

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3966 of 29 November, 2012

LEGAL NOTICE NO. 204 OF 2012.

FINANCIAL SERVICES (INSURANCE COMPANIES) ACT

**INSURANCE COMPANIES (SUPPLEMENTARY SUPERVISION)
(AMENDMENT) REGULATIONS 2012**

In exercise of the powers conferred upon him by section 118 of the Financial Services (Insurance Companies) Act and in order to transpose, in part, into the law of Gibraltar Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, the Minister has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Insurance Companies (Supplementary Supervision) (Amendment) Regulations 2012 and come into operation on the day of publication.

Amendments to Insurance Companies (Supplementary Supervision) Regulations 2007.

2.(1) The Insurance Companies (Supplementary Supervision) Regulations 2007 are amended in accordance with the provisions of this regulation.

(2) Regulation 2(1) is amended as follows—

- (a) for the definition of “participating undertaking” substitute the following definition—

““participating undertaking” means an undertaking which is either a parent undertaking or other undertaking which holds a participation, or an undertaking linked with another undertaking by a

relationship within the meaning of Article 12(1) of Directive 83/349/EEC;”;

- (b) for the definition of “related undertaking” substitute the following definition–

““related undertaking” means either a subsidiary or other undertaking in which a participation is held, or an undertaking linked with another undertaking by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;”.

- (3) The following is inserted after regulation 13–

“Management body of insurance holding companies.

14.(1) This regulation applies to an insurance holding company incorporated in Gibraltar.

- (2) An insurance holding company shall take all reasonable steps to ensure that every person who is a director or manager of the business–

- (a) is a fit and proper person to hold that position; and
(b) is suitably qualified and has sufficient experience to be able to perform his duties.

(3) An insurance holding company shall not appoint a person to a position by virtue of which the person will be concerned in the direction or management of the company unless it has previously notified the Commissioner of the proposal to make the appointment.

(4) An insurance holding company shall comply with any notice by the Commissioner directing it to provide it with such information, within such time as specified in the notice, concerning the reputation, qualifications and experience of its director and managers as he considers necessary.

(5) If the Commissioner is not satisfied on reasonable grounds that a person who is a director or manager of an insurance holding company–

- (a) is a fit and proper person;
- (b) is of sufficient good repute; or
- (c) is suitably qualified or has sufficient experience, to be a director or manager of the company,

he may, by notice, direct the company to take such action (including terminating the person's appointment as director or manager) within such time as specified in the notice, as it thinks fit.

- (6) The Commissioner may, by further notice, vary or revoke a direction to an insurance holding company under this regulation to take effect from such date as may be specified in the notice.
- (7) For the purposes of this section a person who is not a director of the insurance holding company but who, in the opinion of the Commissioner, effectively directs or has power to control the affairs of the company or is its chief executive, shall be considered a director of the company.”.

Dated 29th November, 2012.

G H LICUDI QC,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These Regulations partly transpose Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

