

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4815 GIBRALTAR Thursday 28th January 2021

LEGAL NOTICE NO. 93 OF 2021.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (INSURANCE COMPANIES: ACCOUNTS DIRECTIVE) (AMENDMENT) (EU EXIT) REGULATIONS 2021

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019, the Minister has made these Regulations—

Title.

1. These Regulations may be cited as the Financial Services (Insurance Companies: Accounts Directive) (Amendment) (EU Exit) Regulations 2021.

Commencement.

2. These Regulations are deemed to have come into operation on 1st January 2021.

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

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

(2) For the title of the Regulations, substitute “Financial Services (Insurance Companies) (Accounts) Regulations 2021”.

(3) In regulation 1(1), for “(Insurance Companies: Accounts Directive) Regulations 2020” substitute “(Insurance Companies) (Accounts) Regulations 2021”.

(4) In regulation 3(1), for the definition of “international accounting standards” substitute—

““international accounting standards” means—

- (a) International Accounting Standards (IAS), International Financial Reporting Standards (IFRS) and related interpretations (SIC-IFRIC interpretations);
- (b) subsequent amendments to those standards and related interpretations; and
- (c) future standards and related interpretations,

issued or adopted by the International Accounting Standards Board (IASB);”.

(5) In regulation 4(2)–

- (a) for “insurer” substitute “insurance”; and
- (b) for “an EEA State” substitute “Gibraltar”.

(6) In regulation 8–

(a) for sub-regulation (2) substitute–

“(2) The group accounts of a parent company whose securities are, on its balance sheet, admitted to trading on a regulated market must be prepared in accordance with international accounting standards (“IAS group accounts”).”; and

(b) in sub-regulation (7) for “non-EEA” substitute “non-Gibraltar”.

(7) In regulation 12–

(a) in sub-regulation (1) omit “or a member State of the European Economic Area”;

(b) in sub-regulation (2)–

(i) in paragraph (a) omit “or a member State of the European Economic Area”;

(ii) for paragraph (b) substitute–

“(b) that those accounts are drawn up and audited, and that parent undertaking’s annual report is drawn up–

(i) if the undertaking is a company, in accordance with the requirements of these Regulations, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking; or

(ii) in accordance with international accounting standards;”; and

(iii) in paragraph (d)(i), for “(whether in or outside Gibraltar); and” substitute “;or”; and

(c) in sub-regulation (3) omit “or an EEA State”.

(8) In regulation 13–

(a) in the heading, for “non-EEA” substitute “non-Gibraltar”;

- (b) in sub-regulation (1) omit “or an EEA State”;
 - (c) in sub-regulation (2)–
 - (i) in paragraph (b)–
 - (aa) omit sub-paragraph (i);
 - (bb) in sub-paragraph (iii), after “drawn up” insert “in accordance with the requirements of these Regulations”; and
 - (cc) for sub-paragraph (iv) substitute–

“(iv) in a manner equivalent to international accounting standards as determined in accordance with Commission Regulation (EC) No. 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council, as it forms part of the law of Gibraltar after IP completion day;”;
 - (d) in sub-regulation (3) omit “or an EEA State”.
- (9) In regulation 14(3), for “Article 22(1) of the Accounting Directive” substitute “the definition of “parent undertaking” (within the meaning of section 276 of the Companies Act 2014)”.
- (10) In regulation 22(8) omit “despite Article 40 of the Accounting Directive”.
- (11) In regulation 23–
 - (a) in sub-regulation (5) omit paragraph (b) and the “; or” that precedes it; and
 - (b) omit sub-regulation (7).
- (12) In regulation 24(7) omit “EU-based”.
- (13) In regulation 25(2) omit “, as amended”.
- (14) In regulation 26 omit “adopted in accordance with the IAS Regulation”.
- (15) In Schedule 1–
 - (a) in paragraph 38(3) omit “, as amended”;
 - (b) for paragraph 54(3) substitute–

“(3) The computation must be made annually by a Fellow of the Institute or Faculty of Actuaries with due regard to generally accepted actuarial principles and on the basis of recognised actuarial methods.”; and

(c) for paragraph 77(1) substitute–

“77.(1) Subject to sub-paragraph (2), there must be disclosed as regards both general and long term business the total gross direct insurance premiums resulting from contracts concluded by the company–

(a) in the country in which its head office is located; and

(b) in other countries.”.

(16) In Schedule 3–

(a) in paragraph 14(3)–

(i) for “Article 22 of the Accounting Directive” substitute “Section 276 of the Companies Act 2014”; and

(ii) for “Article 22(1)(a) of the Accounting Directive” substitute “Section 276 (2)(a) of the Companies Act 2014”.

Dated: 28th January 2021.

A J ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These regulations are made under the European Union (Withdrawal) Act 2019 and address failures of retained EU law to operate effectively and other deficiencies arising from Gibraltar’s withdrawal from the European Union. The regulations amend the Financial Services (Insurance Companies: Accounts Directive) Regulations 2020.