

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4980 GIBRALTAR Thursday 28th July 2022

LEGAL NOTICE NO. 210 OF 2022

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (MARKETS IN FINANCIAL INSTRUMENTS) (AMENDMENT) (EU EXIT) REGULATIONS 2022

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 (Markets in Financial Instruments) (Amendment) (EU Exit) Regulations 2022.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of the Markets in Financial Instruments Regulation.

3.(1) The Markets in Financial Instruments Regulation is amended in accordance with regulations 4 to 14.

(2) In these regulations, the “Markets in Financial Instruments Regulation” means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, as it forms part of the law of Gibraltar.

Amendment of Article 1.

4.(1) Article 1 is amended as follows.

(2) In paragraph 1-

(a) in point (b), for “competent authorities” substitute “GFSC”;

(b) omit point (d);

(c) for point (e), substitute-

“(e) the GFSC’s powers in respect of-

- (i) product intervention; and
 - (ii) position management controls and position limits; and”;
 - (d) in point (f), for “Commission” substitute “Minister”.
- (3) For paragraph 2, substitute—
- “2. This Regulation applies to—
- (a) investment firms and credit institutions which have their head office in Gibraltar which have Part 7 permission to carry on regulated activities relating to investment services and activities in Gibraltar, when those firms or institutions are providing investment services or performing investment activities; and
 - (b) market operators which have their registered office or head office in Gibraltar, including any Gibraltar trading venues they operate.
- 2A. This Regulation does not apply to any firm which has Part 7 permission to carry on regulated activities as a restricted investment firm, within the meaning of regulation 8 of the Investment Services Regulations.”.
- (4) In paragraph 3, for “Regulation (EU) No 648/2012” substitute “EMIR”;
- (5) In paragraph 5—
- (a) for “within the Union” substitute “in Gibraltar”;
 - (b) for “Commission” substitute “Minister”;
- (6) After paragraph 5, insert—
- “5ZA. For the purposes of paragraphs 1f and 5, references to applicable equivalence decisions by the Minister include references to applicable decisions made by the European Commission as they applied immediately before IP completion day.”.
- (7) In paragraph 6—
- (a) for “the European System of Central Banks (ESCB)” substitute “a relevant central bank”;
 - (b) omit “of the ESCB”.
- (8) In paragraph 7, for “the ESCB” substitute “a relevant central bank”.

(9) In paragraph 8–

- (a) in the first sub-paragraph, for “ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;
- (b) omit the second and third sub-paragraphs.

(10) For paragraph 9, substitute–

“9. In paragraphs 6 and 7 “relevant central bank” means–

- (a) the European System of Central Banks; and
- (b) any other central bank that the Minister may by regulations designate.”.

Amendment of Article 2.

5.(1) Article 2 is amended as follows.

(2) In paragraph 1–

(a) for points (1) to (16), substitute–

“(1) “investment firm” means a legal person whose regular occupation or business is the provision or performance of investment services and activities on a professional basis;

(2) “investment services and activities” means–

- (a) any service in relation to financial instruments which is provided to third parties which is specified by any of paragraphs 48 to 56 of Schedule 2 to the Act; or
- (b) any activity in relation to financial instruments which is specified by any such paragraph;

(3) “ancillary services” means any of the services listed in paragraph 45(2) of Schedule 2 to the Act;

(4) “execution of orders on behalf of clients”–

- (a) means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients; and
- (b) includes the conclusion of agreements to sell financial instruments issued by an investment firm or a credit institution at the moment of their issuance;

(5) “dealing on own account” means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments;

(6) “market maker” means a person who holds out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against that person's proprietary capital at prices defined by that person;

(7) “client” means any individual or legal person to whom an investment firm provides investment or ancillary services;

(8) “professional client” means a client who meets the criteria in Schedule 1 to the Investment Services Regulations;

(9) “financial instrument” means a financial instrument of a kind specified by paragraph 46 of Schedule 2 to the Act;

(10) “market operator” means a person who manages or operates the business of a regulated market, and may be the regulated market itself;

(11) “multilateral system” means any system or facility in which multiple third party buying and selling trading interests in financial instruments are able to interact in the system;

(12) “systematic internaliser” has the meaning given in paragraph 81(1) of Schedule 2 to the Act;

(13) "regulated market" means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third party buying and selling interests in financial instruments (in the system and in accordance with its non-discretionary rules) in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules or systems, and which—

(a) in Gibraltar, is authorised and functions regularly in accordance with provisions contained in or made under the Act (a "Gibraltar regulated market");

(b) in the United Kingdom, is a UK regulated market within the meaning of Article 2.1(13A) of Regulation (EU) No 600/2014 as it applies in the United Kingdom (a "UK regulated market"); and

(c) in an EU State, is authorised and functions regularly in accordance with Title III of Directive 2014/65/EU (an "EU regulated market");

(14) “multilateral trading facility” or “MTF” means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract and–

- (a) in Gibraltar, complies with provisions contained in or made under the Act (a "Gibraltar MTF");
- (b) in the United Kingdom, complies with the requirements of Article 2.1(14A)(b) of Regulation (EU) No 600/2014 as it applies in the United Kingdom (a "UK MTF"); or
- (c) in an EU State, complies with Title III of Directive 2014/65/EU (an "EU MTF");

(15) “organised trading facility” or “OTF” means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that that results in a contract and–

- (a) in Gibraltar, complies with provisions contained in or made under the Act (a "Gibraltar OTF");
- (b) in the United Kingdom, complies with the requirements of Article 2.1(15A)(b) of Regulation (EU) No 600/2014 as it applies in the United Kingdom (a "UK OTF"); or
- (c) in an EU State, complies with the requirements of Title III of Directive 2014/65/EU (an "EU OTF");

(16) “trading venue” means a regulated market, an MTF or an OTF, and–

- (a) “Gibraltar trading venue” means a Gibraltar regulated market, Gibraltar MTF or Gibraltar OTF;
- (b) “UK trading venue” means a UK regulated market, UK MTF or UK OTF;
- (c) “EU trading venue” means an EU regulated market, EU MTF or EU OTF;”;

