

Subsidiary Legislation made under s.11.

Financial Services (Transitional Directions) (EU Exit) Regulations 2020

LN.2020/544

Commencement

1.1.2021

ARRANGEMENT OF REGULATIONS.

Regulation

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2019-01

European Union (Withdrawal)

2020/544

**Financial Services (Transitional Directions) (EU Exit)
Regulations 2020**

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Financial Services (Transitional Directions) (EU Exit) Regulations 2020.

Commencement.

2. These Regulations come into operation on 1st January 2021.

Interpretation.

3. In these Regulations—

“the Act” means the Financial Services Act 2019;

“the Minister” means the Minister with responsibility for financial services;

“regulated person” has the meaning given in section 2(2) of the Act;

“relevant obligation” has the meaning given in regulation 5; and

“transitional direction” means a direction under regulation 4.

Transitional directions.

4.(1) The GFSC may, with the consent of the Minister, direct that a relevant obligation to which a regulated person is subject—

(a) is not to apply to the regulated person; or

(b) is to apply to the regulated person with the modifications specified in the direction.

(2) The GFSC may give a direction to—

(a) a particular regulated person or particular regulated persons; or

(b) to regulated persons of a description specified in the direction.

(3) The GFSC may not give a transitional direction to any regulated person unless it is satisfied that—

- (a) the direction will prevent or mitigate disruption that would otherwise arise for the regulated person from complying or seeking to comply with the relevant obligation; and
- (b) doing so is compatible with the GFSC’s regulatory objectives under section 23(2) of the Act.

Relevant obligations

5.(1) An obligation is a “relevant obligation” in relation to a regulated person, if—

- (a) the obligation—
 - (i) is imposed by or under an EU-derived provision which has not been modified to take account of Gibraltar’s withdrawal from the European Union; and
 - (ii) in the GFSC’s opinion, no longer applies or is not clear in its effect or extent;
- (b) the GFSC has responsibility for supervising, or other functions relating to, the regulated person’s compliance with the obligation; and
- (c) the obligation is not an obligation to satisfy the threshold conditions in relation to a regulated activity (within the meaning of the Act).

(2) For the purposes of sub-regulation (1)—

- (a) an “EU-derived provision” means a provision of—
 - (i) the Act, or any subsidiary legislation made under it, which gives effect to an obligation derived from EU law; or
 - (ii) an enactment which is retained direct EU legislation; and
- (b) an obligation is not clear in its extent if it is expressed as extending to the European Union or EEA and, in consequence—

- (i) extended or applied to Gibraltar and the United Kingdom before IP completion day; and
- (ii) without modification would not extend or apply to Gibraltar and the United Kingdom after IP completion day.

Giving and effect of transitional directions.

6.(1) A transitional direction—

- (a) may be given subject to conditions;
- (b) must specify the period in relation to which it has effect; and
- (c) may not be given after 31st December 2021.

(2) The GFSC must—

- (a) in the case of a direction given to a particular regulated person or particular regulated persons, provide the person, or each of them, with a copy of the direction; or
- (b) in the case of a direction given to persons of a description specified in the direction, take appropriate steps to bring the direction to the attention of any regulated person likely to be affected by it.

Variation of transitional directions.

7.(1) The GFSC's power under regulation 4(1) to give a direction includes power to vary (or further vary) a transitional direction it has already given.

(2) The power to vary a direction may not be exercised to give a direction which could not be given in a new transitional direction.

(3) Where a transitional direction has been given to—

- (a) two or more particular regulated persons, or
- (b) regulated persons of a description specified in the direction,

the power to vary it may be exercised in relation to all, some or any one of those regulated persons.

(4) A direction may only be varied with the consent of the Minister.

Revocation of transitional directions.

8.(1) The GFSC may revoke a transitional direction, either wholly or in relation to one or some of the regulated persons to whom it was given.

(2) Where the GFSC revokes a transitional direction in relation to—

- (a) a particular regulated person or particular regulated persons, it must provide the person, or each of them, with a copy of the revocation; or
- (b) regulated persons of a description specified in the revocation, it must take appropriate steps to bring the revocation to the attention of any regulated persons likely to be affected by it.

(3) A direction may only be revoked with the consent of the Minister.