SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5328 GIBRALTAR Thursday 16th July 2026

LEGAL NOTICE NO. 224 OF 2026

FINANCIAL SERVICES ACT 2019

FINANCIAL SERVICES (PAYMENT SERVICES) (AMENDMENT) REGULATIONS 2026

In exercise of the powers conferred on the Minister by sections 55C, 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 (Payment Services) (Amendment) Regulations 2026.

Commencement.

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

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

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

(2) For regulation 84(1), substitute–

"84.(1) A payment institution which provides payment services within paragraph 17(1) to (6) of Schedule 2 to the Act must safeguard relevant funds by–

(a) complying with either–

(i) sub-regulations (2) to (4); or

(ii) sub-regulations (5) and (6);

(b) complying with the requirements of Part 1 of Schedule 4; and

(c) maintaining and being able to retrieve a safeguarding resolution pack in accordance with Part 2 of that Schedule.

(1A) In sub-regulation (1), "relevant funds" means any funds which a payment institution has received–

(a) from, or for the benefit of, a payment service user for the execution of a payment transaction; or

(b) from a payment service provider for the execution of a payment transaction on behalf of a payment service user.”.

(3) After regulation 84(10), insert–

“(11) A payment institution must keep a record of –

(a) any relevant funds segregated in accordance with sub-regulation (2)(a); and

(b) any relevant funds or relevant assets placed in an account in accordance with sub-regulation (2)(b).

(12) A payment institution must maintain organisational arrangements sufficient to minimise the risk of the loss or diminution of relevant funds or relevant assets through fraud, misuse, negligence or poor administration.”.

(4) After regulation 84, insert–

“Safeguarding returns.

84A.(1) A payment institution that safeguards relevant funds in accordance with regulation 84(1) must submit a safeguarding return to the GFSC, in the form and manner it directs, within 15 business days of the end of each calendar month (other than the month during which it becomes a payment institution).

(2) If the date for submission of a safeguarding return falls on a day which is not a business day, the return must be submitted so as to be received by the GFSC no later than the first business day after that date.”

(5) After regulation 85A, insert–

“**Communications by auditors to GFSC. Separate accounting information.**

85B.(1) This regulation applies where a statutory auditor or audit firm (“A”) is–

(a) an auditor of a payment institution;

(b) an auditor of both–

(i) a payment institution; and

(ii) a body (“CL”) which has close links with the payment institution.

(2) For the purposes of sections 166 and 167 of the Act, the circumstances specified in sub-regulation (3) are those in which A must notify the GFSC of information–

(a) which relates to the payment services provided by the payment institution; and

(b) of which A becomes aware in A's capacity as auditor of the payment institution or CL.

(3) The specified circumstances are that–

(a) A reasonably believes that–

(i) there is or has been, or may be or may have been, a contravention of any requirement imposed on the payment institution by or under the Act or these Regulations; and

(ii) the contravention may be of material significance to the GFSC in determining whether to exercise, in relation to that institution, any functions conferred on the GFSC by the Act or these Regulations;

(b) A reasonably believes that the information on, or A's opinion on, those matters may be of material significance to the GFSC in determining whether the institution meets or will continue to satisfy the conditions set out in regulations 8(1)(b), (d), (k). (m) and (n) and 10(2), (4) and (7), paragraph 3(1) of Schedule 1 and paragraph 3(2)(f) of Schedule 12 to the Act and, if applicable, the requirement in regulation 81 to maintain own funds or the requirement in regulation 81 to maintain own funds;

(c) A reasonably believes that the institution is not, may not be or may cease to be, a going concern;

(d) A is precluded from stating in the auditor's report that the annual accounts have been properly prepared; or

(e) A is precluded from stating in the auditor's report, where applicable, that the annual accounts give a true and fair view of the company's accounts.

(4) In this regulation a person has close links with a payment institution ("A") if that person is–

(a) a parent undertaking of A;

(b) a subsidiary undertaking of A;

(c) a parent undertaking of a subsidiary undertaking of A; or

(d) a subsidiary undertaking of a parent undertaking of A.

Safeguarding audit requirements.

85C. A payment institution to which paragraph 1 of Schedule 5 applies must comply with the safeguarding audit requirements in that Schedule.".

(6) After Schedule 3, insert–

“SCHEDULE 4

Regulation 84(1)

SAFEGUARDING RELEVANT FUNDS

Application.

1. This Schedule applies to payment institutions that receive or hold relevant funds in accordance with regulation 84(1).

Interpretation.

2. In this Schedule–

“acknowledgement letter fixed text” means the text in the acknowledgement letter in the Annex that is not in square brackets;

“acknowledgement letter variable text” means the text in the acknowledgement letter in the Annex that is in square brackets;

“authorised custodian” means a regulated firm whose Part 7 permission extends to the safeguarding and administration of financial instruments;

“D+1 segregation requirement” means the total amount of relevant funds that should be held by a payment institution in accordance with regulation 84(2)(b);

“D+1 segregation resource” means the sum of items A and C of a payment institution’s safeguarding resource in accordance with paragraph 12(1);

“designated system” has the meaning given in regulation 71(3)(a);

“electronic money distributor” means a distributor within the meaning of regulation 2(1) of the Electronic Money Regulations;

“external safeguarding reconciliation” means the reconciliation described in paragraph 18;

“funds” has the meaning given in paragraph 2(1) of Schedule 2 to the Act;

“individual safeguarding balance” means the total amount of all funds the payment institution should be safeguarding for a particular client;

“insolvency event” means any of the insolvency events specified in section 3 of the Insolvency Act 2011;

"insurance or guarantee method" means the method of safeguarding relevant funds described in regulation 84(4) to (7);

"internal safeguarding reconciliation" means the reconciliation described in paragraph 11(1);

"mixed remittance" means a remittance that is part client money or relevant funds and part other money or funds;

"reconciliation day" means a business day that is not a Saturday or Sunday, or a bank or public holiday in Gibraltar or where a reconciliation requires anything to be done by reference to a market outside of Gibraltar, any day on which that market is not normally open for business;

"reasonable assurance engagement" has the meaning given in paragraph 12 of the ISAE (UK) 3000 International Standard on Assurance Engagements, as amended from time to time;

"recognised credit institution" has the meaning given in regulation 84(10);

"relevant assets" means assets held by a payment institution for the purposes of regulation 84(2)(b)(ii);

"relevant assets account" means an account held at an authorised custodian which holds relevant assets for the purposes of regulation 84(2)(b)(ii);

"relevant funds bank account" means an account held at a recognised credit institution which holds funds for the purposes of regulation 84(2)(b)(i);

"safeguarding account acknowledgement letter" means a letter in form of the template in the Annex;

"safeguarding resource" means the total amount safeguarded by a payment institution (see para 12(1));

"safeguarding requirement" the total amount a payment institution is required to safeguard (see para 13);

"safeguarding obligations" means any of the safeguarding obligations imposed on payment institutions by regulation 84 and this Schedule; and

"segregation method" means the method of safeguarding relevant funds described in regulation 84(2) to (4);

"standard method of internal safeguarding reconciliation" means the method of internal safeguarding reconciliation described in paragraphs 12 to 15;

PART 1
SAFEGUARDING REQUIREMENTS

Organisational requirements.