(b) for points (18) to (26) substitute–

“(18) “competent authority” means–

- (a) in Gibraltar, the GFSC; and

- (b) in another country or territory, the authority which exercises functions equivalent to those exercised by the GFSC under the Act and this Regulation;

(19) “credit institution” means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;

(20) “branch” means a place of business which–

- (a) is a part of an investment firm (other than its head office);
- (b) has no legal personality; and
- (c) provides investment services or performs investment activities and any ancillary services for which the investment firm has Part 7 permission or is authorised in its home jurisdiction;

(21) “close links” has the meaning given in regulation 2(1) of the Investment Services Regulations;

(22) “management body”–

- (a) means the board of directors, committee of management or other body of an investment firm, market operator or data reporting services provider which is empowered to set the strategy, objectives and overall direction of the firm, operator or provider, and which oversees and monitors management decision-making; and
- (b) includes persons who effectively direct the business of the firm, operator or provider;

(23) “structured deposit” has the meaning given in paragraph 77(2) of Schedule 2 to the Act;

(24) “transferable securities” means those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as–

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
- (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities; or
- (c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures;

(25) “depository receipts” means those securities which are negotiable on the capital market and which represent ownership of the securities of a non-domiciled issuer while being able to be admitted to trading on a regulated market and traded independently of the securities of the non-domiciled issuer;

(25A) “money market instruments” means those classes of instruments which are normally dealt with on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment;

(26) “exchange-traded fund” or “ETF” means a fund of which at least one unit or share class is traded throughout the day on at least one trading venue and with at least one market maker which takes action to ensure that the price of its units or shares on the trading venue does not vary significantly from its net asset value and, where applicable, from its indicative net asset value;”;

(c) for points (29) and (30), substitute—

“(29) “derivatives” means those financial instruments defined in point (24)(c) or referred to in paragraph 46(4) to (10) of Schedule 2 to the Act;

(30) “commodity derivatives” means those financial instruments defined in point (24)(c)—

- (a) which relate to a commodity or an underlying referred to in paragraph 46(10) of Schedule 2 to the Act; or
- (b) which are referred to in paragraph 46(5), (6), (7) or (10) of that Schedule;”;

(d) in point (31), for “Regulation (EU) No 648/2012” substitute “EMIR”;

(e) in point (32), for “Regulation (EU) No 648/2012” substitute “EMIR”;

(f) for points (34) to (36), substitute—

“(34) “approved publication arrangement” or “APA” means a person with Part 7 permission to carry on the activity specified by paragraph 87(1) of Schedule 2 to the Act (providing the service of publishing trade reports on behalf of investment firms);

(35) “consolidated tape provider” or “CTP” means a person with Part 7 permission to carry on the activity specified by paragraph 88(1) of Schedule 2 to the Act (providing the service of collecting trade reports for financial instruments listed in Articles 6, 7, 10, 12, 13, 20 and 21 of this Regulation from regulated markets, MTFs, OTFs and APAs and consolidating them into a continuous electronic live data stream providing price and volume data);

(36) “approved reporting mechanism” or “ARM” means a person with Part 7 permission to carry on the activity specified by paragraph 89(1) of Schedule 2 to the Act (providing the service of reporting details of transactions to competent authorities on behalf of investment firms;”;

(g) omit points (37) to (39);

(h) in point (40), for “Regulation (EU) No 648/2012” substitute “EMIR”;

(i) for points (41) and (42), substitute–

“(41) “third-country financial institution” means an entity, the head office of which is established in a third country, that is authorised or licensed under the law of that third country to carry out any of the services or activities that, in Gibraltar, are regulated in accordance with the Act under–

(a) the Investment Services Regulations;

(b) the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020;

(c) the Financial Services (Insurance Companies) Regulations 2020;

(d) the Financial Services (UCITS) Regulations 2020;

(e) the Financial Services (Alternative Investment Fund Managers) Regulations 2020; or

(f) the Financial Services (Occupational Pensions Institutions) Regulations 2020;

(42) “third country firm” means a firm–

(a) which is a credit institution providing investment services or performing investment activities or an investment firm; and

(b) whose registered office or (if it has no registered office) its head office is located in a third country;”;

(j) for point (46), substitute–

“(46) “sovereign debt” means a debt instrument issued by a sovereign issuer (within the meaning of paragraph 69(1) of Schedule 2 to the Act);”;

(k) after point (50), insert–

“(51) “Act” means the Financial Services Act 2019;

(52) “EMIR” means Regulation (EU) No 648/2012, as it forms part of the law of Gibraltar;

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

(54) “Investment Services Regulations” means the Financial Services (Investment Services) Regulations 2020;

(55) “Minister” means the Minister with responsibility for financial services;

(56) “Part 7 permission” means permission under Part 7 of the Act;

(57) unless the context otherwise requires, references in this Regulation—

- (a) to a trading venue are to a Gibraltar trading venue;
- (b) to a regulated market are to a Gibraltar regulated market;
- (c) to an MTF are to a Gibraltar MTF;
- (d) to an OTF are to a Gibraltar OTF; and
- (e) to an EU regulated market, EU MTF or EU OTF include EU regulated markets, MTFs and OTFs in EEA countries;

(58) unless the context otherwise requires, references in this Regulation to a “third country” (including in expressions including the words “third country”) are to be read as references to a country or territory other than Gibraltar;”.

(3) In paragraph 2, for “Commission shall be empowered to adopt delegated acts in accordance with Article 50 to” substitute “Minister may by regulations”.

Amendment of Title II.

