

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4970 GIBRALTAR Thursday 23rd June 2022

LEGAL NOTICE NO. 153 OF 2022.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (MISCELLANEOUS AMENDMENTS No. 2) (EU EXIT) REGULATIONS 2022

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019 and sections 620, 621, 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 (Miscellaneous Amendments No. 2) (EU Exit) Regulations 2022.

Commencement.

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

Financial Services (UCITS) Regulations 2020.

- 3.(1) The Financial Services (UCITS) Regulations 2020 are amended as follows.

(2) In regulation 3(1)-

- (a) omit the definition of “Commission Regulation (EU) No 584/2010”;
- (b) in the definition of “competent authority”, omit “and where appropriate, designed as such under Article 97 of the UCITS Directive”;
- (c) for the definition of “credit rating agency” substitute—
““credit rating agency” means a legal person whose occupation includes the issuing of credit ratings on a professional basis;”
- (d) omit the definition of “Directive 98/26/EC”;
- (e) omit the definition of “Directive 2006/73/EC”;
- (f) omit the definition of “Directive 2010/43/EU”.

(3) For regulation 4 substitute—

“4. These Regulations supplement Parts 18 and 7 of the Act and the related Schedules concerning, respectively, the regulation of collective investment schemes and the carrying on of regulated activities related to such schemes.”.

(4) In regulation 62(3), omit “that is set up having regard to any guidance issued by the GFSC in accordance with Article 14a(4) of the UCITS Directive”.

(5) For regulation 64(6) substitute—

“(6) For the purposes of this regulation, the provision of settlement services by a system designated under regulation 5 of the Financial Services (Financial Markets and Insolvency: Settlement Finality) Regulations 2020 or the provision of similar services by a third-country securities settlement system is not to be considered as a delegation of custody functions.”.

(6) In regulation 82—

(a) in sub-regulation (2)—

(i) for “a Member State or” substitute “the United Kingdom or an EEA State,”;

(ii) for “by an EEA State” substitute “by the United Kingdom or an EEA State”;

(b) in sub-regulation (4), for “European Central Bank or by a central bank of an EEA State” substitute “Bank of England, the European Central Bank or the central bank of an EEA State”.

(7) In regulation 89—

(a) in sub-regulation (4), for “an EEA State, by an EEA State’s local authorities, by a third country or by a public international body to which one or more EEA States” substitute “the government of Gibraltar, the United Kingdom or an EEA State, by a local authority in the United Kingdom or an EEA State, by a third country or by a public international body to which Gibraltar, the United Kingdom or an EEA State”;

(b) in sub-regulation (5), for “an EEA State” substitute “Gibraltar, the United Kingdom or an EEA State”.

(8) In regulation 92(1), for “Gibraltar, an EEA State, one or more Gibraltar or EEA State local authorities, a third country, or a public international body to which Gibraltar or one or more EEA State” substitute “the government of Gibraltar, the United Kingdom or an EEA State, by a local authority in the United Kingdom or an EEA State, by a third country or by a public international body to which Gibraltar, the United Kingdom or an EEA State”.

(9) In regulation 94(4), for “Gibraltar or its local authorities” substitute “the government of Gibraltar”.

(10) In regulation 105–

(a) in sub-regulation (1)–

(i) in paragraph (a)(iii), for “MiFID 2 Directive” substitute “Financial Services (Investment Services) Regulations 2020”;

(ii) in paragraph (c), for “EUMAR” substitute “the Market Abuse Regulation”;

(b) for sub-regulation (4) substitute–

“(4) For the purposes of this regulation–

“Directive 2006/73/EC” means Commission Directive 2006/73/EC of 10 August 2006, as that Directive had effect immediately before IP completion day; and

"personal transaction" has the same meaning as in Article 11 of Directive 2006/73/EC.”.

(11) In regulation 120(1), for “the criteria set out in Article 8(4) of Directive 2007/16/EC as that Directive applied in Gibraltar immediately before IP completion day” substitute–

“the following criteria–

(a) the basis for the valuation is a reliable up-to-date market value of the instrument, or, if such a value is not available, a pricing model using an adequate recognised methodology; and

(b) verification of the valuation is carried out by–

(i) an appropriate third party which is independent from the counterparty of the OTC-derivative, at an adequate frequency and in such a way that the UCITS is able to check it; or

(ii) a unit within the UCITS which is independent from the department in charge of managing the assets and which is adequately equipped for such purpose.”.

