# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

# No. 5111 GIBRALTAR Thursday 7th December 2023

LEGAL NOTICE NO. 305 OF 2023

#### **EUROPEAN UNION (WITHDRAWAL) ACT 2019**

#### **FINANCIAL SERVICES ACT 2019**

# FINANCIAL SERVICES (SOLVENCY 2) (AMENDMENT) (EU EXIT) REGULATIONS 2023

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019 and section 626 of the Financial Services Act 2019, the Minister has made these Regulations-

#### Title.

1. These Regulations may be cited as the Financial Services (Solvency 2) (Amendment) (EU Exit) Regulations 2023.

#### Commencement.

2. These Regulations come into operation on the day of publication.

#### Amendment of Commission Delegated Regulation (EU) No 2015/35.

- 3.(1) Commission Delegated Regulation (EU) No 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), as it forms part of the law of Gibraltar, is amended as follows.
- (2) In Article 1–
  - (a) in paragraph 1, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
  - (b) in paragraph 36, for "Article 77(2) of Directive 2009/138/EC" substitute "regulation 67(2) and (3) of the Insurance Companies Regulations";
  - (c) in paragraph 37, for "Article 77b(1)(a) of Directive 2009/138/EC" substitute "regulation 68(1)(a) of the Insurance Companies Regulations";
  - (d) in paragraph 40–

- (i) for "Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council" substitute "regulation 3 of the Financial Services (UCITS) Regulations 2020";
- (ii) for "Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council" substitute "regulation 4(1) of the Financial Services (Alternative Investment Fund Managers) Regulations 2020";
- (e) in paragraph 48, for "Article 22(1) and (2) of Directive 2013/34/EU" substitute "section 276 of the Companies Act 2014";
- (f) for paragraph 49 substitute-
  - "49. 'related undertaking' has the meaning given in regulation 191(1) of the Insurance Companies Regulations;";
- (g) in paragraph 50, for "Article 2(4) of Directive 2002/87/EC of the European Parliament and the Council" substitute "regulation 2 of the Financial Services (Financial Conglomerates) Regulations 2020";
- (h) in paragraph 51, for "Article 2(4) of Directive 2002/87/EC" substitute "regulation 2 of the Financial Services (Financial Conglomerates) Regulations 2020";
- (i) in paragraph 52, for "Annex I of Directive 2013/36/EU of the European Parliament and of the Council" substitute "the Schedule to the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020";
- (i) for paragraphs 54 and 55 substitute—
  - "54. 'UCITS management company' means a management company, in relation to a UCITS scheme, within the meaning of section 289 of the Financial Services Act 2019;
  - 55. 'alternative investment fund manager' means an AIFM within the meaning of section 2(2) of the Financial Services Act 2019;";
- (k) for paragraphs 56 to 58 substitute-
  - "56. 'institution for occupational retirement provision' has the meaning given in section 556 of the Financial Services Act 2019;
  - 57. 'domestic insurance undertaking' means an undertaking authorised and supervised by third-country supervisory authorities which would require authorisation as an insurance undertaking if its head office were situated in Gibraltar;

- 58. 'domestic reinsurance undertaking' means an undertaking authorised and supervised by third-country supervisory authorities which would require authorisation as a reinsurance undertaking if its head office were situated in Gibraltar;
- 58a. 'insurance undertaking' means an undertaking which-
  - (a) has its head office in Gibraltar; and
  - (b) has permission under Part 7 of the Financial Services Act 2019, given in accordance with the Insurance Companies Regulations, to carry on insurance activity;
- 58b. 'reinsurance undertaking' means an undertaking which-
  - (a) has its head office in Gibraltar; and
  - (b) has permission under Part 7 of the Financial Services Act 2019, given in accordance with the Insurance Companies Regulations, to carry on reinsurance activity;
- 58c. 'special purpose vehicle' means any undertaking, whether incorporated or not, other than an existing insurance or reinsurance undertaking, which—
  - (a) assumes risks from insurance or reinsurance undertakings (or third country insurance or reinsurance undertakings); and
  - (b) fully funds its exposure to such risks through the proceeds of a debt issuance or any other financing mechanism where the repayment rights of the providers of such debt or financing mechanism are subordinated to the reinsurance obligations of such an undertaking;
- 58d. in the definition of "aggregate maximum risk exposure" and Chapter V of Title 1, reference to an insurance or reinsurance undertaking in connection with—
  - (a) the transfer of risk from that undertaking to a special purpose vehicle; or
  - (b) the assumption of risk by a special purpose vehicle from the insurance or reinsurance undertaking,
    - includes a reference to a third country insurance or reinsurance undertaking;";
- (1) after paragraph 63, insert-
  - "64. In this Regulation—

"GFSC" means the Gibraltar Financial Services Commission within the meaning of section 21(1) of the Financial Services Act 2019;

"Insurance Companies Regulations" means the Financial Services (Insurance Companies) Regulations 2020;

"supervisory authority" means-

- (a) in relation to insurance or reinsurance undertakings, the GFSC; and
- (b) in relation to third-country insurance or reinsurance undertakings, the national authority empowered to supervise third-country insurance or reinsurance undertakings.
- 65. Any expression in this Regulation which is not defined in this Article–
  - (a) which is defined in the Insurance Companies Regulations has the meaning given in those regulations;
  - (b) which is defined in the Financial Services Act 2019, has the meaning given in that Act;
  - (c) which is defined in Directive 2009/138/EC, but not in the Insurance Companies Regulations or the Financial Services Act 2019, has the meaning given in that Directive as it had effect immediately before IP completion day.".
- (3) In Section 2, for the heading substitute "Technical standards".
- (4) For Article 3 substitute—

#### "Article 3

# Powers to make technical standards

- 1. For the purposes of using credit assessments from external credit assessment institutions (ECAIs) in the calculation of the Solvency Capital Requirement in accordance with the standard formula, the Minister may make technical standards on the allocation of credit assessments from ECAIs to an objective scale of credit quality steps.
- 2. The objective scale of credit quality must include credit quality steps 0 to 6 and the allocation of credit quality steps must be consistent with the use of external credit assessments from ECAIs in the calculation of the capital requirements for credit institutions as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 and financial institutions as defined in Article 4(1)(26) that Regulation.

- 3. For the purposes of facilitating the calculation of the market risk module referred to in regulation 95(5) of the Insurance Companies Regulations, facilitating the calculation of the counterparty default risk module referred to in regulation 95(6) of those Regulations, evaluating risk mitigation techniques referred to in regulation 91(6) of those Regulations, and calculating technical provisions, the Minister may make technical standards on:
  - (a) lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government of the jurisdiction in which they are established, provided that there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and specific institutional arrangements exist, the effect of which is to reduce the risk of default;
  - (b) the equity index referred to in Article 172(1) of this Regulation, in accordance with the detailed criteria established under that Article:
  - (c) the adjustments to be made for currencies pegged to the euro in the currency risk sub-module referred to in regulation 95(5) of the Insurance Companies Regulations, in accordance with the detailed criteria for the adjustments for currencies pegged to the euro for the purpose of facilitating the calculation of the currency risk sub-module.
- 4. For the purpose of facilitating the calculation of the health underwriting risk module referred to in Article regulation 95(5) of the Insurance Companies Regulations, the Minister may make technical standards on standard deviations in relation to specific national legislative measures of third countries which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet the criteria in paragraph 5.
- 5. The technical standards referred to in paragraph 4 must apply only to the national legislative measures of third countries which permit the sharing of claims payments in respect of health risk amongst insurance and reinsurance undertakings and which meet the following criteria:
  - (a) the mechanism for the sharing of claims is transparent and fully specified in advance of the annual period to which it applies;
  - (b) the mechanism for the sharing of claims, the number of insurance undertakings that participate in the health risk equalisation system (HRES) and the risk characteristics of the business subject to the HRES ensure that for each undertaking participating in the HRES the volatility of annual losses of the business subject to the HRES is significantly reduced by means of the HRES, both in relation to premium and to reserve risk;
  - (c) health insurance subject to the HRES is compulsory and serves as a partial or complete alternative to health cover provided by the statutory social security system;

(d) in the event of default of insurance undertakings participating in the HRES, one or more governments guarantee to meet the policy holder claims of the insurance business that is subject to the HRES in full.".

#### (5) In Article 9–

- (a) in paragraph 2, in both places it occurs, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (b) in paragraph 3, in both places it occurs, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (c) in paragraph 4-
  - (i) in the opening words, for "paragraphs 3 and 4 of Article 29 of Directive 2009/138/EC" substitute "regulation 27(3) of the Insurance Companies Regulations";
  - (ii) in point (a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

#### (6) In Article 13–

- (a) in paragraph 1–
  - (i) in the opening words, for "Article 212(1)(b) of Directive 2009/138/EC" substitute "regulation 191(1) of the Insurance Companies Regulations";
  - (ii) in point (c)(ii), for "Article 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";
- (b) in paragraph 2–
  - (i) in point (a), for "Article 214(2) of Directive 2009/138/EC" substitute "regulation 193(2) of the Insurance Companies Regulations";
  - (ii) in point (b), for "Article 229 of Directive 2009/138/EC" substitute "regulation 208 of the Insurance Companies Regulations";
- (c) for paragraph 4 substitute—
  - "4. When calculating the excess of assets over liabilities for a related undertaking, the participating undertaking shall value the undertaking's individual assets and liabilities in accordance with:
    - (a) regulation 65 of the Insurance Companies Regulations; and

- (b) if the related undertaking is:
  - (i) required to calculate technical provisions in accordance with regulations 66 to 80 of the Insurance Companies Regulations; or
  - (ii) a special purpose vehicle referred to in regulation 190 of those Regulations, also in accordance with the technical provisions in regulations 66 to 80 of those Regulations.";
- (d) in paragraph 5, for "Articles 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

# (7) In Article 15(2)-

- (a) for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (b) for "Articles 76 to 85 of that Directive" substitute "regulations 66 to 80 of those Regulations".

#### (8) In Article 19–

- (a) in paragraph 1, for "Article 82 of Directive 2009/138/EC" substitute "regulation 77 of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 82 of Directive 2009/138/EC" substitute "regulation 77 of the Insurance Companies Regulations";
- (c) in paragraph 3, for "Article 82 of Directive 2009/138/EC" substitute "regulation 77 of the Insurance Companies Regulations".

#### (9) In Article 22–

- (a) in paragraph 1, for "Article 77(2) of Directive 2009/138/EC" substitute "regulation 67(2) and (3) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 77(3) of Directive 2009/138/EC" substitute "regulation 67(4) of the Insurance Companies Regulations";
- (c) in paragraph 3–
  - (i) in the opening words, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
  - (ii) in point (c), for "Article 77(2) of Directive 2009/138/EC" substitute "regulation 67(2) and (3) of the Insurance Companies Regulations".