6.(1) In Article 4—

- (a) in paragraph 1, for “Competent authorities shall be able to” substitute “The GFSC may”;
- (b) in paragraph 3—
 - (i) in point (b), for “Regulation (EU) No 596/2014” substitute “the Market Abuse Regulation”;
 - (ii) in point (c)—

- (aa) for “or Directive 2014/65/EU” substitute “, the Act or the Investment Services Regulations”;
 - (bb) for “competent authority” substitute “GFSC”; and
 - (iii) in the second sub-paragraph, for “a competent authority” and “that competent authority” in each case substitute “the GFSC”;
- (c) omit paragraph 4;
- (d) in paragraph 5–
- (i) for “A competent authority may, either on its own initiative or upon request by another competent authority,” substitute “The GFSC may”; and
 - (ii) omit the second sub-paragraph;
- (e) in paragraph 6–
- (i) for the opening words, substitute “The Minister may make technical standards specifying–”; and
 - (ii) omit the second and third sub-paragraphs; and
- (f) omit paragraph 7.
- (2) In Article 5–
- (a) in paragraph 1–
 - (i) in paragraphs (a) and (b), in both places it appears, for “across the Union” substitute “across the relevant area”;
 - (ii) in paragraph (b), for “overall Union trading” substitute “overall trading in the relevant area”;
 - (b) in paragraph 2–
 - (i) for “has exceeded” substitute “appears to the GFSC to have exceeded”;
 - (ii) for “the competent authority that authorised the use of those waivers by that venue” substitute “the GFSC”;
 - (iii) for “ESMA” substitute “the GFSC”;
 - (c) in paragraph 3–

- (i) in the first place it occurs, for “across the Union” substitute “across the relevant area”;
 - (ii) for “has exceeded” substitute “appears to the GFSC to have exceeded”;
 - (iii) for “all competent authorities” substitute “the GFSC”;
 - (iv) in the second place it occurs, for “across the Union” substitute “in Gibraltar”;
- (d) after paragraph 3, insert—
- “3A. Paragraphs 2 and 3 do not apply during the period (“the transitional period”)—
- (a) of four years beginning with IP completion day; or
 - (b) ending on the day directed by the Minister, by notice in the Gazette, where this is earlier.
- 3B. During the transitional period, the GFSC may suspend the use of a waiver provided for in Article 4(1)(a) and 4(1)(b)(i) for a period of up to six months to ensure that its use does not unduly harm price formation if the GFSC considers it necessary to do so to advance the GFSC’s market confidence objective under section 23(2)(a) of the Act.
- 3C. The GFSC may renew a suspension imposed under paragraph 3B at the end of the six-month period referred to in that paragraph if it considers that the conditions which led it to impose a suspension still exist at that date.
- 3D. In deciding whether to suspend the use of a waiver under paragraph 3B, or to renew a suspension under paragraph 3C, the GFSC—
- (a) must also take into account—
 - (i) its consumer protection objective and market confidence objective under section 23(2)(a) and (e) of the Act;
 - (ii) the thresholds applying under Article 5 of Regulation (EU) No 600/2014 as it has effect in EU law; and
 - (iii) the most recent information published by ESMA under Article 5(4), 5(5) and 5(6) of that Regulation before IP completion day;
 - (b) may take into account—
 - (i) any relevant information produced under Article 3, or under equivalent pre-trading transparency requirements in other jurisdictions, about the use of the waiver in Gibraltar, or under equivalent waiver

arrangements in any other country or territory, in relation to the financial instrument; and

- (ii) any relevant information available in relation to trading volumes in the financial instrument concerned, whether in Gibraltar or in any other country or territory.

3E. In deciding whether to issue a direction terminating the transitional period, the Minister must take into account whether the GFSC is able to carry out its functions relating to transparency under this Regulation and its implementing measures.”;

(e) in paragraph 4—

- (i) for “ESMA shall” substitute “The Minister may direct the GFSC to”;
- (ii) for “five working days” substitute “ten working days”;
- (iii) for “Union trading” substitute “trading in the relevant area”;
- (iv) for “across the Union” substitute “across the relevant area”;

(f) in paragraph 5—

- (i) for “the report referred to in” substitute “a report published in accordance with”;
- (ii) “the Union” substitute “the relevant area”;
- (iii) for “ESMA” substitute “the GFSC”;
- (iv) for “five working days” substitute “ten working days”;

(g) in paragraph 6—

- (i) for “the report referred to in” substitute “a report published in accordance with”;
- (ii) in both places it appears, for “Union trading” substitute “trading in the relevant area”;
- (iii) for “ESMA” substitute “the GFSC”;
- (iv) for “five working days” substitute “ten working days”;

(h) for paragraph 8, substitute–

“8. Without limiting Article 4(5), the GFSC may suspend the use of those waivers from the date of application of this Regulation and thereafter on a monthly basis.”;

(i) for paragraph 9, substitute–

“9. The Minister may make technical standards specifying the method (including the flagging of transactions) by which the GFSC is to collate, calculate and publish the transaction data, as outlined in paragraph 4, in order to provide an accurate measurement of the total volume of trading per financial instrument and the percentages of trading that use those waivers across the relevant area and per trading venue.

10. For the purposes of this Article, “the relevant area” consists of Gibraltar and those countries or territories specified in regulations made by the Minister in accordance with Article 50(2).”.

(3) In Article 7–

(a) in paragraph 1–

(i) in the first sub-paragraph, for “Competent authorities shall be able to” substitute “The GFSC may”;

(ii) in the second sub-paragraph, for “competent authorities” substitute “GFSC”;

(iii) in the third sub-paragraph–

(aa) for “competent authority's” substitute “GFSC's”;

(bb) for “ESMA” substitute “The GFSC”; and

(cc) omit “and shall submit an annual report to the Commission on how they are applied in practice”;

(iv) omit the fourth sub-paragraph;

(b) in paragraph 2–

(i) for the opening words, substitute–

“The Minister may make technical standards specifying the following in such a way as to enable the publication of information required

under regulation 9 of the Financial Services (Data Reporting Services Providers) Regulations 2020:”; and

(ii) omit the second and third sub-paragraphs.

