Subsidiary Legislation made under s.184.

Register of Ultimate Beneficial Owners, Nominators and Appointors Regulations 2017

LN.2017/122

Commencement **26.6.2017**

Amending enactments	Relevant current provisions	Commencement date
LN. 2017/125	rr. 3(1), (4), 41A	27.6.2017
2018/080	rr. 3(1), (5), 6(3), (5), 7, 8(1), 8A, 9(2), (3), 10, 11A-11C, 12(1A), (11)(b)(i), 13(1), (3), 15, 16, 17, 18(1)(b), 19, 26(4), (5A), 26A, 31(2)(e), 33(1)(c), 37(1)(b), (2), (3), 37A, 42(1), (4)(b)(iii), 45(1), (2), 47, Sch. 1, 3	5.4.2018
2020/110	rr. 3(1), (4), 8A(1)-(2), 9(3A), (4), 25(2)-(4), 26(1), (4)-(5), (5A), (7)-(8), 26A, 27-28, 29(1), (3)-(4), 29A, 32(3), (5), 41B-41I, 45(1), 50(e)-(f)	13.3.2020
Act. 2021-08	rr. 1, 3(1)-(2), 6A-6B, 8, 8A(3), 8B-8C, 11C, 12(1A), 26(1), (1A), 26ZA-26ZB, 27(a), 28, 42(1)-(4), (7), 45(1), (3)-(5), Sch. 3	9.2.2021
LN. 2025/267	rr. 3(1)-(2), 5(2)-(3), 8(6), 9(3A), 26(1A), (3), 26ZA(2), 26ZB(2), 27-28, 30(1)-(2), 32(4)-(5)	27.11.2025

Transposing –
Directive (EU) 2015/849

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In exercise of the powers conferred upon it by section 184 of the Proceeds of Crime Act 2015, and for the purpose of transposing, in part, Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, and as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018, *the Government has made the following Regulations—*

Title.

1. These Regulations may be cited as the Register of Ultimate Beneficial Owners, Nominators and Appointors Regulations 2017.

Commencement.

2. These Regulations come into operation on 26 June 2017.

Interpretation.

3.(1) In these Regulations-

"Act" means the Proceeds of Crime Act 2015;

"appointor" and "appointors" have the respective meanings given to them in regulation 6B;

"beneficial owner" means;

(a) in the case of a Listed Entity, or a majority owned subsidiary of such a Listed Entity, the Listed Entity;

(b) in the case of a corporate or legal entity, other than a Listed Entity or a majority owned subsidiary of a Listed Entity-

(i) the natural person who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings;

(ii) if, after having exhausted all possible means,

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(a) there is doubt as to whether the person identified under subparagraph (i) is the beneficial owner; or

(b) no person under subparagraph (i) is identified,

the natural person exercising control via other means;

(iii) if, after having exhausted all possible means-

(a) there is doubt as to whether the person identified under subparagraph (ii) is the beneficial owner, or

(b) no person under subparagraph (ii) is identified,

the person specified in subparagraph (iv);

(iv) for the purposes of subparagraph (iii) the specified person is-

(a) if the company or legal entity is ultimately owned or controlled through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, by a Listed Entity, or a majority owned subsidiary of a Listed Entity, the Listed Entity, and

(b) in all other cases, the natural person who holds the position of senior managing official;

(c) in the case of trusts–

(i) the settlor or settlors;

(ii) the trustee or trustees;

(iii) the protector or protectors, if any;

(iv) the beneficiaries, or where the individuals benefiting from the trust have yet to be determined, the class of persons in whose main interest trust is set up or operates;

(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;

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(d) in the case of legal entities such as foundations, and legal arrangements similar to trusts, the natural person holding equivalent or similar positions to those referred to in paragraph (c),

and "beneficial owners" shall be construed accordingly.