(12) In regulation 130(3), for “another EEA State” substitute “a third country”.

(13) In regulation 152–

- (a) in sub-regulation (1), in both places it occurs, for “€5,000,000 (or the sterling equivalent)” substitute “the sterling equivalent of €5,000,000”;
 - (b) in sub-regulation (3), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”;
 - (c) omit sub-regulation (4).
- (14) In regulation 206–
- (a) in sub-regulation (3)(b), for “under the UCITS Directive” substitute “in respect to the regulation of collective investment schemes and related activities”;
 - (b) in sub-regulation (5)–
 - (i) after “GFSC”, insert “, for the purpose of performing its functions in respect to the regulation of collective investment schemes and related activities,”;
 - (ii) for “latter within the framework of its powers under the UCITS Directive” substitute “third country”;
 - (c) in sub-regulation (6), after “Gibraltar”, insert “and proposes to provide the assistance requested”.

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

4.(1) The Financial Services (Credit Institutions and Capital Requirements) Regulations 2020 are amended as follows.

- (2) In regulation 59(1), for “Member State” substitute “jurisdiction”.
- (3) In regulation 101(4), for “(within the meaning of Part 24 of the Act)” substitute “approved and registered under Part 24 of the Act”.
- (4) In the Schedule, omit the headings “ANNEX I” and “LIST OF ACTIVITIES SUBJECT TO MUTUAL RECOGNITION”.

Financial Services (Payment Services) Regulations 2020.

5.(1) The Financial Services (Payment Services) Regulations 2020 are amended as follows.

- (2) Omit regulation 1(3) and (4).
- (3) In regulation 2–
 - (a) in the definition “account information services”, for “point (8) of paragraph 17” substitute “paragraph 17(8)”;

(b) for the definition of “branch” substitute–

““branch” means a place of business which forms a legally dependent part of a payment institution and which carries out directly all or some of the transactions inherent in the business of a payment institution;”;

(c) for the definition of “group” substitute–

““group” means a group of undertakings of which at least one is a payment institution and which consists of a parent undertaking and its subsidiaries, or of undertakings that are related to each other a by common management relationship within the meaning of Article 4.1(38A) of the Capital Requirements Regulation;”;

(d) in the definition “payment initiation services”, for “point (7) of paragraph 17” substitute “paragraph 17(7)”.

(4) In regulation 8–

(a) in sub-regulation (1)(k)–

(i) for “the obligations” substitute “obligations”;

(ii) for “the Money Laundering Directive” substitute “Part 3 of the Proceeds of Crime Act 2015”;

(b) in sub-regulation (3)(c), for “on security measures issued by the GFSC in accordance with Article 95.3 of the Payment Services Directive” substitute “issued by the GFSC on the establishment, implementation and monitoring of security measures”.

(5) In regulation 10(7), for “point (7) of paragraph 17” substitute “paragraph 17(7)”.

(6) In regulation 11(3), for “point (4) or (5) of paragraph 17” substitute “paragraph 17(4) or (5)”.

(7) In regulation 14–

(a) in sub-regulation (2)(b), for “the Money Laundering Directive” substitute “Part 3 of the Proceeds of Crime Act 2015”;

(b) in sub-regulation (11)(c)(i), for “the Money Laundering Directive” substitute “section 7(2) or 1ZA respectively of the Proceeds of Crime Act 2015”.

(8) In regulation 43(1), for “point (7) of paragraph 17” substitute “paragraph 17(7)”.

(9) In regulation 44(1), for “point (8) of paragraph 17” substitute “paragraph 17(8)”.

