

SCHEDULE 1

Regulation 2

Modifications to the Insurers (Reorganisation and Winding Up) Regulations 2004

1. The modifications to the Insurers (Reorganisation and Winding Up) Regulations are as follows.
2. Regulation 2(1) applies as if—
 - (a) for the definition of “branch” there were substituted—

““branch” means a permanent presence of a UK insurer or a Gibraltarian insurer which is located in the territory of a country other than—

 - (a) the United Kingdom (in the case of a UK insurer);
 - (b) Gibraltar (in the case of a Gibraltarian insurer);”;
 - (b) in the definition of “directive reorganisation measure”, the reference in Article 268(1) (c) of the Solvency 2 Directive to competent authorities were a reference to competent authorities in the United Kingdom or in Gibraltar;
 - (c) in the definition of “directive winding up proceedings”, the reference in Article 268(1) (d) of the Solvency 2 Directive to competent authorities were a reference to competent authorities in the United Kingdom or in Gibraltar;
 - (d) the definitions of “EEA creditor”, “EEA insurer”, “EEA regulator” and “EEA State” were omitted;
 - (e) in the appropriate places there were inserted—

““Gibraltarian insurer” means an undertaking pursuing the activity of direct insurance (within the meaning of the Solvency 2 Directive) which has received authorisation under the law of Gibraltar which was relied on by Gibraltar before exit day to implement Article 14 or Article 162 of the Solvency 2 Directive from the Gibraltarian regulator;

“Gibraltarian regulator” means the Gibraltar Financial Services Commission;”;
 - (f) for the definition of “home state regulator” there were substituted—

““home state regulator” in relation to a Gibraltarian insurer, means the Gibraltar Financial Services Commission;”;
 - (g) the definition of “official language” were omitted;
 - (h) in the definition of “the Solvency 2 Directive”, at the end there were inserted “as it had effect immediately before exit day”.
3. Regulation 4(2) applies as if—
 - (a) in the heading, for “EEA insurers”, there were substituted “Gibraltarian insurers”;
 - (b) for “an EEA insurer” each time it occurs, there were substituted “a Gibraltarian insurer”.
4. Regulation 5(3) applies as if—
 - (a) in the heading, for “EEA insurers”, there were substituted “Gibraltarian insurers”;
 - (b) for “an EEA insurer” each time it occurs, there were substituted “a Gibraltarian insurer”;
 - (c) for “the EEA insurer”, each time it occurs, there were substituted “the Gibraltarian insurer”;

(1) Regulation 2 was amended by [S.I. 2007/108](#) and [2015/575](#). There are other amendments which are not relevant to this instrument.

(2) Regulation 4 was amended by [S.I. 2007/851](#).

(3) Regulation 5 was amended by [S.I. 2011/1265](#) and [2015/575](#).

- (d) in paragraph (6), in each of the definitions, the references to competent authorities in the provisions of the Solvency 2 Directive referred to were references to the competent authorities of the United Kingdom or Gibraltar.
5. Regulation 6(4) applies as if—
- (a) for “an EEA insolvency measure” each time it occurs, there were substituted “a Gibraltar insolvency measure”;
 - (b) for “an EEA insurer” each time it occurs, there were substituted “a Gibraltarian insurer”;
 - (c) for “the relevant EEA State” each time it occurs, there were substituted “Gibraltar”;
 - (d) in paragraph (2), in the words after sub-paragraph (b), for “the EEA insurer” there were substituted “the Gibraltarian insurer”;
 - (e) in paragraph (3)(b), for “the EEA insolvency measure” there were substituted “the Gibraltar insolvency measure”;
 - (f) in paragraph (6)—
 - (i) in the definition of “EEA insolvency measure” for “EEA insolvency measure” there were substituted “Gibraltar insolvency measure”;
 - (ii) the definition of “relevant EEA State” were omitted.
6. Regulation 10(5) applies as if, for “EEA regulators in every EEA State”, both times it occurs, there were substituted “Gibraltarian regulator”.
7. Regulation 11(6) applies as if, in paragraph (3), for the words from “the relevant officer” to the end, there were substituted “if the UK insurer has a branch in Gibraltar, the relevant officer must publish, or cause to be published, in two newspapers circulating in Gibraltar, the information mentioned in paragraph (4) and (if applicable) paragraphs (5), (6) or (7).”.
8. Regulation 12 applies as if—
- (a) in paragraph (7), the words from “, and that heading” to the end were omitted;
 - (b) paragraph (8) were omitted.
9. Regulations 13 and 16 are to be ignored.
10. Regulation 17(7) applies as if in paragraph (1)—
- (a) in the definition of “composite insurer”, “, in accordance with Article 73(2) of the Solvency 2 Directive” were omitted;
 - (b) in the definition of “general business assets”, the words from “, in accordance with” to the end were omitted;
 - (c) in the definition of “long term business assets”, the words from “, in accordance with” to the end were omitted.
11. The heading to Part V is to be read as if, for “EEA rights”, there were substituted “Gibraltarian rights”.
12. The heading to regulation 37 is to be read as if, for “EEA rights”, there were substituted “Gibraltarian rights”.
13. Regulation 38 applies as if—
- (a) in paragraph (1)—