#### (10) In Article 23-

- (a) in paragraph 1, for "Article 77(2) of Directive 2009/138/EC" substitute "regulation 67(2) and (3) of the Insurance Companies Regulations".
- (b) in paragraph 5, for "Article 41(1) of Directive 2009/138/EC" substitute "regulation 43(1) to (3) of the Insurance Companies Regulations".
- (11) In Article 24, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (12) In Article 27, for "Article 77(2) of Directive 2009/138/EC" substitute "regulation 67(2) and (3) of the Insurance Companies Regulations".
- (13) In Article 28, in point (c), for "point (1) of Article 78 of Directive 2009/138/EC" substitute "regulation 73(a) of the Insurance Companies Regulations";
- (14) In Article 29, for "point (2) of Article 78 of Directive 2009/138/EC" substitute "regulation 73(b) of the Insurance Companies Regulations".
- (15) In Article 30(c), for "point (1) of Article 78 of Directive 2009/138/EC" substitute "regulation 73(a) of the Insurance Companies Regulations".
- (16) In Article 31, for "point (1) of Article 78 of Directive 2009/138/EC" substitute "regulation 73(a) of the Insurance Companies Regulations".
- (17) In Article 37.3, for "Article 80 of Directive 2009/138/EC" substitute "regulation 75 of the Insurance Companies Regulations".
- (18) In Article 38–
  - (a) in paragraph 1–
    - (i) in point (b), for "Article 73(5) of Directive 2009/138/EC" substitute "regulation 63(6) of the Insurance Companies Regulations";
    - (ii) in point (j), for "Article 108 of Directive 2009/138/EC" substitute "regulation 99 of the Insurance Companies Regulations";
    - (iii) in point (k), for "Article 108 of Directive 2009/138/EC" substitute "regulation 99 of the Insurance Companies Regulations";
  - (b) in paragraph 2, for "the first subparagraph of Article 77(5) of Directive 2009/138/EC" substitute "regulation 67(7) of the Insurance Companies Regulations".
- (19) In Article 39, for "Article 77(5) of Directive 2009/138/EC" substitute "regulation 67(8) of the Insurance Companies Regulations".

- (20) In Article 40.1, for "Article 77(4) of Directive 2009/138/EC" substitute "regulation 67(5) and (6) of the Insurance Companies Regulations".
- (21) In Article 41.2, for "Article 210 of Directive 2009/138/EC" substitute "regulation 189 of the Insurance Companies Regulations".

#### (22) In Article 42–

- (a) in paragraph 1, for "Article 81 of Directive 2009/138/EC" substitute "regulation 76 of the Insurance Companies Regulations";
- (b) in paragraph 4, for "Article 81 of Directive 2009/138/EC" substitute "regulation 76 of the Insurance Companies Regulations".

# (23) In Article 43-

- (a) in paragraph 2, for "Article 77e(1) of Directive 2009/138/EC" substitute "regulation 71(2) of the Insurance Companies Regulations";
- (b) omit paragraphs 3 to 5.

#### (24) In Article 46–

- (a) in paragraph 2, for "Article 77d of Directive 2009/138/EC" substitute "regulation 70 of the Insurance Companies Regulations";
- (b) in paragraph 3, for "Article 77b of Directive 2009/138/EC" substitute "regulation 68 of the Insurance Companies Regulations".
- (25) In Article 48.1(c), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".
- (26) In Article 49.1, for "Article 77d(2) and (4) of Directive 2009/138/EC" substitute "regulation 70(2) and (3) and (6) to (8) of the Insurance Companies Regulations".
- (27) In Article 50, for "Article 77d(2) and (4) of Directive 2009/138/EC" substitute "regulation 70(2) and (3) and (6) to (8) of the Insurance Companies Regulations".

#### (28) In Article 51–

- (a) for "Article 77d(3) and (4) of Directive 2009/138/EC" substitute "regulation 70(4) and (5) and (6) to (8) of the Insurance Companies Regulations";
- (b) for "Article 77c(2) of Directive 2009/138/EC" substitute "regulation 69(2) and (3) of those Regulations".
- (29) In Article 52, for "Article 77b(1)(f) of Directive 2009/138/EC" substitute "regulation 68(1)(f) of the Insurance Companies Regulations".

#### (30) In Article 53–

- (a) in paragraph 1–
  - (i) for "Article 77c(1)(a) of Directive 2009/138/EC" substitute "regulation 69(1)(a) of the Insurance Companies Regulations";
  - (ii) for "Article 77c(2)(a)(i) of Directive 2009/138/EC" substitute "regulation 69(2)(a)(i) of the Insurance Companies Regulations";
  - (iii) for "Article 77c(2)(b) and (c) of that Directive" substitute "regulation 69(2)(b) and (c) of those Regulations";

# (b) in paragraph 2-

- (i) for "Article 77c(1)(b) of Directive 2009/138/EC" substitute "regulation 69(1)(b) of the Insurance Companies Regulations";
- (ii) for "Article 77c(1)(a) of that Directive" substitute "regulation 69(1)(a) of those Regulations".

#### (31) In Article 54-

- (a) in paragraph 1, for "Article 77c(2)" substitute "regulation 69(2) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 77c(2)(a)(i) of Directive 2009/138/EC" substitute "regulation 69(2)(a)(i) of the Insurance Companies Regulations";
- (c) in paragraph 3, for "Article 77c(2)(b) and (c) of Directive 2009/138/EC" substitute "69(2)(b) and (c) of the Insurance Companies Regulations";
- (d) in paragraph 4, for "Article 77c(2)(a)(ii) of Directive 2009/138/EC" substitute "regulation 69(2)(a)(ii) of the Insurance Companies Regulations".

#### (32) In Article 55-

- (a) in paragraph 1, for "Article 80 of Directive 2009/138/EC" substitute "regulation 75 of the Insurance Companies Regulations";
- (b) in paragraph 4, for "Article 2(3)(b) of Directive 2009/138/EC" substitute "regulation 4(5)(b) of the Insurance Companies Regulations";
- (33) In Article 57.1(a), for "Article 77(2) of Directive 2009/138/EC" substitute "regulation 67(2) and (3) of the Insurance Companies Regulations".

- (34) In Article 61, for "Article 81 of Directive 2009/138/EC" substitute "regulation 76 of the Insurance Companies Regulations".
- (35) In Article 62–
  - (a) in paragraph 1, for "Article 90(4) of Directive 2009/138/EC" substitute "regulation 84(5) of the Insurance Companies Regulations";
  - (b) in paragraph 2, for "Article 90 of Directive 2009/138/EC" substitute "regulation 84 of the Insurance Companies Regulations".
- (36) In Article 63-
  - (a) in paragraph 1, for "Article 90(4)(a) of Directive 2009/138/EC" substitute "regulation 84(5)(a) of the Insurance Companies Regulations";
  - (b) in paragraph 4, for "Article 90(4)(a) of Directive 2009/138/EC" substitute "regulation 84(5)(a) of the Insurance Companies Regulations".
- (37) In Article 64, for "Article 90(4)(b) of Directive 2009/138/EC" substitute "regulation 84 (5)(b) of the Insurance Companies Regulations".
- (38) In Article 65, for "Article 90(4)(c) of Directive 2009/138/EC" substitute "regulation 84 (5)(c) of the Insurance Companies Regulations".
- (39) In Article 68–
  - (a) in paragraph 1–
    - (i) for "Article 88 of Directive 2009/138/EC" substitute "regulation 82 of the Insurance Companies Regulations";
    - (ii) for "Article 92(2) of that Directive" substitute "paragraph 6";
  - (b) in paragraph 2-
    - (i) for "Article 88 of Directive 2009/138/EC" substitute "regulation 82 of the Insurance Companies Regulations";
    - (ii) for "Article 92(2) of that Directive" substitute "paragraph 6";
  - (c) in paragraph 3–
    - (i) for "Annex I to Directive 2002/87/EC" substitute "Schedule 1 to the Financial Services (Financial Conglomerates) Regulations 2020";
    - (ii) for "Article 230 of Directive 2009/138/EC" substitute "regulation 209 of the Insurance Companies Regulations";

- (d) after paragraph 5 insert-
  - "6. Participations in financial and credit institutions must comprise the following:
    - (a) participations which insurance and reinsurance undertakings hold in:
      - (i) credit institutions and financial institutions within the meaning of the law of Gibraltar that implemented Article 4(1) and (5) of Directive 2006/48/EC;
      - (ii) investment firms within the meaning of the law of Gibraltar that implemented Article 4.1(1) of Directive 2004/39/EC;
    - (b) subordinated claims and instruments referred to in the law of Gibraltar that implemented Articles 63 and 64(3) of Directive 2006/48/EC which insurance and reinsurance undertakings hold in respect of the entities defined in point (a) of this paragraph in which they hold a participation.".

#### (40) In Article 69–

- (a) in the opening words—
  - (i) for "Article 93(1)(a) and (b) of Directive 2009/138/EC" substitute "regulation 85(1)(a) and (b) of the Insurance Companies Regulations";
  - (ii) for "Article 93(2) of that Directive" substitute "regulation 85(2) of those Regulations";
- (b) in point (a)-
  - (i) in the opening words, for "Article 75 and Section 2 of Chapter VI of Directive 2009/138/EC," substitute "Chapter 1 of Part 6 of the Insurance Companies Regulations";
  - (ii) in point (iv), for "Article 91(2) of Directive 2009/138/EC" substitute "regulation 81(2) of the Insurance Companies Regulations";
- (c) in point (b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (41) In Article 70.1(f), for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6)".
- (42) In Article 71.10(c)(i), for "Article 138(2) of Directive 2009/138/EC" substitute "regulation 122(2) of the Insurance Companies Regulations".

#### (43) In Article 72–

- (a) in the opening words-
  - (i) for "Article 93(1)(b) of Directive 2009/138/EC" substitute "regulation 85(1)(b) of the Insurance Companies Regulations";
  - (ii) for "Article 93(2) of that Directive" substitute "regulation 85(2) of those Regulations";
- (b) in point (a), for "Article 75 and Section 2 of Chapter VI of Directive 2009/138/EC," substitute "Chapter 1 of Part 6 of the Insurance Companies Regulations";
- (c) in point (b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (44) In Article 73.1(i), for "the first subparagraph of Article 94(2) of Directive 2009/138/EC" substitute "regulation 86(2)(a) of the Insurance Companies Regulations".

#### (45) In Article 74–

- (a) in the opening words—
  - (i) for "Article 96 of Directive 2009/138/EC" substitute "regulation 88 of the Insurance Companies Regulations";
  - (ii) for "Article 93(1)(b) of Directive 2009/138/EC" substitute "regulation 85(1)(b) of the Insurance Companies Regulations";
  - (iii) for "Article 93(2) of that Directive" substitute "regulation 85(2) of those Regulations";
- (b) in point (e), for "Article 8 of Directive 2013/36/EU" substitute "the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020";
- (c) in point (g), for "Part A of Annex 1 of Directive 2009/138/EC" substitute "paragraph 22(1) of Schedule 2 to the Financial Services Act 2019".