"competent authority" means a competent authority established in Gibraltar or in a third country involved in combatting anti-money laundering, the financing of terrorism and proliferation financing, or a relevant Government Authority or supervisory authority established in Gibraltar or in a third country;

"credit institution" has the meaning given to it in section 7(1) of the Act;

"customer" means the legal owner where the ordinary meaning of the word would otherwise be perverse;

"Exchange of Notes" means the Exchange of Notes and Technical Protocol on the sharing of Beneficial Ownership information for law enforcement agencies and tax authorities signed between the Government of Gibraltar and Her Majesty's Government, signed on 8 April 2016 and 11 April 2016 respectively, as may be amended from time to time;

"express trust" means an express trust governed by Gibraltar law which generates tax consequences in Gibraltar and unless the context does not admit such an interpretation, includes legal arrangements similar to trusts that are governed by Gibraltar law and which generate tax consequences in Gibraltar and foundations;

"financial intelligence unit" means a foreign body responsible for receiving (and to the extent permitted, requesting), analysing and disseminating to the competent authorities, disclosures of information which concern potential money laundering, potential terrorist financing, potential proliferation financing or are otherwise required by its national legislation;

"financial institution" has the meaning given to it in section 7(1) of the Act;

"foundation" means a foundation to which the Private Foundations Act 2017 applies and which generates tax consequences in Gibraltar;

"Gibraltar GDPR" has the meaning given to it in the Data Protection Act 2004;

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"GFIU" means the Gibraltar Financial Intelligence Unit established under section 1B of the Act;

"legal entity" includes limited partnerships, limited liability partnerships and other legal entities incorporated in Gibraltar with legal personality;

"legal personality" includes the entity being capable in its own name of; owning property, enter into contracts, raise finance by taking loans and giving security or its assets in respect to the loans, issue share capital (if the entity is limited by shares) and sue and be sued in its own name in relation to contracts and other legal issues;

"Listed Entity" has the meaning given to it in section 7(1) of the Act;

"members" includes partners of a limited partnership;

"Minister" means the Minister for Financial Services;

"nominator", "nominee" and "nominee arrangement" have the respective meanings given to them in regulation 6A;

"obliged entity" means-

(a) credit institutions;

(b) financial institutions;

(c) any natural or legal person engaging in a relevant financial business as defined in section 9 of the Act;

"officer" includes, where the ordinary meaning of the word would otherwise be perverse, a settlor, protector, trustee, director, manager, secretary, chief executive, member of the committee of management, a person purporting to act in such a capacity or a natural person exercising effective control or a partner of a limited partnership;

"provider of safe custody services" means a credit institution or financial institution which makes available, within Gibraltar, safe-deposit boxes to customers;

"Registrar" means the person appointed under regulation 5;

"relevant Government Authority" means a law enforcement authority or a tax authority;

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"supervisory authority" means an authority responsible for supervising an obliged entity and includes the supervisory bodies set out in Part I of Schedule 2 to the Act

"tax consequences" means gives rise to a tax liability in Gibraltar;

"third country" means a country or territory other than Gibraltar;

"trust" includes other types of legal arrangements having a structure or functions similar to a trust; and

"urgent request" means a request for ultimate beneficial ownership information from the relevant Government Authority in the United Kingdom, in accordance with the Exchange of Notes.

(2) In paragraph (b) of the meaning of "beneficial owner" in subregulation (1), a shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a corporate entity, which is under the control of a natural person, or by multiple corporate entities, which are under the control of the same natural person, shall be an indication of indirect ownership. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC as it had effect immediately before IP completion day;

(3) The Minister may by legal notice in the Gazette amend the percentage referred to in subregulation (2) which may be taken as an indication of ownership or control.

(4) *Deleted*.

(5) In these Regulations-

(a) an obligation imposed on;

(b) a notification addressed to or served on;

(c) a penalty or other sanction; and

(d) anything required to be done or not to be done by,

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an express trust must be construed as applying to the trustee of that express trust, and where there is more than one trustee to each and every trustee.

Establishment of Register

4. For the purposes of the registration of an ultimate beneficial owner under these Regulations there shall be established a Register of Ultimate Beneficial Owners within Gibraltar.

Appointment of Registrar.

5.(1) The Minister must, by legal notice in the Gazette, appoint a Registrar of Ultimate Beneficial Owners for the purposes of these Regulations.

(2) The Registrar of Ultimate Beneficial Owners may delegate his responsibilities under these Regulations to a member of his staff or to an officer of the GFIU or another competent authority in Gibraltar.

(3) Where the Registrar delegates any responsibilities under subregulation (2), subject to any directions given by the Registrar, the delegatee-

(a) may exercise all the powers and perform all the duties of the Registrar; and

(b) if it is a competent authority, may sub-delegate such responsibilities, powers and duties to its officers or staff.

