

Subsidiary Legislation made under ss.11 & 15 of, and Sch.3.

**Financial Services (Auditors) (Transitional Provisions)
(EU Exit) Regulations 2020**

LN.2020/542

Commencement

1.1.2021

ARRANGEMENT OF REGULATIONS.

Regulation

1. Title.
2. Commencement.
3. Interpretation.
4. EEA auditors.
5. Effect of home State requirements.

2019-01

European Union (Withdrawal)

2020/542

**Financial Services (Auditors) (Transitional Provisions)
(EU Exit) Regulations 2020**

In exercise of the powers conferred on the Minister by sections 11 and 15 of, and Schedule 3 to, the European Union (Withdrawal) Act 2019, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Financial Services (Auditors) (Transitional Provisions) (EU Exit) Regulations 2020.

Commencement.

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

Interpretation.

3.(1) In these regulations—

“the Act” means the Financial Services Act 2019;

“approved” means approved under section 474 of the Act as it applied before IP completion day;

“the Audit Directive” means Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC, as amended from time to time before IP completion day;

“EEA auditor” means an individual or audit firm which is authorised in its home State, in accordance with the Audit Directive as it has been given effect in that State, to carry out audits of annual accounts or consolidated accounts required by law;

“the GFSC” means the Gibraltar Financial Services Commission within the meaning of section 21(1) of the Act;

“Gibraltar statutory audit” means an audit of annual financial statements or consolidated financial statements in so far as required by the law of Gibraltar;

“home State” means the EEA State which is an EEA auditor’s home State for the purposes of the Audit Directive; and

“recognised” means recognised under section 475 of the Act as it applied before IP completion day.

(2) For the purpose of these regulations the United Kingdom is to be treated as if it were an EEA State.

EEA auditors.

4.(1) Despite Gibraltar's withdrawal from the European Union, the Act is to be applied in accordance with, and construed with any necessary modifications to give effect to, this regulation.

(2) An EEA auditor which was approved or recognised before IP completion day continues to be so approved or recognised but, on and after IP completion day, that approval or recognition—

(a) only authorises the EEA auditor to perform Gibraltar statutory audits; and

(b) does not authorise the EEA auditor to conduct statutory audits under the law of the European Union.

(3) Part 24 of the Act as it applied before IP completion day (including the GFSC's approval procedures under section 478 of the Act) is to continue to apply on and after IP completion day for the purpose of approving or recognising of EEA auditors to perform Gibraltar statutory audits.

(4) This regulation applies until 31st December 2021.

Effect of home State requirements.

5.(1) Where an approved or recognised EEA auditor is subject to any requirement imposed by its home State regulator, that approval or recognition is to have effect subject to the same requirement as if it were imposed under the Act by the GFSC.

(2) Sub-regulation (1) only applies to the extent that the GFSC could impose a similar requirement on a statutory auditor or audit firm under the Act.

(3) In this regulation "requirement" means a condition, restriction or other requirement.