# (46) In Article 76–

- (a) in the opening words—
  - (i) for "Article 93(1)(b) of Directive 2009/138/EC" substitute "regulation 85(1)(b) of the Insurance Companies Regulations";

- (ii) for "Article 93(2) of that Directive" substitute "regulation 85(2) of those Regulations";
- (b) in point (a), for "Sections 1 and 2 of Chapter VI of Directive 2009/138/EC" substitute "Chapters 1 and 2 of Part 6 of the Insurance Companies Regulations";
- (c) in point (b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (47) In Article 78, for "Article 90 of Directive 2009/138/EC" substitute "regulation 84 of the Insurance Companies Regulations".
- (48) In Article 79–
  - (a) in paragraph 1, for "Article 90 of Directive 2009/138/EC" substitute "regulation 84 of the Insurance Companies Regulations";
  - (b) in paragraph 2–
    - (i) in point (a), for "Article 93(1)(a) and (b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive" substitute "regulation 85(1)(a) and (b) of the Insurance Companies Regulations, taking into consideration the features set out in regulation 85(2) of those Regulations".;
    - (ii) in point (b), for "Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive" substitute "regulation 85(1)(b) of the Insurance Companies Regulations, taking into consideration the features set out in regulation 85(2) of those Regulations";
    - (iii) in point (c), for "Article 93(1)(a) and (b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive" substitute "regulation 85(1)(a) and (b) of the Insurance Companies Regulations, taking into consideration the features set out in regulation 85(2) of those Regulations";
    - (iv) in point (d), for "Article 93(1)(b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive" substitute "regulation 85(1)(b) of the Insurance Companies Regulations, taking into consideration the features set out in regulation 85(2) of those Regulations".
- (49) In Article 82.3(d), for "Article 308b(9) of Directive 2009/138/EC" substitute "paragraph 1(5) of Schedule 1 to the Insurance Companies Regulations".
- (50) In Article 84.4, omit the final sub-paragraph.

- (51) In Article 88, for "Article 109 of Directive 2009/138/EC" substitute "regulation 100 of the Insurance Companies Regulations".
- (52) In Article 89, for "as defined in points (2) and (5) of Article 13 of Directive 2009/138/EC" substitute "within the meaning of regulation 3(1) of the Insurance Companies Regulations".

#### (53) In Article 103–

- (a) in paragraph 2(b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (b) in paragraph 3(b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (54) In Article 104.1(b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

#### (55) In Article 112–

- (a) in paragraph 1, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

# (56) In Article 114.1-

- (a) in point (a), for "Article 105(2) of Directive 2009/138/EC" substitute "regulation 95(2) of the Insurance Companies Regulations";
- (b) in point (b), for "Article 105(2) of Directive 2009/138/EC" substitute "regulation 95(2) of the Insurance Companies Regulations".

#### (57) In Article 136–

- (a) in paragraph 1–
  - (i) in point (a), for "point (a) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(i) of the Insurance Companies Regulations";
  - (ii) in point (b), for "point (b) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(ii) of the Insurance Companies Regulations";

- (iii) in point (c), for "point (c) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(iii) of the Insurance Companies Regulations";
- (iv) in point (d), for "point (d) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(iv) of the Insurance Companies Regulations";
- (v) in point (e), for "point (e) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(v) of the Insurance Companies Regulations";
- (vi) in point (f), for "point (f) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(vi) of the Insurance Companies Regulations";
- (vii) in point (g), for "point (g) of subparagraph 2 of Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(vii) of the Insurance Companies Regulations";
- (b) in paragraph 3, for "point 3 of Annex IV of Directive 2009/138/EC" substitute "paragraph 3 of Schedule 4 to the Insurance Companies Regulations".
- (58) In Article 137.1, for "Article 105(3)(a) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(i) of the Insurance Companies Regulations".
- (59) In Article 138.1, for "Article 105(3)(b) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(ii) of the Insurance Companies Regulations".
- (60) In Article 139, for "Article 105(3)(c) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(iii) of the Insurance Companies Regulations".
- (61) In Article 140, for "Article 105(3)(d) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(iv) of the Insurance Companies Regulations".
- (62) In Article 141, for "Article 105(3)(e) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(v) of the Insurance Companies Regulations".
- (63) In Article 142–
  - (a) in paragraph 1, for "Article 105(3)(f) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(vi) of the Insurance Companies Regulations";
  - (b) in paragraph 6(a), for "with Article 2(3)(b)(iii) and (iv) of Directive 2009/138/EC" substitute "regulation 4(5)(b)(iii) and (iv) of the Insurance Companies Regulations";

- (c) in paragraph 7, for "Article 105(3)(f) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(vi) of the Insurance Companies Regulations".
- (64) In Article 143.1, for "Article 105(3)(g) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(vii) of the Insurance Companies Regulations".

#### (65) In Article 149–

- (a) in paragraph 1, for "Article 109a(4) of Directive 2009/138/EC" substitute "Article 3 of this Regulation";
- (b) in paragraph 3, for "the implementing act adopted pursuant to Article 109a(4) of Directive 2009/138/EC" substitute "technical standards adopted pursuant to Article 3 of this Regulation";
- (c) in paragraph 4, for "the implementing act adopted pursuant to Article 109a(4) of Directive 2009/138/EC" substitute "technical standards adopted pursuant to Article 3of this Regulation";
- (d) in paragraph 5–
  - (i) for "Article 104(7) of Directive 2009/138/EC" substitute "regulation 94(7) of the Insurance Companies Regulations";
  - (ii) omit "in accordance with Article 110 of that Directive 2009/138/EC".
- (66) In Article 159.7, for "Article 105(3)(f) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(vi) of the Insurance Companies Regulations".

#### (67) In Article 164–

- (a) in paragraph 1–
  - (i) in point (a), for "point (a) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(i) of the Insurance Companies Regulations";
  - (ii) in point (b), for "point (b) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(ii) of the Insurance Companies Regulations";
  - (iii) in point (c), for "point (c) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iii) of the Insurance Companies Regulations";
  - (iv) in point (d), for "point (d) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iv) of the Insurance Companies Regulations";

- (v) in point (e), for "point (e) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(v) of the Insurance Companies Regulations";
- (vi) in point (f), for "point (f) of subparagraph 2 of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(vi) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 105(5) of Directive 2009/138/EC substitute "regulation 95(5) of the Insurance Companies Regulations".
- (68) In Article 164a-
  - (a) in paragraph 1(f)(i), omit "in the EEA or".
  - (b) in paragraph 2(b)(ii), for "listed in the Regulation adopted pursuant to Article 109a(2)(a) of Directive 2009/138/EC" substitute—
    - ", exposure to which is treated as exposure to the central government of the jurisdiction in which it is established, on the basis that there is no difference in risk between such exposures because of:
      - (aa) the specific revenue-raising powers of the former; and
      - (bb) the specific institutional arrangements that exist,

the effect of which is to reduce the risk of default;".

- (69) In Article 164b(1), omit "the EEA or".
- (70) In Article 165.1, for "point (a) of the second subparagraph Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(i) of the Insurance Companies Regulations".
- (71) In Article 166.3, for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6) of this Regulation".
- (72) In Article 167.3, for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6) of this Regulation".
- (73) In Article 168–
  - (a) in paragraph 1, for "point (b) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(ii) of the Insurance Companies Regulations";
  - (b) in paragraph 2–

- (i) omit "the European Economic Area (EEA) or";
- (ii) for "as referred to in Article 4(1)(22) of Directive 2014/65/EU, whose registered office or head office is in EU Member States" substitute "within the meaning of Schedule 2 to the Financial Services Act 2019";
- (c) in paragraph 5, for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6) of this Regulation";
- (d) in paragraph 6(c)-
  - (i) in the three places it occurs, for "the Union" substitute "Gibraltar";
  - (ii) omit "in accordance with Article 35 or 40 of Directive 2011/61/EU".

#### (74) In Article 168a-

- (a) in paragraph 1–
  - (i) in point (c), for "a country which is a member of the EEA" substitute "Gibraltar";
  - (ii) in point (d), omit "the EEA or";
  - (iii) in point (e), for "countries which are members of the EEA" substitute "Gibraltar";
- (b) in paragraph 2(e), omit "as referred to in Annex III to Directive 2013/34/EU of the European Parliament and of the Council".

#### (75) In Article 169-

- (a) in paragraph 1(a), for "Article 212(1)(b) and 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";
- (b) in paragraph 2(a), for "Article 212(1)(b) and 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";
- (c) in paragraph 3(a), for "point (b) of Article 212(1) and Article 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";
- (d) in paragraph 4(a), for "point (b) of Article 212(1) and Article 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations".

#### (76) In Article 170–

#### (a) in paragraph 1-

- (i) in the opening words, for "Article 304 of Directive 2009/138/EC" substitute "regulation 97 of the Insurance Companies Regulations";
- (ii) in point (a), for "point (i) of Article 304(1) of Directive 2009/138/EC" substitute "regulation 97(2)(a) of the Insurance Companies Regulations";
- (iii) in point (b), for "Article 212(1)(b) and 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";

# (b) in paragraph 2–

- (i) in the opening words, for "Article 304 of Directive 2009/138/EC" substitute "regulation 97 of the Insurance Companies Regulations";
- (ii) in point (a), for "point (i) of Article 304(1) of Directive 2009/138/EC" substitute "regulation 97(2)(a) of the Insurance Companies Regulations";
- (iii) in point (b), for "Article 212(1)(b) and 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";

# (c) in paragraph 3–

- (i) in the opening words, for "Article 304 of Directive 2009/138/EC" substitute "regulation 97 of the Insurance Companies Regulations";
- (ii) in point (a), for "point (i) of Article 304(1) of Directive 2009/138/EC" substitute "regulation 97(2)(a) of the Insurance Companies Regulations";
- (iii) in point (b), for "Article 212(1)(b) and 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";

#### (d) in paragraph 4–

- (i) in the opening words, for "Article 304 of Directive 2009/138/EC" substitute "regulation 97 of the Insurance Companies Regulations";
- (ii) in point (a), for "point (i) of Article 304(1) of Directive 2009/138/EC" substitute "regulation 97(2)(a) of the Insurance Companies Regulations";
- (iii) in point (b), for "Article 212(1)(b) and 212(2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations".

# (77) In Article 171a.1(f)-

(a) for "in the EEA" substitute "in Gibraltar";

- (b) for "countries that are members of the EEA" substitute "Gibraltar".
- (78) In Article 172.1, for "Article 106(2) of Directive 2009/138/EC" substitute "regulation 96(2) of the Insurance Companies Regulations".
- (79) In Article 173–
  - (a) in paragraph 1–
    - (i) for "Article 308b(13) of Directive 2009/138/EC" substitute "paragraph 1(8) of Schedule 1 to the Insurance Companies Regulations";
    - (ii) for "Article 304 of that Directive" substitute "regulation 97 of those Regulations";
  - (b) in paragraph 2, for "Article 308b(13) of Directive 2009/138/EC" substitute "paragraph 1(8) of Schedule 1 to the Insurance Companies Regulations".
- (80) In Article 174, for "point (c) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iii) of the Insurance Companies Regulations".
- (81) In Article 175, for "point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iv) of the Insurance Companies Regulations".
- (82) In Article 176.6, for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6) of this Regulation".
- (83) In Article 176a.3(g)–
  - (a) in point (ii), for "a country which is a member of the EEA" substitute "Gibraltar";
  - (b) in point (iii), omit "the EEA or".
- (84) In Article 176b(c), for "point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iv) of the Insurance Companies Regulations".
- (85) In Article 176c–
  - (a) in paragraph 1(b)(ii), for "Article 100 of Directive 2009/138/EC" substitute "regulation 90 of the Insurance Companies Regulations";
  - (b) in paragraph 3–
    - (i) in point (c), for "a country which is a member of the EEA" substitute "Gibraltar";
    - (ii) in point (d), omit "the EEA or";

