

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4815 GIBRALTAR Thursday 28th January 2021

---

---

LEGAL NOTICE NO. 92 OF 2021.

## EUROPEAN UNION (WITHDRAWAL) ACT 2019

### FINANCIAL SERVICES (INSTITUTIONAL INVESTORS, ASSET MANAGERS AND PROXY ADVISORS) (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 (Institutional Investors, Asset Managers and Proxy Advisors) (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 (Institutional Investors, Asset Managers and Proxy Advisors) Regulations 2020.**

3.(1) The Financial Services (Institutional Investors, Asset Managers and Proxy Advisors) Regulations 2020 are amended as follows.

(2) In regulation 2-

(a) for the definition of “asset manager” substitute-

““asset manager” means-

- (a) 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 AIFM with Part 7 permission for the regulated activity of managing an AIF in paragraph 95 of Schedule 2 to the Act;
- (c) a management company which has Part 7 permission for the regulated activity of managing a UCITS in paragraph 93 of Schedule 2 to the Act;  
or

- (d) an open-ended investment company authorised under Chapter 4, Part 18 of the Act;”;
- (b) after the definition of “asset manager” insert–
  - ““Gibraltar regulated market” has the meaning given within the definition of a “regulated market” in paragraph 1(1) of Schedule 2 to the Act;”;
- (c) for the definition of “institutional investor” substitute–
  - ““institutional investor” means–
    - (a) an undertaking with Part 7 permission for carrying on the regulated activity of effecting and carrying out contracts of insurance in paragraph 24 of Schedule 2 to the Act in respect of the classes of insurance at paragraph 23 of Schedule 2 to the Act, and of reinsurance (as defined in regulation 3(1) of the Financial Services (Insurance Companies) Regulations 2020) that covers life-insurance obligations, and which is not excluded pursuant to Schedule 2 to the Act; or
    - (b) an institution for occupational retirement provision authorised by the GFSC pursuant to Part 26 of the Act, other than a small institution within the meaning of section 558 of the Act;”;
- (d) in the definition of “listed company” for “regulated market situated or operating within the EEA” substitute “Gibraltar regulated market or UK regulated market”;
- (e) after the definition of “listed company” insert–
  - ““management company” has the meaning given in section 289 of the Act;
  - “open-ended investment company” has the meaning given in section 291 of the Act;”;
- (f) omit the definition of the “the Minister”;
- (g) in the definition of “proxy advisor”–
  - (i) in paragraph (b)(i), omit “or another EEA State”;
  - (ii) for paragraph (b)(ii) substitute–
    - “(ii) the shares are admitted to trading on a Gibraltar regulated market or a UK regulated market; and”;
  - (iii) for paragraph (c)(ii) substitute–

- “(ii) has its registered office or head office in any country or territory other than Gibraltar or the United Kingdom and provides proxy advisor services through an establishment located in Gibraltar;”;
  - (h) in the definition of “Shareholder Rights Directive” for “as amended by Directive (EU) 2017/828 and as further amended from time to time” substitute “as that Directive applied in Gibraltar immediately before IP completion day;”; and
  - (i) after the definition of “Shareholder Rights Directive” insert–
    - ““UK regulated market” has the meaning given within the definition of a regulated market in paragraph 1(1) of Schedule 2 to the Act;”.
- (3) In regulation (3), for paragraph (c) substitute–
- “(c) proxy advisors, to the extent that they provide services to shareholders with respect to shares of listed companies which have their registered office in Gibraltar or in the United Kingdom and the shares of which are admitted to trading on a Gibraltar regulated market or a UK regulated market.”.
- (4) In regulation 4(9), for “UCITS Directive or MiFID 2 Directive” substitute “Financial Services (Alternative Investment Fund Managers) Regulations 2020, the Financial Services (UCITS) Regulations 2020 or the Financial Services (Investment Services) Regulations 2020”.
- (5) In regulation 5(5), for “which are regulated under the Solvency 2 Directive” substitute “with Part 7 permission for the regulated activity of effecting and carrying out contracts of insurance in paragraph 24 of Schedule 2 to the Act in respect of the classes of insurance at paragraph 23 of Schedule 2 to the Act”.
- (6) For regulation 6(3) substitute–
- “(3) The disclosures required by sub-regulation (1) may be disclosed together with–
- (a) the annual report referred to in–
    - (i) regulation 27 of the Financial Services (UCITS) Regulations 2020; or
    - (ii) regulation 26 of the Financial Services (Alternative Investment Fund Managers) Regulations 2020; or
  - (b) the periodic communication referred to in regulation 40(13) of the Financial Services (Investment Services) Regulations 2020.”

Dated: 28<sup>th</sup> 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 (Institutional Investors, Asset Managers and Proxy Advisors) Regulations 2020.