

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5228 GIBRALTAR Thursday 8th May 2025

LEGAL NOTICE NO. 98 OF 2025

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (ALTERNATIVE INVESTMENT FUND MANAGERS) (AMENDMENT) REGULATIONS 2025

In exercise of the powers conferred on the Minister by sections 61, 620, 621 and 627 of, and paragraph 5 of Schedule 24 to, the Financial Services Act 2019, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Financial Services (Alternative Investment Fund Managers) (Amendment) Regulations 2025.

Commencement.

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

Amendment of the Financial Services Act 2019.

3. In paragraph 4(2) of Schedule 24 to the Financial Services Act 2019—
 - (a) in paragraph (a), for “persons” substitute “not more than 50 persons, whether in Gibraltar or elsewhere,”;
 - (b) after paragraph (b), insert “and”;
 - (c) omit paragraph (c), including “and” which follows it.

Amendment of the AIFM Regulations.

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

(2) In regulation 8(5), for “regulation 18” substitute “regulations 18 and 18A and, where applicable, regulations 18B and 18C”.

- (3) After regulation 10, insert—

“Application of certain provisions to external AIFMs.

10A.(1) An external AIFM must comply with regulations 18B and 18C in respect of any AIF it manages—

- (a) whose participants, whether in Gibraltar or elsewhere, are an identifiable category of persons not exceeding 50 in number; and
- (b) which is not an EIF.

(2) For the purposes of sub-regulation (1), regulations 18B and 18C are to apply as if references in those regulations to a self-managed small AIFM where references to an external AIFM to which this regulation applies.”.

(4) For regulation 18, substitute—

“Registration of small AIFMs.

18.(1) Subject to sub-regulation (8), a small AIFM may only market the units or shares of AIFs it manages to professional investors, in Gibraltar, if it is registered in accordance with this regulation.

(2) An application for registration under this regulation must be submitted to the GFSC—

- (a) in the form it requires; and
- (b) contain or be accompanied by—
 - (i) the information specified in sub-regulation (3); and
 - (ii) any other information that the GFSC may reasonably require.

(3) The information provided by a small AIFM under sub-regulation (2)(b) must include details of—

- (a) the identity of the small AIFM;
- (b) the AIFs that it manages; and
- (c) the investment strategies of those AIFs.

(4) After receiving a complete application under sub-regulation (2), the GFSC must without unreasonable delay inform the small AIFM whether or not registration has been granted.

(5) The GFSC may refuse to register a small AIFM if—

- (a) the applicant—

- (i) has not complied with any requirement imposed by or under this regulation; or
 - (ii) has provided information which appears to the GFSC to be false or misleading;
 - (b) the GFSC considers that—
 - (i) it is undesirable, in the interests of potential investors, for an AIF which the applicant manages to be marketed; or
 - (ii) it is necessary in order to protect the public against financial loss, or to protect the reputation of Gibraltar as a financial services centre or otherwise; or
 - (c) the GFSC suspects, on reasonable grounds, that the applicant will fail to comply with any of obligation imposed by or under the Act.
- (6) If the GFSC—
- (a) proposes to refuse to register a small AIFM, it must give the small AIFM a warning notice; or
 - (b) decides to refuse to register a small AIFM, it must give the small AIFM a decision notice.
- (7) There is no right of appeal against a decision notice refusing an application for registration.
- (8) This regulation does not apply to a small AIFM which is a small scheme manager.
- (9) A small AIFM to which sub-regulation (8) applies, when undertaking any activity of a small scheme manager, is subject to regulations 69 and 74 and must act in accordance with—
- (a) the Act; and
 - (b) Chapter 2 of this Part.

Information and material changes.

18A.(1) A small AIFM must provide the GFSC with information on—

- (a) the main instruments in which the small AIFM is trading; and
- (b) the principal exposures and most important concentrations of the AIFs that it manages.

(2) The information in sub-regulation (1) must be provided from time to time, as the GFSC directs, in sufficient detail to enable the GFSC to monitor systemic risk effectively.

(3) A small AIFM must inform the GFSC promptly of–

- (a) any material change to the information it provided to the GFSC under regulation 18(2) or (3) or any subsequent material change to that information;
- (b) were applicable, any change of its–
 - (i) local fund administrator appointed under regulation 18B; or
 - (ii) appropriate person appointed under regulation 18C; or
- (c) any other material change to the small AIFM or its business which may affect its continuing satisfaction of the requirements for registration.

(4) The GFSC may issue guidance on changes of the kind in sub-regulation (3)(c) which may affect a small AIFM’s continuing satisfaction of the requirements for registration.

(5) A small AIFM must notify the GFSC immediately if it no longer meets the exemption conditions in regulation 8.

Local fund administrator: self-managed small AIFMs.

18B.(1) A self-managed small AIFM must appoint a local fund administrator.

(2) In these Regulations a “self-managed small AIFM” means an AIF which is managed internally by its governing body–

- (a) whose assets under management do not exceed the limits specified in regulation 8(1)(a) or (b);
- (b) whose participants, whether in Gibraltar or elsewhere, are an identifiable category of persons not exceeding 50 in number; and
- (c) which is not an EIF.

