

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,671, of 28th May, 1992.

LEGAL NOTICE NO. 73 OF 1992.

FINANCIAL SERVICES ORDINANCE 1989.

**FINANCIAL SERVICES (COLLECTIVE INVESTMENT SCHEMES)
(AMENDMENT) (NO. 2) REGULATIONS, 1992.**

In exercise of the powers conferred on him by section 17 of the Financial Services Ordinance 1989 and of all other enabling powers, the Governor has made the following regulations-

Title.

1. These regulations may be cited as the Financial Services (Collective Investment Schemes) (Amendment) (No. 2) Regulations 1992.

Amendment to regulation 2.

2. Regulation 2 of the Financial Services (Collective Investment Schemes) Regulations 1991 (hereinafter called "the principal Regulations") is amended by-

- (a) inserting after the figure "2" the figure "(1)";
- (b) inserting after the definition of "annual distribution date" the following new definition-

""approved options and futures market" means such market as is approved by the Authority by notice in the Gazette;"
- (c) omitting in the definition of "near cash" the words "a banking institution" and substituting therefor the words "an authorised banking institution";
- (d) omitting the definition of "public and other securities";
- (e) inserting the following new sub-regulation-

"(2) In these regulations, "Government and other public securities" means investments falling within

paragraph 3 of Schedule 1 to the Ordinance which are issued by or on behalf of-

(a) the Government of Gibraltar or a member State or a local authority in a member State; or

(b) the Government of any country or territory approved by the Authority for the purpose of this sub-regulation by notice published in the Gazette; or

(c) an international organisation the members of which include a member State,

and includes investments which would fall within paragraph 3 of Schedule 1 to the Ordinance if the paragraph extended to investments guaranteed by a local authority in any member State or by the Government of Gibraltar, the Government of any member State or by the Government of any country or territory specified in the notice referred in paragraph (b)."

New regulation 9A.

3. The principal Regulations are amended by inserting after regulation 9 the following new regulation-

"Notice of change of directors.

9A.(1) Where any person becomes or ceases to be a director of a public investment company, the company shall not later than 21 days after the happening of the event give notice in writing of the event to the Authority.

(2) A notice under sub-regulation (1) shall include the full name of the person and the date on which the appointment commenced or ceased, as the case may be, together with the reasons for the appointment or the cessation of the appointment, as the case may be."

Amendment to regulation 12.

4. Regulation 12 of the principal Regulations is amended by-

- (a) omitting the Figure "(1)";
- (b) omitting sub-regulations (2) to (5).

Amendment to regulation 30.

5. Regulation 30 of the principal Regulations is amended by omitting sub-regulation (3) and substituting therefor the following sub-regulation-

- "(3) Sub-regulation (1) shall not be construed as preventing a scheme from acquiring transferable securities which are not fully paid."

Amendment to regulation 32.

6. Regulation 32 of the principal Regulations is amended in subregulation (4) by inserting before the expression "regulation 49" the expression "paragraph (i) of the proviso to".

Amendment to regulation 43.

7. Regulation 43 of the principal Regulations is amended in subregulation (1) by omitting paragraph (b) and substituting therefor the following paragraph-

- "(b) which confer on participants the right referred to in regulation 27(1) but where action taken by the scheme to ensure that the stock exchange value of its units does not significantly vary from their net asset value such action shall be regarded as equivalent to such right of repurchase of redemption."

New regulation 44A.

8. The principal Regulations are amended by inserting after regulation 44 the following new regulation-

"Restrictions on activities of manager.

44A. The manager of a transferable securities scheme shall not engage in any activity other than acting as manager or authorised or recognised collective investment schemes."

Revocation and replacement of regulation 45.

9. Regulation 45 of the principal Regulations is revoked and replaced by the following new regulation-

"45.(1) a transferable securities scheme may invest in other categories of transferable securities not mentioned in regulation 43(4).

(2) The investment of a transferable securities scheme shall not in aggregate exceed 10% of the value of the property in the categories of the securities described in sub-regulation (1)."

Amendment to regulation 46.

10. Regulation 46 of the principal Regulations is amended by omitting sub-regulation (3) and substituting therefor the following sub-regulation-

"(3) Not more than 35% of the value of the property of a transferable securities scheme shall consist of Government and other public securities issued by the same issuer, and where both Government and other public securities and other securities are issued by the same issuer, not more than 35% of the value of the property of the scheme shall consist of such Government and other public securities and other securities."

