

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 489 OF 2020

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (FIDUCIARY SERVICES) (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 (Fiduciary Services) (Amendment) (EU Exit) Regulations 2020.

Commencement.

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

Amendment of the Financial Services (Fiduciary Services) Regulations 2020.

3.(1) The Financial Services (Fiduciary Services) Regulations 2020 are amended as follows.

(2) In regulation 2(1)—

(a) omit the definition of “authorised credit institution”; and

(b) after the definition of “Part 7 permission” insert—

““recognised credit institution” means—

(a) a credit institution with Part 7 permission to carry on the regulated activity of accepting deposits;

(b) a central bank of a state that is a member of the Organisation for Economic Co-operation and Development (an “OECD state”);

(c) a credit institution that is supervised by the central bank or other banking regulator of an OECD state;

(d) any credit institution that—

- (i) is subject to regulation by the banking regulator of a country or territory that is not an OECD state;
- (ii) is required by the law of the country or territory in which it is established to provide audited accounts;
- (iii) has minimum net assets of £5 million (or its equivalent in any other currency at the relevant time);
- (iv) has a surplus of revenue over expenditure for the last two financial years; and
- (v) has an annual report which is not materially qualified;”.

(3) In regulation 36–

- (a) in sub-regulation (1)(a), for “an authorised credit institution” substitute “recognised credit institution”;
- (b) in sub-regulation (1)(e), for “authorised credit institution” substitute “recognised credit institution”;
- (c) in sub-regulation (2), in the three places in occurs, for “authorised credit institution” substitute “recognised credit institution”; and
- (d) in sub-regulation (3), in both places it occurs, for “authorised credit institution” substitute “recognised credit institution.”

(4) In regulation 42, for “authorised credit institution” substitute “recognised credit institution”.

(5) In regulation 43–

- (a) in the heading, for “authorised” substitute “recognised”; and
- (b) in regulation 43, for “an authorised credit institution” substitute “a recognised credit institution”.

(6) In regulation 44–

- (a) in sub-regulation (4)–
 - (i) in paragraph (a), for “authorised person” substitute “recognised credit institution”;
 - (ii) in paragraph (b), for “authorised person” substitute “recognised credit institution”; and

- (iii) in the closing words, for “authorised credit institution” substitute “recognised credit institution”; and
 - (b) in sub-regulation (5)(b), for “an authorised credit institution” substitute “a recognised credit institution”.
- (7) In regulation 48, in both places it occurs, for “authorised credit institution” substitute “recognised credit institution”.
- (8) In the Schedule, in Part 2, in Appendix 1, in the Notes on the balance sheet format, in paragraph 3(i), for “an approved bank” substitute “a recognised credit institution”.

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. The regulations amend the Financial Services (Fiduciary Services) Regulations 2020.