3.(1) A payment institution, when holding relevant funds, must maintain adequate arrangements to safeguard the client's rights and prevent the use of relevant funds for its own account.

(2) A payment institution that is also authorised to carry on other regulated activities must establish adequate policies and procedures to identify and determine under which activity it is holding funds.

(3) A payment institution must allocate to a single director or senior manager of sufficient skill and authority responsibility for–

(a) oversight of the institution's operational compliance with its safeguarding obligations; and

(b) reporting to the institution's governing body in respect of that oversight.

Allocation of relevant funds.

4.(1) A payment institution must allocate any relevant funds it receives to an individual client–

(a) promptly and in a manner that enables it to comply with its obligations under these Regulations; and

(b) in any event, no later than the end of the business day following the day of receipt (or where, after the receipt of funds, it has identified that the funds, or some of them, are relevant funds under sub-paragraph (3), no later than the end of the business day following that identification).

(2) Until the allocation required under sub-paragraph (1) is made, the payment institution must record the received relevant funds in its books and records as unallocated relevant funds.

(3) If a payment institution receives funds (whether in a relevant funds bank account or another account) which it is unable to immediately identify as relevant funds or other funds, it must–

(a) take all necessary steps to identify the funds as either relevant funds or other funds; and

(b) record the funds in its books and records as unidentified relevant funds while it performs the necessary steps under paragraph (a).

The segregation method.

5.(1) A payment institution that receives mixed remittances must maintain a written policy to demonstrate its approach to complying with regulation 84(8).

(2) A payment institution that segregates relevant funds in a different currency from that in which they were received or in which the payment institution is liable to the relevant client must ensure that the amount held is adjusted each day on which it performs an internal safeguarding reconciliation to an amount at least equal to the original currency amount (or currency in which the payment institution has its liability to its clients, if different), calculated at the previous day's closing spot exchange rate.

Segregation: secure, liquid assets.

6.(1) Where a payment institution wishes to seek approval of assets that have not been approved by the GFSC as set out in regulation 84(2)(b)(ii), it must submit an application in writing to the GFSC that demonstrates–

(a) how the consumer protection objective of safeguarding will be met by investing in the assets in question; and

(b) how liquidity risks will be managed.

(2) A payment institution must take reasonable steps to ensure that investment in relevant assets complies with the following requirements–

(a) there must be a suitable spread of investments;

(b) investments must be made in accordance with an appropriate liquidity strategy;

(c) the investments must be in accordance with an appropriate credit risk policy;

(d) any foreign exchange risks must be prudently managed;

(e) the policies and procedures for complying with paragraphs (a) to (d) must be reviewed at least annually;

(f) any redemption of an investment must be by payment into a relevant funds bank account of the payment institution; and

(g) where a third party has been appointed by the payment institution to manage the relevant assets, the mandate should provide for the proceeds from the sale of any relevant assets to be promptly reinvested in other relevant assets or paid into the payment institution's relevant funds bank account.

(3) A payment institution may only appoint a third party to manage relevant assets if the third party has Part 7 permission to carry out the regulated activity of portfolio management.

(4) A payment institution that appoints a third party to manage relevant assets must–

(a) exercise all due skill, care and diligence in the selection, appointment, and periodic review of the third party and the arrangements for managing the relevant assets;

(b) ensure that the mandate given to the third party prevents the third party from making investment decisions that are inconsistent with these Regulations; and

(c) ensure that the arrangements require the third party to provide, or make available, information on the number of relevant assets held, at least every business day, which relate to the close of business on the previous business day.

(5) Where a payment institution makes the selection, appointment and conducts the periodic review of the third party it must take into account the expertise and market reputation of the third party with a view to ensuring the protection of clients' rights.

(6) A payment institution must, on the date the selection is made or the review completed, make a record of–

(a) the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a third party under sub-paragraph (5) and (6); and

(b) each periodic review of its selection and appointment of a third party under sub- paragraph (5), its considerations and conclusions.

(7) A payment institution that appoints a third party in accordance with sub-paragraph (3) remains responsible for ensuring that the relevant funds are only invested in accordance with regulation 84 and this Part.

Insurance or guarantee method.

7.(1) This paragraph applies when a payment institution elects to protect some or all relevant funds using the insurance or guarantee method.

(2) A payment institution may protect relevant funds through an insurance policy or a guarantee if the policy or the guarantee complies with the following conditions–

(a) the proceeds of the insurance policy or guarantee must be payable upon an insolvency event of the payment institution;

(b) there must be no condition or restriction on the prompt paying out of the insurance or guarantee, other than the certification of the insolvency event;

(c) a certification requirement for the purposes of paragraph (b) must be no more onerous than is practically necessary;

(d) the terms of the insurance policy or guarantee must provide for the proceeds of the policy or guarantee to be promptly paid into a relevant funds bank account of the payment institution; and

(e) the terms of the insurance policy or guarantee must not permit or enable the provider to cancel the policy or guarantee prior to its expiry, unless–

(i) such cancellation is due to the non-payment of the premium; and

(ii) the provider has given the payment institution and the GFSC at least three months' notice of its decision to cancel the policy or guarantee.

(3) A payment institution must notify the GFSC at least two months before it intends to rely on the insurance or guarantee method for the first time, change the amount of cover provided by its insurance policies or guarantees, or change its insurer or guarantor.