Corporate or legal entity

Requirement to hold information.

6.(1) A corporate or legal entity incorporated in Gibraltar must obtain and hold-

(a) adequate;

(b) accurate; and

(c) current,

information on the beneficial ownership of the corporate or legal entity, including the details of the beneficial interests held.

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(2) Subject to subregulation (3), a corporate or legal entity incorporated in Gibraltar must submit the information referred to in subregulation (1), in such manner as the Registrar requires and provide such other information as the Registrar may specify, and where the corporate or legal entity has a secretary it must supply the secretary with a copy of the information supplied to the Registrar.

(3) *Revoked*.

(4) The information which the Registrar may specify includes the beneficial owner's-

(a) full name;

(b) previous names or alias;

(c) date of birth;

(d) gender;

(e) place of birth;

(f) nationality;

(g) country or state of usual residence;

(h) usual residential address;

(i) a service address;

(j) occupation;

(k) the date on which the beneficial owner acquired the beneficial interest (and ceased to hold it, where applicable); and

(l) details of the beneficial interest and how it is held, including the percentage held for a beneficial owner or for multiple beneficial owners where it is held for more than one.

(5) Where the beneficial owner is a shareholder he must inform the Registrar of the percentage of shares he holds as legal owner.

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(6) Where an exceptional circumstance under regulation 32(1) and (2) applies in relation to the beneficial ownership of a corporate or legal entity the person submitting the information under this regulation shall be responsible for notifying the Registrar of such exceptional circumstance.

7. *Revoked*.

Nominee shareholders.

6A.(1) For the purposes of this regulation, a person ("nominee") holds shares in a corporate or legal entity ("shares") for another person ("nominator") in a nominee arrangement ("nominee arrangement") if-

(a) the nominee is registered on the register of members of the corporate entity as the holder of the shares pursuant to section 182 of the Companies Act 2014;

(b) the nominee cannot transfer, dispose of or otherwise deal with the shares save as the nominator directs;

(c) the rights conferred by the shares on the nominee can only be exercised by the nominee as the nominator directs; and

(d) the shares constitute a shareholding of not less than 25% plus one share in the corporate or legal entity

(2) A nominee must obtain and hold adequate, accurate and current information on his nominator or nominators, including-

(a) where the nominator is a natural person, his-

(i) full name;

(ii) previous names or alias;

(iii) date of birth;

(iv) gender;

(v) place of birth;

(vi) nationality;

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(vii) country or state of usual residence;

(viii) usual residential address;

(ix) service address;

(x) occupation;

(b) save where paragraph (d) applies, where the nominator is a company-

(i) its name;

(ii) proof of its existence;

(iii) its legal form and status;

(iv) the address of its registered office;

(c) save where paragraph (d) applies, where the nominator is a legal entity or a legal arrangement other than a company, the nearest equivalent of the matters set out in paragraph(b);

(d) where the nominator is either a Listed Entity or a regulated firm with permission to carry out a regulated activity pursuant to Part 7 of the Financial Services Act 2019-

(i) its name;

(ii) the address of its registered office;

(iii) confirmation, in any form that the Registrar may reasonably require, that it is a Listed Entity or a regulated firm with permission to carry out a regulated activity pursuant to Part 7 of the Financial Services Act 2019, as the case may be; and

(e) the date on which the nominee and the nominator entered into the nominee arrangement.

(3) A nominee must-

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(a) notify the corporate or legal entity of the nominee arrangement; and;

(b) provide the information referred to in subregulation (2) to the corporate or legal entity, and such other information as the corporate or legal entity may reasonably require for the purposes of satisfying its obligations under regulation 8B.

(4) A nominee must comply with subregulation (3)-

(a) within 15 days of entering into the nominee arrangement; or

(b) where the nominee arrangement was entered into before the commencement of this regulation, within 90 days of the commencement of this regulation.

(5) If at any time after the nominee has provided the corporate or legal entity with the information referred to in subregulations (2) or (3)-

(a) there is a material change affecting any matter contained in the information; or

(b) it becomes apparent to the nominee that the information contains a significant inaccuracy,

it must provide the corporate or legal entity with details of the change or, as the case may be, a correction of the inaccuracy within 15 days beginning with the date of the occurrence of the change, or the discovery of inaccuracy, or within such later time as may be agreed with the corporate or legal entity and the details provided to the corporate or legal entity must state the date on which the change occurred or the significant inaccuracy was noticed.

