

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5164 GIBRALTAR Thursday 25th July 2024

LEGAL NOTICE NO. 134 OF 2024

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (INSURANCE COMPANIES) (AMENDMENT) REGULATIONS 2024

In exercise of the powers conferred on the Minister by sections 620, 621, 626 and 627 of the Financial Services Act 2019, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Financial Services (Insurance Companies) (Amendment) Regulations 2024.

Commencement.

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

Amendment of the Financial Services (Insurance Companies) Regulations 2020.

3.(1) The Financial Services (Insurance Companies) Regulations 2020 are amended as follows.

(2) In regulation 45-

(a) after sub-regulation (5), insert-

“(5A) Where an insurance or reinsurance undertaking applies the matching adjustment, it must manage any risks that are identified in the analysis undertaken in accordance with regulation 69G(1).”;

(b) in sub-regulation (6)(b)(i), for “69(1)(b)” substitute “69(4)”.

(3) For regulation 68, substitute-

“Application of the matching adjustment.

68.(1) An insurance or reinsurance undertaking may apply a matching adjustment to the relevant risk-free interest rate term structure to calculate the best estimate of its insurance or reinsurance obligations only with the GFSC’s prior approval.

- (2) The GFSC may give matching adjustment approval under regulation 68C where each of the conditions set out in sub-regulations (3) to (15) is met.
- (3) The insurance or reinsurance undertaking must assign a portfolio of assets, consisting of bonds or other assets with similar cash flow characteristics, to cover the best estimate of the portfolio of insurance or reinsurance obligations.
- (4) The credit quality of the assets in the portfolio under paragraph (3) must be capable of being assessed through a credit rating or the insurance or reinsurance undertaking's internal credit assessment of a comparable standard.
- (5) The insurance or reinsurance undertaking must maintain the assignment under sub-regulation (3) over the lifetime of the obligations, except for the purpose of maintaining the replication of expected cash flows between assets and liabilities where the cash flows have materially changed.
- (6) The portfolio of long-term insurance or reinsurance obligations to which the matching adjustment is applied and the assigned portfolio of assets must be—
 - (a) identified; and
 - (b) organised and managed separately from the other activities of the insurance or reinsurance undertaking.
- (7) Subject to sub-regulation (8), the expected cash flows of the assigned portfolio of assets must replicate each of the expected cash flows of the portfolio of insurance or reinsurance obligations in the same currency.
- (8) Any mismatch between the expected cash flows referred to in sub-regulation (7) must not give rise to risks which are material in relation to the risks inherent in the insurance or reinsurance business to which the matching adjustment is applied.
- (9) The cashflows of the assigned portfolio of assets must be fixed and not capable of being changed by the issuers of the assets or any third parties, except—
 - (a) where—
 - (i) the risks to the quality of matching are not material; and
 - (ii) only such limited proportion of the portfolio as regulation 69B(2) provides for is affected;
 - (b) where the cash flows of the assigned portfolio of assets are linked to inflation, and the assets replicate the cash flows of the portfolio of insurance or reinsurance obligations that are linked to inflation; or
 - (c) in a case where issuers of the assets or third parties have the right to change the cash flows of an asset, where sufficient compensation is paid to secure

an equivalent cash flow by reinvesting the compensation in an asset of equivalent or better quality.

(See regulation 69B, which makes further provisions concerning assets with cashflows that are not fixed.)

- (10) Subject to regulation 68A(1), the contracts underlying the assigned portfolio of insurance or reinsurance obligations do not give rise to future premium payments.
- (11) The only underwriting risks connected to the portfolio of insurance or reinsurance obligations are longevity risk, expense risk, revision risk, mortality risk or recovery time risk.
- (12) Where the underwriting risk connected to the portfolio of insurance or reinsurance obligations includes mortality risk, the best estimate of the portfolio of insurance or reinsurance obligations does not increase by more than 5% under a mortality risk stress that is calibrated in accordance with regulations 90(2), 91 and 70(10) and complies with regulation 68B.
- (13) The contracts underlying the portfolio of insurance or reinsurance obligations include—
 - (a) no options for the policyholder; or
 - (b) only a surrender option with a surrender value not exceeding the value of the assets, valued in accordance with regulation 65, covering the insurance or reinsurance obligations at the time the surrender option is exercised.
- (14) The assigned portfolio of assets cannot be used to cover losses arising from the other activities of the firm.
- (15) The assigned portfolio of assets and each individual asset contained in it meets the requirements of the prudent person principle in regulation 117.
- (16) Subject to regulation 68A(2), for the purposes of this regulation the insurance or reinsurance obligations of an insurance or reinsurance contract must not be split into different parts when composing the assigned portfolio of insurance or reinsurance obligations.