Amendment to regulation 47.

11. Regulation 47 of the principal Regulations is amended by-

(a) inserting in the marginal note thereto before the word "public" the words "Government and other";

- (b) inserting in sub-regulation (1) before the word "public" in the two places where that word appears the words "Government and other";
- (c) inserting in sub-regulation (2) before the word "public" the words "Government and other".

Amendment to regulation 53.

12. Regulation 53 of the principal Regulations is amended in subregulation (1) by-

- (a) inserting in paragraph (d) before the word "public" in the two places where that word appears the words "Government and other";
- (b) inserting in paragraph (e) before the word "public" the words "Government and other".

Revocation and replacement of regulation 54.

13. Regulation 54 and the heading thereto of the principal Regulations are revoked and replaced by the following new heading and regulation-

"B. Government and other Public Securities Funds.

- 54.(1) A "Government and other public securities fund" means a collective investment scheme the sole object of which is to enable participants to participate in or receive profits or income arising from the acquisition, holding, management or disposal of Government and other public securities including units in other authorised or recognised collective investment schemes which are Government and other public securities funds.
- (2) The object of the scheme authorised as a Government and other public securities fund shall not be altered so as to have the effect that the scheme ceases to be such a fund.

- (3) The property of a Government and other public securities fund shall include Government and other public securities of at least six different issues.
- (4) Not more than 30% in value of the property of the Government and other public securities fund shall consist of Government and other public securities of the same issue.
- (5) Regulation 47(2) shall apply for the purposes of subregulations (2) and (3)."

New regulation 59A.

14. The principal Regulations are amended by inserting after regulation 59 the following new regulation-

"Notice of change of directors.

- 59A.(1) Where any person becomes or ceases to be a director of a manager to which regulation 58(a) applies, the manager shall not later than 21 days after the happening of the event give notice in writing of the event to the Authority.
- (2) A notice under sub-regulation (1) shall include the full name of the person and the date on which the appointment commenced or ceased, as the case may be, together with a statement of the reason for the appointment or cessation of the appointment, as the case may be."

New regulation 68A.

15. The principal regulations are further amended by inserting after regulation 68 the following new regulation-

"Notice of change of directors.

- 68A.(1) Where any person becomes or ceases to be a director of a trustee or custodian to which sub-regulations (1) or (2) of regulation 67 applies, the trustee or custodian, as the case may be, shall not later than 21 days after the happening of the event give notice in writing of the event to the Authority.

- (2) A notice under sub-regulation (1) shall include the full name of the person and the date on which the appointment commenced was ceased, as the case may be, together with the reason for the appointment or cessation of the appointment, as the case may be."

Amendment to regulation 69.

16. Regulation 69 of the principal Regulations is amended by omitting the words "Save in the case of an exemption under regulation 12(2), the" and substituting therefor the word "The".

Amendment to regulation 82.

17. Regulation 82 of the principal Regulations is amended by inserting after sub-regulation (3) the following new subregulation-

- “(3A) The manager of the scheme which qua qualifies for the issue of a certificate under regulation 4(3) shall not effect any sale of units in the scheme to any person in a member State unless it has offered to that person free of charge a copy of the scheme particulars, a copy of the most recent annual report (if any) and a copy of any subsequently half-yearly report in an official language of that member State.”.

Amendment to regulation 96.

18. Regulation 96 of the principal Regulations is amended by inserting after the words "this regulation a person" a comma and the words "which expression shall include a former member, officer or servant of the Authority,".

Amendment to Schedule 5.

19. Schedule 5 to the principal Regulations is amended-

- (a) in Part I by inserting in paragraph (b) after the words "The percentage of the" the word "net";

- (b) in Part III by inserting the following four paragraphs at the end of that Part-

"9. A statement of the net increase or decrease in the unrealised appreciation or depreciation in the value of the capital property during the period.

10. A statement of the effect of currency hedging transactions.

11. Any transfers to or from the income account, together with the reasons and basis for any such transfers.

12. The net movement in the income account."

Amendment to Schedule 6.

20. Schedule 6 to the principal Regulations is amended in Part I by omitting the fullstop at the end of paragraph 9 and substituting therefor the words "and a statement of the basis of calculating average net assets in issue during the year."

Dated this 28th day of May, 1992.

By Command,
A. CARTER,
Deputy Governor.