

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 487 OF 2020

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (DATA REPORTING SERVICES PROVIDERS) (AMENDMENT) (EU EXIT) REGULATIONS 2020

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 (Data Reporting Services Providers) (Amendment) (EU Exit) Regulations 2020.

Commencement.

2. These Regulations come into operation on 1st January 2021.

Amendment of the Financial Services (Data Reporting Services Providers) Regulations 2020.

3.(1) The Financial Services (Data Reporting Services Providers) Regulations 2020 are amended as follows.

(2) In regulation 5—

(a) omit sub-regulation (2); and

(b) for sub-regulation (5) substitute—

“(5) This Part 2 applies subject to any technical standards specifying—

(a) the information to be provided to the GFSC under sub-regulation (1), including the programme of operations;

(b) the information included in the notifications under regulation 8(3);

(c) the forms, templates and procedures for the notification or provision of information under sub-regulation (1) and regulation 8(5).”.

(3) Omit regulation 7(4).

(4) Omit regulation 8(4).

(5) For regulation 9(7), substitute–

“(7) This regulation applies subject to any technical standards concerning–

- (a) the formats, data standards and technical arrangements facilitating the consolidation of information under sub-regulations (1) and (2);
- (b) what constitutes a reasonable commercial basis to make information public referred to in sub-regulations (1) and (2);
- (c) the means by which an APA may comply with the information obligation under sub-regulations (1) and (2);
- (d) the content of the information published under sub-regulations (1) and (2), including at least the information referred to in sub-regulation (3) to enable the publication of information required under this regulation;
- (e) the specific organisational requirements set out in sub-regulations (4) to (6).”.

(6) In regulation 10–

- (a) in sub-regulation (6), for “specified by the European Commission in accordance with Article 65(8)(c) of the MiFID 2 Directive” substitute “the data of which must be provided in the data stream and for non-equity instruments the trading venues and APAs which need to be included, as specified in technical standards.”; and
- (b) for sub-regulation (9) substitute–

“(9) This regulation applies subject to any technical standards concerning–

- (a) the data standards and formats for the information to be published in accordance with Articles 6, 10, 20 and 21 of MiFIR;
- (b) what constitutes a reasonable commercial basis to provide access to data streams as referred to in sub-regulations (1) to (5);
- (c) the means by which the CTP may comply with the information obligations under sub-regulations (1) to (5);
- (d) the content of the information published under sub-regulations (1) to (5);
- (e) the financial instruments data of which must be provided in the data stream and for non-equity instruments the trading venues and APAs which need to be included;

- (f) other means to ensure that the data published by different CTPs is consistent and allows for comprehensive mapping and cross-referencing against similar data from other sources;
- (g) the specific organisational requirements set out in sub-regulations (7) and (8).”.

(7) For regulation 11(5) substitute–

“(5) This regulation applies subject to any technical standards specifying–

- (a) the means by which the ARM may comply with the information obligation under sub-regulation (1);
- (b) the specific organisational requirements set out in sub-regulations (2) to (4).”.

(8) For regulation 12(1) substitute–

“(1) A statutory auditor or audit firm approved in accordance with section 474 of the Act performing in an investment firm or regulated market the task described in section 258 of the Companies Act 2014, or any other task prescribed by law, has a duty to report promptly to the GFSC any fact or decision concerning that undertaking of which the person has become aware while carrying out that task and which may–

- (a) constitute a material infringement of the Act, any Regulations made under the Act or any other legal or administrative provisions governing the authorisation or activities of a data reporting services provider;
- (b) affect the continuous functioning of the data reporting services provider; or
- (c) lead to refusal to certify the accounts or to the expression of reservations.”.

(9) Omit regulation 13.

(10) Omit regulation 15(1).

(11) In regulation 19(2) for “Directive 2013/34/EU” substitute “the Accounting Directive”.

(12) In regulation 20–

- (a) omit sub-regulation (9); and
- (b) for sub-regulation (10) substitute–

“(10) This regulation applies subject to any technical standards concerning the procedures and forms for submitting information under this regulation.”.

(13) In regulation 21(1) for “FSC” substitute “GFSC”.

(14) For regulation 23 substitute–

“23. MiFIR applies in relation to data reporting service providers.”

Dated: 24th December 2020.

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. These regulations amend the Financial Services (Data Reporting Services Providers) Regulations 2020, which give effect in Gibraltar to Directive 2014/65/EU.