

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5085 GIBRALTAR Thursday 7th September 2023

LEGAL NOTICE NO. 259 OF 2023

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (SPECIFIED REGULATORY DECISIONS) (AMENDMENT No. 2) REGULATIONS 2023

In exercise of the powers conferred on the Minister by sections 24, 620 and 627 of the Financial Services Act 2019, the Minister has made these Regulations—

Title.

1. These Regulations may be cited as the Financial Services (Specified Regulatory Decisions) (Amendment No. 2) Regulations 2023.

Commencement.

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

Amendment of the Financial Services (Insurance Companies) Regulations 2020.

3. For regulation 36(5) of the Financial Services (Insurance Companies) Regulations 2020, substitute—

“(5) Sub-regulation (4) does not apply to the issue of a decision notice where—

(a) the recipient has received a warning notice and—

- (i) has agreed in writing to the steps proposed in the warning notice being taken; or
- (ii) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed); or

(b) in the case of a decision notice confirming a direction under regulation 35(6), the recipient—

- (i) has agreed in writing to the direction being confirmed; or

- (ii) has not made any representations in accordance with regulation 35(4)(b).”.

Amendment of the Financial Services (Experienced Investor Funds) Regulations 2020.

4. After regulation 22(6) of the Financial Services (Experienced Investor Funds) Regulations 2020, insert–

“(6A) A GFSC decision to issue a decision notice does not fall within sub-regulation (6) if the recipient has received a warning notice and–

(a) has agreed in writing to the steps proposed in the warning notice being taken;
or

(b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Fiduciary Services) Regulations 2020.

5. After regulation 74(8) of the Financial Services (Fiduciary Services) Regulations 2020, insert–

“(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–

(a) has agreed in writing to the steps proposed in the warning notice being taken;
or

(b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Personal Pensions) Regulations 2020.

6. After regulation 123(8) of the Financial Services (Personal Pensions) Regulations 2020, insert–

“(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–

(a) has agreed in writing to the steps proposed in the warning notice being taken;
or

(b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Mortgage Credit) Regulations 2020.

7.(1) The Financial Services (Mortgage Credit) Regulations 2020 are amended as follows.

(2) After regulation 16(4), insert–

“(4A) A GFSC decision to issue a decision notice does not fall within sub-regulation (4) if the recipient has received a warning notice and–

- (a) has agreed in writing to the steps proposed in the warning notice being taken; or
- (b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

(3) After regulation 70(8), insert–

“(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–

- (a) has agreed in writing to the steps proposed in the warning notice being taken; or
- (b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Insurance Management) Regulations 2020.

8. After regulation 53(8) of the Financial Services (Insurance Management) Regulations 2020, insert–

“(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–

- (a) has agreed in writing to the steps proposed in the warning notice being taken; or
- (b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Alternative Investment Fund Managers) Regulations 2020.

9. In regulation 69 of the Financial Services (Alternative Investment Fund Managers) Regulations 2020–

(a) in sub-regulation (4)(b), omit “(other than in a case where, in response to a warning notice, the recipient has agreed in writing to the steps proposed being taken)”;

(b) after sub-regulation (4), insert–

“(5) A GFSC decision to issue a decision notice does not fall within sub-regulation (4)(b) if the recipient has received a warning notice and–

(a) has agreed in writing to the steps proposed in the warning notice being taken; or

(b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Insurance Distribution) Regulations 2020.

10. After regulation 79(8) of the Financial Services (Insurance Distribution) Regulations 2020, insert–

“(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–

(a) has agreed in writing to the steps proposed in the warning notice being taken; or

(b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Distributed Ledger Technology Providers) Regulations 2020.

11. After regulation 7(8) of the Financial Services (Distributed Ledger Technology Providers) Regulations 2020, insert–

“(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–

(a) has agreed in writing to the steps proposed in the warning notice being taken; or

- (b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Amendment of the Financial Services (Bureaux de Change) Regulations 2020.

12. After regulation 47(8) of the Financial Services (Bureaux de Change) Regulations 2020, insert–

- “(9) A GFSC decision to issue a decision notice does not fall within sub-regulation (8) if the recipient has received a warning notice and–
 - (a) has agreed in writing to the steps proposed in the warning notice being taken; or
 - (b) has not made any representations to the GFSC within the notice period specified in section 612(2)(a) of the Act (and in that event the GFSC may regard the facts and matters set out in the warning notice as undisputed).”.

Dated: 7th September 2023.

A J ISOLA,
Minister with responsibility for Financial Services.

EXPLANATORY MEMORANDUM

The Regulations amend several regulations made under the Financial Services Act 2019. They exclude certain decisions from being specified regulatory decisions within the meaning of section 24 of the Act, where the decision is uncontested or the person concerned has not made any representations.