Matching adjustment: eligible elements.

- 68A.(1)The condition in regulation 68(10) does not apply to an eligible element of the kind specified in sub-regulation (3)(a)(ii).
- (2) Regulation 68(16) does not apply to an eligible element.
 - (3) In this regulation “eligible element” means a portion of insurance or reinsurance obligations forming part of a wider contract of insurance or reinsurance contract and which—

- (a) comprises–
 - (i) the guaranteed element of a with-profits policy that is either an immediate annuity or a deferred annuity; or
 - (ii) the in-payment element of a group death in service dependants' annuity or an income protection policy,

in each case, where the element can be organised and managed separately in accordance with regulation 68(6); and
- (b) would otherwise meet the matching adjustment eligibility conditions, but for the fact that it forms part of a contract of insurance or reinsurance contract which does not so comply, when taken as a whole.

Matching adjustment: mortality risks.

- 68B.(1) The mortality risk stress referred to in regulation 68(12) must be the more adverse of the following two scenarios in terms of its impact on basic own funds–
- (a) an instantaneous permanent increase of 15% in the mortality rates used for the calculation of the best estimate; or
 - (b) an instantaneous increase of 0.15 percentage points in the mortality rates (expressed as percentages) which are used in the calculation of technical provisions to reflect the mortality experience in the following 12 months.
- (2) For the purpose of sub-regulation (1) the increase in mortality rates only applies to those policies for which the increase in mortality rates leads to an increase in technical provisions, taking into account the following–
- (a) multiple policies in respect of the same insured person may be treated as if they were one policy; and
 - (b) where the calculation of technical provisions is based on groups of policies as referred to in Article 35 of Commission Delegated Regulation 2015/35, the identification of the policies for which technical provisions increase under an increase of mortality rates may also be based on those groups of policies instead of single policies, if that it yields a result which is not materially different.
- (3) With regard to reinsurance obligations, the identification of the policies for which technical provisions increase under an increase of mortality rates applies only to the underlying insurance policies and must be carried out in accordance with sub-regulation (2).

Matching adjustment approval.

- 68C.(1) An application for matching adjustment approval must–
- (a) be made in the form and manner that the GFSC directs; and
 - (b) contain or be accompanied by any information that the GFSC directs.
- (2) An insurance or reinsurance which makes an application to the GFSC for matching adjustment approval must confirm in writing and submit documentary evidence to demonstrate that–
- (a) the assigned portfolio of assets;
 - (b) the assigned portfolio of insurance or reinsurance obligations; and
 - (c) if the context requires, the insurance or reinsurance undertaking,
- satisfy the matching adjustment eligibility conditions in regulation 68.
- (3) The GFSC may–
- (a) give matching adjustment approval;
 - (b) give approval subject to conditions; or
 - (c) refuse approval.
- (4) The GFSC may at any time vary or revoke a matching adjustment approval.
- (5) A decision under sub-regulation (3) or (4) is a specified decision to which regulation 276A applies.
- (6) An insurance or reinsurance that has matching adjustment approval is referred to in regulations 68D to 69I as a “matching adjustment firm”.

On-going compliance with eligibility conditions.

- 68D.(1) A matching adjustment firm must comply at all times with the matching adjustment eligibility conditions and the terms of its matching adjustment approval, including any applicable exposure limits.
- (2) A matching adjustment firm that applies the matching adjustment to a portfolio of insurance or reinsurance obligations must not revert back to the approach that does not include a matching adjustment.
- (3) A matching adjustment firm that applies the matching adjustment to assigned portfolio of insurance or reinsurance obligations must not apply a volatility

adjustment under regulation 70 or risk-free interest rate transitional measure under paragraph 2 of Schedule 1 in respect of those obligations.