- (c) in paragraph 5(b), for "point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iv) of the Insurance Companies Regulations";
- (d) in paragraph 6, for "point (d) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5)(c)(iv) of the Insurance Companies Regulations".
- (86) In Article 178a, after paragraph 4 insert-
  - "5. For the purposes of paragraphs 3 and 4, Article 177 of this Regulation as it applied on 31st December 2018 continues to have effect despite its deletion by Article 1(3) of Commission Delegated Regulation (EU) 2018/1221, and has effect for those purposes as if—
    - (a) in paragraph 2–
      - (i) a reference to Regulation (EU) No 575/2013 were a reference to that Regulation as it applied on 31st December 2018;
      - (ii) in point (b) "the EEA or" were omitted;
      - (iii) in point (h)(i)
        - (aa) for "national law of the Member State where the loans were originated" there were substituted "loans were originated in Gibraltar and the law of Gibraltar";
        - (bb) ", and that Member State has notified this law to the Commission and EIOPA" were omitted;
      - (iv) point (h)(ii) were omitted;
      - (v) in point (h)(iv) for the words from "agricultural" to "tracked" there were substituted "tractors as defined in point (8) of Article 3(8) of Regulation (EU) No 167/2013 of the European Parliament and of the Council (as it had effect immediately before IP completion day), powered two-wheelers or powered tricycles as defined in points Article 3(68) and (69) of Regulation (EU) No 168/2013 of the European Parliament and of the Council (as it had effect immediately before IP completion day) or tracked";
      - (vi) in points (r) and (s), in both places it occurs, for the words "countries that are not members of the Union" there were substituted "a country or territory other than Gibraltar";
      - (vii) in point (t)—

- (aa) the words from "and discloses information" to "stress tests" were omitted;
- (bb) for "the Union", in both places it occurs, there were substituted "Gibraltar";
- (b) in paragraph 4, for "the entry into force of this Regulation" there were substituted "18th January 2015"; and
- (c) in paragraph 5(a) and (c), as if for "the date of entry into force of this Regulation" there were substituted "18 January 2015".".

#### (87) In Article 180–

- (a) in paragraph 1, for "bonds referred to Article 52(4) of Directive 2009/65/EC (covered bonds)" substitute "covered bonds";
- (b) in paragraph 2–
  - (i) omit point (a);
  - (ii) for point (b) substitute—
    - "(b) the government of Gibraltar, or the United Kingdom government and Bank of England, denominated and funded in sterling;";
  - (iii) omit the final sub-paragraph;
- (c) omit paragraph 3a;
- (d) omit paragraph 3b;
- (e) in paragraph 6, for "Article 51 of Directive 2009/138/EC" substitute "regulation 52 of the Insurance Companies Regulations";
- (f) in paragraph 7, for "deemed equivalent to that laid down in Directive 2009/138/EC in accordance with Article 227 of Directive 2009/138/EC" substitute "determined to be equivalent in accordance with regulation 206 of the Insurance Companies Regulations";
- (g) in paragraph 8, for "Directive 2013/36/EU and Regulation (EU) No 575/2013" substitute "that Regulation and the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020";
- (h) omit paragraphs 10 and 10a.

- (88) In Article 181, for "Article 77b of Directive 2009/138/EC" substitute "regulation 68 of the Insurance Companies Regulations".
- (89) In Article 182-
  - (a) in paragraph 8, for "Article 51 of Directive 2009/138/EC" substitute "regulation 52 of the Insurance Companies Regulations";
  - (b) in paragraph 9, for "deemed equivalent to that laid down in Directive 2009/138/EC in accordance with Article 227 of that Directive" substitute "determined to be equivalent in accordance with regulation 206 of the Insurance Companies Regulations";
  - (c) in paragraph 10, for "Directive 2013/36/EU" substitute "the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020".
- (90) In Article 184.2-
  - (a) in point (b)(iv), for "the Union" substitute "Gibraltar";
  - (b) in point (c), for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6) of this Regulation".
- (91) In Article 187–
  - (a) in paragraph 1, for "bonds referred to Article 52(4) of Directive 2009/65/EC (covered bonds)" substitute "covered bonds";
  - (b) in paragraph 3–
    - (i) omit point (a);
    - (ii) for point (b) substitute—
      - "(b) the government of Gibraltar, or the United Kingdom government and Bank of England, denominated and funded in sterling;";
  - (c) omit paragraph 4a;
  - (d) omit paragraph 4b;
  - (e) in paragraph 5(a), for "the Union" substitute "Gibraltar".
- (92) In Article 188–
  - (a) in paragraph 1, for "point (e) of the second subparagraph of Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(3)(b)(v) of the Insurance Companies Regulations";

# (b) in paragraph 5–

- (i) in the opening words, for "the implementing act adopted pursuant to point (d) of Article109a(2) of Directive 2009/138/EC" substitute "Commission Implementing Regulation (EU) 2015/2017";
- (i) in point (a), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations";
- (c) in paragraph 6, for "Article 92(2) of Directive 2009/138/EC" substitute "Article 68(6) of this Regulation".

#### (93) In Article 189–

- (a) in paragraph 2(b), for "Article 6 item F of Council Directive 91/674/EEC" substitute "the Financial Services (Insurance Companies) (Accounts) Regulations 2021";
- (b) in paragraph (6)(b), omit ", whether as defined in Article 13(26) of Directive 2009/138/EC or not".

#### (94) In Article 191–

- (a) in paragraph 4, for "Article 212(1)(b) and (2) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";
- (b) omit paragraph 14.

# (95) In Article 192–

- (a) in paragraph 3–
  - (i) in point (a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
  - (ii) in point (c), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";

# (b) in paragraph 3a-

- (i) in point (a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (ii) in point (c), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (c) in paragraph 3b-

- (i) in point (a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (ii) in point (c), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (d) in paragraph 3c(a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (e) in paragraph 4(a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (f) in paragraph 5, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (g) in paragraph 6–
  - (i) for "Article 6 item F of Council Directive 91/674/EEC" substitute "the Financial Services (Insurance Companies) (Accounts) Regulations 2021";
  - (ii) for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

#### (96) In Article 193.1–

- (a) in point (b)-
  - (i) for "Article 2 of Directive 2009/138/EC" substitute "regulation 4(2) of the Insurance Companies Regulations";
  - (ii) for "Article 2 of that Directive" substitute "regulation 4(2) of those Regulations";
- (b) in point (f), for "Directive 2009/138/EC" substitute "the Insurance Companies Regulations";
- (c) in point (g), in both places it occurs, for "Article 172 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

# (97) In Article 197-

- (a) in paragraph 1, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";

- (c) in paragraph 4, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (98) In Article 198.2, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

# (99) In Article 199-

- (a) in paragraph 5, for "Article 51 of Directive 2009/138/EC" substitute "regulation 52 of the Insurance Companies Regulations";
- (b) in paragraph 6, for "deemed equivalent to that laid down in Directive 2009/138/EC in accordance with Article 227 of that Directive" substitute "determined to be equivalent in accordance with regulation 206 of the Insurance Companies Regulations";
- (c) in paragraph 7, for "Directive 2013/36/EU" substitute "the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020";
- (d) in paragraph 11, for "the implementing act adopted pursuant to point (a) of Article109a (2) of Directive 2009/138/EC" substitute "Commission Implementing Regulation (EU) 2015/2011".
- (100) In Article 205, for "Article 103(c) of Directive 2009/138/EC" substitute "regulation 93(c) of the Insurance Companies Regulations".
- (101) In Article 206.1(a), for "Article 103(a) of Directive 2009/138/EC" substitute "regulation 93(a) of the Insurance Companies Regulations".

#### (102) In Article 207.1–

- (a) in point (a), for, for "Article 103(a) of Directive 2009/138/EC" substitute "regulation 93(a) of the Insurance Companies Regulations";
- (b) in point (c), for "Article 210(3) of Directive 2009/138/EC" substitute "regulation 93(b) of the Insurance Companies Regulations".
- (103) In Article 208.2, for "Article 103(c) of Directive 2009/138/EC" substitute "regulation 189(2) of the Insurance Companies Regulations".
- (104) In Article 209.1, for "Article 101(5) of Directive 2009/138/EC" substitute "regulation 91(6) of the Insurance Companies Regulations".

#### (105) In Article 211–

(a) in paragraph 2-

- (i) in point (b), for "deemed equivalent or temporarily equivalent to that laid down in Directive 2009/138/EC in accordance with Article 172 of that Directive" substitute "determined to be equivalent or temporarily equivalent in accordance with regulation 238 of the Insurance Companies Regulations";
- (ii) in point (c), for "deemed equivalent or temporarily equivalent in accordance with Article 172 of Directive 2009/138/EC" substitute "determined to be equivalent or temporarily equivalent in accordance with regulation 206 of the Insurance Companies Regulations";

# (b) in paragraph 4–

- (i) for "Article 211(2) of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation";
- (ii) omit "or by an equivalent amount where Article 211(3) of Directive2009/138/EC is applicable";
- (c) omit paragraph 5;
- (d) in paragraph 6, for "Article 211(2) of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation".

#### (106) In Article 212-

- (a) in paragraph 2, for "Article 44(2) of Directive 2009/138/EC" substitute "regulation 45(3) of the Insurance Companies Regulations";
- (b) in paragraph 3, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (107) In Article 213.2, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

#### (108) In Article 216-

- (a) in paragraph 1, for "Article 77b of Directive 2009/138/EC" substitute "regulation 68 of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 304 of Directive 2009/138/EC" substitute "regulation 97 of the Insurance Companies Regulations".
- (109) In Article 217.4, for "Article 88 of Directive 2009/138/EC" substitute "regulation 82 of the Insurance Companies Regulations".
- (110) In Article 218.1, for "Article 104(7) of Directive 2009/138/EC" substitute "regulation 94(7) of the Insurance Companies Regulations".

- (111) In Article 219.1(c), for "Article 101(3) of Directive 2009/13/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".
- (112) In Article 220.2, for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".
- (113) In Article 221–
  - (a) for paragraph 1, substitute—
  - "1. The GFSC must collect the quantitative undertaking-specific data necessary for determining dependencies between risks referred to in Article 309(8).";
  - (b) omit paragraph 2.
- (114) In Article 226(h)–
  - (a) for "Article 115 of Directive 2009/138/EC" substitute "regulation 103 of the Insurance Companies Regulations";
  - (b) for "Article 124 of that Directive" substitute "regulation 112 of those Regulations";
  - (c) for "Articles 101, 113, 120 to 125 of that Directive" substitute "regulations 91, 102 and 108 to 113 of those Regulations".
- (115) In Article 227-
  - (a) in paragraph 1, for "the second paragraph of Article 120 of Directive 2009/138/EC" substitute "regulation 108(2) of the Insurance Companies Regulations";
  - (b) in paragraph 4, for "Article 102 of Directive 2009/138/EC" substitute "regulation 92 of the Insurance Companies Regulations".
- (116) In Article 228.1, for "Article 13(38) of Directive 2009/138/EC" substitute "the definition of "probability distribution forecast" in regulation 3(1) of the Insurance Companies Regulations".
- (117) In Article 229, for "Article 121(2) of Directive 2009/138/EC" substitute "regulation 109(2) of the Insurance Companies Regulations";
- (118) In Article 230–
  - (a) in paragraph 1, for "Article 121(2) of Directive 2009/138/EC" substitute "regulation 109(2) of the Insurance Companies Regulations";

(b) in paragraph 2, for "Article 121(2) of Directive 2009/138/EC" substitute "regulation 109(2) of the Insurance Companies Regulations".