(4) The notification must set out–

(a) the person providing the insurance policy or guarantee;

(b) how the insurance policy or guarantee complies with the conditions in sub-paragraph (2);

(c) when the insurance policy or guarantee expires, and if it renews automatically;

(d) whether the payment institution has alternative arrangements in place instead of renewal;

(e) an assessment by the payment institution as to whether the use of the insurance or guarantee method or the change to the safeguarding arrangements will lead to any increase in operational risk;

(f) an explanation of how the assessment in paragraph (e) was carried out; and

(g) a statement as to how the payment institution will mitigate any increased operational risk.

(5) A payment institution must–

(a) decide whether it intends to continue to use the insurance or guarantee method in good time and at least three months before the expiry of its existing insurance policy or guarantee; and

(b) notify the GFSC of its decision.

(6) Where a payment institution has less than three months remaining on an insurance policy or guarantee taken out for the purposes of safeguarding by the insurance or guarantee method and does not have a replacement for, or renewal of, the insurance policy or guarantee in place, the institution must–

(a) make a plan as to how it will use the segregation method to safeguard the funds that would have been protected by the insurance policy or guarantee if that policy or guarantee had been renewed or replaced; and

(b) provide the GFSC with that plan.

Selection and appointment of third parties.

8.(1) A payment institution must exercise all due skill, care and diligence in–

(a) the selection, appointment, and periodic review of third parties that provide–

(i) accounts where relevant funds are received, deposited or otherwise held;

(ii) accounts where relevant assets are deposited or otherwise held; or

(iii) insurance or a guarantee for the purpose of the insurance or guarantee method; and

(b) the arrangements for the holding or protection of relevant funds or relevant assets.

(2) The payment institution must consider the need for diversification as part of its due diligence under sub-paragraph (1).

(3) When a payment institution makes the selection, the appointment and conducts the periodic review of a third party, it must take into account–

(a) the expertise and market reputation of the third party with a view to ensuring the protection of clients' rights; and

(b) any legal or regulatory requirements or market practices relating to the holding of relevant funds or relevant assets or the provision of insurance or a guarantee that could adversely affect clients' rights.

(4) A payment institution must–

(a) periodically review whether it is appropriate to diversify (or further diversify) the third parties with which it deposits, holds, invests, insures or guarantees some or all of the relevant funds it is required to safeguard; and

(b) whenever it concludes that it is appropriate to do so, make adjustments accordingly to the third parties it uses and to the amounts of relevant funds or relevant assets deposited or held with them or covered by them.

(5) A payment institution must make a record of–

(a) the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a third party under sub-paragraph (1);

(b) each periodic review of its selection and appointment of a third party under sub-paragraph (1), its considerations and conclusions; and

(c) each periodic review that it conducts under sub-paragraph (4), its considerations and conclusions.

(6) A record under sub-paragraph (5) must be made on the date the selection is made or the review is completed (as the case may be).

Safeguarding accounts: acknowledgement letters.

9.(1) For each relevant funds bank account, a payment institution must–

(a) complete and sign a safeguarding account acknowledgement letter clearly identifying the relevant funds bank account; and

(b) send it to the recognised credit institution with which the relevant funds bank account is, or will be, opened, requesting the credit institution to acknowledge and agree to the terms of the letter by countersigning it and returning it to the payment institution.

(2) For each relevant assets account, a payment institution must–

(a) complete and sign a safeguarding account acknowledgement letter clearly identifying the relevant assets account; and

(b) send it to the firm with which the relevant assets account is, or will be, opened, requesting the firm to acknowledge and agree to the terms of the letter by countersigning it.

(3) In drafting acknowledgement letters under this paragraph, a payment institution must use the template in the Annex.

(4) When completing an acknowledgement letter, a payment institution must–

(a) not amend any of the acknowledgement letter fixed text;

(b) subject to paragraph (c), ensure the acknowledgement letter variable text is removed, included or amended as appropriate; and

(c) not amend any of the acknowledgement letter variable text in a way that would alter or otherwise change the meaning of the acknowledgement letter fixed text.

(5) An acknowledgement letter will no longer comply with sub-paragraph (4) if, on countersigning and returning the acknowledgement letter to a payment institution, the relevant person has also made amendments to–

(a) any of the acknowledgement letter fixed text; or

(b) any of the acknowledgement letter variable text in a way that would alter or otherwise change the meaning of the acknowledgement letter fixed text.

(6) Amendments made to the acknowledgement letter variable text in the acknowledgement letter returned to a payment institution by the relevant person will not have the result that the letter has been inappropriately redrafted if those amendments–

(a) do not affect the meaning of the acknowledgement letter fixed text;

(b) have been specifically agreed with the payment institution; and

(c) do not cause the acknowledgement letter to be inaccurate.

(7) A payment institution must use reasonable endeavours to ensure that any individual that has countersigned an acknowledgement letter that has been returned to the payment institution was authorised to countersign the letter on behalf of the relevant person.

(8) A payment institution must retain each countersigned acknowledgement letter it receives from the date of receipt until the expiry of a period of five years starting on the date on which the last account to which the acknowledgement letter relates is closed.

(9) A payment institution must also retain any other documentation or evidence it believes is necessary to demonstrate that it has complied with each of the applicable requirements in this paragraph (such as any evidence it has obtained to

ensure that the individual that has countersigned an acknowledgement letter that has been returned to the payment institution was authorised to countersign the letter on behalf of the relevant person).

(10) A payment institution must periodically (at least annually, and whenever it becomes aware that something referred to in an acknowledgement letter has changed) review each of its countersigned acknowledgement letters to ensure that they remain accurate.

(11) If a payment institution finds that a countersigned acknowledgement letter contains an inaccuracy, the payment institution must promptly draw up a replacement acknowledgement letter and request that the new acknowledgement letter is countersigned and returned by the relevant person.

(12) If a payment institution's relevant funds bank account or relevant assets account is transferred to another person, the payment institution must promptly draw up a new acknowledgement letter and request that the new acknowledgement letter is countersigned and returned by the relevant person.

Records and accounts.

10.(1) A payment institution must establish, implement and maintain adequate policies and procedures sufficient to ensure it complies with its safeguarding obligations, including in relation to any services provided through an agent.

(2) A payment institution must keep such records and accounts as are necessary to enable it, at any time and without delay, to distinguish between relevant funds and other funds.

(3) A payment institution must maintain its records and accounts in a way that ensures their accuracy and, in particular, their correspondence to the relevant funds held for clients.

(4) A payment institution must–

(a) maintain records so that it is able to determine the total amount of relevant funds it should be holding for each of its clients promptly and at any time; and

(b) ensure that its records are sufficient to show and explain its transactions and commitments for its relevant funds.

