

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5086 GIBRALTAR Friday 8th September 2023

LEGAL NOTICE NO. 266 OF 2023

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (INSURANCE COMPANIES AND CREDIT INSTITUTIONS) (AMENDMENT) REGULATIONS 2023

In exercise of the powers conferred on the Minister by sections 620, 621, 626 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 (Insurance Companies and Credit Institutions) (Amendment) Regulations 2023.

Commencement.

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

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

3.(1) The Financial Services (Insurance Companies) Regulations 2020 are amended as follows.

(2) After regulation 51, insert-

“Restriction on dividend payments.

51A.(1) An insurance or reinsurance undertaking may only make a dividend payment if-

- (a) it has notified the GFSC of the intention to make the payment; and
- (b) the GFSC has not objected to the payment being made.

(2) In this regulation a “dividend payment” means a dividend to shareholders or a distribution of capital of any other kind, including capital repayments for a loan to a parent or holding company or the return of premiums to the members of a mutual insurer.

(3) An insurance or reinsurance undertaking must give the GFSC notice of a proposed dividend payment at the earliest opportunity and, in any event, not less than 30 days before the day on which the undertaking proposes to declare (or otherwise decide to make) the dividend payment.

(4) A notice under sub-regulation (3) must–

- (a) be made in the form and manner the GFSC directs; and
- (b) contain or be accompanied by such information as the GFSC reasonably requires.

(5) Without limiting sub-regulation (4), the information which the GFSC may require an insurance or reinsurance undertaking to provide includes, in particular, information to demonstrate that the proposed dividend payment is appropriate in relation to the undertaking’s–

- (a) actual and projected business performance; and
- (b) current and future capital position.

(6) The GFSC may give notice (an “objection notice”) that it objects to the dividend payment being made if, having regard to the information provided and, in particular, the matters in sub-regulation (5), it is not satisfied that the insurance or reinsurance undertaking has demonstrated that the payment is appropriate.

(7) An objection notice must be given to the insurance or reinsurance undertaking not less than 15 days before the day on which it proposes to declare (or otherwise decide to make) the dividend payment.

(8) An objection notice takes effect immediately and requires the insurance or reinsurance undertaking concerned to refrain from making–

- (a) the proposed dividend payment; or
- (b) any other dividend payment without the GFSC’s consent.

(9) An insurance or reinsurance undertaking may appeal under section 615 of the Act against an objection notice as if it were a decision notice to which that section applies.”.

Amendment of the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020.

4. After regulation 98 of the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020, insert–

“Restriction on dividends and similar payments

Restriction on dividend payments.

98A.(1) A credit institution may only make a dividend payment if–

- (a) it has notified the GFSC of the intention to make the payment; and
- (b) the GFSC has not objected to the payment being made.

(2) In this regulation a “dividend payment” means a dividend to shareholders or a distribution of capital of any other kind, including capital repayments for a loan to a parent or holding company.

(3) A credit institution must give the GFSC notice of a proposed dividend payment at the earliest opportunity and, in any event, not less than 30 days before the day on which the [firm] proposes to declare (or otherwise decide to make) the dividend payment.

(4) A notice under sub-regulation (3) must–

- (a) be made in the form and manner the GFSC directs; and
- (b) contain or be accompanied by such information as the GFSC reasonably requires.

(5) Without limiting sub-regulation (4), the information which the GFSC may require a credit institution to provide includes, in particular, information to demonstrate that the proposed dividend payment is appropriate in relation to the credit institution’s–

- (a) actual and projected business performance; and
- (b) current and future capital position.

(6) The GFSC may give notice (an “objection notice”) that it objects to the dividend payment being made if, having regard to the information provided and, in particular, the matters in sub-regulation (5), it is not satisfied that the credit institution has demonstrated that the payment is appropriate.

(7) An objection notice must be given to the credit institution not less than 15 days before the day on which it proposes to declare (or otherwise decide to make) the dividend payment.

(8) An objection notice takes effect immediately and requires the credit institution concerned to refrain from making–

- (a) the proposed dividend payment; or

(b) any other dividend payment without the GFSC's consent.

(9) A credit institution may appeal under section 615 of the Act against an objection notice as if it were a decision notice to which that section applies.”.

Dated: 8th September 2023.

A J ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These Regulations amend the Financial Services (Insurance Companies) Regulations 2020 and the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020, to require insurance companies and credit institutions to obtain the GFSC's 'non-objection' clearance before declaring a dividend or making a similar capital distribution.