### (119) In Article 231–

- (a) in paragraph 1, for "Article 121(3) of Directive 2009/138/EC" substitute "regulation 109(3) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 121(3) of Directive 2009/138/EC" substitute "regulation 109(3) of the Insurance Companies Regulations";
- (c) in paragraph 3, for "Article 121(3) of Directive 2009/138/EC" substitute "regulation 109(3) of the Insurance Companies Regulations".

# (120) In Article 232-

- (a) in paragraph 1, for "Article 121(4) of Directive 2009/138/EC" substitute "regulation 109(5) of the Insurance Companies Regulations";
- (b) in paragraph 4, for "point (b) of the first paragraph of Article 120 of Directive 2009/138/EC" substitute "regulation 108(1) of the Insurance Companies Regulations".

# (121) In Article 233-

- (a) in paragraph 1, for "the third subparagraph of Article 121(4) of Directive 2009/138/EC" substitute "regulation 109(7) of the Insurance Companies Regulations";
- (b) in paragraph 3(a), for "Article 120 of Directive 2009/138/EC" substitute "regulation 108 of the Insurance Companies Regulations";
- (122) In Article 234, for "Article 121(5) of Directive 2009/138/EC" substitute "regulation 109(8) of the Insurance Companies Regulations".

# (123) In Article 235-

- (a) in paragraph 1, for "Article 121(6) of Directive 2009/138/EC" substitute "regulation 109(9) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 121(6) of Directive 2009/138/EC" substitute "regulation 109(9) of the Insurance Companies Regulations";
- (c) in paragraph 3, for "Article 121(6) of Directive 2009/138/EC" substitute "regulation 109(9) of the Insurance Companies Regulations".

(124) In Article 236.1, for "Article 121(8) of Directive 2009/138/EC" substitute "regulation 109(11) of the Insurance Companies Regulations".

# (125) In Article 238–

- (a) in paragraph 1–
  - (i) for "Article 122 of Directive 2009/138/EC" substitute "regulation 110 of the Insurance Companies Regulations";
  - (ii) for "Article 101(3) of that Directive" substitute "regulation 91(3) of those Regulations";
- (b) in paragraph 2–
  - (i) in both places it occurs, for "Article 122(3) of Directive 2009/138/EC" substitute "regulation 110(3) of the Insurance Companies Regulations";
  - (ii) for "Article 101(1) of that Directive" substitute "regulation 91(1) of the Insurance Companies Regulations";
  - (iii) in both places it occurs, for "Article 101(3) of that Directive" substitute "regulation 91(3) of those Regulations";
  - (iv) for "Article 122(3) of that Directive" substitute "regulation 110(3) of those Regulations";
- (c) in paragraph 3, for "Article 122(3) of Directive 2009/138/EC" substitute "regulation 110(3) of the Insurance Companies Regulations";
- (d) in paragraph 4, for "Article 122(3) of Directive 2009/138/EC" substitute "regulation 110(3) of the Insurance Companies Regulations".

#### (126) In Article 239-

- (a) in paragraph 1, for "Annex IV of Directive 2009/138/EC" substitute "Schedule 4 to the Insurance Companies Regulations";
- (b) in paragraph 4, for "Title I, Chapter VI, Section 4, subsections 1 and 3 of Directive 2009/138/EC" substitute "regulations 90 to 92 and 101 to 114 of the Insurance Companies Regulations";
- (c) in paragraph 5–
  - (i) in point (a), for "Article 101 of Directive 2009/138/EC" substitute "regulation 91 of the Insurance Companies Regulations";

(ii) in point (c), for "Articles 101 and 102 of Directive 2009/138/EC" substitute "regulations 91 and 92 of the Insurance Companies Regulations".

# (127) In Article 240-

- (a) in paragraph 1, for "Article 123 of Directive 2009/138/EC" substitute "regulation 111 of the Insurance Companies Regulations";
- (b) in paragraph 3, for "Article 120 of Directive 2009/138/EC" substitute "regulation 108 of the Insurance Companies Regulations".

#### (128) In Article 241.1–

- (a) for "Articles 101, Article 112(5), Articles 120 to 123 and Article 125 of Directive 2009/138/EC" substitute "regulations 91, 101(7), 108 to 111 and 113 of the Insurance Companies Regulations";
- (b) for "Article 113 of that Directive" substitute "regulation 102 of those Regulations".

#### (129) In Article 242–

- (a) in paragraph 2, for "Article 123 of Directive 2009/138/EC" substitute "regulation 111 of the Insurance Companies Regulations";
- (b) in paragraph 3, for "Article 124 of Directive 2009/138/EC" substitute "regulation 112 of the Insurance Companies Regulations";
- (c) in paragraph 4–
  - (i) for "the fourth paragraph of Article 124 of Directive 2009/138/EC" substitute "regulation 112(1)(c) and (d) of the Insurance Companies Regulations";
  - (ii) for "the fourth subparagraph of Article 124 of Directive 2009/138/EC" substitute "regulation 112(1)(c) and (d) of the Insurance Companies Regulations".

#### (130) In Article 243–

- (a) in paragraph 1–
  - (i) for "Article 125 of Directive 2009/138/EC" substitute "regulation 113 of the Insurance Companies Regulations";
  - (ii) for "Article 101 and Articles 120 to 124 of Directive" substitute "regulations 91 and 108 to 112 of those Regulations".

(b) in paragraph 2, for "Article 113 of Directive 2009/138/EC" substitute "regulation 102 of the Insurance Companies Regulations".

# (131) In Article 244-

- (a) in point (b), for "Article 115 of Directive 2009/138/EC" substitute "regulation 103 of the Insurance Companies Regulations";
- (b) in point (o), for "Article 101 of Directive 2009/138/EC" substitute "regulation 91 of the Insurance Companies Regulations".

#### (132) In Article 247–

- (a) for "Articles 101 and Articles 120 to 125 of Directive 2009/138/EC" substitute "regulations 91 and 108 to 113 of the Insurance Companies Regulations";
- (b) for "Article 113 of that Directive" substitute "regulation 91 of those Regulations".
- (133) In Article 248.1(b), for "129(1)(d) of Directive 2009/138/EC" substitute "regulation 116(1)(d) of the Insurance Companies Regulations".

# (134) In Article 252–

- (a) in paragraph 1, for "Article 74(2) of Directive 2009/138/EC" substitute "regulation 64(2) of the Insurance Companies Regulations";
- (b) in paragraph 2(b), for "Article 129(1)(d)(i) of Directive 2009/138/EC" substitute "regulation 116(1)(d)(i) of the Insurance Companies Regulations";
- (c) in paragraph 3(c), for "Article 37 of Directive 2009/138/EC" substitute "regulation 39 of the Insurance Companies Regulations";
- (d) in paragraph 5, for "Annex I of Directive 2009/138/EC" substitute "paragraph 22 of Schedule 2 to the Financial Services Act 2019";
- (e) in paragraph 6(a)—
  - (i) for "Title I, Chapter VI, Section 4, Subsection 2 of Directive 2009/138/EC or with Title I, Chapter VI, Section 4, Subsection 3 of Directive 2009/138/EC" substitute "regulations 33 to 100 or regulations 101 to 114 of the Insurance Companies Regulations";
  - (ii) for "Article 37 of that Directive" substitute "regulation 39 of those Regulations";
- (f) in paragraph 7(b), for "Article 129(1)(d)(ii) of Directive 2009/138/EC" substitute "regulation 116(1)(d)(ii) of the Insurance Companies Regulations";

- (g) in paragraph 8(c), for "Article 37 of Directive 2009/138/EC" substitute "regulation 39 of the Insurance Companies Regulations";
- (h) in paragraph 10, for "Annex II of Directive 2009/138/EC" substitute "paragraph 23 of Schedule 2 to the Financial Services Act 2019";
- (i) in paragraph 11(a)-
  - (i) for "Title I, Chapter VI, Section 4, Subsection 2 of Directive 2009/138/EC or with Title I, Chapter VI, Section 4, Subsection 3 of Directive 2009/138/EC" substitute "regulations 33 to 100 or regulations 101 to 114 of the Insurance Companies Regulations";
  - (ii) for "Article 37 of that Directive" substitute "regulation 39 of those Regulations".

#### (135) In Article 253–

- (a) in paragraph 1–
  - (i) for "points (a) or (b) of Article 73(2) of Directive 2009/138/EC" substitute "regulation 63(2)(a) and (b) of the Insurance Companies Regulations";
  - (ii) for "points (i) and (ii) of Article 129(1)(d) of that Directive" substitute "regulation 116(1)(d)(i) and (ii) of those Regulations";
- (b) in paragraph 2–
  - (i) for "Part A of Annex 1 of Directive 2009/138/EC" substitute "paragraph 22(1) of Schedule 2 to the Financial Services Act 2019";
  - (ii) for "point (ii) of Article 129(1)(d) of that Directive" substitute "regulation 116(1)(d)(ii) of the Insurance Companies Regulations";
- (c) in paragraph 3, for "point (ii) of Article 129(1)(d) of that Directive." substitute "regulation 116(1)(d)(ii) of those Regulations".
- (136) In Article 257.5, for "Article 37(1)(c) of Directive 2009/138/EC" substitute "regulation 39(1)(c) of the Insurance Companies Regulations";
- (137) In Article 259.4, for "Article 44(4a) of Directive 2009/138/EC" substitute "regulation 45(11) of the Insurance Companies Regulations".
- (138) In Article 260–
  - (a) in paragraph 1–

- (i) in the opening words, for "Article 44(2) of Directive 2009/138/EC" substitute "regulation 45(2)(b) to (4) of the Insurance Companies Regulations";
- (ii) in point (c)(i), for "Article 132 of Directive 2009/138/EC" substitute "regulation 117 of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 77 of that Directive." substitute "regulation 67 of those Regulations".
- (139) In Article 262.1a.4, for "Article 41(3) of Directive 2009/138/EC" substitute "regulation 43(5) of the Insurance Companies Regulations".
- (140) In Article 262.1, for "Article 45(1)(a) of Directive 2009/138/EC" substitute "regulation 46(2)(a) of the Insurance Companies Regulations".
- (141) In Article 264–
  - (a) in paragraph 1-
    - (i) in the opening words, for "Article 83 of Directive 2009/138/EC" substitute "regulation 78 of the Insurance Companies Regulations";
    - (ii) in point (g), for "Article 84 of Directive 2009/138/EC necessary to comply with Article 76 of that Directive" substitute ""regulation 68 of the Insurance Companies Regulations".
- (142) In Article 267.1, for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".
- (143) In Article 269.2(a), for "Article 44(5) of Directive 2009/138/EC" substitute "regulation 45(12) of the Insurance Companies Regulations".
- (144) In Article 271.2, omit "laid down in paragraphs 3 and 4 of Article 29 of Directive 2009/138/EC".
- (145) In Article 272–
  - (a) in paragraph 1–
    - (i) in point (a), for "Articles 75 to 86 of Directive 2009/138/EC" substitute "regulations 65 to 80 of the Insurance Companies Regulations";
    - (ii) in point (d), for "Article 82 of Directive 2009/138/EC" substitute "regulation 77 of the Insurance Companies Regulations";
  - (b) in paragraph 6, for "Article 48(1)(g) of Directive 2009/138/EC" substitute "regulation 49(1)(g) of the Insurance Companies Regulations";

- (c) in paragraph 7, for "Article 48(1)(h) of Directive 2009/138/EC" substitute "regulation 49(1)(h) of the Insurance Companies Regulations".
- (146) In Article 273.1, for "Article 42 of Directive 2009/138/EC" substitute "regulation 44 of the Insurance Companies Regulations".

