

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4815 GIBRALTAR Thursday 28th January 2021

LEGAL NOTICE NO. 88 OF 2021.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (CREDIT INSTITUTIONS: ACCOUNTS DIRECTIVE) (AMENDMENT) (EU EXIT) REGULATIONS 2021

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 (Credit Institutions: Accounts Directive) (Amendment) (EU Exit) Regulations 2021.

Commencement.

2. These Regulations are deemed to have come into operation on 1st January 2021.

Amendment of the Financial Services (Credit Institutions: Accounts Directive) Regulations 2020.

3.(1) The Financial Services (Credit Institutions: Accounts Directive) Regulations 2020 are amended as follows.

(2) For the title of the Regulations, substitute “Financial Services (Credit Institutions) (Accounts) Regulations 2021”.

(3) In regulation 1(1), for “(Credit Institutions: Accounts Directive) Regulations 2020” substitute “(Credit Institutions) (Accounts) Regulations 2021”.

(4) In regulation 2(2), for “the EEA” substitute “Gibraltar”.

(5) In regulation 3(1)—

(a) omit the definition of “EEA Credit institution”;

(b) for the definition of “international accounting standards” substitute—

““international accounting standards” means—

(a) International Accounting Standards (IAS), International Financial Reporting Standards (IFRS) and related interpretations (SIC-IFRIC interpretations);

(b) subsequent amendments to those standards and related interpretations; and

(c) future standards and related interpretations,

issued or adopted by the International Accounting Standards Board (IASB);” and

(c) in the definition of “public-interest entity”–

(i) in paragraph (a), for “regulated markets of a Member State” substitute “regulated market in Gibraltar”; and

(ii) in paragraph (b) omit “under Part 24 of the Act”.

(6) For regulation 7(2) substitute–

“(2) The group accounts of a parent company whose securities are, on its balance sheet, admitted to trading on a regulated market must be prepared in accordance with international accounting standards (“IAS group accounts”).”.

(7) In regulation 11–

(a) in sub-regulation (1) omit “or a member State of the European Economic Area”;

(b) in sub-regulation (2)–

(i) in paragraph (a) omit “or a member State of the European Economic Area”;

(ii) for paragraph (b) substitute–

“(b) that those accounts are drawn up and audited, and that parent undertaking’s annual report is drawn up–

(i) if the undertaking is a company, in accordance with the requirements of these Regulations, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking; or

(ii) in accordance with international accounting standards;” and

(iii) in paragraph (d)(i), for “(whether in or outside Gibraltar); and” substitute “; or” ; and

(c) in sub-regulation (3) omit “or an EEA State”.

(8) In regulation 12–

(a) in the heading, for “non-EEA” substitute “non-Gibraltar”;

(b) in sub-regulation (1) omit “or an EEA State”;

(c) in sub-regulation (2)–

(i) in paragraph (b)–

(aa) omit sub-paragraph (i);

(bb) in sub-paragraph (iii), after “drawn up” insert “in accordance with the requirements of these Regulations”; and

(cc) for sub-paragraph (iv) substitute –

“(iv) in a manner equivalent to international accounting standards as determined in accordance with Commission Regulation (EC) No. 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council, as it forms part of the law of Gibraltar after IP completion day”; and

(d) in sub-regulation (3) omit “or an EEA State”.

(9) In regulation 13(3), for “Article 22(1) of the Accounting Directive” substitute “the definition of “parent undertaking” (within the meaning of section 276 of the Companies Act 2014)”.

(10) In regulation 20(8) omit “despite Article 40 of the Accounting Directive”.

(11) In regulation 22–

(a) in sub-regulation (5) omit paragraph (b) and the “; or” that precedes it; and

(b) omit sub-regulation (7).

(12) In regulation 23(7) omit “EU-based”.

(13) In regulation 25 omit “adopted in accordance with the IAS Regulation”.

(14) In regulation 32–

- (a) for sub-regulation (1) substitute–
- “(1) This regulation applies to those branches of non-Gibraltar credit institutions exempted from producing accounts under regulation 2(2).”;
- (b) omit sub-regulation (2);
- (c) for sub-regulation (5) substitute–
- “(5) Branches of credit institutions and financial institutions having their head offices other than in Gibraltar must publish their annual accounts, consolidated accounts, annual report, consolidated report, opinions of the person responsible for auditing the annual accounts and consolidated accounts, drawn up and audited in the manner required by the law of the country or territory of their head office, in accordance with the provisions set out therein.”; and
- (d) for sub-regulation (6) substitute–
- “(6) Where the documents referred to in sub-regulation (5) are in conformity with, or equivalent to, documents drawn up in accordance with these Regulations and those branches are exempted from producing accounts under regulation 2(2), branches of credit institutions and financial institutions having their head office in that country or territory must not be required to publish annual accounts relating to their own activities.”
- (15) In Schedule 1, in Part 2, in Chapter 2, for paragraph 10(2) substitute–
- “(2) For the purposes of this paragraph credit institutions comprise central banks and official domestic and international banking organisations and all private and public undertakings which are not established in Gibraltar but which satisfy the definition in regulation 2 of the Financial Services (Financial Conglomerates) Regulations 2020.”.
- (16) In Schedule 1, in Part 3, in paragraph 38(b) omit “, as defined in the IAS Regulation,”.
- (17) In Schedule 3
- (a) in paragraph 14(3)–
- (i) for “Article 22 of the Accounting Directive” substitute “Section 276 of the Companies Act 2014”; and
- (ii) for “Article 22(1)(a) of the Accounting Directive” substitute “Section 276 (2)(a) of the Companies Act 2014”.

Revocation of 2020 Regulations.

4.(1) The Financial Services (Credit Institutions: Branch Accounts) Regulations 2020 are revoked.

Dated: 28th January 2021.

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 (Credit Institutions: Accounts Directive) Regulations 2020.