(6) A nominee shall notify the corporate or legal entity within 15 days of-

(a) the termination of the nominee arrangement; or

(b) the date on which the nominee arrangement ceases to be a nominee arrangement for the purposes of this regulation,

and the notification shall include the date of termination or the date on which the nominee arrangement ceased to be a nominee arrangement for the purposes of this regulation, as the case maybe.

Director services.

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6B.(1) A person appointed to act as director of a corporate or legal entity incorporated in Gibraltar must obtain and hold adequate and accurate information on his appointor or appointors, including-

(a) where the appointor is a natural person, his-

(i) full name;

(ii) previous names or alias;

(iii) date of birth;

(iv) gender;

(v) place of birth;

(vi) nationality;

(vii) country or state of usual residence;

(viii) usual residential address;

(ix) service address;

(x) occupation;

(b) save where paragraph (d) applies, where the appointor is a company-

(i) its name;

(ii) proof of its incorporation;

(iii) its legal form and status;

(iv) the address of its registered office;

(c) save where paragraph (d) applies, where the appointor is a legal entity or a legal arrangement other than a company, the nearest equivalent of the matters set out in paragraph(b);

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(d) where the appointor is either a Listed Entity or a regulated firm with permission to carry out a regulated activity pursuant to Part 7 of the Financial Services Act 2019-

(i) its name;

(ii) the address of its registered office;

(iii) confirmation, in any form that the Registrar may reasonably require, that it is a Listed Entity or a regulated firm with permission to carry out a regulated activity pursuant to Part 7 of the Financial Services Act 2019, as the case may be; and

(e) the date of the director's appointment.

(2) For the purposes of this regulation-

(a) where a director is named in a statement of proposed officers pursuant to section 9(4)(c) of the Companies Act 2014, "the appointors" shall mean the subscribers;

(b) where a director has been appointed by the board of directors of the corporate or legal entity, "the appointors" shall mean the directors of the corporate or legal entity at the time of his appointment, and whether a director voted in favour of the appointment or was present at the meeting at which the appointment was made shall be immaterial;

(c) where a director has been appointed by ordinary resolution extraordinary resolution or special resolution, as defined in sections 200 and 201 the Companies Act 2014 respectively, "the appointors" shall mean all the members who were entitled to vote in respect of his appointment, and whether a member voted in favour of his appointment or was present at the meeting at which the appointment was made shall be immaterial;

(d) where the articles of association, or equivalent constitutional document of a corporate or legal entity, make provision for a director or directors to be appointed by the holders of the majority of a particular class of share, and a director is appointed pursuant to that provision, "the appointors" shall mean all of the holders of that class of share at the time of his appointment, and whether a holder of that class of share voted in favour of his appointment or was present at the meeting at which the appointment was made shall be immaterial;

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(e) where a director has been appointed by a person in the exercise of a right arising under the articles of association, or equivalent constitutional document of a corporate or legal entity, and paragraphs (b) to (d) do not apply, "the appointors" shall mean that person or, where more than one, persons;

(f) where a director has been appointed by a person in the exercise of a contractual right arising under an agreement, and paragraphs (b) to (e) do not apply, "the appointors" shall mean that person or, where more than one, persons;

(g) where a person engages the services of a director to represent his interests on the board of a corporate or legal entity, and that person has neither a contractual right nor a right under the articles of association, or equivalent constitutional document of the corporate or legal entity, to appoint a director, that person shall be "the appointor" in addition to any other person who may be deemed an appointor pursuant to paragraphs (a) to (f).

(3) A person appointed to act as director of a corporate or legal entity incorporated in Gibraltar must submit the information referred to in subregulation (1) to the corporate or legal entity, and provide such other information as the corporate or legal entity may reasonably require for the purposes of satisfying its obligations under regulation 8C.

(4) A director of a corporate or legal entity must comply with subregulation (3) within 15 days of his appointment.

(5) If at any time after a director has complied with subregulation (3) it becomes apparent to him that the information provided pursuant to that subregulation contains a significant inaccuracy, he must provide the corporate or legal entity with a correction of the inaccuracy within 15 days beginning with the date of the occurrence of the discovery of the inaccuracy, or within such later time as may be agreed with the corporate or legal entity, and the details provided to the corporate or legal entity must state the date on which the significant inaccuracy was noticed.