(4) Regulation 6 was amended by [S.I. 2015/575](#).

(5) Regulation 10 was amended by [S.I. 2013/472](#).

(6) Regulation 11(3) was amended by [S.I. 2011/1043](#).

(7) Regulation 17 was amended by [S.I. 2015/575](#). There are other amendments to regulation 17 which are not relevant to this instrument.

- (i) for “EEA employment contract”, there were substituted “Gibraltar employment contract”;
 - (ii) for “EEA employment relationship”, there were substituted “Gibraltar employment relationship”;
 - (iii) for “the EEA State” there were substituted “Gibraltar”;
- (b) in paragraph (2)—
- (i) for “an EEA employment contract”, there were substituted “a Gibraltar employment contract”;
 - (ii) for “an EEA employment relationship”, there were substituted “a Gibraltar employment relationship”;
 - (iii) for “an EEA State” there were substituted “Gibraltar”.
- 14.** Regulation 39 applies as if—
- (a) for “an EEA State” there were substituted “Gibraltar”; and
 - (b) for “that State” there were substituted “Gibraltar”.
- 15.** Regulation 40 applies as if—
- (a) for “an EEA State” there were substituted “Gibraltar”; and
 - (b) for “that State” there were substituted “Gibraltar”.
- 16.** Regulation 41 applies as if, in paragraph (1), for “an EEA State” there were substituted “Gibraltar”.
- 17.** Regulation 42 applies as if, for “an EEA State”, both times it occurs, there were substituted “Gibraltar”.
- 18.** Regulation 43 applies as if—
- (a) in paragraph (1), for “the applicable EEA law” there were substituted “the law applicable to the affected insurer’s claim”;
 - (b) paragraph (2) were omitted.
- 19.** Regulation 44⁽⁸⁾ applies as if—
- (a) in paragraph (1), for “regulated market operating in an EEA State” there were substituted “UK regulated market, or a regulated market operating in Gibraltar”;
 - (b) for paragraph (3), there were substituted—
 - “(3) For the purposes of this regulation, “UK regulated market” and “regulated market” have the meanings given in points 2.1.13A and 2.1.13 respectively of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, as that Regulation forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018⁽⁹⁾, as modified by domestic law from time to time.”
- 20.** Regulation 45 applies as if, in the heading and in paragraph (1)(a), for “an EEA State” there were substituted “Gibraltar”.
- 21.** Regulation 46 applies as if—
- (a) in paragraph (1), for “an EEA State”, each time it occurs, there were substituted “Gibraltar”;

⁽⁸⁾ Regulation 44 was amended by [S.I. 2007/126](#) and [2017/701](#).

⁽⁹⁾ [2018 c.16](#).

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(b) in paragraph (2), for words from “the EEA State” to the end, there were substituted “Gibraltar”.

22. Regulation 47 applies as if, in paragraph (1), for “an EEA State” and “that EEA State”, there were substituted in each case “Gibraltar”.

23. Regulations 48 to 50 are to be ignored.