(5) Subject to any other provision to the contrary, a payment institution must ensure that any record made under this Part is retained for a period of five years starting from the later of–

(a) the date it was created; or

(b) if it has been modified since that date, the date it was most recently modified.

(6) For each internal safeguarding reconciliation and external safeguarding reconciliation the payment institution conducts, it must ensure that it records–

(a) the time and date it carried out the relevant process;

(b) the actions it took in carrying out the relevant process;

(c) the outcome of its calculation of its safeguarding requirement and, where relevant, safeguarding resource; and

(d) where relevant, the outcome of its comparison of its D+1 segregation requirement and D+1 segregation resource.

Internal safeguarding reconciliations.

11.(1) An internal safeguarding reconciliation requires a payment institution to carry out a reconciliation of its internal records and accounts–

(a) to check whether–

(i) its safeguarding resource was equal to its safeguarding requirement, as at the reconciliation point in accordance with paragraph 11(6); and

(ii) the amount of relevant funds and relevant assets it is required to hold in relevant funds bank accounts and relevant assets accounts is held in such accounts in accordance with paragraph 15; and

(b) to promptly identify and resolve any discrepancies in accordance with paragraphs 19(1) to (3).

(2) A payment institution that uses the insurance or guarantee method to protect relevant funds (whether alone or in combination with the segregation method) and does so using an insurance policy or guarantee that is unlimited in the amount of cover it provides–

(a) does not need to carry out an internal safeguarding reconciliation; but

(b) must carry out a daily calculation of its safeguarding requirement and record–

(i) the date it carried out the calculation;

(ii) the actions it took in carrying out the calculation; and

(iii) the outcome of its calculation.

(3) A payment institution is not required to carry out the reconciliation described in paragraph 11(1)(a)(ii) (the comparison in paragraph 15) if all of its relevant funds–

(a) are held in a relevant funds bank account; or

(b) were, before the last internal safeguarding reconciliation, invested in relevant assets.

(4) In carrying out an internal safeguarding reconciliation, a payment institution must use the values contained in its internal records and ledgers (for example, the payment accounts it operates, its cash book or other internal accounting records) rather than the values contained in the records it has obtained from recognised credit institutions and other third parties with which it has placed relevant funds or relevant assets (for example, bank statements).

(5) Subject to paragraphs 11(2) and (8), a payment institution must perform an internal safeguarding reconciliation as frequently as necessary and no less than once each reconciliation day.

(6) A payment institution must select reconciliation points for every day on which it performs internal safeguarding reconciliations–

(a) which must be at the same time for every day on which the payment institution carries out internal safeguarding reconciliations; and

(b) each internal safeguarding reconciliation must be based on the payment institution's records as at the corresponding reconciliation point.

(7) A payment institution must record, as part of the policies and procedures required by paragraph 10(1)–

(a) the reconciliation points referred to in sub-paragraph (6); and

(b) the frequency with which it performs internal safeguarding reconciliations

(8) Following an insolvency event, a payment institution must–

(a) perform an internal safeguarding reconciliation that relates to the time of the insolvency event as soon as reasonably practicable after the insolvency event; and

(b) perform further internal safeguarding reconciliations as regularly as required under sub-paragraph (9), based on the records of the payment institution as at the close of business on the business day before the day on which the reconciliation takes place.

(9) A payment institution must determine when and how often to perform an internal safeguarding reconciliation under sub-paragraph (8)(b) so as to ensure that–

(a) the payment institution remains in compliance with paragraph 10(2) to (6); and

(b) the correct amounts of relevant funds are returned to clients.

(10) In carrying out its internal safeguarding reconciliation a payment institution may follow–

(a) the standard method of internal safeguarding reconciliation set out in paragraphs 12 to 15; or

(b) a non-standard method of internal safeguarding reconciliation if it complies with the requirements in paragraph 16.

Standard method: safeguarding resource.

12.(1) The safeguarding resource is the sum of–

(a) the aggregate balance of funds held in the payment institution's relevant funds bank accounts ("item A");

(b) the aggregate balance of relevant funds that have been segregated but not placed in a relevant funds bank account or invested in relevant assets ("item B");

(c) the aggregate value of relevant assets held in the payment institution's relevant assets accounts based on the payment institution's records as at the close of business on the previous business day ("item C"); and

(d) the aggregate value of relevant funds that the payment institution has protected using the insurance or guarantee method ("item D").

(2) In determining item C, a payment institution must ensure that any valuation of the relevant assets is performed impartially and with all due skill, care and diligence.

Standard method: safeguarding requirement.

13. The safeguarding requirement, the total amount a payment institution is required to safeguard, is the sum of–

(a) individual safeguarding balances calculated in accordance with paragraph 14(1), ignoring any negative balances; and

(b) any amounts received but unallocated to an individual client under paragraph 4(1) and (2).

Standard method: individual safeguarding balance.

14.(1) A payment institution must calculate a client's individual safeguarding balance in a way which captures the total amount of all funds the payment institution should be safeguarding for that client.

(2) When calculating an individual safeguarding balance for each client, a payment institution must–

(a) include–

(i) all relevant funds received by the payment institution for the client; and

(ii) any amounts credited to the client's account by the payment institution (for example, interest due and payable to a client on a payment account); and

(b) deduct–

(i) any payments executed for the client (provided the funds have been paid to the payee or the payee's payment service provider); and

(ii) any sums due and payable by the client to the payment institution (for example, any fees and charges which are due and, under the framework contract, may be deducted from the funds held by the payment institution).

(3) For the purpose of sub-paragraph (2)((b)(iii), a payment institution must not take into account any payment or sums due and payable by the client to the extent those payments or sums create a negative balance on an account operated by the payment institution for the client.

Standard method: D+1 comparison.

15. In accordance with paragraph 11(1)(a)(ii), and subject to paragraph 11(3), a payment institution must–

(a) compare its–

(i) D+1 segregation requirement; and

(ii) D+1 segregation resource; and

(b) promptly identify and resolve any discrepancies in accordance with paragraphs 19(2) and (3).

Non-standard method.

16.(1) A "non-standard method of internal safeguarding reconciliation" means a method of internal safeguarding reconciliation which does not meet the requirements of the standard method of internal safeguarding reconciliation.

