

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

**FINANCIAL SERVICES (SPECIFIED EEA INSURERS) (TEMPORARY
EXEMPTION) REGULATIONS 2020**

LN.2020/416

Commencement

1.1.2021

ARRANGEMENT OF REGULATIONS.

Regulation

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Financial Services

2020/416 Financial Services (Specified EEA Insurers) (Temporary Exemption) Regulations 2020

This version is out of date

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) 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;

“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;

“home State regulator” means the competent authority, within the meaning of the Solvency 2 Directive, of a specified EEA insurer’s home State;

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

“specified EEA insurer” means an insurance undertaking which—

- (a) is established in an EEA State (its “home State”) and authorised by its home State regulator to carry on regulated insurance activity in that State;
- (b) before IP completion day, was or would have been entitled to carry on regulated insurance activity in Gibraltar by virtue of the right to establish a branch or provide services in Gibraltar derived from the Solvency 2 Directive; and
- (c) 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;

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

Temporary exemption for relevant EEA insurers.

4.(1) A specified EEA 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 EEA insurer which has temporary exemption, requiring it to apply for exempt status by a date specified in the notice and the specified EEA insurer–

- (a) applies by that date, the specified EEA insurer’s temporary exemption has effect until the application has been determined; or
- (b) fails to apply by that date, the specified EEA 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 EEA 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–

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- (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 EEA insurer to carry on specified insurance activity or any other regulated activity in the United Kingdom.

Effect of home State requirements.

5.(1) Where a specified EEA insurer has temporary exemption and its authorisation to conduct regulated insurance activity in its home State is subject to a requirement imposed by its home State regulator, 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 EEA 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 EEA insurer’s temporary exemption; or
- (b) impose a requirement, restriction or prohibition on a specified EEA insurer’s temporary exemption.