

Financial Services (Insurance Companies)

1987-10

INSURANCE COMPANIES (PARENT UNDERTAKING SOLVENCY MARGIN CALCULATION) REGULATIONS 2004

**Subsidiary
2004/015**

Regulations made under s. 118 of the Insurance Companies Act.

INSURANCE COMPANIES (PARENT UNDERTAKING SOLVENCY MARGIN CALCULATION) REGULATIONS 2004

(LN. 2004/015)

31.12.2003

Amending enactments	Relevant current provisions	Commencement date
LN. 2007/147	r. 3(1)	20.12.2007

EU Legislation/International Agreements involved:

Directive 98/78/EC

ARRANGEMENT OF REGULATIONS.

Regulations.

1. Title and application.
2. Definitions.
3. Information to be provided.

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MARGIN CALCULATION) REGULATIONS 2004**

In exercise of its powers under section 118 of the Insurance Companies Ordinance, and all other enabling powers, and in order to implement in the law of Gibraltar Council Directive 98/78/EC on the regulatory supervision of insurance groups, the Government has made the following regulations—

Title and application.

1. These regulations may be cited as the Insurance Companies (Parent Undertaking Solvency Margin Calculation) Regulations 2004 and apply to accounting periods ending after 31 December 2003.

Definitions.

2. In these regulations—

“EEA insurance parent undertaking” means an insurance undertaking that has its head office in Gibraltar or an EEA State;

“insurance parent undertaking” in relation to an insurer, is a parent undertaking of that insurer which is either itself an insurance undertaking or an insurance holding company;

“ultimate insurance parent undertaking” means an insurance parent undertaking that is not itself the subsidiary undertaking of another insurance parent undertaking;

“ultimate EEA insurance parent undertaking” means an EEA insurance parent undertaking that is not itself the subsidiary undertaking of another EEA insurance parent undertaking;

“insurance group” means an insurance parent undertaking and its related undertakings that are—

- (a) insurance undertakings; or
- (b) insurance holding companies.

Information to be provided.

3.(1) This regulation applies to an insurer that is a subsidiary undertaking of an ultimate insurance parent undertaking and whose head office is in Gibraltar.

(2) When it deposits its return, an insurer must also provide the Commissioner with a declaration of the following information in respect of

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each member of the insurance group (including itself) as at the end of the financial year in question—

- (a) the name, location of head office and principal activity;
- (b) the relationship with each other member of the insurance group, including the amounts and descriptions of holdings of share capital and voting rights;
- (c) a statement as to whether the member of the group is a subsidiary undertaking of the ultimate insurance parent undertaking and, if different, of the ultimate EEA insurance parent undertaking;
- (d) the ultimate insurance parent undertaking's proportionate share of, or if the group member is a subsidiary undertaking of that parent the whole of, any deficit in the assets available to cover the group member's liabilities and represent its notional required minimum margin;
- (e) the ultimate EEA insurance parent undertaking's proportionate share of, or if the group member is a subsidiary undertaking of that parent the whole of, any deficit in the assets available to cover the group member's liabilities and represent its notional required minimum margin; and
- (f) a statement that—
 - (i) the declaration has been properly prepared in accordance with these Regulations;
 - (ii) proper records have been maintained and adequate information obtained by the insurer for the purpose of the declaration required by these Regulations and the information required by regulation 18A of the Insurance Companies (Accounts and Statements) Regulations 1998, and
 - (iii) reasonable enquiries have been made by the insurer for the purposes of identifying material connected-party transactions.

(3) The declaration required by sub-regulation (2) must also include separate statements in respect of each of the ultimate insurance parent undertaking and ultimate EEA insurance parent undertaking of—

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- (a) the value, as determined in accordance with Part II of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 (other than regulation 15(1)(a) to (c)), of its surplus assets, less—
 - (i) any provision for related undertakings valued on the basis of regulation 19B of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 (except to the extent already included in the value of surplus assets), and
 - (ii) where the surplus assets are valued at nil, the amount of any deficit in the assets available to cover—
 - (a) any liabilities not already provided for, and
 - (b) the notional required minimum margin, (if any) of the ultimate insurance parent undertaking or, as the case may be, the ultimate EEA insurance parent undertaking; and
 - (b) if the result of the calculation in paragraph (a) is negative, the reasons why such deficit has arisen and any remedial action taken or planned.
- (4) For the purposes of sub-regulations (2) and (3), the amount of any deficit and the identification of surplus assets must be determined as though—
- (a) all references in regulation 12(2)(a), (c), (d), (e) and 12(3) of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996 to the “group undertaking” or “ultimate EEA insurance parent undertaking” were references to the “ultimate insurance parent undertaking”, as applicable;
 - (b) regulation 12(2)(b) of those Regulations was replaced with “assets that are interests directly or indirectly held in the capital of the ultimate insurance parent undertaking or ultimate EEA insurance parent undertaking, as applicable”; and
 - (c) regulation 12(2)(f) of those Regulations was replaced with “assets that cannot effectively be made available or realised to make good any deficiency of assets of the assets of the ultimate insurance parent undertaking or ultimate EEA insurance parent undertakings, as applicable”..

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- (5) The declaration required by sub-regulation (1)–
- (a) must be made in writing and deposited with the Commissioner at the same time as the documents required by sections 50 and 78 of the Act;
 - (b) must be signed by the persons described in regulation 27(1)(a) of the Insurance Companies (Accounts and Statements) Regulations 1998; and
 - (c) must include a statement from the auditors that, in their opinion, it has been properly compiled in accordance with regulation 2 from information provided to the insurer by other members of the insurance group and from the insurer's own records.