(2) A payment institution, before using a non-standard method of internal safeguarding reconciliation, must–

(a) establish and document in writing its reasons for concluding that the method of internal safeguarding reconciliation it proposes to use will check whether–

(i) the amount of relevant funds recorded in the payment institution's records as being safeguarded meets the payment institution's safeguarding obligation to its clients; and

(ii) the amount of relevant funds recorded in the payment institution's records as being held in a relevant funds bank account or invested in relevant assets and held in a relevant assets account meets the payment institution's safeguarding obligations to its clients; and

(b) obtain a written report prepared by an independent auditor of the payment institution in line with a reasonable assurance engagement and stating the matters set out in sub-paragraph (3).

(3) The report in sub-paragraph (2)(b) must state whether, in the auditor's opinion–

(a) the method of internal safeguarding reconciliation which the payment institution will use is suitably designed to enable it to check whether–

(i) the amount of relevant funds recorded in the payment institution's records as being safeguarded meets the payment institution's safeguarding obligations to its clients; and

(ii) the amount of relevant funds recorded in the payment institution's records as being held in a relevant funds bank account or invested in relevant assets and held in a relevant assets account meets the payment institution's safeguarding obligations to its clients; and

(b) the payment institution's systems and controls are suitably designed to enable it to carry out the method of internal safeguarding reconciliation the payment institution will use.

(4) A payment institution using a non-standard method of internal payment reconciliation must not materially change its method of undertaking internal safeguarding reconciliations unless–

(a) the payment institution has established and documented in writing its reasons for concluding that the changed methodology will meet the requirements in sub-paragraph (2)(a); and

(b) an auditor of the payment institution has prepared a report that complies with the requirements in (2)(b) and (3) in respect of the payment institution's proposed changes.

(5) A payment institution must take reasonable steps to ensure that the auditor it appoints to prepare the report in sub-paragraph (2)(b)–

(a) is approved under Part 24 of the Act to carry out statutory audits; and

(b) has the required skill, experience and resources to perform the functions specified in this Part.

External safeguarding reconciliations.

17.(1) A payment institution must conduct reconciliations between its internal records and accounts and those of–

(a) the recognised credit institution with which the payment institution holds a relevant funds bank account;

(b) the persons with which the payment institution holds any other account in which relevant funds are held; and

(c) the authorised custodians with which the payment institution holds a relevant assets account, and any third party that manages relevant assets on behalf of the payment institution.

(2) A payment institution must perform an external safeguarding reconciliation–

(a) as frequently as necessary and no less than once each reconciliation day; and

(b) as soon as reasonably practicable after the date to which the external safeguarding reconciliation relates.

(3) Sub-paragraph (2) does not apply to a payment institution following an insolvency event.

(4) Following an insolvency event, a payment institution must perform an external safeguarding reconciliation that relates to the time of the insolvency event as soon as reasonably practicable after the insolvency event, based on the next available statements or other forms of confirmation after the insolvency event from–

(a) the recognised credit institutions with which the payment institution holds a relevant funds bank account;

(b) the persons with which the payment institution holds any other account in which relevant funds are held; and

(c) the authorised custodians with which the payment institution holds a relevant assets account, and any third party that manages relevant assets on behalf of the payment institution.

(5) When determining the frequency with which it will undertake further external safeguarding reconciliations after an insolvency event, a payment institution must have regard to–

(a) the frequency, number and value of transactions which the payment institution undertakes in respect of relevant funds;

(b) the risks to which the relevant funds are exposed, such as the nature, volume and complexity of the payment institution's activities and where and with whom the relevant funds are held or invested; and

(c) the need to be able to verify that–

(i) relevant funds within an asset pool have not been incorrectly distributed, transferred or dissipated; and

(ii) the proceeds of any payments and transactions that settle after the insolvency event and which involve relevant funds have been received correctly.

External safeguarding reconciliations: method.

18. An external safeguarding reconciliation requires a payment institution to–

(a) compare–

(i) the balance, currency by currency, as recorded by the payment institution, with the balance on that account as set out in the most recent statement or other form of confirmation issued by the person with which those accounts are held, for–

(aa) each relevant funds bank account; and

(bb) any other account in which relevant funds are held; and

(ii) the quantity of relevant assets, investment by investment, as recorded by the payment institution for each account held with an authorised custodian, with the quantity set out in the most recent statement or other form of confirmation issued by the authorised custodian; and

(b) promptly identify and resolve any discrepancies between those balances in accordance with paragraphs 19(5) and (6).

Reconciliation discrepancies.

19.(1) When a discrepancy arises between a payment institution's safeguarding resource and its safeguarding requirement, the payment institution must determine the reason for the discrepancy and, subject to sub-paragraph (4),ensure that–

(a) any shortfall is paid into a relevant funds bank account or invested in relevant assets as soon as possible and, in any case, by the end of the day on which the reconciliation is performed; or

(b) any excess is withdrawn from an account holding relevant funds or relevant assets.

(2) If a payment institution's D+1 segregation resource is lower than its D+1 segregation requirement, the payment institution must–

(a) determine the reason for the discrepancy; and

(b) subject to sub-paragraph (4), ensure that sufficient relevant funds are paid into a relevant funds bank account or invested in relevant assets to address the difference as soon as possible and, in any case, by the end of the day on which the reconciliation is performed.

(3) If it is not possible to use relevant funds to comply with sub-paragraph (2), the payment institution must use its own funds to do so, even if this leads to a discrepancy between its safeguarding requirement and safeguarding resource.

(4) Following an insolvency event, a payment institution is not required to make a payment, investment or withdrawal under sub-paragraphs (1) or (2) if the legal procedure for the insolvency event restricts it from doing so.

(5) If any discrepancy is identified by an external safeguarding reconciliation, the payment institution must–

(a) investigate the reason for the discrepancy; and

(b) take all reasonable steps to resolve it without undue delay,

unless the discrepancy arises solely as a result of timing differences between the accounting systems of the party providing the statement or confirmation and that of the payment institution.

(6) If an external safeguarding reconciliation has identified a discrepancy which a payment institution is unable to resolve immediately and a record or set of records examined during that reconciliation indicates that there is a need to have a greater amount of relevant funds or relevant assets than is the case, until the matter is finally resolved the payment institution must–

(a) assume that the record or set of records is accurate; and

(b) pay its own funds into a relevant funds bank account or invest them in relevant assets.

(7) Following an insolvency event, a payment institution is not required to comply with sub-paragraph (6)(b) if the legal procedure for the insolvency event restricts it from doing so.

Notification requirements.