(4) In Article 9–

(a) in paragraph 1, for “Competent authorities shall be able to” substitute “The GFSC may”;

(b) omit paragraph 2;

(c) in paragraph 2a, for “Competent authorities shall be able to” substitute “The GFSC may”;

(d) for paragraph 3, substitute–

“3. The GFSC may withdraw a waiver granted under paragraph 1 if it observes that the waiver is being used in a way that deviates from its original purpose or if it considers that the waiver is being used to circumvent the requirements established in this Article.”;

(e) in paragraph 4–

(i) for the first sub-paragraph, substitute–

“As the competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance product, emission allowance or derivative is traded, the GFSC may temporarily suspend the obligations referred to in Article 8 where the liquidity of that class of financial instrument falls below a specified threshold. The specified threshold must be defined on the basis of objective criteria specific to the market for the financial instrument concerned. Notification of such temporary suspension must be published on the GFSC’s website.”;

(ii) in the second sub-paragraph, for “website of the relevant competent authority” substitute “GFSC’s website”; and

(iii) omit the third sub-paragraph;

(f) for paragraph 5, substitute–

“5. The Minister may make technical standards specifying:

(a) the parameters and methods for calculating the threshold of liquidity referred to in paragraph 4 in relation to the financial instrument, which must be set so that when the threshold is reached, it represents a significant

decline in liquidity across all venues within the relevant area for the financial instrument concerned based on the criteria used under Article 2(1)(17);

- (b) the range of bid and offer prices or quotes and the depth of trading interests at those prices, or indicative pre-trade bid and offer prices which are close to the price of the trading interest, to be made public for each class of financial instrument concerned in accordance with Article 8(1) and (4), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2);
- (c) the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;
- (d) the size specific to the financial instrument referred to in paragraph 1(b) and the definition of request-for-quote and voice trading systems for which pre-trade disclosure may be waived under paragraph 1, and in specifying the size specific to the financial instrument that would expose liquidity providers to undue risk and takes into account whether the relevant market participants are retail or wholesale investors, the Minister must take the following factors into account:
 - (i) whether, at such sizes, liquidity providers would be able to hedge their risks;
 - (ii) where a market in the financial instrument, or a class of financial instruments, consists in part of retail investors, the average value of transactions undertaken by those investors;
- (e) the financial instruments or the classes of financial instruments for which there is not a liquid market where pre-trade disclosure may be waived under paragraph 1;
- (f) in order to ensure the consistent application of paragraph (1)(e)(i) and (ii), the methodology for determining those package orders for which there is a liquid market, including the assessment of whether packages are standardised and frequently traded when determining whether there is a liquid market for a package order as a whole.”;
- (g) for paragraph 6, substitute—
 - “6. For the purposes of this Article, “the relevant area” consists of Gibraltar and those countries or territories specified in regulations made by the Minister in accordance with Article 50(2).”.

(5) In Article 11–

(a) in paragraph 1–

- (i) in the first sub-paragraph, for “Competent authorities” substitute “The GFSC”;
- (ii) in the second sub-paragraph, for “the competent authorities” substitute “the GFSC”;
- (iii) in the third sub-paragraph–
 - (aa) for “competent authority's” substitute “GFSC's”; and
 - (bb) omit “ESMA shall monitor the application of those arrangements for deferred trade- publication and shall submit an annual report to the Commission on how they are used in practice.”;

(b) in paragraph 2–

(i) for the first sub-paragraph, substitute–

“As the competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance product, emission allowance or derivative is traded, the GFSC may temporarily suspend the obligations referred to in Article 10 where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5)(a). That threshold must be defined on the basis of objective criteria specific to the market for the financial instrument concerned. Notification of such temporary suspension must be published on the GFSC’s website.”;

- (ii) in the second sub-paragraph, for “website of the relevant competent authority” substitute “GFSC’s website”; and
- (iii) omit the third sub-paragraph;

(c) in paragraph 3, for “Competent authorities” substitute “ The GFSC”;

(d) in paragraph 4–

(i) for the opening words, substitute–

“The Minister may make technical standards specifying the following in such a way as to enable the publication of information required

under regulation 9 of the Financial Services (Data Reporting Services Providers) Regulations 2020.”; and

(ii) omit the second and third sub-paragraphs.

(6) In Article 12.2–

(a) in the first sub-paragraph, for “ESMA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(b) omit the second and third sub-paragraphs.

(7) In Article 13.2, for “The Commission shall adopt delegated acts in accordance with Article 50 clarifying” substitute “The Minister may make technical standards specifying”.

Amendment of Title III.

7.(1) In Article 14–

(a) in paragraph 5, for “Union” substitute “relevant area”;

(b) after paragraph 5, insert–

“5A. For the purposes of this Article, “the relevant area” consists of Gibraltar and those countries or territories specified in regulations made by the Minister in accordance with Article 50(2).”;

(c) for paragraph 6, substitute–

“6. The GFSC must determine at least annually, on the basis of the arithmetic average value of the orders executed in the market in respect of each share, depository receipt, ETF, certificate and other similar financial instrument, the class to which it belongs. That information shall be made public to all market participants and published by the GFSC on its website.”; and

(d) in paragraph 7–

(i) in the first sub-paragraph, for “ESMA shall develop draft regulatory technical standards to specify further” substitute “the Minister may make technical standards further specifying”; and

(ii) omit the second and third sub-paragraphs.

(2) In Article 15–

(a) in paragraph 1, for the second sub-paragraph, substitute–

“Firms that meet the definition of systematic internaliser must notify the GFSC in the form and manner that it directs. The GFSC must publish a list of the systematic internalisers in Gibraltar for which it has received notifications.”;

- (b) in paragraph 2, for “Article 27 of Directive 2014/65/EU” substitute “regulation 42 of the Investment Services Regulations”;
- (c) in paragraph 4, for “Article 28 of Directive 2014/65/EU” substitute “regulation 43 of the Investment Services Regulations”; and
- (d) in paragraph 5, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 50, clarifying”, substitute “The Minister may make technical standards specifying”.

(3) In Article 16–

- (a) in the heading, for “competent authorities” substitute “competent authority”; and
- (b) in the opening words, for “competent authorities shall” substitute “GFSC must”.

(4) In Article 17–

- (a) in paragraph 2, for “Article 28 of Directive 2014/65/EU” substitute “regulation 43 of the Investment Services Regulations”;
- (b) in paragraph 3, in the opening words, for “the Commission shall adopt delegated acts in accordance with Article 50 specifying”, substitute “the Minister may by regulations specify”.

(5) In Article 17a, for “Article 49 of Directive 2014/65/EU” substitute “regulation 47 of the Investment Services Regulations”.

(6) In Article 18–

- (a) for paragraph 4, substitute–

“4. Firms which meet the definition of systematic internaliser must notify the GFSC in writing. The GFSC must publish a list of the systematic internalisers in Gibraltar for which it has received notifications.”;

- (b) in paragraph 9, for “Article 27 of Directive 2014/65/EU” substitute “regulation 42 of the Investment Services Regulations”.