- (10) For regulation 78(4) substitute—
- “(4) This regulation applies subject to any guidance issued by the GFSC on the establishment, implementation and monitoring of security measures.”.
- (11) In regulation 80(1)—
- (a) in paragraph (a), for “point (6) of paragraph 17” substitute “paragraph 17(6)”;
 - (b) in paragraph (b), for “point (7) of paragraph 17” substitute “paragraph 17(7)”;
 - (c) in paragraph (c), for “points (1) to (5) of paragraph 17” substitute “paragraph 17(1) to (5)”.
- (12) In regulation 81(3)(a), omit “under the Capital Requirements Directive”.
- (13) In regulation 82(1)—
- (a) in paragraph (a), for “point (7) of paragraph 17” substitute “paragraph 17(7)”;
 - (b) in paragraph (b), for “point (8) of that paragraph” substitute “paragraph 17(8) of that Schedule”.
- (14) In regulation 84(1), for “points (1) to (6) of paragraph 17” substitute “paragraph 17(1) to (6)”.
- (15) In regulation 85—
- (a) in sub-regulation (1)—
 - (i) in paragraph (a), for “Bank Accounts Directive” substitute “Financial Services (Credit Institutions) (Accounts) Regulations 2021”;
 - (ii) in paragraph (b), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”;
 - (b) in sub-regulation (2)—
 - (i) for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”;
 - (ii) for “Bank Accounts Directive” substitute “Financial Services (Credit Institutions) (Accounts) Regulations 2021”.
- (16) In regulation 87(6), for “in accordance with Article 96.3 of the Payment Services Directive” substitute “on the classification of major operational and security incidents, the procedures for notifying the GFSC of such incidents and on the content and format of such notifications”.

(17) In regulation 104(2), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.

(18) In regulation 106(2)(d), omit “, in accordance with Article 2.5 of the Payment Services Directive,”.

(19) In Schedule 1–

(a) in paragraph 2(3)(c), for “on security measures issued by the GFSC in accordance with Article 95.3 of the Payment Services Directive” substitute “issued by the GFSC on the establishment, implementation and monitoring of security measures”;

(b) in paragraph (4), for “point (8) of paragraph 17” substitute “paragraph 17(8)”.

(20) In Schedule 3, in paragraph 4–

(a) in sub-paragraph (a), for “point (6) of paragraph 17” substitute “paragraph 17(6)”;

(b) in sub-paragraph (b), for “points (1) to (5) of paragraph 17” substitute “paragraph 17(1) to (5)”.

Financial Services (Recovery and Resolution) Regulations 2020.

6.(1) The Financial Services (Recovery and Resolution) Regulations 2020 are amended as follows.

(2) In regulation 2(1)(b)(ii), for “17” substitute “14”.

(3) In regulation 45D–

(a) in the heading–

(i) omit “EU”;

(ii) for “non-EU” substitute “third country”;

(b) in sub-regulation (2)–

(i) omit “EU”;

(ii) for “non-EU” substitute “third country”.

Financial Services (Mortgage Credit) Regulations 2020.

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

(2) In regulation 3(1), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.

(3) In regulation 58, for “or recognised” substitute “and registered”.

(4) In regulation 72(2), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.

(5) In Schedule 1, in paragraph (c) of the Remarks, for “30,41666” substitute “30.4166”.

Financial Services (Electronic Money) Regulations 2020.

8.(1) The Financial Services (Electronic Money) Regulations 2020 are amended as follows.

(2) In regulation 2–

(a) omit sub-regulation (5);

(b) in sub-regulation (6), for “secondary” substitute “subsidiary”.

(3) In regulation 9–

(a) in sub-regulation (2)(b), for “territory” substitute “country or territory”;

(b) in sub-regulation (9)(a), for “territory” substitute “country or territory”.

(4) In regulation 10–

(a) in sub-regulation (3), for “point (4) or (5) of paragraph 17” substitute “paragraph 17(4) or (5)”;

(b) in sub-regulation (5), for “territory” substitute “country or territory”.

(5) In regulation 14(1)(c)(i), for “the Money Laundering Directive” substitute “section 7(2) or 1ZA respectively of the Proceeds of Crime Act 2015”.

(6) In regulation 18(2), for “take deposits or other repayable funds from the public within the meaning of Article 9 of the Capital Requirements Directive” substitute “carry on the regulated activity of accepting deposits”.

(7) In regulation 36–

(a) in sub-regulation (1)–

(i) in paragraph (a), for “Bank Accounts Directive” substitute “Financial Services (Credit Institutions) (Accounts) Regulations 2021”;

(ii) in paragraph (b), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”;

(b) in sub-regulation (2)–

(i) for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”;

(ii) for “Bank Accounts Directive” substitute “Financial Services (Credit Institutions) (Accounts) Regulations 2021”.

(8) In regulation 56(2), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.

