

Subsidiary Legislation made under ss.61, 620, 626 and 627.

Financial Services (Specified Insurers) (Temporary Exemption) Regulations 2020

LN.2020/416

	<i>Commencement</i>	1.1.2021
Amending enactments	Relevant current provisions	Commencement date
LN.2022/087	rr. 1, 3, 4(1), (3), (a)-(b), (4)-(5), 5(1), 6(1), (2)(a)-(b)	1.4.2022

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**Financial Services (Specified Insurers) (Temporary
Exemption) Regulations 2020**

ARRANGEMENT OF REGULATIONS.

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**Financial Services (Specified Insurers) (Temporary
Exemption) Regulations 2020**

In exercise of the powers conferred on the Minister by sections 61, 620, 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 (Specified Insurers) (Temporary Exemption) Regulations 2020.

Commencement.

2. These Regulations come into operation on IP completion day.

Interpretation.

3. In these Regulations—

“the Act” means the Financial Services Act 2019;

“EU-derived right” means—

- (a) in the case of an insurance undertaking established in an EEA State, a right derived from the Solvency 2 Directive; or
- (b) in the case of an insurance undertaking established in Switzerland, a right derived from the EU-Swiss Direct Insurance Agreement;

and a specified insurer may carry on specified insurance activity in accordance with these Regulations irrespective of whether the EU-derived right is a right to establish a branch, to provide services or both;

“exempt status” means exemption from the general prohibition in respect of specified insurance activity, other than on a temporary basis, conferred in accordance with Exemption Regulations made under section 61 of the Act;

“regulated insurance activity” means the regulated activity of effecting and carrying out contracts of insurance;

“specified insurer” means an insurance undertaking which—

- (a) is established in an EEA State or Switzerland (its “home jurisdiction”) and authorised by the supervisory authority to carry on regulated insurance activity in that jurisdiction and either—

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- (i) before IP completion day, was carrying on regulated insurance activity in Gibraltar or would have been entitled to do so, by virtue of an EU-derived right; or
 - (ii) on or after IP completion day, would have been entitled to carry on regulated insurance activity in Gibraltar by virtue of an EU-derived right but for Gibraltar's withdrawal from the European Union; and
- (b) carries on or proposes to carry on specified insurance activity in Gibraltar through an authorised insurance intermediary in Gibraltar;

“specified insurance activity” means regulated insurance activity of a kind which the GFSC considers has or would be likely to have the effect in Gibraltar of enhancing competition in the provision of insurance and increasing choice for consumers;

“supervisory authority” means the authority in a specified insurer's home jurisdiction which is responsible for authorising and supervising regulated insurance activity in that jurisdiction;

“temporary exemption” means temporary exemption from the general prohibition in respect of specified insurance activity, conferred under regulation 4.

Temporary exemption for specified insurers.

4.(1) A specified insurer which notifies the GFSC that it—

- (a) proposes to carry on specified insurance activity in Gibraltar after IP completion day; and
- (b) intends to seek exempt status in order to do so,

may carry on specified insurance activity in Gibraltar on a temporary basis on and after IP completion day without contravening the general prohibition.

(2) A notice under sub-regulation (1)(b) must be—

- (a) given in the form and manner that the GFSC may direct; and
- (b) accompanied by any information that the GFSC may reasonably require.

(3) Where the GFSC gives notice to a specified insurer which has temporary exemption, requiring it to apply for exempt status by a date specified in the notice and the specified insurer—

- (a) applies by that date, the specified insurer’s temporary exemption has effect until the application has been determined; or
- (b) fails to apply by that date, the specified insurer is to be regarded as having given notice that it no longer proposes to carry on specified insurance activity in Gibraltar, and its temporary exemption—
 - (i) only allows the insurer to carry on specified insurance activity for purposes related to the orderly cessation of its business in Gibraltar; and
 - (ii) does not allow the insurer to conduct any new business in Gibraltar in respect of specified insurance activity.

(4) Where regulations under which exempt status is conferred provide for specified insurers which were carrying on specified insurance activity before IP completion day to be offered rather than having to apply for exempt status, sub-regulation (3) is to be read as if—

- (a) in the opening words, for “requiring it to apply for exempt status by a date specified in the notice” there were substituted “offering it exempt status and specifying a date by which the offer must be accepted”;
- (b) in paragraph (a)—
 - (i) for “applies” there were substituted “accepts the offer”; and
 - (ii) for “has effect until the application has been determined” there were substituted “ceases to have effect from the date of acceptance”; and
- (c) in paragraph (b), for “fails to apply” there were substituted “declines or fails to accept the offer”.

(5) Temporary exemption does not enable a specified insurer to carry on specified insurance activity or any other regulated activity in the United Kingdom.

Effect of home jurisdiction requirements.

5.(1) Where a specified insurer has temporary exemption and its authorisation to conduct regulated insurance activity in its home jurisdiction is subject to a requirement imposed by its

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the supervisory authority, the insurer's temporary exemption is to have effect subject to the same requirement as if it were imposed by the GFSC.

(2) Sub-regulation (1) only applies to the extent that the GFSC could impose a similar requirement on a person with permission to carry on regulated insurance activity.

(3) In this regulation "requirement" means a condition, restriction or other requirement.

GFSC's powers.

6.(1) The GFSC's powers under the Act are exercisable (with any necessary modification) in respect of a specified insurer which has temporary exemption as those powers may be exercised in respect of a person who has permission to carry on regulated insurance activity.

(2) Without limiting sub-regulation (1) the GFSC may, in exercising its powers under the Act—

- (a) vary or cancel a specified insurer's temporary exemption; or
- (b) impose a requirement, restriction or prohibition on a specified insurer's temporary exemption.