(3) Subject to sub-regulation (5), the local fund administrator must be a person with Part 7 permission to carry on the regulated activity in paragraph 102 of Schedule 2 to the Act (acting as administrator of a collective investment scheme).

(4) The local fund administrator of a self-managed small AIFM must be a different person from its appropriate person under regulation 18C.

- (5) The GFSC may, on the application of a self-managed small AIFM–
- (a) exempt the self-managed small AIFM from complying with sub-regulation (1); or
 - (b) require the self-managed small AIFM, in place of the requirement in sub-regulation (1), to appoint a person with Part 7 permission to carry on the regulated activity in paragraph 126 of Schedule 2 to the Act (acting as company manager),

where the GFSC is satisfied that in all the circumstances it is appropriate to do so.

- (6) An application under sub-regulation (5) must–
- (a) be made in the form and manner the GFSC directs; and
 - (b) contain or be accompanied by such information as the GFSC requires.

Arrangements for safe custody of assets: self-managed small AIFMs.

18C.(1) A self-managed small AIFM must enter into and maintain arrangements with an appropriate person–

- (a) to hold, keep safe and account for the assets of the AIFs which the AIFM manages; and
- (b) to undertake such other duties as may be required of it in accordance with those arrangements or as the GFSC may direct.

(2) A “self-managed small AIFM” has the meaning given in regulation 18B(2).

(3) The GFSC may, on the application of a self-managed small AIFM, exempt it from complying with sub-regulation (1) if the GFSC is satisfied that in all the circumstances it is appropriate to do so.

- (4) An application 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 requires.

(5) The GFSC, if it considers it appropriate to do so, may direct a self-managed small AIFM to replace the appropriate person with which it has made arrangements under sub-regulation (1).

(6) In this regulation, an “appropriate person” means–

- (a) a credit institution with Part 7 permission to carry on the regulated activity of accepting deposits;
- (b) a central bank of a state that is a member of the Organisation for Economic Co-operation and Development (an “OECD state”);
- (c) a credit institution that is supervised by the central bank or other banking regulator of an OECD state;
- (d) any credit institution that—
 - (i) is subject to regulation by the banking regulator of a country or territory that is not an OECD state;
 - (ii) is required by the law of the country or territory in which it is established to provide audited accounts;
 - (iii) has minimum net assets of £5 million (or its equivalent in any other currency at the relevant time);
 - (iv) has a surplus of revenue over expenditure for the last two financial years; and
 - (v) has an annual report which is not materially qualified;
- (e) an authorised person with Part 7 permission to carry on one or more of the regulated activities in paragraphs 48 to 56 of Schedule 2 to the Act, including the safeguarding and administration of financial instruments as provided for in paragraph 54B of that Schedule;
- (f) a UK investment firm; or
- (g) a body corporate which is established and authorised in another jurisdiction which the GFSC considers to be regulated under and in accordance with a legislative and regulatory regime with respect to the safekeeping of assets belonging to another which provides protection broadly equivalent to that in Gibraltar.

(7) In sub-regulation (6), “UK investment firm” means an investment firm which is established in, and authorised under the law of, the United Kingdom to carry on activities which correspond to the regulated activities specified in sub-regulation (6)(e).”.

(5) In regulation 20—

- (a) after sub-regulation (6), insert—

“(6A) As a condition of authorisation, the GFSC may require a small AIFM which is established in a third country to enter into and maintain arrangements with an appropriate person in accordance with regulation 18C(1).”;

- (b) in sub-regulation (7), after “sub-regulation (1)” insert “, or a change of any appropriate person appointed under sub-regulation (6A),”.

Transitional arrangements.

5.(1) A self-managed small AIFM to which regulations 18B and 18C of the principal Regulations applies, or an external AIFM to which regulation 10A of those Regulations applies, which on the appointed day—

- (a) is registered under the principal Regulations and carrying on business; and
- (b) is required to but has not appointed either or both—
 - (i) a local fund administrator under regulation 18B of those Regulations; or
 - (ii) an appropriate person under regulation 18C of those Regulations,

may continue to carry on business after that date but must comply with the requirements of those regulations by no later than the day 12 months after the appointed day.

(2) In sub-regulation (1)—

the “appointed day” means the day on which the regulations in sub-regulation (1)(a) or (b) come into operation (as the case may be); and

the “principal Regulations” means the Financial Services (Alternative Investment Fund Managers) Regulations 2020.

Dated: 8th May 2025.

N FEETHAM KC
Minister with responsibility for Financial Services

EXPLANATORY MEMORANDUM

These Regulations amend the Financial Services (Alternative Investment Fund Managers) Regulations 2020. They amend the registration and reporting arrangements for self-managed small AIFMs, including requiring them to appoint a local fund administrator and a separate appropriate person to safeguard assets. The regulations apply those requirements to external AIFMs which manage similar funds and provide transitional arrangements to enable existing self-managed small AIFMs and external AIFMs to make such appointments. The Regulations also make minor amendments to Schedule 24 to the Financial Services Act 2019, to clarify the scope of the private placement exemption for collective investment schemes