(7) In Article 19–

- (a) in the heading, for “ESMA” substitute “GFSC”;

- (b) in paragraph 1–
 - (i) in the first sentence, for “Competent authorities and ESMA” substitute “The GFSC”;
 - (ii) omit the second and third sentences;
 - (c) in paragraph 2, for “The Commission shall adopt delegated acts in accordance with Article 50 specifying” substitute “The Minister may by regulations specify”;
 - (d) in paragraph 3, for “The Commission shall adopt delegated acts in accordance with Article 50, clarifying” substitute “The Minister may by regulations specify”.
- (8) In Article 20.3–
- (a) in the opening words, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (b) omit the second and third subparagraphs.
- (9) In Article 21–
- (a) in paragraph 4, for “Competent authorities” substitute “The GFSC”;
 - (b) after paragraph 4, insert–
 - “4A. During the transitional period referred to in Article 5(3A), the GFSC may suspend the obligations referred to in Article 21(1) in relation to a specified class of financial instruments as described in paragraph 4 for a specified period otherwise than on the conditions laid down in Article 11 if the GFSC considers that it is necessary to do so to advance the GFSC's market confidence objective under section 23(2)(a) of the Act.
 - 4B. In deciding whether to suspend those obligations–
 - (a) the GFSC must also take into account–
 - (i) its consumer protection objective and market confidence objective under section 23(2)(a) and (e) of the Act; and
 - (ii) the most recent specified threshold published before IP completion day on the basis of calculations under Article 16 of Commission Delegated Regulation (EU) 2017/583;
 - (b) the GFSC may also take into account any other relevant information available in relation to liquidity in the relevant class of financial instrument concerned, whether in Gibraltar or in any other country or territory.”;

- (c) in paragraph 5–
 - (i) in the opening words–
 - (aa) for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (bb) for “Article 64 of Directive 2014/65/EU” substitute “regulation 9 of the Financial Services (Data Reporting Services Providers) Regulations 2020”;
 - (ii) omit the second and third sub-paragraphs.
- (10) In Article 22–
- (a) in paragraph 1, for “competent authorities” substitute “the GFSC”;
 - (b) omit paragraph 3;
 - (c) in paragraph 4–
 - (i) in the first sub-paragraph, for “ESMA shall develop draft regulatory”, substitute “The Minister may make”;
 - (ii) omit the second and third sub-paragraphs.
- (11) In Article 23–
- (a) in paragraph 1–
 - (i) before “systematic internaliser”, insert “Gibraltar”;
 - (ii) for “in accordance with Article 25(4)(a) of Directive 2014/65/EU” substitute “by the Commission in accordance with Article 25(4)(a) of Directive 2014/65/EU before IP completion day, or by the GFSC in accordance with regulation 40(9) of the Investment Services Regulations on or after IP completion day”;
 - (b) after paragraph 1, insert–
 - “1A. For the purposes of paragraph 1, a “Gibraltar systematic internaliser” is a systematic internaliser which–
 - (a) has its head office in Gibraltar; or
 - (b) operates through a branch in Gibraltar.”;

- (c) in paragraph 2–
 - (i) for “is authorised as an MTF under Directive 2014/65/EU” substitute “has Part 7 permission to operate a multilateral trading facility”;
 - (ii) for “such authorisations” substitute “such permissions”;
- (c) in paragraph 3–
 - (i) for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (ii) omit the second and third sub-paragraphs.

Amendment of Title IV.

8.(1) In Article 24, for “Without prejudice to the allocation of responsibilities for enforcing Regulation (EU) No 596/2014, competent authorities coordinated by ESMA in accordance with Article 31 of Regulation (EU) No 1095/2010” substitute “The GFSC”.

(2) In Article 25–

- (a) in paragraph 1–
 - (i) for “competent authority” substitute “GFSC”;
 - (ii) for “Directive 2005/60/EC of the European Parliament and of the Council” substitute “Part 3 of the Proceeds of Crime Act 2015”;
 - (iii) omit the final sentence;
- (b) in paragraph 2–
 - (i) for “competent authority” substitute “GFSC”;
 - (ii) omit the final sentence;
- (c) in paragraph 3–
 - (i) in the first subparagraph, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (ii) in the second subparagraph, omit “draft regulatory”;
 - (iii) omit the third and fourth sub-paragraphs.

- (3) In Article 26–
- (a) in paragraph 1–
 - (i) for “competent authority” substitute “GFSC”;
 - (ii) omit the second and third sub-paragraphs;
 - (b) in paragraph 2, in the four places it appears, for “trading venue” substitute “Gibraltar, UK or EU trading venue”;
 - (c) in paragraph 3, for “Article 57 of Directive 2014/65/EU” substitute “regulation 68 of the Investment Services Regulations”;
 - (d) in paragraph 6, omit the second sub-paragraph;
 - (e) in paragraph 7–
 - (i) in the first sub-paragraph, for “competent authority” substitute “GFSC”;
 - (ii) in the second sub-paragraph, for “competent authority” substitute “GFSC”;
 - (iii) in the third sub-paragraph, for “Article 66(4) of Directive 2014/65/EU” substitute “regulation 11(4) of the Financial Services (Data Reporting Services Providers) Regulations 2020”;
 - (iv) in the fifth sub-paragraph, in both places it appears for “home Member State” substitute “GFSC”;
 - (v) in the sixth sub-paragraph, for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (vi) in the seventh sub-paragraph, for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (f) omit paragraph 8;
 - (g) in paragraph 9–
 - (i) in the first sub-paragraph–
 - (aa) for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (bb) omit point (b);
 - (cc) in point (f), for “Member States” substitute “Gibraltar”;

