

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 0000 of 00 January, 2000

LEGAL NOTICE NO. 55 OF 1995.

BANKING ORDINANCE 1992

BANKING ORDINANCE (AMENDMENT) REGULATIONS 1995

In exercise of the powers conferred upon him by section 79 of the Banking Ordinance 1992, and of all other enabling powers, the Governor has made the following regulations —

1. Title.

These regulations may be cited as the Banking Ordinance (Amendment) Regulations 1995.

2. Amendment to section 2.

Section 2 of the Banking Ordinance 1992 (hereinafter called “the Ordinance”) is amended —

- (a) by inserting after the definition of “director” the following definitions —

“EEA” means the territories to which the EEA Agreement applies;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement but, until the EEA Agreement comes into force in relation to Liechtenstein, does not include the State of Liechtenstein;”;

- (b) in the definition of “European authorised institution” by omitting paragraph (b) and substituting therefor the following paragraph —

- "(b) which is for the time being authorised pursuant to Article 3 of the First Banking Co-ordination Directive (as extended, where applicable, by the EEA Agreement) by the relevant supervisory authority of an EEA State; and";
- (c) in the definition of "European subsidiary institution" by omitting sub-paragraph (ii) of paragraph (a) and substituting therefor the following sub-paragraph —
 - "(ii) for the time being authorised pursuant to Article 3 of the First Banking Co-ordination Directive (as extended, where applicable, by the EEA Agreement) by the relevant supervisory authority of an EEA State; and";
 - (d) in the definition of "institution" by omitting the words "any member State of the Community" and substituting therefor the expression "Gibraltar or any other place in an EEA State";
 - (e) in the definition of "relevant investment business" by omitting the words "a member" and substituting therefor the expression "an EEA";
 - (f) in the definition of "subsidiary institution" —
 - (i) in paragraph (a) by inserting after the word "Directive" the expression "(as extended, where applicable, by the EEA Agreement)";
 - (ii) in paragraph (c) —
 - (aa) in sub-paragraph (i) by omitting the words "a member" and substituting therefor the expression "an EEA";
 - (bb) in sub-paragraphs (ii) and (iv) by omitting the word "member" and substituting therefor the expression "EEA".

3. Amendment to section 10.

Section 10 of the Ordinance is amended in sub-section (1)(a) by omitting the words "a member State of the European Community" and substituting therefor the expression "an EEA State".

4. Amendment to section 16.

Section 16 of the Ordinance is amended in sub-section (1) by inserting after the word “standard” the expression “(as extended, where applicable, by the EEA Agreement)”.

5. Amendment to section 18.

Section 18 of the Ordinance is amended in sub-section (8) by omitting paragraphs (a) and (b) and substituting therefor the following paragraphs —

- “(a) was authorised pursuant to Article 3 of the First Banking Co-ordination Directive (as extended, where applicable, by the EEA Agreement); or
- (b) not being so authorised, is incorporated in or formed under the laws of an EEA State.”.

6. Amendment to section 23.

Section 23 of the Ordinance is amended in sub-section (1)(c) by omitting the word “Community” and substituting therefor the words “Council or Commission”.

7. Amendment to section 38.

Section 38 of the Ordinance is amended —

- (a) in the marginal note thereto and in subsection (1) and (2) by omitting the word “member” and substituting therefor the expression “EEA”;
- (b) in subsection(4) —

- (i) by omitting the word “member” where it appears for the first time and substituting therefor the expression “EEA”;
- (ii) in paragraph (b) by inserting after the word “instrument” the expression “(as extended, where applicable, by the EEA Agreement)”;
- (iii) by omitting the words “on the member State” and substituting therefor the expression “of the EEA State”;
 - (c) in subsection (5) by omitting the word “member” and substituting therefor the expression “EEA”;
 - (d) in sub-section (6) by omitting the word “member” and substituting therefor the expression “EEA”;
 - (e) in paragraphs (c) and (d) of sub-section (7) by omitting the word “member” in the four places where it appears and substituting in each such place the expression “EEA”.

8. Amendment to section 40.

Section 40 of the Ordinance is amended —

- (a) in sub-section (1)(c) by inserting after the word “Directive” the expression “(as extended, where applicable, by the EEA Agreement)”;
- (b) in sub-section (5) by omitting the words “a member” and substituting therefor the expression “an EEA”.

