurance undertakings” insert “Gibraltarian insurance undertakings, Gibraltarian reinsurance undertakings”;
 - (ii) in sub-paragraph (e), for “an EEA State other than the United Kingdom” substitute “Gibraltar”;
 - (b) in paragraph (2)(a), for “that EEA State” substitute “Gibraltar”.”;
- (j) in paragraph (10)—
 - (i) for sub-paragraph (a), substitute—
 - “(a) in paragraph (1)(b)—
 - (i) for “or reinsurance undertaking” substitute “, reinsurance undertaking, Gibraltarian insurance undertaking or Gibraltarian reinsurance undertaking”;
 - (ii) for “which is a participating undertaking in” substitute “for which the calculation of the group solvency includes”.”;
 - (ii) in sub-paragraph (d), in the new paragraph (3)(b), after “or reinsurance undertaking” insert “or Gibraltarian insurance or reinsurance undertaking”;
- (k) after paragraph (10) insert—
 - “(10A) After regulation 19, insert—

“Gibraltar undertakings: calculation of group solvency

19A.—(1) This regulation applies where—

- (a) the PRA is the group supervisor of a group;
- (b) the group contains—

- (i) a Gibraltarian insurance undertaking,
- (ii) a Gibraltarian reinsurance undertaking, or
- (iii) an insurance undertaking or a reinsurance undertaking for which the calculation of the group solvency includes an undertaking in paragraph (i) or (ii).

(2) The PRA must permit the group to take into account laws adopted by Gibraltar in respect of the group's solvency capital requirement and the own funds eligible to satisfy the solvency capital requirement in the calculation of the group's solvency.”;

(l) in paragraph (11)—

(i) in sub-paragraph (a)(ii), for sub-paragraph (aa), substitute—

“(aa) for “supervisory authorities concerned” substitute “PRA or, where there is a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking, the FSC”;

(ii) for sub-paragraph (d), substitute—

“(d) in paragraph (5), for the words from the beginning to “supervising a group,” substitute “Where the FSC is the group supervisor”;

(m) in paragraph (13)—

(i) after sub-paragraph (a), insert—

“(aa) after paragraph (1), insert—

“(1A) For the purposes of paragraph (1), references to insurance undertakings and reinsurance undertakings include a reference to Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings.”

(ii) for sub-paragraph (b), substitute—

“(b) in paragraph (2), for “and the other supervisory authorities concerned in the supervision of the group” substitute “and, where the FSC is concerned in the supervision of the group, the FSC”;

(iii) for sub-paragraph (c), substitute—

“(c) in paragraph (3)—

(i) for “PRA is not” substitute “FSC is”;

(ii) for “PRA is consulted by the group supervisor” substitute “the FSC consults the PRA”;

(n) in paragraph (15), in the new regulation 26—

(i) renumber the existing provision as 26(1);

(ii) at the beginning of the paragraph, insert “Subject to paragraph (2),”;

(iii) after the renumbered paragraph (1), insert—

“(2) The FSC is the group supervisor and must supervise that group where the group includes a Gibraltarian insurance undertaking or a Gibraltarian reinsurance undertaking and—

(a) the FSC was designated as the group supervisor under Article 247 of the Solvency 2 Directive before exit day; or

(b) the PRA and the FSC have agreed that the FSC is to be the group supervisor.”

- (5) In regulation 10(2), for sub-paragraph (b), substitute—
- “(b) in paragraph (1)—
 - (i) omit “and in Schedules 4 and 5”;
 - (ii) in sub-paragraph (i) of the definition of “group application”, for “and reinsurance undertakings” substitute “, reinsurance undertakings, Gibraltarian insurance undertakings and Gibraltarian reinsurance undertakings”.”