20. A payment institution must inform the GFSC in writing without delay if–

(a) its internal records and accounts of relevant funds are materially out of date, inaccurate or invalid so that the payment institution is no longer able to comply with the requirements in paragraphs 10(2), (3) or (4);

(b) it will be unable to, or materially fails to, conduct an internal safeguarding reconciliation in compliance with paragraphs 11(1) and (5)

(c) it will be unable to, or materially fails to, pay any shortfall into a relevant funds bank account or invest it in relevant assets, or withdraw any excess from an account holding relevant funds or relevant assets so that the payment institution is unable to comply with paragraph 19(1) to (3) after having carried out an internal safeguarding reconciliation;

(d) it will be unable to, or materially fails to, conduct an external safeguarding reconciliation in compliance with paragraph 17(1) or (2);

(e) it will be unable to, or materially fails to, identify and resolve any discrepancies under paragraph 19(5) and (6) after having carried out an external safeguarding reconciliation; or

(f) it becomes aware that, at any time in the preceding 12 months, the amount of relevant funds safeguarded was materially different from the total aggregate amount of relevant funds the payment institution was required to safeguard under these Regulations.

PART 2
SAFEGUARDING RESOLUTION PACK

Introduction.

21.(1) A payment institution which receives or holds relevant funds in accordance with Part 1 of this Schedule must maintain and be able to retrieve a safeguarding resolution pack in accordance with this Schedule.

(2) In this Part, "safeguarding resolution pack" means the documents and records specified in paragraph 2.

Safeguarding resolution pack: content.

22. (1) A payment institution must include within its safeguarding resolution pack–

(a) a master document containing information sufficient to retrieve each document in the institution's safeguarding resolution pack;

(b) a document which identifies the institutions the payment institution has appointed (including through an agent)–

(i) for the receipt or holding of relevant funds; and

(ii) for the holding of relevant assets;

(c) for each institution identified in paragraph (b), a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between that institution and the payment institution that relates to the holding of relevant funds or relevant assets including any acknowledgement letters sent or received in accordance with paragraph 9;

(d) a document which identifies the institutions the payment institution has appointed to provide insurance or a guarantee in accordance with regulation 84(5);

(e) for each institution identified in paragraph (d), a copy of each executed policy or guarantee with that institution, including any side letters or other agreements used to clarify or modify the terms of the executed policy or guarantee;

(f) a document which identifies each agent of the payment institution;

(g) a document which–

(i) identifies each member of the payment institution's group involved in operational functions related to its safeguarding obligations and, for each group member identified; and

(ii) for each group member, the type of entity (for example, branch, subsidiary or nominee company) the group member is, its jurisdiction of incorporation if applicable, and a description of its related operational functions;

(h) a document which–

(i) identifies each third party which the payment institution uses for the performance of operational functions related to its safeguarding obligations;

(ii) describes how to gain access to relevant information held by that third party; and

(iii) describes how to affect a transfer of any relevant funds or relevant assets held by the payment institution, but controlled by that third party;

(i) a copy of the payment institution's procedures for the management, recording and transfer of the relevant funds and relevant assets that it holds; and

(j) a document which identifies–

(i) each senior manager and director and any other individual and the nature of their responsibility within the payment institution who is critical or important to the performance of operational functions related to its safeguarding obligations; and

(ii) the individual to whom responsibility for operational oversight has been allocated under paragraph 3(3).

(2) For the purpose of sub-paragraph (1)(b), payment institutions must ensure that the document records–

(a) the full name of the appointed institution in question;

(b) its postal address, email address and telephone number; and

(c) the numbers of all accounts opened by that payment institution with that institution.

(3) A payment institution must include, as applicable, within its safeguarding resolution pack–

(a) the records required under the following provisions of Part 1–

(i) paragraph 6(6) (appointment of a third party to manage relevant assets)

(ii) paragraph 8(5) and (6) (selection and appointment of third parties); and

(iii) paragraphs 10(2), (4), (5) and (6) (records and accounts);

(b) the policies and procedures referred to in paragraph 10(1); and

(c) the standard terms and conditions incorporated into its contracts with clients.

Adequate arrangements and retrievability.

23.(1) A payment institution must, in relation to each document in its resolution pack–

(a) put in place adequate arrangements to ensure that an administrator, receiver, trustee, liquidator or analogous officer appointed in respect of it, or any material part of its property, is able to retrieve each document as soon as practicable and in any event within 48 hours of that officer's appointment; and

(b) ensure that it is able to retrieve each document as soon as practicable, and in any event within 48 hours, where it has taken a decision to do so or as a result of request of the GFSC.

(2) For the purpose of sub-paragraph (1), the following documents and records must be retrievable immediately–

(a) the documents identifying the institutions referred to in paragraph 22(1)(b) and (d);

(b) any acknowledgement letters referred to in paragraph 22(1)(c);

(c) a copy of each policy or guarantee referred to in paragraph 22(1)(e);

(d) the document identifying individuals referred to paragraph 22(1)(j); and

(e) the most recent internal safeguarding reconciliation and external safeguarding reconciliation records referred to paragraph 22(3)(a)(iii).

(3) Where a payment institution is reliant on the continued operation of certain systems for the provision of component documents in its safeguarding resolution pack, it

must have arrangements in place to ensure that these systems will remain operational and accessible to it after its insolvency.

Accuracy of resolution pack.

24.(1) A payment institution must ensure that it reviews the content of its safeguarding resolution pack on an ongoing basis to ensure that it remains accurate.

(2) Where a change of circumstances has the effect of making the content of a document specified in paragraph 22(1) inaccurate in any material respect, a payment institution must ensure that the inaccuracy is corrected promptly and, in any event, no more than five business days after the change of circumstances arose.

Reporting and notifications.

25.(1) A payment institution must ensure that its governing body receives a report in respect of compliance with this Part at least annually.

(2) A payment institution must notify the GFSC in writing immediately if it has not complied with, or is unable to comply with paragraph 21(1).

Groups.

26.(1) A payment institution is to be treated as satisfying a requirement in this Part to include a document in its safeguarding resolution pack if–

(a) a member of the payment institution's group–

(i) is subject to the same requirement; and

(ii) includes that document in its own safeguarding resolution pack; and

(b) the payment institution is still able to comply with paragraph 23(1).

(2) Where documents are held by members of a payment institution's group in accordance with sub-paragraph (1), the payment institution must have adequate arrangements in place with its group members which allow for delivery of the documents within the timeframe referred to in paragraph 23(1).