- (4) Where a matching adjustment firm is no longer able to comply with the conditions set out in regulation 68, it must immediately—
- (a) inform the GFSC; and
 - (b) take the necessary measures to restore compliance with those conditions as soon as possible.
- (5) Where a matching adjustment firm is not able to restore compliance with the matching adjustment eligibility conditions within two months of the date of non-compliance it must then, on a monthly basis and for the duration of the period of non-compliance, adjust the matching adjustment it applies in respect of the assigned portfolio of insurance or reinsurance obligations according to the following formula—

$$MA^* = MA - (n - 1) \times p \times \max \{MA, 0\}$$

Where—

MA* is the reduced matching adjustment applied to the assigned portfolio of insurance or reinsurance obligations;

MA is the matching adjustment, where the matching adjustment is calculated assuming no restrictions relating to the breach of matching adjustment eligibility conditions;

n is the whole number of months since the date of non-compliance, and shall not be greater than 11; and

p is 10%.”.

- (4) For regulation 69, substitute—

“Calculating matching adjustment.

69.(1) For each currency the matching adjustment referred to in regulation 68 must be equal to the difference of—

- (a) the annual effective rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of insurance or reinsurance obligations, results in a value that is equal to the value of the portfolio of assigned assets; and
- (b) the annual effective rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of insurance or reinsurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of insurance or reinsurance obligations where the time

value of money is taken into account using the basic risk-free interest rate term structure.

- (2) For the purposes of the calculation in sub-regulation (1)–
 - (a) “assigned assets” only includes assets whose expected cash flows are required to replicate the cash flows of the portfolio of insurance and reinsurance obligations, excluding any assets in excess of that; and
 - (b) valuations must comply with the requirements set out in regulation 65.
- (3) In sub-regulation (2), the “expected cash flow” of an asset means the cash flow of the asset adjusted to allow for the probability of default of the asset that corresponds to the element of the fundamental spread set out in regulation 69A(3)(a) or, where no reliable credit spread can be derived from the default statistics, the portion of the long term average of the spread over the basic relevant risk-free interest rate (as provided in regulation 69A(4) and (5)).
- (4) The matching adjustment must not include the fundamental spread (as calculated in accordance with regulation 69A) reflecting the risks retained by the insurance or reinsurance undertaking.
- (5) The deduction of the fundamental spread under sub-regulation (4) from the result of the calculation set out in sub-regulation (1) must include only the portion of the fundamental spread (as calculated in accordance with regulation 69A) that has not already been reflected in the adjustment to the cash flows of the assigned portfolio of assets in accordance with sub-regulations (1) to (3).

Calculation of fundamental spread.

- 69A.(1)The fundamental spread in regulation 69 must be calculated in a transparent, prudent, reliable and objective manner that is consistent over time and based on relevant indices where available.
- (2) The fundamental spread must be calculated in accordance with sub-regulations (3) to (9).
 - (3) The fundamental spread must be equal to the sum of the following–
 - (a) the credit spread corresponding to the probability of default of the assets; and
 - (b) the credit spread corresponding to the expected loss resulting from downgrading of the assets.