(9) In Schedule 2, in paragraph 11, for “the Money Laundering Directive and Regulation 2015/847/EU” substitute “Part 3 of the Proceeds of Crime Act 2015 and Regulation (EU) 2015/847”.

(10) In Schedule 3–

(a) in paragraph 9(a), for “points 1 to 5 of paragraph 17” substitute “paragraph 17(1) to (5)”;

(b) in paragraph 17(4)–

(i) in paragraph (a), for “point 6 of paragraph 17” substitute “paragraph 17(6)”;

(ii) in paragraph (b), for “points 1 to 5 of paragraph 17” substitute “paragraph 17(1) to (5)”.

Financial Services (Alternative Investment Fund Managers) Regulations 2020.

9.(1) The Financial Services (Alternative Investment Fund Managers) Regulations 2020 are amended as follows.

(2) In regulation 3, for “lay down the rules” substitute “provide”.

(3) In regulation 4(1)–

(a) omit the definition of “the Codified Company Law Directive”;

(b) in the definition of “control”, for “Article 22 of the Accounting Directive” substitute “Part 7 of the Companies Act 2014”;

(c) omit the definition of “the CRA Regulation”;

(d) for the definition of “credit rating agency” substitute–

““credit rating agency” means a legal person whose occupation includes the issuing of credit ratings on a professional basis;”

- (e) omit the definition of “the Directive”;
- (f) omit the definition of “the GDPR”;
- (g) omit the definition of “the Information and Consultation of Employees Directive”;
- (h) for the definition of “issuer” substitute–

““issuer” has the meaning given in section 356 of the Act;”;

- (i) for the definition of “qualifying holding” substitute–

““qualifying holding” means a direct or indirect holding in an AIFM–

- (a) which represents 10% or more of the capital or voting rights, in accordance with section 363 or 364 of the Act, taking into account the conditions regarding aggregation of holdings in section 366(7) to (10) of the Act; or
- (b) which makes it possible to exercise a significant influence over the management of the AIFM in which that holding subsists;”;

- (j) for the definition of “securitisation special purpose entities” substitute–

““securitisation special purpose entities” has the meaning given in Article 2.2 of Regulation (EU) 2017/2402 as it forms part of the law of Gibraltar;”;

- (k) omit the definition of “the Settlement Finality Directive”;

- (l) in the definition of “supervisory authorities”, for paragraph (c) substitute–

“(c) in relation to a depositary which falls within the category of institution referred to in regulation 48(3)(c), the GFSC; or

- (d) in relation to a depositary not requiring Part 7 permission, the national authorities of a third country which are empowered by law or regulation to supervise that category of institution;”.

(4) Omit regulation 4(5).

(5) In regulation 6(1)(b), for “IORP 2 Directive applies” substitute “IORP Regulations apply”.

(6) In regulation 33(3), for “the Transparency Directive” substitute “Chapter 4 of Part 19 of the Act”.

(7) In regulation 35(2)(b), omit “and the Investor Compensation Scheme Directive”.

(8) In regulation 36(2), for “the Transparency Directive” substitute “Chapter 4 of Part 19 of the Act”.

(9) In regulation 40(2), for “in accordance with Article 13.2 of the Directive” substitute “on remuneration policies which comply with Part 2 of the Schedule”.

(10) In regulation 42(2)(b), for “of Article 15 of the Directive” substitute “set out in this Regulation”.

(11) In regulation 46–

(a) in sub-regulation (1)(a), for “Article 19 of the Directive” substitute “this Regulation”;

(b) in sub-regulation (2)(a), for “Article 19 of the Directive” substitute “this Regulation”.

(12) In regulation 48–

(a) in sub-regulation (3)(b), for sub-paragraphs (i) and (ii) substitute–

(i) is subject to the initial capital requirement in regulation 11(1)(a) of the Financial Services (Investment Firms) (Prudential Requirements) Regulations 2021; and

(ii) has at all times own funds of not less than the amount determined in accordance with regulation 14(1) of those Regulations; or

(b) in sub-regulation (13)–

(i) for paragraph (b) substitute–

“(b) ensure that all cash of the AIF has been booked in cash accounts opened in the name of the AIF, the name of the AIFM acting on behalf of the AIF or the name of the depositary acting on behalf of the AIF at–

(i) a central bank;

(ii) an authorised credit institution;

(iii) a bank or credit institution authorised in a third country;