#### (147) In Article 274–

- (a) in paragraph 1, for "Article 49 of Directive 2009/138/EC" substitute "regulation 50 of the Insurance Companies Regulations";
- (b) in paragraph 5–
  - (i) in point (a), for "Article 49(2)(a) and (b) of Directive 2009/138/EC" substitute "regulation 50(2)(a) and (b) of the Insurance Companies Regulations";
  - (ii) in point (b), for "Article 49(2)(a) and (b) of Directive 2009/138/EC" substitute "regulation 50(2)(a) and (b) of the Insurance Companies Regulations";
- (148) In Article 276, for "Article 37(1)(a) and (b) of Directive 2009/138/EC" substitute "regulation 39(1)(a) and (b) of the Insurance Companies Regulations".

# (149) In Article 277–

- (a) in the opening words, for "Article 37(1)(c) of Directive 2009/138/EC" substitute "regulation 39(1)(c) of the Insurance Companies Regulations";
- (b) in point (a), for "Title I, Chapter IV, Section 2 of Directive 2009/138/EC" substitute "regulations 43 to 50 of the Insurance Companies Regulations".

#### (150) In Article 278–

- (a) in paragraph 1–
  - (i) for "Article 37(1)(d) of Directive 2009/138/EC, substitute "regulation 39(1)(d) of the Insurance Companies Regulations";
  - (ii) for "Article 77b of that Directive" substitute "regulation 68 of those Regulations";
  - (iii) for "Article 77d of that Directive" substitute "regulation 70 of those Regulations";
  - (iv) for "Article 308c and 308d of that Directive" substitute "paragraphs 2 and 3 of Schedule 1 to the Insurance Companies Regulations";

- (v) for "supervisory authorities" substitute "the supervisory authority";
- (b) for paragraph 2, substitute—
  - "2. With respect to the matching adjustment and transitional measures and the volatility adjustment, where the supervisory authority has allowed an insurance or reinsurance undertaking to use one of these adjustments or transitional measures, it may impose a capital add-on only in circumstances where the deviation from the assumptions underlying the adjustments or transitional measures is of a temporary nature and does not justify revoking the supervisory approval for the use of the adjustment or the transitional measure."

### (151) In Article 279-

- (a) in paragraph 1, for "Article 37(1)(a) and (b) of Directive 2009/138/EC" substitute "regulation 39(1)(a) and (b) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 37(1)(a) and (b) of Directive 2009/138/EC" substitute "regulation 39(1)(a) and (b) of the Insurance Companies Regulations".

### (152) In Article 280-

- (a) in paragraph 1, for "Article 37(1)(a)(i) of Directive 2009/138/EC" substitute "regulation 39(1)(a)(i) of the Insurance Companies Regulations";
- (b) in paragraph 2–
  - (i) for "Article 37(1)(a)(i) of Directive 2009/138/EC" substitute "regulation 39(1)(a)(i) of the Insurance Companies Regulations";
  - (ii) for "Title I, Chapter VI, Section 4, Subsections 1 and 3 of Directive 2009/138/EC" substitute "regulations 90 to 92 and 101 to 114 of the Insurance Companies Regulations";
- (153) In Article 281, "Article 37(1)(b) and (c) of Directive 2009/138/EC" substitute "regulation 39(1)(b) and (c) of the Insurance Companies Regulations".

# (154) In Article 282–

- (a) for "Article 37(1)(a) or (b) of Directive 2009/138/EC" substitute "regulation 39(1)(a) or (b) of the Insurance Companies Regulations";
- (b) for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".

#### (155) In Article 283–

- (a) in paragraph 2, for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".
- (b) in paragraph 6–
  - (i) for "Article 37 of Directive 2009/138/EC" substitute "regulation 39 of the Insurance Companies Regulations";
  - (ii) for "Article 64 of that Directive" substitute "regulation 57 of those Regulations";
- (b) in paragraph 7–
  - (i) in point (b), for "Article 104(7) of Directive 2009/138/EC or by using an internal model in accordance with Article 112 of that Directive" substitute "regulation 94(7) of the Insurance Companies of the Insurance Companies Regulations or by using an internal model in accordance with regulation 101 of those Regulations";
  - (ii) in point (c), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".

#### (156) In Article 284–

- (a) in the opening words, for "Article 37(1)(d) of Directive 2009/138/EC" substitute "regulation 39(1)(d) of the Insurance Companies Regulations";
- (b) in point (b), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".
- (157) In Article 285.2, for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".

#### (158) In Article 286–

- (a) in the opening words, for "Article 37(1)(c) of Directive 2009/138/EC" substitute "regulation 39(1)(c) of the Insurance Companies Regulations";
- (b) in point (b)-
  - (i) for "Article 37(1) of Directive 2009/138/EC" substitute "regulation 39(1) of the Insurance Companies Regulations";
  - (ii) for "Article 64 of that Directive" substitute "regulation 57 of those Regulations".

#### (159) In Article 287–

- (a) in paragraph 1, for "Article 73(2) or (5) of Directive 2009/138/EC" substitute "regulation 63(2) or (6) of the Insurance Companies Regulations";
- (b) in paragraph 3, for "Article 74(2) of Directive 2009/138/EC" substitute "regulation 64(2) of the Insurance Companies Regulations".
- (160) In Article 288, for "Article 138(4) of Directive 2009/138/EC, EIOPA" substitute "regulation 122(5) of the Insurance Companies Regulations, the GFSC".
- (161) In Article 289, for "Article 138(4) of Directive 2009/138/EC" substitute "regulation 122(5) of the Insurance Companies Regulations".
- (162) In Article 295.2(c), for "Article 132 of Directive 2009/138/EC" substitute "regulation 117 of the Insurance Companies Regulations".

### (163) In Article 296.2-

- (a) in point (d), for "Article 77b of Directive 2009/138/EC" substitute "regulation 68 of the Insurance Companies Regulations";
- (b) in point (e), for "Article 77d of Directive 2009/138/EC" substitute "regulation 70 of the Insurance Companies Regulations";
- (c) in point (f), for "Article 308c of Directive 2009/138/EC" substitute "paragraph 2 of Schedule 1 to the Insurance Companies Regulations";
- (d) in point (g), for "Article 308d of Directive 2009/138/EC" substitute "paragraphs 3 of Schedule 1 to the Insurance Companies Regulations".

## (164) In Article 297–

- (a) in paragraph 1–
  - (i) in point (f), for "Articles 308b(9) and 308b(10) of Directive 2009/138/EC" substitute "paragraphs 1(5) and (6) of Schedule 1 to the Insurance Companies Regulations";
  - (ii) in point (g), for "points (a), (b) and (c) of Article 89(1) of Directive 2009/138/EC" substitute "regulation 83(1)(a) to (c) of the Insurance Companies Regulations";

#### (b) in paragraph 2–

(i) in point (d), for "Article 104(7) of Directive 2009/138/EC" substitute "regulation 94(7) of the Insurance Companies Regulations";

- (ii) in point (e), for "the third subparagraph of Article 51(2) of Directive 2009/138/EC" substitute "regulation 52(6) of the Insurance Companies Regulations";
- (iii) in point (f)—
  - (aa) for "unless the undertaking's Member State has made use of the option provided for in the third subparagraph of Article 51(2) of Directive 2009/138/EC" substitute "regulation 52(6) of the Insurance Companies Regulations";
  - (bb) for "Article 110 of that Directive" substitute "regulation 100 of those Regulations";
- (c) in paragraph 3, for "Article 304 of Directive 2009/138/EC" substitute "regulation 97 of the Insurance Companies Regulations";
- (d) in paragraph 4(f)–
  - (i) for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations";
  - (ii) for "Article 101 of that Directive" substitute "regulation 91 of those Regulations";
- (e) in paragraph 5–
  - (i) in point (a), for "Article 51(1)(e)(v) of Directive 2009/138/EC" substitute "regulation 52(2)(e)(v) of the Insurance Companies Regulations";
  - (ii) in point (c), for "Article 51(1)(e)(v) of Directive 2009/138/EC" substitute "regulation 52(2)(e)(v) of the Insurance Companies Regulations".

#### (165) In Article 298–

- (a) for "Article 54(2) of Directive 2009/138/EC" substitute "regulation 55(5) of the Insurance Companies Regulations";
- (b) for "Article 35 of that Directive" substitute "regulation 37 of those Regulations".
- (166) In Article 299.1, for "Article 53(1) and (2) of Directive 2009/138/EC" substitute "regulation 54(1) and (2) of the Insurance Companies Regulations".
- (167) In Article 300.1, omit "within the deadlines set out in Article 308b(6) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article,".
- (168) In Article 302–

- (a) in paragraph 1, for "Article 54(1) of Directive 2009/138/EC" substitute "regulation 55(1) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 54(1) of Directive 2009/138/EC" substitute "regulation 55(1) of the Insurance Companies Regulations".
- (169) Omit Article 303.
- (170) In Article 304–
  - (a) in paragraph 1–
    - (i) in the opening words, for "Article 35(2)(a)(i) of Directive 2009/138/EC" substitute "regulation 37(2)(a)(i) of the Insurance Companies Regulations";
    - (ii) in point (b), for "Article 53(1) of Directive 2009/138/EC" substitute "regulation 54(1) of the Insurance Companies Regulations";
    - (iii) in point (c)—
      - (aa) for "Article 45(6) of Directive 2009/138/EC" substitute "regulation 46(8) of the Insurance Companies Regulations";
      - (bb) for "Article 45(5) of that Directive" substitute "regulation 46(7) of those Regulations";
    - (iv) in point (d)—
      - (aa) for "Article 35(6) and (7) of Directive 2009/138/EC" substitute "regulation 37(7) to (13) of the Insurance Companies Regulations";
      - (bb) for "Article 35(6) of Directive 2009/138/EC" substitute "regulation 37(7) to (9) of the Insurance Companies Regulations";
      - (cc) for "Article 35(7) of Directive 2009/138/EC" substitute "regulation 37(10) to (13) of the Insurance Companies Regulations";
  - (b) in paragraph 2, for "Article 45(6) of Directive 2009/138/EC" substitute "regulation 46(8) of the Insurance Companies Regulations".
- (171) In Article 308–
  - (a) in paragraph 2(a), for "Article 42 of Directive 2009/138/EC" substitute "regulation 44 of the Insurance Companies Regulations";
  - (b) in paragraph 3–

- (i) in point (c), for "Article 101(4) of Directive 2009/138/EC" substitute "regulation 91(5) of the Insurance Companies Regulations";
- (ii) in point (d), for "Article 132 of Directive 2009/138/EC" substitute "regulation 117 of the Insurance Companies Regulations";
- (iii) in point (f), for "Article 44(2a) of Directive 2009/138/EC" substitute "regulation 45(6) to (8) of the Insurance Companies Regulations";
- (c) in paragraph 5(b), for "Article 46(2) of Directive 2009/138/EC" substitute "regulation 47(2) of the Insurance Companies Regulations".