PART 3
TRANSITIONAL ARRANGEMENTS

Transitional Provisions.

27.(1) A payment institution which, when this Schedule comes into operation, has a third party appointment in place to which paragraphs 6(4)(a) and 8(1) apply, must carry out a review of that appointment within three months of this Schedule coming into operation.

(2) Paragraph 7(2)–

(a) does not apply to an insurance policy or guarantee obtained in accordance with regulation 84 before this Schedule comes into operation; but

(b) does apply to any renewal or extension of such a policy or guarantee after this Schedule comes into operation.

(3) Paragraphs 6(6)(a) and 8(5)(a) do not apply to third party appointments made before this Schedule comes into operation.

Annex
Safeguarding account acknowledgement letter template

[*Letterhead of payment institution, including institution's full name and address*]

[*Dat*e]

[*Name and address of recognised credit institution or authorised custodian*]

Safeguarding Account Acknowledgement Letter

We refer to the following [account[s]] which [name of payment institution], regulated by the Gibraltar Financial Services Commission), ("us", "we" or "our") [has opened or will open] [and/or] [has deposited or will deposit] with [name of recognised credit institution or authorised custodian] ("you" or "your"):

[insert the account title[s], the account unique identifier[s] (for example, sort code and account number, deposit number or reference code) and (if applicable) any abbreviated name of the account[s] as reflected in the firm's systems] ([collectively,] the "Safeguarding Account[s]").

For [each of] the Safeguarding Account[s] identified above you acknowledge that we have notified you that:

(1) we are under an obligation to keep [money] [or] [assets] we hold to meet the claims of our clients separate from other [money] [or] [assets];

(2) we have opened, or will open, the Safeguarding Account for the purpose of depositing [money] [or] [assets] with you to meet the claims of our clients; and

(3) we hold all [money] [or] [assets] standing to the credit of the Safeguarding Account to meet the claims of our clients.

For [each of] the Safeguarding Account[s] above you agree that:

(4) you do not have any interest in, or recourse or right against [money] [or] [assets] in the Safeguarding Account in respect of any sum owed to you, or owed to any third party, on any other account (including an account we use for our own [money] [or] [assets]). This means, for example, that you do not have any right to combine the Safeguarding Account[s] with any other account and any right of set-off or counterclaim against [money/assets] in the Safeguarding Account, except following an insolvency event as defined in regulation 84(6) of the Financial Services (Payment Services) Regulations 2020, and:

(a) to the extent that the right of set-off or counterclaim relates to your fees and expenses in relation to the operation of the Safeguarding Account; or

(b) if all the claims of our clients have been paid;

(5) you will title, or have titled, the Safeguarding Account as stated above and that this title is different to the title of any other account containing [money] [or] [assets] belonging to us or to any third party; and

(6) you are required to release on demand all [money] [or] [assets] standing to the credit of the Safeguarding Account upon proper notice and instruction from us or a liquidator, receiver, administrator, or trustee (or similar person) appointed for us in bankruptcy (or similar procedure), in any relevant jurisdiction, except:

(a) to the extent that you are exercising a right of set-off or security right; or

(b) until the fixed term expires, any amounts held under a fixed term deposit arrangement which cannot be terminated before the expiry of the fixed term,

provided that you have a contractual right to retain such [money] [or] [assets] under (a) or (b) and that this right is notwithstanding paragraphs (1) to (3) above and without breach of your agreement to paragraph (4) above.

We acknowledge that:

(7) you are not responsible for ensuring compliance by us with our own obligations in respect of the Safeguarding Account[s].

You and we agree that:

(8) the terms of this letter will remain binding upon the parties, their successors and assigns, and, for clarity, regardless of any change in any of the parties' names;

(9) this letter supersedes and replaces any previous agreement between the parties in connection with the Safeguarding Account[s], to the extent that such previous agreement is inconsistent with this letter;

(10) if there is any conflict between this letter and any other agreement between the parties over the Safeguarding Account[s], this letter will prevail;

(11) no variation to the terms of this letter shall be effective unless it is in writing, signed by the parties and permitted under the Financial Services (Payment Services) Regulations 2020;

(12) this letter is governed by the laws of [insert appropriate jurisdiction] [payment institutions may optionally use this space to insert additional wording to record an intention to exclude any rules of private international law that could lead to the application of the substantive law of another jurisdiction]; and

(13) the courts of [insert same jurisdiction as previous] have non-exclusive jurisdiction to settle any dispute or claim from or in connection with this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible.

For and on behalf of [name of payment institution]

x ______________________________

Authorised Signatory
Print Name:
Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [name of recognised credit institution/custodian]

x ______________________________

Authorised Signatory
Print Name:
Title:
Contact Information: [insert signatory’s phone number and email address]
Date:

SCHEDULE 5

Regulation 85C

SAFEGUARDING AUDIT REQUIREMENTS

Application.

1. This Schedule applies to payment institutions that–

(a) are authorised to carry out payment services other than–

(i) payment initiation services; or

(ii) account information services; and

(b) have been required to safeguard more than £100,000 of relevant funds at any time for a period of at least 53 weeks.

Interpretation.

2. In this Schedule–

"period covered" is to be construed in accordance with paragraph 8(2);

"reasonable assurance engagement" has the meaning given in paragraph 2 of Schedule 4;

"safeguarding obligations" means any of the safeguarding obligations imposed on payment institutions by regulation 84 and Schedule 4.

Appointment of auditors.

3.(1) A payment institution must–

(a) appoint an auditor;

(b) ensure that a replacement auditor is appointed to fill any vacancy in the office of auditor, either from the time it arises or as soon as reasonably practicable after that; and

(c) promptly notify the GFSC–

(i) of the appointment of an auditor, the auditor's name and business address and the date from which the appointment has effect; or

(ii) that a vacancy in the office of auditor has arisen or will arise, and of the reasons for the vacancy.

(2) If a payment institution fails to appoint an auditor within 28 days of being required to do so, and is not obliged to appoint an auditor under any other enactment, the GFSC may appoint an auditor for the payment institution.

(3) Where GFSC makes an appointment under sub-paragraph (2)–

(a) the payment institution is bound by and must comply with the terms on which the GFSC appointed the auditor;

(b) the institution must remunerate the auditor on the basis agreed between them or, in the absence of agreement, on a reasonable basis; and

(c) the auditor is to hold office until the auditor resigns or the institution appoints another auditor.

