

SCHEDULE 2

Regulation 3

Modifications to the Credit Institutions (Reorganisation and Winding Up) Regulations 2004

1. The modifications to the Credit Institutions (Reorganisation and Winding Up) Regulations 2004 are as follows.

2. Regulation 2(1) applies as if—

(a) in paragraph (1)—

- (i) in the definition of “branch”, for “an EEA or UK” there were substituted “a UK or Gibraltar”;
- (ii) in the definition of “capital requirements directive”, at the end, there were inserted “as it had effect immediately before exit day”;
- (iii) in the definition of “capital requirements regulation”, at the end, there were inserted “as it forms part of domestic law under section 3 of the European Union (Withdrawal) Act 2018”;
- (iv) in the definition of “directive reorganisation measure”, at the end, there were inserted “but does not include any “third-country resolution action” within the meaning of section 89H of the Banking Act 2009(2)”;
- (v) in the definition of “directive winding-up proceedings”, the reference in the definition in Article 2 of the reorganisation and winding-up directive to “a Member State” were a reference to “Gibraltar”;
- (vi) the definitions of “EEA credit institution”, “EEA creditor”, “EEA regulator” and “EEA State” were omitted;
- (vii) in the appropriate places there were inserted—

““Gibraltarian credit institution” means a Gibraltar undertaking of the kind mentioned in Article 4(1)(1) and 4(1)(17) of the capital requirements regulation and subject to the exclusion of the undertakings referred to in Article 2(5)(2) to (23) of the capital requirements directive;

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

““home state regulator” means the Gibraltar Financial Services Commission;”;
- (ix) the definition of “official language” were omitted;
- (x) in the definition of “recovery and resolution directive”, at the end, there were inserted “as it had effect immediately before exit day”;
- (xi) in the definition of “the reorganisation and winding up directive”, at the end, there were inserted “as it had effect immediately before exit day”;

(b) in paragraph (2)—

- (i) in sub-paragraphs (a) and (b), for “the relevant EEA State” both times it occurs, there were substituted “Gibraltar”;
- (ii) the words after sub-paragraph (b) were omitted.

3. Regulation 3(3) applies as if—

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- (1) Regulation 2 was amended by [S.I. 2007/108](#); [2013/3115](#); [2014/3348](#). There are other amendments to regulation 2 which are not relevant to this instrument.
 - (2) [2009 c. 1](#). Section 89H was inserted by [S.I. 2014/3329](#).
 - (3) Regulation 3 was amended by [S.I. 2007/830](#) and [2014/3348](#).

- (a) for “an EEA credit institution”, each time it occurs, there were substituted “a Gibraltarian credit institution”;
 - (b) in paragraph (7), for “an incorporated EEA credit institution”, there were substituted “an incorporated Gibraltarian credit institution”.
4. Regulation 4(4) applies as if—
- (a) in paragraphs (1) and (2), for “an EEA credit institution”, each time it occurs, there were substituted “a Gibraltarian credit institution”;
 - (b) in paragraphs (5) and (6), for “the EEA credit institution”, each time it occurs, there were substituted “the Gibraltarian credit institution”.
5. Regulation 5(5) applies as if—
- (a) in the heading, for “EEA credit institutions” there were substituted “Gibraltarian credit institutions”;
 - (b) for “an EEA insolvency measure” each time it occurs, there were substituted “a Gibraltar insolvency measure”;
 - (c) for “an EEA credit institution” each time it occurs, there were substituted “a Gibraltarian credit institution”;
 - (d) for “the relevant EEA State” each time it occurs, there were substituted “Gibraltar”;
 - (e) in paragraph (2), in the words after sub-paragraph (b), for “the EEA credit institution” there were substituted “the Gibraltarian credit institution”;
 - (f) in paragraph (3)(b), for “the EEA insolvency measure” there were substituted “the Gibraltar insolvency measure”;
 - (g) 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 6 applies as if, in paragraphs (2) and (3), in the inserted text, the words from “from the purposes of Articles 10” to the end of the inserted text were omitted.
7. Regulation 10(6) applies as if—
- (a) in the heading, for “EEA regulators” there were substituted “the Gibraltar regulator”;
 - (b) in paragraph (3)—
 - (i) for “an EEA credit institution” there were substituted “a Gibraltarian credit institution”;
 - (ii) for “the home state regulator” there were substituted “the Gibraltarian regulator”;
 - (c) for paragraph (4), there were substituted—

“(4) In this regulation, the “relevant person” means the Gibraltarian regulator.”.
8. Regulation 12(7) applies as if—
- (a) in paragraph (3), for the words from “the relevant officer” to the end, there were substituted “if the UK credit institution 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) or (6).”.

(4) Regulation 4 was amended by [S.I. 2011/1265](#).

(5) Regulation 5 was amended by [S.I. 2013/3115](#).

(6) Regulation 10(3) was amended by [S.I. 2013/472](#); [2014/3348](#); [2017/80](#).