- (4) For exposures to the government of Gibraltar or the government or central bank of the United Kingdom, where the fundamental spread would otherwise be lower than 30% of the long-term average of the spread over the risk-free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets (the “average spread”), the fundamental spread must be 30% of the average spread.
- (5) For assets other than those exposures, where the fundamental spread would otherwise be lower than 35% of the long-term average of the spread over the risk-free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets (the “average spread”), the fundamental spread must be 35% of the average spread.
- (6) For the purposes of this regulation—
 - (a) the calculation of the “credit spread” must be based on the assumption that in case of default 30% of the market value of the assets can be recovered;
 - (b) the “probability of default” must be based on long-term default statistics that are relevant for the asset in relation to its duration, credit quality and asset class;
 - (c) the “expected loss” must be based on long-term statistics that are relevant to changes in the credit quality of the asset and correspond to the probability-weighted loss the matching adjustment firm incurs where the asset is downgraded to a lower credit quality and is replaced immediately afterwards, and the calculation of the expected loss must be based on the assumption that the replacing asset meets all of the following criteria—
 - (i) the replacing asset has the same cash flow pattern as the replaced asset before downgrade;
 - (ii) the replacing asset belongs to the same asset class as the replaced asset;
 - (iii) the replacing asset has the same credit quality as the replaced asset before downgrade or a higher one;
 - (d) the “long-term average of the spread over the risk-free interest rate” must be based on data relating to the previous 30 years;
 - (e) the methods to derive the fundamental spread of a bond must be the same for each currency and each country and may be different for government bonds and for other bonds.
- (7) For the purposes of sub-regulation (6)(b) or (c), where no reliable credit spread can be derived from the statistics, the fundamental spread must be equal to the portion of the long-term average of the spread over the risk-free interest rate set out in sub-regulation (4) or (5).

- (8) Where part of the data in sub-regulation (6)(d) is not available or where the available data is not reliable, constructed data based on prudent assumptions may be used; and the constructed data must be based on available and reliable data relating to the previous 30 years.
- (9) The fundamental spread calculated in accordance with this regulation must be increased in accordance with regulation 69E(2) or where doing so is necessary to ensure that it covers all risks retained by the firm.

Assets with cashflows that are not fixed.

69B.(1) For the purposes of, and without limiting, regulation 68(9), assets with cashflows that are not fixed are only capable of being included in a matching adjustment firm's assigned portfolio of assets without giving rise to material risks to the quality of matching if those cashflows are highly predictable.

- (2) For the purposes of the condition in regulation 68(9)(a)(ii), the proportion of a matching adjustment firm's assigned portfolio of assets that comprises assets with highly predictable cashflows is subject to the following limits—
 - (a) no more than 10% of the matching adjustment benefit is attributable to an asset with highly predictable cashflows, either on its own or when taken together with other assets with highly predictable cashflows in the assigned portfolio of assets; and
 - (b) any applicable exposure limit.
- (3) For the purposes of sub-regulation (1), the cashflows of an asset are highly predictable where—
 - (a) the contractual terms of the asset provide for a bounded range of variability in respect of the timing and amount of the cash-flows; and
 - (b) failure to meet such contractual terms is a default.
- (4) In assessing asset cashflows for the purposes of sub-regulation (3), a matching adjustment firm must—
 - (a) base the best estimate of the cashflows on the contractual payments of the asset;
 - (b) use assumptions consistent with the economics of the asset; and
 - (c) where expert judgment is used in determining the cashflows, ensure that it is subject to the level of controls specified in Article 2 of Commission Delegated Regulation 2015/35.

- (5) For the purposes of sub-regulation (2)(a), the “matching adjustment benefit” means an amount equal to the impact on the matching adjustment firm’s best estimate of the scenario set out in regulation 45(6)(b)(iii) (and for the purposes of this calculation, ignoring any impact of regulation 68D(5)).

Fundamental spread to reflect differences in quality by rating notch.

69C.(1) Where an assigned asset has a credit rating or internal credit assessment of a comparable standard (within the meaning of regulation 69D(1)(a)) mapping to credit quality steps 1 to 5, a matching adjustment firm must make an adjustment to the fundamental spread derived from the credit quality step attributed to that asset in order to reflect the corresponding rating notch, in accordance with sub-regulations (3) and (4).

- (2) The obligation in sub-regulation (1) does not apply in the circumstances described in sub-regulation (5).

- (3) A matching adjustment firm must derive the adjustment referred to in sub-regulation (1) for at least–

(a) the probability of default referred to in regulation 69(3); and

(b) the overall fundamental spread,

in each case, applicable to the cash-flows of that asset.

- (4) A matching adjustment firm must–

(a) derive the adjustments referred to in sub-regulation (3) using linear interpolation of the information referred to in regulation 71;

(b) use linear interpolation for each consecutive credit quality step pair; and

(c) assume for the purposes of this regulation that each intermediate rating notch is evenly spread between each consecutive credit quality step pair.

