

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4950 GIBRALTAR Friday 1st April 2022

LEGAL NOTICE NO. 87 OF 2022.

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (SPECIFIED EEA INSURERS) (TEMPORARY EXEMPTION) (AMENDMENT) REGULATIONS 2022

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 EEA Insurers) (Temporary Exemption) (Amendment) Regulations 2022.

Commencement.

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

Amendment of the 2020 Regulations.

3.(1) The Financial Services (Specified EEA Insurers) (Temporary Exemption) Regulations 2020 are amended as follows.

(2) In the title of the Regulations, omit “EEA”.

(3) In regulation 1, omit “EEA”.

(4) In regulation 3-

(a) after the definition of “the Act”, insert-

““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;”;

(b) omit the definition of “home State regulator”;

(c) for the definition of “specified EEA insurer” substitute–

““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–

(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;” and

(d) after the definition of “specified insurance activity”, insert–

““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;”.

(5) In regulation 4–

(a) in the heading, for “relevant EEA” substitute “specified”; and

(b) in the seven places it occurs, omit “EEA”.

(6) In regulation 5–

(a) in the heading, for “State” substitute “jurisdiction”; and

(b) in sub-regulation (1)–

(i) omit “EEA”;

(ii) for “home State” substitute “home jurisdiction”; and

(iii) for “its home State regulator” substitute “the supervisory authority”.

(7) In regulation 6, in the three places it occurs, omit “EEA”.

Dated: 1st April 2022.

A.J. ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These Regulations amend the Financial Services (Specified EEA Insurers) (Temporary Exemption) Regulations 2020, to extend those Regulations to Swiss general insurers and to enable both EEA and Swiss insurers to carry on specified insurance activity where, but for Gibraltar's withdrawal from the European Union, they would have been entitled to carry on insurance activity by virtue of an EU-derived right.