# (172) In Article 309-

- (a) in paragraph 2–
  - (i) in point (b), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";
  - (ii) in point (e), for "Article 132 of Directive 2009/138/EC" substitute "regulation 117 of the Insurance Companies Regulations";
- (b) in paragraph 5(b)(i), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

### (173) In Article 311–

- (a) in paragraph 1(c), for "Article 308b(9) and (10) of Directive 2009/138/EC over the timeframe referred to in that Article" substitute "paragraph 1(5) and (6) of Schedule 1 to the Insurance Companies Regulations";
- (b) in paragraph 2(c) for "Article 112(7) of Directive 2009/138/EC" substitute "regulation 101(9) and (10) of the Insurance Companies Regulations";
- (c) in paragraph 3(a), for "Article 123 of Directive 2009/138/EC" substitute "regulation 111 of the Insurance Companies Regulations".

#### (174) In Article 312.1–

- (a) in point (a), for "Article 308b(5) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article" substitute "
- (b) in point (c), for "Article 308b(5) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article" substitute "
- (c) in point (d), for "Article 308b(7) of Directive 2009/138/EC and, after the end of the transitional period set out in that Article" substitute "

#### (175) Omit Articles 314 to 317.

# (176) In Article 318–

- (a) in point (a), omit "of the Member State in whose territory the special purpose vehicle is establishing its head office";
- (b) in point (e), for "Article 13(21) of Directive 2009/138/EC" substitute "regulation 3(1) of the Insurance Companies Regulations".

## (177) In Article 322–

- (a) in paragraph 1, for "Article 42(1) of Directive 2009/138/EC" substitute "regulation 44(1) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 42(1) of Directive 2009/138/EC" substitute "regulation 44(1) of the Insurance Companies Regulations";
- (c) in paragraph 3, for "Article 42(1) of Directive 2009/138/EC" substitute "regulation 44(1) of the Insurance Companies Regulations";
- (d) in paragraph 4, for "Article 42(1) of Directive 2009/138/EC" substitute "regulation 44(1) of the Insurance Companies Regulations";

#### (178) In Article 323.1–

- (a) in the opening words, for "Article 13(21) of Directive 2009/138/EC" substitute "regulation 3(1) of the Insurance Companies Regulations";
- (b) in point (d), for "Article 1 of Directive 2005/60/EC of the European Parliament and of the Council" substitute "the Proceeds of Crime Act 2015";
- (179) In Article 324.2(a), for "Article 44(2)(a) to (f) of Directive 2009/138/EC" substitute "regulation 45(3)(a) to (f) of the Insurance Companies Regulations".

#### (180) In Article 325–

- (a) in paragraph 1, for "authorities in the Member State in which the special purpose vehicle is established" substitute "authority";
- (b) in paragraph 2–
  - (i) in the opening words, for "authorities in the Member State in which the special purpose vehicle is established" substitute "authority";
  - (ii) in point (a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations";

- (c) in paragraph 5, for "authorities in the Member State in which the special purpose vehicle is established" substitute "authority".
- (181) In Article 326.1(a), for "Article 75 of Directive 2009/138/EC" substitute "regulation 65 of the Insurance Companies Regulations".

#### (182) In Article 328.1–

- (a) in the opening words—
  - (i) for "Articles 230 to 233 of Directive 2009/138/EC" substitute "regulations 209 to 212 of the Insurance Companies Regulations";
  - (ii) omit "the other supervisory authorities concerned and";
- (b) in point (b), for "Article 231 of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations";
- (c) in point (f)-
  - (i) omit "delegated acts have been adopted pursuant to paragraphs 4 or 5 of Article 227of Directive 2009/138/EC, determining that";
  - (ii) after "third countries", for "are" substitute "have been determined to be".

# (183) In Article 329–

- (a) in paragraph 1–
  - (i) in the opening words, for "Article 229 of Directive 2009/138/EC" substitute "regulation 208 of the Insurance Companies Regulations";
  - (ii) for points (a) to (d), substitute—
    - "(a) the capital requirements for related undertakings which are credit institutions, investment firms or financial institutions, and the own fund items of those undertakings, calculated in accordance with, as applicable, the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020 or the Financial Services (Investment Firms) (Prudential Requirements) Regulations 2021;
    - (b) the capital requirements for related undertakings which are institutions for occupational retirement provision, and the own funds items of those undertakings, calculated in accordance with the Financial Services (Occupational Pensions Institutions) Regulations 2020;
    - (c) the capital requirements for related undertakings which are UCITS management companies, and the own funds of those undertakings,

- calculated in accordance with the Financial Services (UCITS) Regulations 2020;
- (d) the capital requirements for related undertakings which are alternative investment fund managers, and the own funds of those undertakings, calculated in accordance with the Financial Services (Alternative Investment Fund Managers) Regulations 2020;";

# (b) in paragraph 2–

- (i) for "Article 235 of Directive 2009/138/EC" substitute "regulation 213 of the Insurance Companies Regulations";
- (ii) for "Article 98 of that Directive" substitute "regulation 89 of those Regulations";
- (iii) for "Article 226(2) of that Directive" substitute "regulation 205(3) and (4) of those Regulations";

### (c) in paragraph 3–

- (i) in the opening words, omit ", as defined in Article 13(26) of Directive 2009/139/EC,";
- (ii) in point (a), for "Article 211 of Directive 2009/138/EC, or where applicable with the Member State law in accordance with Article 211(3) of that Directive Article 211 of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation";
- (iii) in point (b), for "Article 211(2) of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation";
- (iv) in the final sub-paragraph, for "Article 211 of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation".

### (184) In Article 330–

- (a) in paragraph 3(c)—
  - (i) for "one Member State or" substitute "Gibraltar or a";
  - (ii) for "that Member State or" substitute "Gibraltar or that";
- (b) in paragraph 4(c), omit "point (b) of Article 99 of Directive 2009/138/EC and in".

# (185) In Article 331-

- (a) in paragraph 1(b), for "Article 94 of Directive 2009/138/EC" substitute "regulation 86 of the Insurance Companies Regulations";
- (b) in paragraph 2(b)(i), for "Article 230(2) of Directive 2009/138/EC" substitute "regulation 209(4) to (7) of the Insurance Companies Regulations".

#### (186) In Article 332–

- (a) in paragraph 1(b), for "Article 94 of Directive 2009/138/EC" substitute "regulation 86 of the Insurance Companies Regulations";
- (b) in paragraph 2(b)(i), for "Article 230(2) of Directive 2009/138/EC" substitute "regulation 209(4) to (7) of the Insurance Companies Regulations".
- (187) In Article 333.1(b), for "Article 94 of Directive 2009/138/EC" substitute "regulation 86 of the Insurance Companies Regulations".

#### (188) In Article 335–

- (a) for paragraph 1(e), substitute-
  - "(e) the proportional share of the own funds of related undertakings, calculated as follows:
    - (i) in relation to credit institutions, investment firms and financial institutions, in accordance with, as applicable, the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020 or the Financial Services (Investment Firms) (Prudential Requirements) Regulations 2021;
    - (ii) in relation to alternative investment fund managers, in accordance with the Financial Services (Alternative Investment Fund Managers) Regulations 2020;
    - (iii) in relation to UCITS management companies, in accordance with the Financial Services (UCITS) Regulations 2020;
    - (iv) in relation to institutions for occupational retirement provision, in accordance with the Financial Services (Occupational Pensions Institutions) Regulations 2020; and
    - (v) according to the own fund items of non-regulated undertakings carrying out financial activities.";

# (b) in paragraph 2–

(i) for "related undertakings linked by a relationship referred to in Article22(7) of Directive 2013/34/EU" substitute "related undertakings linked by a

- common management relationship as defined in regulation 191(1) of the Insurance Companies Regulations";
- (ii) for "Article 221(2)(a) of Directive 2009/138/EC" substitute "regulation 200(2)(a) of the Insurance Companies Regulations";

# (189) In Article 336–

- (a) in point (a), for "Title I, Chapter VI, Section 4 of Directive 2009/138/EC" substitute "Chapter 3 of Part 6 of the Insurance Companies Regulations";
- (b) in point (b), for "the Union" substitute "Gibraltar";
- (c) for point (c), substitute-
  - "(c) for undertakings referred to in Article 335(1)(e) of this Regulation, the proportional share of the capital requirements of related undertakings, calculated as follows:
    - (i) in relation to credit institutions, investment firms and financial institutions, in accordance with, as applicable, the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020 or the Financial Services (Investment Firms) (Prudential Requirements) Regulations 2021;
    - (ii) in relation to alternative investment fund managers, in accordance with regulation 15 of the Financial Services (Alternative Investment Fund Managers) Regulations 2020;
    - (iii) in relation to UCITS management companies, in accordance with the regulation 12(1)(a) of the Financial Services (UCITS) Regulations 2020;
    - (iv) in relation to institutions for occupational retirement provision, in accordance with regulations 33 to 35 of the Financial Services (Occupational Pensions Institutions) Regulations 2020; and
    - (v) in relation to non-regulated undertakings carrying out financial activities, according to the notional capital requirement which is the capital requirement with which the related undertaking would have to comply under the relevant sector rules if the undertaking were a regulated entity.".
- (190) In Article 338.2, for "Article 104(7) of Directive 2009/138/EC" substitute "substitute "regulation 94(7) of the Insurance Companies Regulations".
- (191) In Article 339.1–

- (a) in point (a), for "Articles 75 to 86 of Directive 2009/138/EC" substitute "regulations 65 to 80 of the Insurance Companies Regulations";
- (b) in point (b)-
  - (i) for "Article 221(1)(a) of Directive 2009/138/EC" substitute "regulation 200(2)(a) of the Insurance Companies Regulations";
  - (ii) for "Articles 75 to 86 of that Directive" substitute "regulations 65 to 80 of those Regulations".
- (192) In Article 340(b), for "Article 221(1)(a) of Directive 2009/138/EC" substitute "regulation 200(2)(a) of the Insurance Companies Regulations".

### (193) In Article 341–

- (a) for "Article 220(2) of Directive 2009/138/EC" substitute "regulation 199(2) and (3) of the Insurance Companies Regulations";
- (b) for "Article 230(2) of that Directive" substitute "regulation 209(4) to (7) of those Regulations".

### (194) In Article 342.2-

- (a) in point (a), for "Articles 75 to 86 of Directive 2009/138/EC" substitute "regulations 65 to 80 of the Insurance Companies Regulations";
- (b) in point (b)-
  - (i) for "Article 221(1)(b) of Directive 2009/138/EC" substitute "regulation 200(2)(b) of the Insurance Companies Regulations";
  - (ii) for "Articles 75 to 86 of that Directive" substitute "regulations 65 to 80 of those Regulations".

### (195) In Article 343–

- (a) in paragraph 1–
  - (i) for "Article 230(2) of Directive 2009/138/EC" substitute "regulation 209(4) to (7) of the Insurance Companies Regulations";
  - (ii) omit "in an official language of the group supervisor's Member State, or in a language for which the group supervisor has given prior approval";
- (b) omit paragraphs 2 to 4;
- (c) in paragraph 5-

- (i) in the opening words, for "Articles 112 and 113 of Directive 2009/138/EC" substitute "regulations 101 and 102 of the Insurance Companies Regulations";
- (ii) in point (a)(i), for "Article 221 of Directive 2009/138/EC" substitute "regulation 200 of the Insurance Companies Regulations";
- (iii) in point (a)(ii), for "Article 256a of Directive 2009/138/EC" substitute "regulation 234 of the Insurance Companies Regulations";
- (iv) in point (a)(iv), for "Article 231 of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations".