(6) In this regulation, references to "appointed" shall include "re-appointed" and references to "appointment" shall include "re-appointment".

(7) This regulation shall not apply to a director of a corporate or legal entity who was appointed prior to the date of commencement of this regulation.

(8) Nothing in this regulation shall be construed as attributing to an appointor any measure of control or influence over-

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(a) the director whom he has appointed; or

(b) the affairs of the corporate or legal entity.

7. *Revoked*

Requirement to supply Registrar with information on ultimate beneficial owner.

8.(1) A corporate or legal entity incorporated in Gibraltar must further to regulation 6 provide the information referred to in that regulation ("the information") to the Registrar in accordance with this regulation.

(2) A corporate or legal entity incorporated in Gibraltar prior to the commencement of these Regulations shall-

(a) supply the information referred to in subregulation (1);

(b) following a change in the information supplied under paragraph (a) comply with subregulation (1) within 30 days of the change.

(3) A corporate or legal entity incorporated in Gibraltar created after the commencement of these Regulations shall comply with subregulation (1) within 30 days of its incorporation.

(4) If at any time after the corporate or legal entity has provided the Registrar with the information referred to in subregulation (1)-

(a) there is a material change affecting any matter contained in the information; or

(b) it becomes apparent to the corporate or legal entity that the information contains a significant inaccuracy,

it must provide the Registrar with details of the change or, as the case may be, a correction of the inaccuracy within 30 days beginning with the date of the occurrence of the change, or the discovery of inaccuracy, or within such later time as may be agreed with the Registrar and the details provided to the Registrar must state the date on which the change occurred or the significant inaccuracy was noticed.

(5) Any information to be provided to the Registrar under this regulation must be in such form or verified in such manner as the Registrar may specify.

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(6) Where an ultimate beneficial owner of a corporate or legal entity incorporated in Gibraltar is a relevant trust within the meaning of the Trusts (Information) Regulations 2025 and the trustees have provided information about the trust to the Gibraltar Financial Services Commission in accordance with those Regulations, the information which the corporate or legal entity must provide to the Registrar under this regulation in respect of the trust is limited to the name of the trust and the names and contact details of its trustees.

Duty on UBO to notify his existence: corporate or legal entity.

8A.(1) Where a person is an ultimate beneficial owner of a corporate or legal entity incorporated in Gibraltar that person must-

(a) inform that corporate or legal entity, in accordance with subregulation (2), of their status as an ultimate beneficial owner; and

(b) provide that corporate or legal entity with any information which it may reasonably require in order for that corporate or legal entity to discharge its obligations under regulation 6.

(2) Where a person becomes an ultimate beneficial owner after the coming into operation of this regulation, he shall comply with subregulation (1) within 15 days of becoming an ultimate beneficial owner.

Requirement to supply Registrar with information on nominators.

8B.(1) A corporate or legal entity incorporated in Gibraltar must provide to the Registrar such details regarding nominees, nominators and nominee arrangements relating to the shareholding of the corporate or legal entity as the Registrar may reasonably require ("the information"), in accordance with this regulation.

(2) A corporate or legal entity incorporated in Gibraltar prior to the commencement of this regulation shall comply with subregulation (1) within 180 days of the commencement of this regulation.

(3) A corporate or legal entity incorporated in Gibraltar after the commencement of this regulation shall comply with subregulation (1) within 30 days of its incorporation.

(4) If at any time after the corporate or legal entity has provided the Registrar with the information referred to in subregulation (1)-

(a) there is a material change affecting any matter contained in the information; or

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(b) it becomes apparent to the corporate or legal entity that the information contains a significant inaccuracy,

it must provide the Registrar with details of the change or, as the case may be, a correction of the inaccuracy within 30 days beginning with the date of the occurrence of the change, or discovery of the inaccuracy, or within such later time as may be agreed with the Registrar and the details provided to the Registrar must state the date on which the change occurred or the significant inaccuracy was noticed.

(5) Any information to be provided to the Registrar under this regulation must be in such form or verified in such manner as the Registrar may specify.

Requirement to supply Registrar with information on appointors.