(iv) another entity of the same nature, in the relevant market where cash accounts are required, which is subject to effective prudential regulation and supervision which have the same effect as the law of

Gibraltar, are effectively enforced and accord with the principles set out in Article 16 of Directive 2006/73/EC.”;

(ii) omit paragraph (c);

(c) omit sub-regulation (15)(a)(iii);

(d) after sub-regulation (15), insert–

“(15A) For the purposes of this sub-regulations (13) and (15), “Directive 2006/73/EC” means Commission Directive 2006/73/EC of 10 August 2006 as that Directive had effect immediately before IP completion day.”;

(e) for sub-regulation (24) substitute–

“(24) For the purposes of this regulation, the provision of settlement services by a system designated under regulation 5 of the Financial Services (Financial Markets and Insolvency: Settlement Finality) Regulations 2020 or the provision of similar services by a third-country securities settlement system is not to be considered as a delegation of custody functions.”.

(13) In regulation 52–

(a) for sub-regulation (2)(a) substitute–

“(a) SMEs; or”;

(b) after sub-regulation (2), insert–

“(2A) In sub-regulation (2), “SME” means a micro, small and medium-sized enterprise as defined in Articles 1 to 6 of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 with the following amendments–

(a) in Article 3.5, for “by national or Community rules” substitute “under the law of Gibraltar”;

(b) in article 5(b), for “national law” substitute “the law of Gibraltar”;;

(c) in sub-regulation (5)(c), for “Article 5.3 of the Takeover Bids Directive” substitute “the law of the country or territory in which the company has its registered office”;

(d) in sub-regulation (6)–

(i) in paragraph (a), for “Article 6 of the Information and Consultation of Employees Directive” substitute “Part 7 of the Employment (Information and Consultation of Employees) Regulations 2005”;

(ii) in paragraph (b), omit “in their territories”.

(14) For regulation 55(2)(c) substitute—

“(c) the following information concerning any acquisitions of its own shares—

- (i) the reasons for any acquisitions made during the financial year;
- (ii) the number and nominal value or, in the absence of a nominal value, the accountable par of the shares acquired and disposed of during the financial year and the proportion of the subscribed capital which they represent;
- (iii) in the case of acquisition or disposal for a value, the consideration for the shares; and
- (iv) the number and nominal value or, in the absence of a nominal value, the accountable par of all the shares acquired and held by the company and the proportion of the subscribed capital which they represent.”.

(15) In regulation 56(3)(c), for “Article 20(1)(b) to (h) of Directive 77/91/EEC as that Directive applied in Gibraltar immediately before IP completion day” substitute “section 106 of the Companies Act 2014”.

(16) In regulation 60—

(a) for sub-regulation (2) substitute—

“(2) This regulation applies subject to any technical standards regarding the cooperation arrangements referred to in sub-regulation (1).”;

(b) omit sub-regulation (3).

(17) In regulation 62—

(a) in sub-regulation (1)(a), omit “(and the Directive)”;

(b) for sub-regulation (4) substitute—

“(4) This regulation applies subject to any technical standards regarding the cooperation arrangements referred to in sub-regulation (1).”.

(18) In regulation 63—

(a) in sub-regulation (2)—

(i) omit “(and the Directive)”;

(ii) omit “(and Chapter VI of the Directive)”;

- (b) in sub-regulation (3), in both places it occurs, omit “(or the Directive)”;
 - (c) in sub-regulation (4)–
 - (i) in paragraph (a), omit “(or the Directive)”;
 - (ii) in paragraph (b), omit “(or the Directive)”;
 - (d) in sub-regulation (16)(g), for “their supervisory functions under the Directive” substitute “its supervisory functions”;
 - (e) in sub-regulation (19)(a)(ii), omit “(or the Directive)”;
 - (f) for sub-regulation (37) substitute–

“(37) This regulation applies subject to any technical standards concerning–

 - (a) the cooperation arrangements referred to in sub-regulation (16)(d) and the minimum content of such arrangements;
 - (b) the manner in which an AIFM must comply with the requirements in these Regulations, taking into account that the AIFM is established in a third country and the presentation of the information required by regulations 36, 37 and 50; and
 - (c) the conditions under which the law to which a non-Gibraltar AIFM or a non-Gibraltar AIF is subject is considered to provide for an equivalent rule having the same regulatory purpose and offering the same level of protection to the relevant investors.”.
- (19) In regulation 68–
- (a) in sub-regulation (1)(b), omit “(and the Directive)”;
 - (b) for sub-regulation (5) substitute–