(7) Regulation 12(3) and (12) were amended by [S.I. 2011/1043](#).

- (b) paragraph (12) were omitted.
- 9.** Regulation 13 applies as if, in paragraph (3)(c)(i), for “an EEA State” there were substituted “Gibraltar”.
- 10.** Regulation 14 applies as if, in paragraph (6), the words from “and that heading” to the end were omitted.
- 11.** Regulations 15 and 18 are to be ignored.
- 12.** The heading to Part 4 is to be read as if, for “EEA rights” there were substituted “Gibraltarian rights”.
- 13.** Regulation 22 applies as if, in the heading, for “EEA rights” there were substituted “Gibraltarian rights”.
- 14.** Regulation 23 applies as if—
- (a) in paragraph (1)—
 - (i) for “EEA employment contracts”, there were substituted “Gibraltar employment contracts”;
 - (ii) for “EEA employment relationships” there were substituted “Gibraltar employment relationships”;
 - (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 “Gibraltar employment relationship”;
 - (iii) for “an EEA State” there were substituted “Gibraltar”.
- 15.** Regulation 24 applies as if—
- (a) in paragraph (1)—
 - (i) for “an EEA State” there were substituted “Gibraltar”; and
 - (ii) for “that State” there were substituted “Gibraltar”;
 - (b) in paragraph (2), for “the EEA State in whose territory the property is situated” substitute “Gibraltar”.
- 16.** Regulation 25 applies as if—
- (a) for “an EEA State” there were substituted “Gibraltar”; and
 - (b) for “that State” there were substituted “Gibraltar”.
- 17.** Regulation 26 applies as if, in paragraph (1), for “an EEA State”, there were substituted “Gibraltar”.
- 18.** Regulation 27 applies as if, for “an EEA State” both times it occurs, there were substituted “Gibraltar”.
- 19.** Regulation 29(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 (2), there were substituted—

(8) Regulation 29 was amended by [S.I. 2014/3348](#).

“(2) 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, as modified by domestic law from time to time.”

20. Regulation 30 applies as if in the heading and in paragraph (1)(a), for “an EEA State” there were substituted “Gibraltar”.

21. Regulation 31(9) applies as if—

- (a) in paragraph (1), for “an EEA State”, each time it occurs, there were substituted “Gibraltar”;
- (b) in paragraph (2), for “the EEA State” there were substituted “Gibraltar”;
- (c) in paragraph (3), insert at the end “as that Directive has effect immediately before exit day”.

22. Regulation 32 applies as if, in paragraph (1), for “an EEA State” and “that EEA State”, there were substituted in each case “Gibraltar”.

23. Regulation 33 applies as if—

- (a) in paragraph (1), for “the relevant EEA State”, there were substituted “Gibraltar”;
- (b) in paragraph (2)—
 - (i) in the definition of “relevant proprietary right” for “an EEA state” there were substituted “Gibraltar”;
 - (ii) the definition of “relevant EEA State” were omitted.

24. Regulation 34(10) applies as if, in paragraph (2)(c), for the words “any EEA State” to the end, there were substituted “Gibraltar which was relied on before exit day to implement these provisions; or”.

25. Regulation 35(11) applies as if, in paragraph (2)(c), for the words “any EEA State” to the end, there were substituted “Gibraltar which was relied on before exit day to implement these provisions; or”.

26. Regulations 36 to 38 are to be ignored.

27. Regulation 39(12) applies as if, for the definition of “EEA investment firm”, there were substituted—

- “(a) “Gibraltarian investment firm” means an investment firm as defined in point (2) of Article 4(1) of the capital requirements regulation (as that regulation forms part of domestic law under section 3 of the European Union (Withdrawal) Act 2018) whose head office is in Gibraltar;”.

28. Regulation 41 applies as if—

- (a) in the heading and in the regulation, for “EEA investment firms” there were substituted “Gibraltarian investment firms”; and
- (b) for “EEA credit institutions” there were substituted “Gibraltarian credit institutions”.

29. Regulation 43 is to be ignored.

(9) Regulation 31 was amended by [S.I. 2007/126](#) and [2017/701](#).

(10) Regulation 34 was substituted by [S.I. 2014/332](#); 2014/3348.

(11) Regulation 35 was substituted by [S.I. 2014/3329](#); 2014/3348.

(12) Regulation 39 was inserted, with regulations 40 to 49, by [S.I. 2014/3348](#).

30. Regulation 44 applies as if, in paragraph (a)—

- (a) in the opening words, for “EEA” there were substituted “Gibraltar”;
- (b) in the words after paragraph (iii), for “an EEA State other than the United Kingdom” there were substituted “Gibraltar”.

31. Regulation 46 applies as if, in the heading and in the regulation, for “EEA”, each time it occurs, there were substituted “Gibraltar”.

32. Regulations 47 to 49 are to be ignored.