Auditors' qualifications.

4.(1) Before appointing an auditor, a payment institution must take reasonable steps to ensure that the auditor–

(a) is approved under Part 24 of the Act to carry out statutory audits; and

(b) has the required skill, experience and resources to perform the functions specified in this Schedule.

(2) A payment institution must not appoint as auditor a person who is disqualified from acting as an auditor either for that institution or for a relevant class of institution.

(3) A payment institution must take reasonable steps to ensure that any auditor that it is planning to appoint or has appointed, provides to the GFSC with any information that the GFSC may reasonably require regarding the auditor's qualifications, skills, experience and independence.

Independence of auditors.

5.(1) The auditor of a payment institution must be independent of that institution.

(2) A payment institution must–

(a) take reasonable steps to ensure that the auditor which it appoints is independent of the institution; and

(b) if becomes aware at any time that its auditor is not independent–

(i) take reasonable steps to ensure that it has an auditor independent of the institution; and

(ii) notify the GFSC if independence is not achieved within a reasonable time.

(3) The auditor of a payment institution must–

(a) take reasonable steps to satisfy itself that it is–

(i) independent of the payment institution; and

(ii) free from any conflict of interest in respect of that institution from which bias may reasonably be inferred; or

(b) take appropriate action where this is not the case.

Cooperation with auditors.

6. A payment institution must cooperate with its auditor in the discharge of the auditor's duties under this Schedule.

Obligations of auditors.

7.(1) An auditor of a payment institution must–

(a) cooperate with the GFSC; and

(b) give any skilled person appointed by the institution or the GFSC all assistance that person reasonably requires in accordance with section 509(4) of the Act.

(2) An auditor must notify the GFSC without delay if the auditor–

(a) is removed from office by a payment institution;

(b) resigns before the auditor's term of office expires; or

(c) is not re-appointed by a payment institution.

(3) An auditor who ceases to be, or is formally notified that they will cease to be, the auditor of a payment institution, must notify the GFSC without delay–

(a) of any matter connected with the cessation which the auditor thinks ought to be drawn to the GFSC's attention; or

(b) that there is no such matter.

Auditor's safeguarding report.

8.(1) The auditor of a payment institution must prepare a safeguarding report addressed to the GFSC which–

(a) states the matters set out in sub-paragraph (3);

(b) specifies the matters to which sub-paragraphs (4) and (5) refer; and

(c) is prepared in accordance with the terms of a reasonable assurance engagement.

(2) An auditor's safeguarding report must cover the period ending not more than 53 weeks after the later of–

(a) the date the payment institution becomes subject to this Schedule; or

(b) the end of the period covered by the previous report.

(3) The auditor's safeguarding report must state whether, in the auditor's opinion–

(a) the payment institution has maintained systems adequate to enable it to comply with its safeguarding obligations throughout the period covered; and

(b)the payment institution was in compliance with its safeguarding obligations at the end of the period covered by the report.

(4) If the auditor's safeguarding report states that one or more of the requirements in sub-paragraph (3) have not been met, the auditor must specify in the report each of those requirements and the respects in which they have not been met.

(5) Whether or not an auditor concludes that one or more of the requirements in sub-paragraph (3) have been met, the auditor must ensure that the safeguarding report–

(a) identifies each individual provision in respect of which a breach has been identified; or

(b) where the auditor has not identified any breaches includes a statement to that effect.

(6) If an auditor is unable to form an opinion as to whether one or more of the requirements in sub-paragraph (3) have been met, the auditor must specify in the safeguarding report those requirements and the reasons why the auditor has been unable to form an opinion.

(7) An auditor's safeguarding report must–

(a) be submitted to the GFSC in the form and manner it directs; and

(b) be signed on behalf of the statutory auditor by the individual with primary responsibility for the report and in that individual's name.

Review of draft report.

9.(1) An auditor must provide the payment institution with a draft of its safeguarding report so it has an adequate period of time to consider the auditor's findings and provide the auditor with comments of the kind referred to in sub-paragraph (2).

(2) A payment institution must consider the draft safeguarding report provided in accordance with sub-paragraph (1) and provide an explanation of–

(a) the circumstances that gave rise to each of the breaches identified in the draft report; and

(b) any remedial actions that it has undertaken or plans to undertake to correct those breaches.

(3) The explanation provided in accordance with sub-paragraph (2) must be submitted to the auditor in a timely manner and in any event before the auditor is required to deliver the report to the GFSC in accordance with paragraph 10.

(4) An auditor must ensure that the information provided to it by a payment institution in accordance with sub-paragraph (2) is included in the safeguarding report.

(5) If by the date at which the report is due for submission in accordance with paragraph 10 an auditor has not received the information referred to in with sub-paragraph (2), the auditor must submit the report without that information, together with an explanation for its absence.

Submission of final report.

10.(1) The auditor of a payment institution must deliver its safeguarding report to the GFSC within four months of the end of the period covered.

(2) If an auditor expects that it will be unable to comply with sub-paragraph (1), the auditor must, by no later than the end of the four-month period in question–

(a) notify the GFSC that the auditor expects that it will be unable to deliver a safeguarding report by the end of that period; and

(b) ensure that the notification includes or is accompanied by a full account of the reasons for the expected failure.

(3) If an auditor fails to comply with sub-paragraph (1), it must promptly–

(a) notify the GFSC of that failure; and

(b) ensure that the notification includes or is accompanied by a full account of the reasons for that failure.

(4) An auditor must deliver a copy of the final safeguarding report to the payment institution at the same time as it delivers that report to the GFSC.

(5) A payment institution must ensure that the final safeguarding report delivered to it in accordance with sub-paragraph (4) is reported to the institution's governing body.

Transitional Provisions.

11. For the period of 53 weeks beginning with the day on which this Schedule comes into operation–

(a) paragraph 1(b) has effect as if for the reference to "for a period of at least 53 weeks" there were substituted "since this Schedule came into operation"; and

(b) where the period covered to which paragraph 10(1) applies ends within that 53 week period, the auditor must deliver the safeguarding report within 6 months of the end of that period.".

Dated: 16th July 2026

N FEETHAM KC
Minister with responsibility for Financial Services

EXPLANATORY MEMORANDUM

These Regulations amend the Financial Services (Payment Services) Regulations 2020, They impose additional requirements in respect to the safeguarding of client's funds and assets, including audit requirements, in order to maintain alignment with the law of the United Kingdom.