9. Amendment to section 55.

Section 55 of the Ordinance is amended by omitting everything after the word “European” and substituting therefor the expression “Union made under Article 9.4 of the Second Banking Co-ordination Directive (as extended, where applicable, by the EEA Agreement).”.

10. Amendment to section 59.

Section 59 of the Ordinance is amended in paragraph (b)(vi) by inserting after the expression “92/30/EEC” the expression “(as extended, where applicable, by the EEA Agreement)”.

11. Amendment to section 60.

Section 60 of the Ordinance is amended in sub-section (4), including the proviso to that sub-section, by omitting the word “member” in the four places where it occurs and substituting therefor in each such place the expression “EEA”.

12. Amendment to section 61.

Section 61 of the Ordinance is amended in sub-section (3) by omitting the word “member” and substituting therefor the expression “EEA”.

13. Amendment to section 64.

Section 64 of the Ordinance is amended in sub-section (1) by omitting paragraph (o) and substituting therefor the following paragraph —

“(o) the Commissioner is informed by a relevant supervisory authority in an EEA State that the licensee has failed to comply with any obligation imposed on it by or under any rule of law in force in that State for purposes connected with the implementation of the Second Banking Co-ordination Directive (as extended, where applicable, by the EEA Agreement).”.

14. Amendment to section 68.

Section 68 of the Ordinance is amended —

- (a) in sub-section (1) by omitting paragraph (d) and substituting therefor the following paragraph —

- "(d) the Commissioner is informed by a supervisory authority in the EEA State in which the institution is authorised that it has failed to comply with any obligation imposed on it by or under any rule of law in force in that State for purposes connected with the implementation of the Second Banking Co-ordination Directive (as extended, where applicable, by the EEA Agreement);";
- (b) in sub-section (11)(c) by inserting after the word "Directive" the expression "(as extended, where applicable, by the EEA Agreement)";
- (c) in sub-section (12) by omitting the words "a member" and substituting therefor the expression "an EEA".

15. Amendment to section 69.

Section 69 of the Ordinance is amended in sub-section (10)(b) by inserting after the word "Directive" the expression "(as extended, where applicable, by the EEA Agreement)".

16. Amendment to section 71.

Section 71 of the Ordinance is amended in sub-section (1) by omitting the word "member" in the two places where it occurs and substituting therefor the expression "EEA".

17. Amendment to section 74.

Section 74 of the Ordinance is amended in sub-section (2) by omitting paragraph (a) and substituting therefor the following paragraph —

- "(a) the Gibraltar Savings Bank or the Central Bank of an EEA State;"

18. Amendment to section 79.

Section 79 of the Ordinance is amended —

- (a) in paragraph (m) by omitting the word “Community” and substituting therefor the expression “European Union (as extended, where applicable, by the EEA Agreement);
- (b) in paragraph (n) —
 - (i) by omitting the word “Community” where it appears for the first time and substituting therefor the expression “European Union (as extended, where applicable, by the EEA Agreement)”;
 - (ii) by omitting in subparagraph (iii) the words “Community law” and substituting therefor the expression “European Union law (as extended, where applicable, by the EEA Agreement)”.

19. Amendment to section 82.

Section 82 of the Ordinance is amended in sub-section (10)(i) by —

- (a) inserting in sub-paragraph (ii) after the expression “83/350/EEC” the expression “(as extended, where applicable, by the EEA Agreement)”;
- (b) inserting in the proviso to the paragraph after the word “Directive” the expression “(as extended, where applicable, by the EEA Agreement)”.

20. Amendment to section 85.

Section 85 of the Ordinance is amended by inserting after the expression 83/350/EEC the expression “(as extended, where applicable, by the EEA Agreement)”.

“(2) Any institution which, at the coming into force of the EEA Agreement, held a licence under the Banking Ordinance or this Ordinance and —

21. Amendment to Schedule 1.

Schedule 1 to the Ordinance is amended in the heading thereto by inserting after the word "DIRECTIVE" the expression "(AS EXTENDED, WHERE APPLICABLE, BY THE EEA AGREEMENT)".

Dated this 21st day of April 1995.

By Command

Deputy Governor

GIBRALTAR GAZETTE, No 0000, Thursday 00 January, 2000

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