- (ii) omit the second and third sub-paragraphs;
 - (h) omit paragraph 10.
- (4) In Article 27–
- (a) in paragraph 1–
 - (i) in the first sub-paragraph, for “competent authorities” substitute “the GFSC”;
 - (ii) in the second sub-paragraph, for “its competent authority” substitute “the GFSC”;
 - (iii) in the third sub-paragraph–
 - (aa) in the first sentence, for “competent authority” substitute “GFSC”;
 - (bb) for the third sentence, substitute “The data is to be transmitted without delay to the GFSC.”;
 - (iv) omit the fourth sentence;
 - (b) in paragraph 2–
 - (i) in the opening words–
 - (aa) in the first place it appears, for “competent authorities” substitute “the GFSC”;
 - (bb) for “ESMA and the competent authorities” substitute “the GFSC”;
 - (ii) in point (a), for “ESMA and the competent authorities” substitute “the GFSC”;
 - (iii) omit point (c);
 - (c) in paragraph 3–
 - (i) in the first sub-paragraph–
 - (aa) in the opening words, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (bb) in point (a), for “competent authorities and transmitting it to ESMA”, substitute “the GFSC”;

- (cc) in point (b), for “ESMA and the competent authorities” substitute “the GFSC”;
- (ii) omit the second and third sub-paragraphs.

Amendment of Title V.

9.(1) In Article 28–

(a) in paragraph 1–

- (i) in both places it appears, for “Regulation (EU) No 648/2012” substitute “EMIR”;
- (ii) for point (d), substitute–

“(d) third-country trading venues, where–

(i) either–

(aa) a decision has been adopted before IP completion day by the European Commission in accordance with paragraph 4 of this Article as it had effect in the European Union before IP completion day; or

(bb) the Minister has made regulations in accordance with paragraph 4 of this Article as it applies in Gibraltar on and after IP completion day; and

(ii) the third country provides for an effective equivalent system for recognition of Gibraltar trading venues to admit to trading or trade derivatives declared subject to a trading obligation in that third country on a non-exclusive basis.”;

(b) in paragraph 2–

- (i) in the first sub-paragraph, in the three places it appears, for “the Union” substitute “Gibraltar”;
- (ii) in the second sub-paragraph, for “ESMA” substitute “The GFSC”;

(c) in paragraph 4–

(i) in the first sub-paragraph–

(aa) for “The Commission may, in accordance with the examination procedure referred to in Article 51(2) adopt decisions determining” substitute “The Minister may by regulations specify”;

- (bb) for “Directive 2014/65/EU, and Regulation (EU) No 596/2014” substitute “the Investment Services Regulations and the Market Abuse Regulation”;
- (ii) in the fourth sub-paragraph–
 - (aa) for “A decision of the Commission” substitute “ Regulations made by the Minister”;
 - (bb) for “the Commission's decision” substitute “such regulations”;
- (d) in paragraph 5–
 - (i) in the first sub-paragraph–
 - (aa) for “ESMA shall develop draft regulatory” substitute “the Minister may make”;
 - (bb) for “the Union” substitute “Gibraltar”;
 - (ii) omit the second, third and fourth sub-paragraphs.
- (2) In Article 29–
 - (a) in paragraph 2, in both places it appears, for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (b) in paragraph 3–
 - (i) in the first sub-paragraph, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (ii) omit the second, third and fourth sub-paragraphs.
- (3) In Article 30–
 - (a) in paragraph 1, for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (b) in paragraph 2–
 - (i) the first sub-paragraph–
 - (aa) for “ESMA shall develop draft regulatory” substitute “The Minister may make”; and

- (bb) at the end insert “For cases other than CCPs, technical standards may also specify the types of indirect clearing service arrangements that meet conditions for reasonable and transparent commercial terms.”.
 - (ii) omit the second and third sub-paragraphs.
- (4) In Article 31–
- (a) in paragraph 1–
 - (i) for “Article 27 of Directive 2014/65/EU” substitute “regulation 42 of the Investment Services Regulations”;
 - (ii) for “Article 1(6) of Directive 2014/65/EU” substitute “regulation 4(6) of the Investment Services Regulations”;
 - (b) in paragraph 3, for “relevant competent authority or ESMA” substitute “GFSC”;
 - (c) in paragraph 4, for “The Commission may adopt by means of delegated acts in accordance with Article 50, measures specifying” substitute “The Minister may by regulations specify”.
- (5) In Article 32–
- (a) in paragraph 1–
 - (i) in the opening words, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (ii) in points (a) and (b), for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (iii) in point (b), omit “regulatory”;
 - (iv) omit the second, third, and fourth sub-paragraphs;
 - (b) in paragraph 3–
 - (i) in both places it appears, omit “draft regulatory”;
 - (ii) in the three places it appears, for “ESMA” substitute “the Minister”;
 - (c) omit paragraphs 4 and 5;
 - (d) in paragraph 6–
 - (i) in the first sub-paragraph, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;

- (ii) omit the second and third sub-paragraphs;
- (6) In Article 33–
- (a) omit paragraph 1;
 - (b) in paragraph 2–
 - (i) in the first sub-paragraph, for “The Commission may adopt implementing acts declaring” substitute “The Minister may by regulations specify”;
 - (ii) omit the second sub-paragraph;
 - (c) in paragraph 3, for “An implementing act” substitute “Regulations”;
 - (d) for paragraph 4, substitute–
 - “4. Where regulations made under paragraph 2 are revoked, transactions by counterparties shall automatically be subject again to all requirements contained in Articles 28 and 29 of this Regulation.”.
- (7) For Article 34, substitute–

“Article 34

Register of derivatives subject to the trading obligation

1. The GFSC may publish and maintain on its website a register specifying–
 - (a) every derivative that appears to the GFSC to be subject to the obligation to trade on the venues referred to in Article 28(1);
 - (b) the venues where the derivative is admitted to trading or traded;
 - (c) the dates from which the obligation takes effect.
2. The GFSC may draw on such information as it considers appropriate to maintain the register, including information published in the register maintained by–
 - (a) the UK Financial Conduct Authority under Article 34 of Regulation (EU) No 600/2014 as it has effect in the United Kingdom; or
 - (b) ESMA under Article 34 of Regulation (EU) No 600/2014 as it has effect in EU law.”.

Amendment of Title VI.