### (196) In Article 344-

- (a) omit paragraphs 1 and 2;
- (b) in paragraph 4, for "Article 231 of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations".

#### (197) In Article 345–

- (a) for paragraph 1 substitute—
  - "1. The group supervisor must provide its decision to the participating undertaking.";
- (b) omit paragraph 2;
- (c) in paragraph 3, for "After consulting the other supervisory authorities as set out in Article 344(1) and (2), the" substitute "The";
- (d) in paragraph 4–
  - (i) for "Article 230 of Directive 2009/138/EC" substitute "regulation 209 of the Insurance Companies Regulations";
  - (ii) for "Article 231 of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations".
- (198) In Article 346.1, for "Article 230(2) of Directive 2009/138/EC" substitute "regulation 209(4) to (7) of the Insurance Companies Regulations".

### (199) In Article 347–

(a) in paragraph 1, for "Article 231(1) of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations";

- (b) in paragraph 2, omit "in an official language of the group supervisor's Member State, or in a language for which the group supervisor has given prior approval";
- (c) omit paragraphs 3 to 5.

#### (200) In Article 348–

- (a) in paragraph 1, for "Article 231 of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 231 of Directive 2009/138/EC" substitute "regulation 210 of the Insurance Companies Regulations".

# (201) In Article 349-

- (a) in the heading, for "Joint decision" substitute "Decision";
- (b) omit paragraph 1;
- (c) for paragraph 2 substitute—
  - "2. The GFSC must provide the applicant, and each related insurance or reinsurance undertaking applying for the use of the group internal model to calculate their Solvency Capital Requirement, with the decision.";
- (d) in paragraph 3, for "joint decision, the supervisory authorities concerned" substitute "decision, the GFSC".
- (202) Omit Chapter 3 of Title 2.
- (203) In Chapter 4 of Title 2, in Section 1, for the heading substitute "Group specific parameters".
- (204) For Article 354, substitute-

## "Article 354

# **Definition of significant branches**

"Significant branch" of an insurance or reinsurance undertaking means a branch of an insurance or reinsurance undertaking for which the annual gross written premium of the branch exceeds 5% of the annual gross written premium of the group, measured with reference to the last available consolidated financial statements of the group.".

- (205) Omit Article 355.
- (206) In Article 356–

- (a) in paragraph 1, omit "in one of the official languages of the group supervisor's Member State or in a language for which the group supervisor has given prior approval";
- (b) omit paragraphs 2 and 3.
- (207) Omit Articles 357 and 358.
- (208) In Article 359–
  - (a) in point (a)(i), for "Article 256a of Directive 2009/138/EC" substitute "regulation 234 of the Insurance Companies Regulations";
  - (b) in point (b)(i), for "Article 246 of Directive 2009/138/EC" substitute "regulation 223 of the Insurance Companies Regulations";
  - (c) in point (b)(ii), for "the third subparagraph of Article 246(4) of Directive 2009/138/EC" substitute "regulation 223(6)(c) of the Insurance Companies Regulations";
  - (d) in point (e)(i), for "Articles 230 and 233 of Directive 2009/138/EC" substitute "regulations 209 and 212 of the Insurance Companies Regulations";
  - (e) in point (e)(v), for "points (a) and (b) of the second subparagraph of Article 230(2) of Directive 2009/138/EC" substitute "regulation 209(5(a) and (b) of the Insurance Companies Regulations".
- (209) In Article 360, omit paragraphs 2 and 3.
- (210) In Article 363.2, for "Article 54(1) of Directive 2009/138/EC" substitute "regulation 55(1) of the Insurance Companies Regulations".
- (211) In Article 365.2–
  - (a) for "Article 256(1) of Directive 2009/138/EC" substitute "regulation 233(1) of the Insurance Companies Regulations";
  - (b) for "Articles 51, 53, 54 and 55 of that Directive" substitute "regulations 52, 54, 55 and 56 of those Regulations".
- (212) In Article 366, omit paragraphs 2 and 3.
- (213) In Article 369.2, for "Article 54(1) of Directive 2009/138/EC" substitute "regulation 55(1) of the Insurance Companies Regulations".
- (214) In Article 370-

- (a) in paragraph 1(b), for "Article 256(2) of Directive 2009/138/EC" substitute "regulation 233(3) of the Insurance Companies Regulations";
- (b) in paragraph 2, for "Article 256(1) of Directive 2009/138/EC" substitute "regulation 233(1) of the Insurance Companies Regulations".

# (215) In Article 372–

- (a) in paragraph 1–
  - (i) for "Article 35(6) of Directive 2009/138/EC" substitute "regulation 37(7) to (9) of the Insurance Companies Regulations";
  - (ii) for "Article 35(7) of that Directive" substitute "regulation 37(10) to (13) of the Insurance Companies Regulations";
- (b) in paragraph 2–
  - (i) in point (a)(ii), for "Article 256a of Directive 2009/138/EC" substitute "regulation 234 of the Insurance Companies Regulations";
  - (ii) in point (b)(i), for "Article 246(2) of Directive 2009/138/EC" substitute "regulation 223(3) of the Insurance Companies Regulations";
  - (iii) in point (b)(ii), for "Article 246(4) of Directive 2009/138/EC" substitute "regulation 223(4) to (6) of the Insurance Companies Regulations";
  - (iv) in point (c)(v)-
    - (aa) for "Article 233 of Directive 2009/138/EC" substitute "regulation 212 of the Insurance Companies Regulations";
    - (bb) for "Article 227 of that Directive" substitute "regulation 206 of those Regulations";
  - (v) in point (c)(vii), for "Article 211 of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation";
  - (vi) in point (c)(viii), in both places it occurs, for "Article 211(2) of Directive 2009/138/EC" substitute "Articles 318 to 327 of this Regulation";
  - (vii) in point (c)(x), for "Article 222(2) to (5) of Directive 2009/138/EC" substitute "regulation 201(3) to (7) of the Insurance Companies Regulations";
  - (viii) in point (c)(xi), for "Article 222(3) of Directive 2009/138/EC" substitute "regulation 201(5) of the Insurance Companies Regulations".

(216) Omit Articles 374 and 375.

#### (217) In Article 378–

- (a) in the opening words, for "Title I of Directive 2009/138/EC" substitute "Part 1 to 9 of the Insurance Companies Regulations";
- (b) in point (f)(ii), for "Article 42 of Directive 2009/138/EC" substitute "regulation 44 of the Insurance Companies Regulations";
- (c) in point (i)(ii), for "Article 51 of Directive 2009/138/EC" substitute "regulation 52 of the Insurance Companies Regulations";
- (d) in point (l)(iv), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".
- (b) in point (r), for "Articles 230 and 233 of Directive 2009/138/EC" substitute "regulations 209 and 212 of the Insurance Companies Regulations".

#### (218) In Article 379–

- (a) in the opening words, for "Title I, Chapter VI of Directive 2009/138/EC" substitute "Part 6 of the Insurance Companies Regulations";
- (b) in point (b)(iv), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations".

#### (219) In Article 380-

- (a) in the opening words, for "Title III of Directive 2009/138/EC" substitute "Part 11 of the Insurance Companies Regulations".
- (b) in point (d), for "Article 212(1)(a) of Directive 2009/138/EC" substitute "regulation 191 of the Insurance Companies Regulations";
- (c) in point (g)(ii), for "Article 42 of Directive 2009/138/EC" substitute "regulation 44 of the Insurance Companies Regulations";
- (d) in point (k)(iii), for "Article 51 of Directive 2009/138/EC" substitute "regulation 52 of the Insurance Companies Regulations";
- (e) in point (n)(iv), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations";
- (f) in point (r), for "Article 101(3) of Directive 2009/138/EC" substitute "regulation 91(3) of the Insurance Companies Regulations";

- (g) in point (r), for "Articles 230 and 233 of Directive 2009/138/EC" substitute "regulations 209 and 212 of the Insurance Companies Regulations".
- (220) In Article 381, omit the second sub-paragraph.
- (221) In Annex 3, in paragraph 4, after "life insurance" insert "(in either case as that Directive applied immediately before IP completion day)".
- (222) In Annex 13–
  - (a) after the entry for the Principality of Andorra, insert "Gibraltar";
  - (b) after the entry for the Vatican City State, insert "the United Kingdom".

### (223) In Annex 18-

- (a) in Section A(2)(b), for "Article 107 of Directive 2009/138/EC" substitute "regulation 98 of the Insurance Companies Regulations";
- (b) in Section C(2)(b)-
  - (i) in point ii, for "Article 105(3) of Directive 2009/138/EC" substitute "regulation 95(3) of the Insurance Companies Regulations";
  - (ii) in point iv, for "Article 105(5) of Directive 2009/138/EC" substitute "regulation 95(5) of the Insurance Companies Regulations".

#### (224) Omit Annex 21.

# Consequential amendments to the Insurance Companies Regulations.

- 4. In regulation 238 of the Financial Services (Insurance Companies) Regulations 2020–
  - (a) for sub-regulation (1), substitute-
    - "(1) The Minister may by regulations determine that the relevant solvency or prudential regime of a third country is equivalent to the corresponding regime under these Regulations where the equivalence criteria in the following provisions of the Solvency 2 Regulation have been fulfilled by the third country—
      - (a) Article 378 (in respect of the solvency regime that applies to reinsurance activities of undertakings with their head office in that country);
      - (b) Article 379 (in respect of the solvency regime that applies to insurance and reinsurance undertakings with their head office in that country); or

- (c) Article 380 (in respect of the prudential regime in that country for the supervision of groups).";
- (b) in sub-regulation (2), for paragraph (a) substitute—
  - "(a) any changes to-
    - (i) the relevant solvency or prudential regime of the third country; or
    - (ii) the corresponding regime in Gibraltar; or";
- (c) in sub-regulation (3)—
  - (i) in the opening words, for "(1), the Minister may by regulations determine that the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office outside Gibraltar" substitute "(1)(b), the Minister may by regulations determine that the solvency regime of a third country that applies to undertakings which have their head office in that country";
  - (ii) in paragraph (a)(i)—
    - (aa) for "prudential" substitute "solvency";
    - (bb) for "380" substitute "379";
  - (iii) in paragraph (c), for "prudential" substitute "solvency";
- (d) for sub-regulation (4), substitute-
  - "(4) The "relevant period" in sub-regulation (3) must be 10 years unless, before the expiry of that period—
    - (a) the regulations made by the Minister have been revoked; or
    - (b) the Minister has by regulations made sub-regulation (3) determined that the solvency regime of that third country is equivalent to the corresponding regime under these Regulations.".

Dated: 7th December 2023.

N FEETHAM KC, Minister with responsibility for financial services.

#### **EXPLANATORY MEMORANDUM**

These regulations address deficiencies in retained EU law arising from Gibraltar's withdrawal from the European Union. The regulations amend Commission Delegated Regulation (EU) 2015/35 (the Solvency 2 Regulation) which supplemented Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance (the Solvency 2 Directive) That Directive was implemented in Gibraltar by the Financial Services (Insurance Companies) Regulations 2020 and the Regulations also make consequential amendments to those Regulations.