- (5) Where there is no rating notch available for a particular asset falling within the scope of sub-regulation (1), a matching adjustment firm–

(a) must not adjust the fundamental spread, or any component of it, applied to the cashflows of that asset, other than to account for additions to the fundamental spread in accordance with regulation 69A(9); and

(b) must consider the appropriateness of the fundamental spread and matching adjustment in respect of that asset as part of its analysis and verification process and policy under regulation 69G, in relation to the attestation made regulation 69F.

(6) In this regulation–

“credit quality step” means the credit quality steps 0 to 6 set out in the Annex to Commission Implementing Regulation 2016/1800; and

“rating notch” means, in respect of each credit quality step, the additional subcategories (if relevant) which differentiate the relative credit quality of assets within that credit quality step.

(7) A matching adjustment firm may, but is not required to, comply with the obligation in sub-regulation (1) during the period beginning on 30th June 2024 and ending on 30th December 2024.

Internal credit assessments and credit ratings.

69D.(1) Where a matching adjustment firm uses any internal credit assessment of assets within the assigned portfolio of assets, the firm must ensure on an ongoing basis–

- (a) that, as required by regulation 68(4), such internal credit assessment is of a comparable standard to a credit rating; and
- (b) the appropriateness of–
 - (i) its process to produce such internal credit assessments; and
 - (ii) the outcomes of such internal credit assessments.

(2) For the purposes of sub-regulation (1), a matching adjustment firm must ensure at a minimum that–

- (a) the internal credit assessments have considered all possible sources of credit risk, both qualitative and quantitative, and how these types of credit risk may interact;
- (b) the internal credit assessment outcomes lie within a plausible range of issue ratings that could have resulted from a credit rating agency;
- (c) both at the level of the assigned portfolio of assets and of each asset type, there is broad consistency and no bias between–
 - (i) internal credit assessment outcomes; and
 - (ii) issue ratings that could have resulted from a credit rating agency;
- (d) the internal credit assessment process is subject to appropriate validation, and appropriate assessment of its on-going appropriateness;
- (e) the firm has obtained proportionate independent external assurance in respect of paragraph (b); and

- (f) the firm's internal credit assessment function is independent and there are effective controls to manage any potential conflicts of interest.
- (3) A matching adjustment firm must be able to demonstrate its compliance with sub-regulation (1) to the GFSC on request.
- (4) The use of credit ratings in the calculation of the matching adjustment must be in line with the specifications set out in Articles 4 to 6 of Commission Delegated Regulation (EU) 2015/35 and Commission Implementing Regulation 2016/1800.

Additions to the fundamental spread: assets with highly predictable cashflows.

- 69E.(1) A matching adjustment firm must identify all sources of uncertainty regarding the timing and amount of cashflows from any asset in the assigned portfolio of assets with cashflows that are highly predictable.
- (2) A matching adjustment firm must add to the fundamental spread an amount that reflects the risks arising from the uncertainties identified in accordance with sub-regulation (1) to ensure that the fundamental spread reflects risks retained by the firm in accordance with regulation 69(4).

Attestation requirements.

- 69F.(1) A matching adjustment firm must provide the attestation set out in sub-regulation (2) to the GFSC in accordance with this regulation in respect of each assigned portfolio of assets as a whole held by the firm.
- (2) The attestation is that, as at the applicable date—
 - (a) the fundamental spread used by the firm in calculating the matching adjustment reflects compensation for all retained risks in accordance with regulation 69(4); and
 - (b) the matching adjustment can be earned with a high degree of confidence from the assets held in the assigned portfolio of assets.
 - (3) In sub-regulation (2) the “applicable date” means the date of the firm’s applicable solvency and financial condition report or, where the attestation relates to a material change to which sub-regulation (4)(b) applies the date when that attestation is made.
 - (4) Subject to sub-regulation (6), the attestation must be provided—
 - (a) annually, no later than 14 weeks after the firm’s financial year-end, commencing with its first financial year-end after its matching adjustment approval took effect; and

- (b) where there is a material change in risk profile of the firm, as soon as reasonably practicable and in any event no later than three month after the change occurs.
- (5) The attestation must be provided–
 - (a) by the regulated individual who is the firm’s head of finance; and
 - (b) in the form specified in regulation 69I.
- (6) A matching adjustment firm with a matching adjustment approval that took effect before 31st December 2024 may, but is not required to, provide the attestation set out in sub-regulation (2) in respect of any financial year-end or material change in risk profile during the period commencing on 30th June 2024 and ending on 30th December 2024.