8C.(1) A corporate or legal entity incorporated in Gibraltar must provide to the Registrar such details regarding the appointors of the directors of the corporate or legal entity as the Registrar may reasonably require ("the information"), in accordance with this regulation.

(2) A corporate or legal entity incorporated in Gibraltar prior to the commencement of this regulation shall supply the information referred to in subregulation (1) within 180 days of the commencement of this regulation.

(3) A corporate or legal entity incorporated in Gibraltar created after the commencement of this regulation shall comply with subregulation (1) within 30 days of its incorporation.

(4) If at any time after the corporate or legal entity has provided the Registrar with the information referred to in subregulation (1)-

(a) there is a material change affecting any matter contained in the information; or

(b) it becomes apparent to the corporate or legal entity that the information contains a significant inaccuracy,

it must provide the Registrar with details of the change or, as the case may be, a correction of the inaccuracy within 30 days beginning with the date of the occurrence of the change, or discovery of the inaccuracy, or within such later time as may be agreed with the Registrar and the details provided to the Registrar must state the date on which the change occurred or the significant inaccuracy was noticed.

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(5) Any information to be provided to the Registrar under this regulation must be in such form or verified in such manner as the Registrar may specify.

(6) Where, pursuant to regulation 6B(7), regulation 6B does not apply to a director of a corporate or legal entity, subregulation (1) shall not apply to the corporate or legal entity in respect of that director or his appointor.

Express Trusts

Requirement to hold information.

9.(1) A trustee of an express trust must obtain and hold-

(a) adequate;

(b) accurate; and

(c) up-to-date,

information on the beneficial ownership of the express trust, including the information specified in subregulation (4)(a) to (e).

(2) A trustee or, where more than one trustee exists, the trustees, of an express trust must file the information referred to in subregulation (1) in such manner and provide such other information as the Registrar may specify.

(3) *Revoked*.

(4) The information which the Registrar may specify includes the identity of-

(a) the settlor or, where more than one exists, the settlors;

(b) the trustee or, where more than one trustee exists, the trustees;

(c) the protector or, where more than one exists, the protectors, if any;

(d) the beneficiaries or class of beneficiaries; and

(e) any other natural person exercising effective control over the express trust, and,

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includes the items of information listed in regulation 6(4)(a) to (l) for each of the persons listed in subparagraphs (a) to (e) of this subregulation;

(5) A trustee must inform the Registrar of the nature of his control over the express trust.

(6) Where an exceptional circumstance under regulation 32(1) and (2) applies in relation to the beneficial ownership of an express trust the person filing the information under this regulation shall be responsible for notifying the Registrar of such exceptional circumstance.

10. *Revoked*.

Requirement to supply Registrar with information.

11.(1) A trustee of an express trust must provide the information referred to in regulation 9 ("the information") to the Registrar in accordance with this regulation.

(2) An express trust created prior to the commencement of these Regulations shall-

(a) supply the information referred to in subregulation (1);

(b) following a change in the information supplied under paragraph (a) comply with subregulation (1) within 30 days of the change.

(3) An express trust created after the commencement of these Regulations shall comply with subregulation (1) within 30 days of its creation.

(4) If at any time after the trustee has provided the Registrar with any information under subregulation (1)-

(a) there is a material change affecting any matter contained in the information;

(b) it becomes apparent to the trustee that the information contains a significant inaccuracy; or

(c) the trust no longer generates tax consequences,

he must provide the Registrar with details of the change or, as the case may be, a correction of the inaccuracy within 30 days beginning with the date of the occurrence of the change, or the discovery of inaccuracy, or within such later time as may be agreed with the Registrar and the details provided to the Registrar must state the date on which the change occurred or the significant inaccuracy was noticed.

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(5) Any information to be provided to the Registrar under this regulation must be in such form or verified in such manner as the Registrar may specify.

Foundations and other structures similar to trusts

Foundations and other structures similar to trusts.

11A.(1) For the avoidance of doubt, the obligations set out in regulations 9 and 11 shall apply to-

(a) a foundation; and

(b) any legal arrangement made in Gibraltar that has a structure or functions in a similar manner as a trust and has tax consequences in Gibraltar.

(2) For the purposes of subregulation (1) any references in regulations 9 and 11 to the trust, settlor, trustees, protector and beneficiaries are to be interpreted as a reference to the nearest equivalent for the foundation or other legal arrangement referred to therein.

