

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**
No. 4006 of 6 June, 2013

LEGAL NOTICE NO. 86 OF 2013.

FINANCIAL SERVICES (INSURANCE COMPANIES) ACT

**INSURANCE COMPANIES (SUPPLEMENTARY
SUPERVISION) (AMENDMENT) REGULATIONS 2013**

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 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate, the Minister has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Insurance Companies (Supplementary Supervision) (Amendment) Regulations 2013 and come into operation on 10 June 2013.

Amendments to Insurance Companies (Supplementary Supervision) Regulations 2007.

2. The Insurance Companies (Supplementary Supervisions) Regulations 2007 are amended in accordance with the provisions of these Regulations.

Amendment to regulation 2.

3. In regulation 2—

- (a) before the definition “insurance holding company” insert the following definition—

““Commission” has the meaning given to it in section 2(2) of the Financial Services (Insurance Companies) Act;”;

- (b) after the definition “mixed activity insurance holding company” insert the following definition–

““mixed financial holding company” means a parent undertaking which is not a regulated entity and which, together with its subsidiaries and other entities, constitutes a financial conglomerate, provided that at least one of its subsidiaries is a regulated entity having its head office in the EEA;”.

Amendment to regulation 4.

4. In regulation 4(b) insert “, a mixed financial holding company” after “insurance holding company”.

New regulation 4A.

5. After regulation 4 insert the following regulation–

“Level of application: mixed financial holding companies.

- 4A.(1) Where a mixed financial holding company is subject to equivalent provisions under these Regulations and under Directive 2002/87/EC, in particular in terms of risk-based supervision, the Commission may, after consulting the other competent authorities concerned, apply only the relevant provision of Directive 2002/87/EC to that mixed financial holding company.
- (2) Where a mixed financial holding company is subject to equivalent provisions under these Regulations and under Directive 2006/48/EC, in particular in terms of risk-based supervision, the Commission, in agreement with the consolidating supervisor in the banking and investment services sector, apply only the provision of the Directive relating to the most significant sector as determined in accordance with Article 3(2) of Directive 2002/87/EC.
- (3) The Commission shall ensure that the European Banking Authority and the European Insurance and Occupational Pensions Authority are informed of any decisions taken under subregulation (1).”.

Amendment to regulation 5.

6. In regulation 5(1) insert “, mixed financial holding company” after “insurance holding company”.

Amendment to regulation 7.

7. In regulation 7(2) insert “, mixed financial holding company” after “non-EEA insurer”.

Amendments to regulation 13.

8. Regulation 13 is amended as follows-

- (a) in subregulation (2) insert “, the mixed financial holding company” after “insurance holding company”; and
- (b) in subregulation (3) insert “, the mixed financial holding company” after “insurance holding company”.

Amendments to Schedule 1.

9. Schedule 1 is amended as follows-

- (a) in paragraph 8(1)(b) of Part III insert “or of a mixed financial holding company” after “of an insurance holding company”;
- (b) in paragraph 8(1)(b) of Part III insert “or mixed financial holding company” after “both the insurance holding company”;
- (c) in paragraph 8(2) of Part III substitute “or an insurance holding company” for “, an insurance holding company or a mixed financial holding company”;
- (d) substitute the following for paragraph 10-

“Intermediate insurance holding companies and intermediate mixed financial holding companies.

10.(1) When calculating the adjusted solvency of an insurer which holds a participation in a related insurer

or a non-EEA insurer, through an insurance holding company or a mixed financial holding company, the situation of the intermediate insurance holding company or intermediate mixed financial holding company shall be taken into account.

- (2) For the sole purpose of undertaking the calculation in subparagraph (1) in accordance with the general principles and methods described in this Schedule, the insurance holding company or mixed financial holding company shall be treated as if it were subject to a zero solvency requirement and as if it were subject to the conditions laid down in the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations in respect of elements eligible for the solvency margin.”.

Amendments to Schedule 2.

10. Schedule 2 is amended as follows—

- (a) in the title for “**OR**” substitute “, **A MIXED FINANCIAL HOLDING COMPANY OR A**”;
- (b) in paragraph 1(1) insert “, a mixed financial holding company” after “of an insurance holding company”;
- (c) in paragraph 2(1)(b) insert “, mixed financial holding company” after “same insurance holding company”;
- (d) in paragraph 2(1)(c) substitute “the same insurance holding company, mixed financial holding company or non-EEA insurer, and an agreement granting the” for “the same insurance holding company or non-EEA insurer, and an agreement granting”;
- (e) substitute the following paragraph for paragraph 2(2)—
- “(2) Where insurance holding companies, mixed financial holding companies or non-EEA insurers hold successive participations (for example: an insurance holding company, a mixed financial holding company or a non-EEA insurer, which is itself owned by

another insurance holding company, mixed financial holding company or non-EEA insurer), in the insurance holding company, mixed financial holding company or non-EEA insurer, the Commission may apply the calculations provided in this schedule only at the level of the ultimate parent undertaking of the insurer which is an insurance holding company, a mixed financial holding company or a non-EEA insurer.”;

- (f) in paragraph 3(1) insert “, mixed financial holding company” after “insurance holding company”;
- (g) in paragraph 3(2) insert “, mixed financial holding company” after “insurance holding company”; and
- (h) in paragraph 3(3)(a) insert “or a mixed financial holding company” after “insurance holding company”.

Consequential amendment.

11. Whenever in the Regulations the word “Commissioner” appears substitute “Commission”.

Dated 6th May, 2013.

G H LICUDI QC,
Minister with responsibility for Financial Services.

EXPLANATORY MEMORANDUM

These Regulations partly transpose into the law of Gibraltar Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate.

**Printed by the Gibraltar Chronicle Printing Limited
Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £2.75p**