Internal governance for attestation.

69G.(1) Before providing any attestation in accordance with regulation 69F a matching adjustment firm must conduct an analysis and be able to justify that–

- (a) the fundamental spread used by the firm reflects compensation for all retained risks; and
 - (b) the matching adjustment can be earned with a high degree of confidence from the assets held in the assigned portfolio of assets.
- (2) A matching adjustment firm must have in place appropriate internal processes, systems and controls to allow it to produce the analysis and justification required by sub-regulation (1) and ensure that its governing body has approved them.
- (3) A matching adjustment firm must–
- (a) establish and maintain a policy on providing–
 - (i) the attestation in regulation 69F; and
 - (ii) the analysis and justification required under sub-regulation (1); and
 - (b) ensure that its governing body has approved that policy.

Disclosure of attestation.

69H. A matching adjustment firm must disclose in its solvency and financial condition report whether or not it has provided the attestation in accordance with regulation 69F in respect of the financial year to which that report relates.

Form of attestation.

69I.(1) The attestation required by regulation 69F must be—

- (a) provided in the form of an attestation document which must include the information set out in sub-regulation (2); and
- (b) accompanied by a supporting attestation report as set out in sub-regulation (3).

(2) The attestation document must include—

- (a) the attestation in regulation 69F;
- (b) the name and role of the regulated individual giving the attestation;
- (c) the assigned portfolio of assets to which the attestation applies; and
- (d) the date of the attestation.

(3) The supporting attestation report must include the following information—

- (a) either—
 - (i) a copy of the latest version of the firm's policy under regulation 69G(3); or
 - (ii) confirmation that the policy has not been updated since it was last provided to the GFSC;
- (b) either—
 - (i) confirmation that the firm and attestor complied with the terms of the policy in making the attestation; or
 - (ii) details of the alternative approach followed by the firm and the attestor and an explanation as to why this occurred;
- (c) a list detailing the evidence the attestor relied on in making the attestation; and
- (d) in relation to any increase in the fundamental spread that the firm has decided to use in accordance with regulation 69A(9), a list of—
 - (i) all assets in each assigned portfolio of assets to which any increase applies;
 - (ii) the reasons for the increase; and

- (iii) the amount of the increase and the matching adjustment resulting from those assets, as at the applicable attestation reference date.”.

(5) In regulation 71–

- (a) in sub-regulation (1)(b), for “regulation 69” substitute “regulations 69 and 69A”;
- (b) in sub-regulation (2)(b)(ii), for “regulation 69” substitute “regulations 69 and 69A”.

(6) After regulation 276, insert–

“Notices: specified decisions.

276A.(1) This regulation applies to a decision by the GFSC–

- (a) to give matching adjustment approval under regulation 68C(3) or to give such approval subject to conditions;
 - (b) to refuse matching adjustment approval under regulation 68C(3); or
 - (c) to vary or revoke matching adjustment approval under regulation 63C(4).
- (2) Where the GFSC gives an approval to which sub-regulation (1) applies, it must give the person concerned a written notice stating–
- (a) that the approval is given;
 - (b) the conditions (if any) to which the approval is subject;
 - (c) unless the person concerned consents to those conditions (if any), the reasons on which the decision is based; and
 - (d) the date on which the approval takes effect.
- (3) Where the GFSC refuses an approval to which sub-regulation (1) applies, it must give the person concerned a written notice stating–
- (a) that the approval is given;
 - (b) the reasons on which the decision is based; and
 - (c) the date on which the decision takes effect.
- (4) Where the GFSC varies or revokes an approval to which sub-regulation (1) applies, it must give the person concerned a written notice stating–
- (a) that the approval is varied or revoked;

- (b) if the approval is varied, the conditions (if any) to which the approval is subject;
- (c) unless the person concerned consents to the variation or revocation (including any conditions to which the approval is subject), the reasons on which the decision is based; and
- (d) the date on which the variation or revocation takes effect.”.