10.(1) In Article 35–

- (a) in paragraph 1, in the three places it appears, for “Regulation (EU) No 648/2012” substitute “EMIR”;
- (b) in paragraph 2, for “, its relevant competent authority and the competent authority of the trading venue” substitute “and the GFSC”;
- (c) in paragraph 3–
 - (i) for “a relevant competent authority” substitute “the GFSC”;
 - (ii) for “its competent authority” substitute “the GFSC”;
 - (iii) omit the fourth sentence;
- (d) in paragraph 4–
 - (i) in the first sub-paragraph–
 - (aa) in the opening words, for “competent authority of the CCP or that of the trading venue” substitute “GFSC”;
 - (bb) in point (a), for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (ii) in the third sub-paragraph–
 - (aa) in both places it appears, for “ESMA” substitute “the GFSC”;
 - (bb) for “choose to exercise their rights under Article 37 of Directive 2014/65/EU in respect of those CCPs in order to facilitate” substitute “make”;
 - (iii) in the fourth sub-paragraph–
 - (aa) for “a competent authority” substitute “the GFSC”;
 - (bb) omit “the other competent authority,”;
- (e) in paragraph 5–
 - (i) in the first sub-paragraph–
 - (aa) in the three places it appears, for “Regulation (EU) No 648/2012” substitute “EMIR”;

- (bb) for “its competent authority” substitute “the GFSC”;
- (cc) for “The competent authority” substitute “The GFSC”;
- (ii) in the second sub-paragraph, omit the second and third sentences;
- (f) in paragraph 6–
 - (i) in the first sub-paragraph, for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (ii) omit the second and third sub-paragraphs.
- (2) In Article 36–
 - (a) in paragraph 1, in the three places it appears, for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (b) in paragraph 2, for “, its relevant competent authority and the competent authority of the CCP” substitute “and the GFSC”;
 - (c) in paragraph 3–
 - (i) for “relevant competent authority” substitute “GFSC”;
 - (ii) for “its competent authority” substitute “the GFSC”;
 - (iii) omit the fourth sentence;
 - (d) in paragraph 4–
 - (i) in the first sub-paragraph,–
 - (aa) in the opening words, for “The competent authority of the trading venue or that of the CCP” substitute “The GFSC”;
 - (bb) in point (a), for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (ii) in the third sub-paragraph, in both places it appears, for “ESMA” substitute “the GFSC”;
 - (iii) in the fourth sub-paragraph, for “choose to exercise their rights under Article 37 of Directive 2014/65/EU in respect of those CCPs in order to facilitate” substitute “make”;
 - (iv) in the fifth sub-paragraph–
 - (aa) for “a competent authority” substitute “the GFSC”;

- (bb) omit “the other competent authority,”;
 - (e) in paragraph 5–
 - (i) for the first sentence, substitute–

“This paragraph applies to trading venues which fell below the relevant threshold for exchange-traded derivatives in the calendar year preceding the entry into application of this Regulation and notified ESMA and the GFSC that they did not wish to be bound by this Article for exchange-traded derivatives included within that threshold.”;
 - (ii) in the second sentence, for “ESMA and its competent authority” substitute “the GFSC”;
 - (iii) in the fourth sentence, for “ESMA” substitute “The GFSC”;
 - (iv) in the third sub-paragraph, for “the Union” substitute “Gibraltar”;
 - (f) in paragraph 6–
 - (i) in the first sub-paragraph–
 - (aa) for “ESMA shall develop draft regulatory”, substitute “The Minister may make”;
 - (bb) in point (d), for “ESMA” substitute “the GFSC”;
 - (ii) omit the second and third sub-paragraphs.
- (3) Omit Article 37.
- (4) In Article 38–
- (a) in paragraph 1–
 - (i) in both places it appears, for “the Union” substitute “Gibraltar”;
 - (ii) for “the Commission has adopted a decision” both times it appears, substitute “the Minister has made regulations”;
 - (iii) for “Regulation (EU) No 648/2012” substitute “EMIR”;
 - (b) omit paragraph 2;
 - (c) in paragraph 3, in the first sub-paragraph–

- (i) for “The Commission may, in accordance with the examination procedure referred to in Article 51, adopt decisions determining” substitute “The Minister may by regulations determine”;
- (ii) for “2” substitute “1”.

Amendment of Title VII.

11.(1) In Article 39–

- (a) omit paragraphs 1 and 2;
- (b) in paragraph 3–
 - (i) for “Competent authorities” substitute “The GFSC”;
 - (ii) for “their Member State” substitute “Gibraltar”.

(2) Omit Articles 40 and 41.

(3) In Article 42–

- (a) in the heading, for “competent authorities” substitute “GFSC”;
- (b) paragraph 1–
 - (i) for “A competent authority” substitute “The GFSC”;
 - (ii) for “that Member State” substitute “Gibraltar”;
- (c) in paragraph 2–
 - (i) in the first sub-paragraph–
 - (aa) in the opening words, for “A competent authority” substitute “The GFSC”;
 - (bb) in point (a)(i), for “the financial system within at least one Member State” substitute “Gibraltar’s financial system”;
 - (cc) in point (b), for “Union law” substitute “the law of Gibraltar”;
 - (dd) after point (b), insert “and”;
 - (ee) omit points (d) to (f);
 - (ii) in the second sub-paragraph, for “competent authority” substitute “GFSC”;

- (iii) in the third sub-paragraph, for “competent authority” substitute “GFSC”;
- (d) for paragraph 3, substitute—
 - “3. Subject to paragraph 4, the GFSC must not impose a prohibition or restriction under this Article unless not less than one month before the measure is due to take effect, it has published details of the decision to impose the prohibition or restriction on its website in accordance with paragraph 5.”;
- (e) in paragraph 4—
 - (i) in the three places it appears, for “competent authority” substitute “GFSC”;
 - (ii) omit “with no less than 24 hours’ written notice, before the measure is intended to take effect, to all other competent authorities and ESMA or, for structured deposits, EBA,”;
 - (iii) for “a one month notification period” substitute “waiting for one month”;
- (f) in paragraph 5, for “competent authority” substitute “GFSC”;
- (g) in paragraph 6, for “competent authority” substitute “GFSC”;
- (h) in paragraph 7—
 - (i) for “The Commission shall adopt delegated acts in accordance with Article 50 specifying” substitute “The Minister may by regulations specify”;
 - (ii) for “competent authorities” substitute “the GFSC”;
 - (iii) for “the financial system within at least one Member State” substitute “Gibraltar’s financial system”;

(4) Omit Articles 43 to 45.

