

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,745 of 30th September, 1993.

LEGAL NOTICE No. 151 OF 1993.

FINANCIAL SERVICES ORDINANCE 1989

**FINANCIAL SERVICES ORDINANCE (AMENDMENT)
REGULATIONS 1993**

In exercise of the powers conferred on the Government by section 23 of the Interpretation and General Clauses Ordinance and on him by section 53 of the Financial Services Or 1989, and of all other enabling powers, the Governor has made the following regulations -

Title and commencement.

1. These regulations may be cited as the Financial Services Ordinance (Amendment) Regulations 1993 and shall be deemed to have come into effect on the 1st day of January 1993.

Amendment to section 2.

2. Section 2 of the Financial Services Ordinance 1989 (hereinafter called "the principal Ordinance") is amended by inserting in the appropriate alphabetical position the following new definitions -

""credit institution" has the meaning given to it in the Banking Ordinance 1992;"

""European authorised institution" has the meaning given to it in the Banking Ordinance 1992;"

""relevant supervisory authority" has the meaning given to it in the Banking Ordinance 1992;"

Amendment to section 8.

3. Section 8 of the principal Ordinance is amended -

- (a) in subsection (1) by omitting the word "On" and substituting therefor the words "Subject to subsections (3) and (4), on "

- (b) by omitting subsections (2) and (3) and substituting therefor the following three new subsections -

"(2) The Authority shall consider to be licensed under this Ordinance -

(a) an European authorised institution in respect of relevant investment business for which that institution is or could be subjected to regulation by a relevant supervisory authority, and, in respect of any such business, the Authority shall not consider an application for a licence;

(b) an European subsidiary institution in respect of relevant investment business which that institution has notified to the relevant supervisory authority in compliance with Council Directive 89/646/EEC:

Provided that -

(a) where an European subsidiary institution has notified the relevant supervisory authority in respect of any relevant investment business, the Authority shall not consider an application for a licence in respect of any other relevant investment business in respect of which that institution could have made similar notification;

(b) where an European subsidiary institution has notified the Authority and the relevant supervisory authority of its intention to cease to be an European subsidiary institution and the relevant supervisory authority has notified the Authority that it does not object to that European subsidiary institution ceasing to be such an institution, the Authority may cease the recognition of that institution as an European subsidiary institution, and the institution may apply, and the Authority shall consider the

application, for a licence in respect of any relevant investment business.

(3) The Authority shall not consider an application under subsection (1) from a credit institution which is not an European authorised institution.

(4) Where an applicant could be an European subsidiary institution in respect of any relevant investment business, the Authority shall not consider an application under subsection (1) in respect of that business, unless the relevant supervisory authority shall have consented to the applicant carrying on that business other than as an European subsidiary institution."

Amendment to section 12,

4. Section 12 of the principal Ordinance is amended in subsection (1) by-

- (a) omitting the final fullstop and substituting therefor a colon;
- (b) inserting the following proviso at the end of the subsection –

"Provided that such regulations shall be deemed not to apply to recognised institutions in respect of matters falling within the provisions of directives of the European Economic Community relating to the regulation and supervision of credit institutions and which by virtue of those provisions are the responsibility of the relevant supervisory authority."

Amendment to section 13.

5. Section 13 of the principal Ordinance is amended in subsection (1) by-

- (a) omitting the final fullstop and substituting therefor a colon;
- (b) inserting the following proviso at the end of the subsection –

"Provided that such regulations shall-be deemed not to apply to recognised institutions in respect of matters falling within the provisions of directives of the European Economic Community relating to the regulation and supervision of credit institutions and

which by virtue of those provisions are the responsibility of the relevant supervisory authority."

Amendment to section 58.

6. Section 58 of the principal Ordinance is amended in sub-section (2) by -

- (a) omitting the fullstop at the end of paragraph (e) and substituting therefor a colon;
- (b) inserting after paragraph (e) the following proviso to the subsection-

"Provided that the Authority shall not disclose information received by virtue of the provisions of Council Directive 92/30/EEC unless it is satisfied that to do so would not contravene the provisions of Article 12 of Council Directive 77/780/EEC."

Amendment to Schedule 4

7. Schedule 4 to the principal Ordinance is amended in Part II by inserting after the words "A person" a comma and the words "other than a person who is a recognised institution or a credit institution,".

Dated this 30th day of September 1993.

By Command,

A CARTER,

Deputy Governor.