

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 495 OF 2020

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (OCCUPATIONAL PENSIONS INSTITUTIONS) (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 (Occupational Pensions Institutions) (Amendment) (EU Exit) Regulations 2020.

Commencement.

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

Amendment of the Financial Services (Occupational Pensions Institutions) Regulations 2020.

3.(1) The Financial Services (Occupational Pensions Institutions) Regulations 2020 are amended as follows.

(2) In regulation 3(1)—

- (a) in the definition of “the CRA Regulation” for “as amended from time to time” substitute “as it forms part of the law of Gibraltar after IP completion day”;
- (b) omit the definition of “receiving IORP”; and
- (c) omit the definition of “transferring IORP”.

(3) In regulation 7(2)(e) omit “or an official language of the EEA State whose social and labour law relevant to the field of occupational pension schemes applies to the pension scheme concerned”.

(4) In regulation 9(1)(a) for “, the EEA State in which it is authorised or registered and the name of the competent authority” substitute “and that it is authorised by or registered with the GFSC”.

(5) Omit regulation 11(2).

(6) In regulation 19–

(a) omit sub-regulation (5); and

(b) omit sub-regulation (6).

(7) In regulation 25(3)(f) for “covered by the Solvency 2 Directive” substitute “with Part 7 permission to carry on the regulated activity in paragraph 24 of Schedule 2 to the Act of effecting and carrying out contracts of insurance”.

(8) In regulation 29 for paragraphs (a) to (b) substitute–

“(a) a Gibraltar UCITS Management Company, an in-scope Gibraltar AIFM, a credit institution or an investment firm with Part 7 permission to carry on the regulated activity of portfolio management in paragraph 51 of Schedule 2 to the Act;

(b) an insurance undertaking or an undertaking when carrying out the reinsurance and retrocession activities referred to in the Solvency 2 Directive which are excluded from the scope of paragraph 51 of Schedule 2 to the Act pursuant to paragraph 58 of Schedule 2 to the Act; or

(c) an entity which is–

(i) responsible for operating or acting on behalf of an IORP in Gibraltar where the IORP does not have legal personality; and

(ii) authorised under Part 26 of the Act.”.

(9) In regulation 30(4)(c), for paragraph (ii) substitute–

“(ii) the market yields of high-quality bonds or government bonds; or”.

(10) Omit regulation 31(5).

(11) In regulation 34–

(a) in sub-regulation (3) for “Article 2.3(a)(iii) of the Solvency 2 Directive” substitute “regulation 4(5)(a)(iii) of the Financial Services (Insurance Companies) Regulations 2020”;

(b) in sub-regulation (4) for “Article 2.3(b)(ii) of the Solvency 2 Directive” substitute “regulation 4(5)(b)(ii) of the Financial Services (Insurance Companies) Regulations 2020”;

- (c) in sub-regulation (5) for “Article 2.3(b)(i) of the Solvency 2 Directive” substitute “regulation 4(5)(b)(i) of the Financial Services (Insurance Companies) Regulations 2020”; and
- (d) in sub-regulation (6)–
 - (i) for “Article 2.3(a)(i) and (ii) of the Solvency 2 Directive” substitute “regulation 4(5)(a)(i) and (ii) of the Financial Services (Insurance Companies) Regulations 2020”; and
 - (ii) for “Article 2.3(b)(iii) to (v) of that Directive” substitute “regulation 4(5)(b)(iii) and (iv) of those Regulations”.

(12) Omit Part 6.

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 (Occupational Pensions Institutions) Regulations 2020, which give effect in Gibraltar to Directive (EU) 2016/2341.