“(5) This regulation applies subject to any technical standards concerning the cooperation arrangements referred to in sub-regulation (1).”.
- (20) In regulation 69–
- (a) in sub-regulation (1), for “the Act, these Regulations or the Directive” substitute “the Act or these Regulations”;
 - (b) in sub-regulation (2)–
 - (i) in paragraph (d), for “the Act, these Regulations or the Directive” substitute “the Act or these Regulations”;

- (ii) in paragraph (g), for “the Act, these Regulations or the Directive” substitute “the Act or these Regulations”;
 - (c) omit sub-regulation (9).
- (21) In regulation 74(2), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.
- (22) In regulation 77, omit “and the Directive”.
- (23) In regulation 78(1), omit “and the Directive”.
- (24) In regulation 79(1), for “rules” substitute “legal and regulatory provisions”.
- (25) In regulation 81–
- (a) in the heading, for “of rules” substitute “by non-Gibraltar AIFMs”;
 - (b) in sub-regulation (1), for “one of the rules” substitute “a legal or regulatory provision”;
 - (c) in sub-regulation (3)–
 - (i) in paragraph (a), for “any breaches referred to in that Article” substitute “the breach”;
 - (ii) in paragraph (c), for “supervisory authorities in third countries.” substitute “third country supervisory authorities”;
 - (d) in sub-regulation (4)–
 - (i) omit “continues to refuse to provide information requested by the GFSC under Article 45.3 of the Directive, or”
 - (ii) omit “pursuant to Article 45.4 of the Directive”.
- (26) In regulation 87(1)(b), omit “or the Directive”.
- (27) In the Schedule–
- (a) omit the heading “ANNEXES I TO IV TO THE DIRECTIVE”
 - (b) after the heading “PART 1” insert “INVESTMENT MANAGEMENT AND OTHER FUNCTIONS”;
 - (c) in Part 2, in paragraph 1(r), for “this Directive” substitute “these Regulations”.

Financial Services (Insurance Distribution) Regulations 2020.

10.(1) The Financial Services (Insurance Distribution) Regulations 2020 are amended as follows.

(2) In regulation 5(3)(a), for “territory” substitute “country or territory”.

(3) In regulation 17(8), for “guidance on the assessment and supervision of cross-selling practices issued by the GFSC in accordance with Article 24.4 of the Insurance Distribution Directive” substitute “guidance issued by the GFSC on the assessment and supervision of cross-selling practices and, in particular, on situations in which cross-selling practices are not compliant with the general principle in regulation 11”.

(4) In regulation 21(13), for paragraph (b) substitute—

“(b) having regard to any guidance issued by the GFSC for the assessment of insurance-based investment products—

- (i) that incorporate a structure which makes it difficult for the customer to understand the risks involved, as referred to in sub-regulation (6)(b)(i); or
- (ii) being classified as non-complex for the purpose of sub-regulation (6)(b)(ii).”.

(5) In regulation 59, for “auditor is registered in accordance with sections 487 to 491 of” substitute “person is a statutory auditor or audit firm approved and registered under”.

(6) In regulation 84(2), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.

(7) Omit regulation 85(9).

Financial Services (Collective Investment Scheme Administrators) Regulations 2020.

11.(1) The Financial Services (Collective Investment Scheme Administrators) Regulations 2020 are amended as follows.

(2) In regulation 2(1)—

- (a) in the definition of “auditor”, omit “and who is in office at that time”;
- (b) omit the definition of “Capital Requirements Directive”.

(3) In regulation 54, for “or the firm is registered in accordance with section 487 to 492,” substitute “a statutory auditor or audit firm approved and registered under”.

(4) In regulation 64(2), for “the Accounting Directive” substitute “Part 7 of the Companies Act 2014”.

Dated: 23rd June 2022.

A J ISOLA,
Minister with responsibility for Financial Services.

EXPLANATORY MEMORANDUM

These regulations make miscellaneous and generally minor amendments to various financial services-related Regulations, principally in order to address failures of retained EU law to operate effectively and other deficiencies arising from Gibraltar's withdrawal from the European Union.