Amendment of Commission Delegated Regulation (EU) 2015/35.

4.(1) Commission Delegated Regulation (EU) 2015/35, as it forms part of the law of Gibraltar, is amended as follows.

(2) In Article 1–

(a) after paragraph 35, insert–

“(35A) “matching adjustment” means the adjustment to the relevant risk-free interest rate term structure to calculate the best estimate of a relevant portfolio of insurance or reinsurance obligations in accordance with regulations 68 to 69I and 71 of the Insurance Companies Regulations;

(35B) “assigned portfolio of assets” means the portfolio referred to in regulation 68(3) of the Insurance Companies Regulations;”;

(b) in paragraph 37, for “68(1)(a)” substitute “68(3)”.

(3) In Article 46–

(a) in paragraph 2, for “that Article” substitute “that regulation”;

(b) in paragraph 3–

(i) for “regulation 68 of the Insurance Companies Regulations” substitute “a matching adjustment”;

(ii) omit “referred to in that Article”.

(4) In Article 51, after “Article 54 of this Regulation” insert “(as if that Article had not been revoked)”.

(5) Omit Articles 52 to 54.

(6) In Article 71.1(o), for “Article 94(1) of Directive 2009/138/EC” substitute “regulation 86 of the Insurance Companies Regulations”.

(7) In Article 87(a), for “Annex IV to Directive 2009/138/EC” substitute “Schedule 4 to the Insurance Companies Regulations”.

(8) In Article 149.2(g), for “Article 105(4)(a) of Directive 2009/138/EC” substitute “Regulation 95(4)(b)(i) of the Insurance Companies Regulations”.

(9) Omit article 168(6)(d).

(10) In Article 180–

(a) in paragraph 12(b), for “Article 77b(2) of Directive 2009/138/EC” substitute “regulation 68 of the Insurance Companies Regulations”;

(b) in paragraph 15(b), for “Article 77b(2) of Directive 2009/138/EC” substitute “regulation 68 of the Insurance Companies Regulations”.

(11) In Article 238.2, for “that Article” substitute “that regulation”.

(12) In Article 277, for “Title I, Chapter IV, Section 2 of that Directive” substitute “regulations 43 to 50 of those Regulations”.

(13) In Article 295.2(c), for “that Article” substitute “that regulation”.

(14) In Article 297.3(a), for “that Article” substitute “that regulation”.

(15) In Article 308.3(f), for “the extrapolation of the risk-free rate, the matching adjustment” substitute “the matching adjustment, and the extrapolation of the risk-free rate”.

(16) In Article 347.6(b), for “Title I, Chapter VI, Section 4, Sub-section 3 of Directive 2009/138/EC” substitute “regulations 101 to 114 of the Insurance Companies Regulations”.

(17) In Article 350.1, for “Article 231(1) of Directive 2009/138/EC” substitute “regulation 210 of the Insurance Companies Regulations”.

(18) In Article 359(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”.

Revocation of Commission Delegated Regulation (EU) 2015/500.

5. Commission Implementing Regulation (EU) 2015/500 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be followed for the supervisory approval of the application of a matching adjustment in accordance with Directive 2009/138/EC of the European Parliament and of the Council, as it forms part of the law of Gibraltar, is revoked.

Dated: 25th July 2024.

N FEETHAM KC,
Minister with responsibility for Financial Services.

EXPLANATORY MEMORANDUM

These regulations amend the Financial Services (Insurance Companies) Regulations 2020 and Commission Delegated Regulation (EU) 2015/35 as it forms part of the law of Gibraltar. They also revoke Commission Implementing Regulation (EU) 2015/500 as it forms part of the law of Gibraltar. The Regulations make changes to the way in which matching adjustment and fundamental spread are calculated, in order to maintain alignment with the law of the United Kingdom, and also make other minor and consequential amendments.