Amendment of Title VIII.

12.(1) In Article 46—

- (a) in paragraph 1—
 - (i) for “Annex II to Directive 2014/65/EU” substitute “Schedule 1 to the Investment Services Regulations”;
 - (ii) for “established throughout the Union” substitute “in Gibraltar”;
 - (iii) for “ESMA” substitute “the GFSC”;

- (b) in paragraph 2–
 - (i) in the opening words–
 - (aa) for “ESMA” substitute “The GFSC”;
 - (bb) for “throughout the Union” substitute “in Gibraltar”;
 - (ii) for point (a), substitute–
 - “(a) an equivalence decision in accordance with Article 47(1) was adopted:
 - (i) by the Commission before IP completion day and was not revoked before that that date; or
 - (ii) by the Minister after IP completion day;”;
 - (iii) in point (b), for “the Union” substitute “Gibraltar”;
- (c) omit paragraph 3;
- (d) in paragraph 4–
 - (i) in the first sub-paragraph–
 - (aa) for “ESMA” substitute “the GFSC”;
 - (bb) after “adoption”, insert “before IP completion day”;
 - (cc) after “determining”, insert “or the making of regulations under that Article by the Minister specifying”;
 - (ii) in the second sub-paragraph, in the three places it appears, for “ESMA” substitute “the GFSC”;
 - (iii) in the fourth sub-paragraph, for “ESMA” substitute “the GFSC”;
 - (iv) omit the fifth sub-paragraph;
- (e) in paragraph 5–
 - (i) in the three places it appears, for “the Union” substitute “Gibraltar”;
 - (ii) in both places it appears, for “Annex II to Directive 2014/65/EU” substitute “Schedule 1 to the Investment Services Regulations”;
 - (iii) for “Member States shall ensure that where” substitute “Where”;

- (f) in paragraph 6–
 - (i) for “the Union” substitute “Gibraltar”;
 - (ii) for “a Member State” substitute “Gibraltar”;
 - (g) in paragraph 7–
 - (i) in the first sub-paragraph–
 - (aa) for “ESMA shall develop draft regulatory” substitute “The Minister may make”;
 - (bb) for “to ESMA” substitute “to the GFSC”;
 - (ii) omit the second and third sub-paragraphs.
- (2) In Article 47–
- (a) in the heading, for “decision” substitute “determination”;
 - (b) in paragraph 1–
 - (i) for “The Commission may adopt a decision in accordance with the examination procedure referred to in Article 51(2) in relation to a third country stating that the legal and supervisory arrangements of that third country” substitute “The Minister may by regulations specify that the legal and supervisory arrangements of a third country”;
 - (ii) for “in Directive 2013/36/EU and in Directive 2014/65/EU and in the implementing measures adopted under this Regulation and under those Directives” substitute “the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020, the Investment Services Regulations and the implementing measures related to those enactments”;
 - (c) in paragraph 2–
 - (i) in the five places it appears, for “ESMA” substitute “the GFSC”;
 - (ii) after “paragraph 1” insert “(including by a decision made by the Commission under that paragraph as it had effect before IP completion day)”;
 - (iii) omit “non-Union”;
 - (d) omit paragraph 3;

- (e) in paragraph 4, for “the Commission adopts a decision in accordance with the examination procedure referred to in Article 51(2) withdrawing its decision” substitute “the Minister revokes regulations made”.

(3) In Article 48–

- (a) for “ESMA shall” substitute “The GFSC shall”;
- (b) “the Union” substitute Gibraltar”;
- (c) for “website of ESMA” substitute “the GFSC’s website”.

(4) In Article 49–

- (a) in paragraph 1–
 - (i) for “ESMA shall” substitute “The GFSC shall”;
 - (ii) in the four places it appears, for “ESMA has” substitute “the GFSC has”;
 - (iii) in the three places it appears, for “the Union” substitute “Gibraltar”;
 - (iv) in point (b), for “the Commission has adopted the Decision” substitute “the Minister has made regulations”;
- (b) in paragraph 2–
 - (i) for “ESMA” substitute “The GFSC”;
 - (ii) for “Commission” substitute “Minister”;
- (c) in paragraph 3–
 - (i) for “Commission” substitute “Minister”;
 - (ii) for “a decision in accordance with Article 47(1) has been adopted” substitute “regulations under Article 47(1) have been made”.

Amendment of Title IX.

13. For Title IX, substitute–

**“TITLE IX
REGULATIONS**

Article 50
Regulations

1. Any power to make regulations conferred on the Minister by this Regulation includes the power to—
 - (a) make any supplementary, incidental, consequential, transitional or saving provision which the Minister considers necessary or expedient; and
 - (b) make different provision for different purposes.
2. The Minister may only make regulations under Article 5(10), 9(6) or 14(5A) specifying that a country or territory is in the relevant area in relation to one or more financial instruments for the purposes of that Article if the Minister is satisfied that the GFSC is able to obtain sufficient reliable trading data to enable it to assess—
 - (a) in the case of Article 5(10) or 9(6), the volume of trading in the financial instruments concerned in that country or region; or
 - (b) in the case of Article 14(5A), the total orders executed in the financial instruments concerned in that country or territory.”.

Amendment of Title X.

14.(1) Omit Article 52.

(2) In Article 54—

(a) in paragraph 1—

- (i) for “Member States” substitute “Gibraltar”;
- (ii) for “national regimes” substitute “the Act”;
- (iii) after “the Commission” insert “before IP completion day”;
- (iv) after “Article 47” insert “or after the Minister has made regulations under that Article after IP completion day”;

(b) omit paragraph 2.

(3) In Article 55, omit the fourth sub-paragraph.

(4) After Article 55, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States”.

Dated: 28th July 2022.

A J ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These Regulations are made in exercise of the powers in section 11 of the European Union (Withdrawal) Act 2019, in order to address failures of retained EU law to operate effectively and other deficiencies arising from Gibraltar's withdrawal from the European Union. They amend Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 (the Markets in Financial Instruments Regulation).