Other Registerable Person

Other Registerable Person.

11B.(1) In a case where either regulation 6(4) or 9(4) applies and the beneficial owner is an Other Registrable Person, the requirements of those provisions are satisfied by the provision of information on the particulars of the Other Registerable Person.

(2) For the purposes of subregulation (1) an Other Registerable Person is-

(a) a corporation sole;

(b) a government or government department of a country or territory or part of a country or territory;

(c) an international organisation whose members include two or more countries or territories or their governments;

(d) a local authority or local government body in Gibraltar or elsewhere.

Listed Entity

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Listed Entity.

11C. In a case where either regulation 6(4) or 9(4) applies and the beneficial owner is a Listed Entity, the requirements of those provisions are satisfied by the provision of information identifying the Listed Entity.

Information Gathering

Duty to investigate and obtain information.

12.(1) An express trust, corporate or legal entity incorporated in Gibraltar must take reasonable steps-

(a) to find out if there is anyone who is an ultimate beneficial owner in relation to the express trust, corporate or legal entity; and

(b) if so, to identify them.

(1A) An express trust, corporate or legal entity incorporated in Gibraltar must keep records of the actions taken in order to identify the beneficial owners.

(2) Without limiting subregulation (1), an express trust, corporate or legal entity incorporated in Gibraltar must give notice to anyone whom it knows or has reasonable cause to believe to be an ultimate beneficial owner in relation to the express trust, corporate or legal entity.

(3) The notice must require the addressee-

(a) to state whether or not the addressee is an ultimate beneficial owner in relation to the express trust, corporate or legal entity incorporated in Gibraltar; and

(b) if so, to confirm or correct any particulars of the addressee that are included in the notice, and supply any that are missing.

(4) An express trust, corporate or legal entity incorporated in Gibraltar may also give notice to a person under this regulation if it knows or has reasonable cause to believe that the person-

(a) knows the identity of someone who falls within subregulation (5); or

(b) knows the identity of someone likely to have that knowledge.

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(5) The persons who fall within this subregulation are any ultimate beneficial owner in relation to the express trust, corporate or legal entity incorporated in Gibraltar.

(6) A notice under subregulation (4) may require the addressee-

(a) to state whether or not the addressee knows the identity of-

(i) any person who falls within subregulation (5); or

(ii) any person likely to have that knowledge, and

(b) if so, to supply any particulars of theirs that are within the addressee's knowledge, and state whether or not the particulars are being supplied with the knowledge of each of the persons concerned.

(7) A notice under this regulation must state that the addressee is to comply with the notice by no later than the end of the period of 1 month beginning with the date of the notice.

(8) The Minister may by Order make further provision about the giving of such notices under this regulation, including the form and content of any such notices and the manner in which they must be given.

(9) An express trust, corporate or legal entity incorporated in Gibraltar is not required to take steps or give notice under this regulation with respect to an ultimate beneficial owner if-

(a) the express trust, corporate or legal entity has already been informed of the person's status as an ultimate beneficial owner in relation to it, and been supplied with all the particulars; and

(b) in the case of an ultimate beneficial owner, the information and particulars were provided either by the person concerned or with his knowledge.

(10) A person to whom a notice under subregulation (4) is given is not required by that notice to disclose any information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(11) In this regulation-

(a) a reference to knowing the identity of a person includes knowing information from which that person can be identified; and

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(b) "particulars" means-

(i) in the case of an ultimate beneficial owner, the information required to be submitted to the Registrar either under regulations 8, 11 or 11A, as the case may be; and

(ii) in any other case, any particulars that will allow the person to be contacted by the express trust, corporate or legal entity incorporated in Gibraltar.

Duty to keep information up-to-date.

13.(1) This regulation applies if the particulars of an ultimate beneficial owner have been supplied to the Registrar, either under regulations 8, 11 or 11A, as the case may be, and appear on the Register.

(2) The express trust, corporate or legal entity incorporated in Gibraltar must give notice to the ultimate beneficial owner if the express trust, corporate or legal entity knows or has reasonable cause to believe that a relevant change has occurred.

(3) A "change" occurs for the purposes of regulations 8, 11 or 11A, as the case may be, if-

(a) the ultimate beneficial owner ceases to be an ultimate beneficial owner in relation to the express trust, corporate or legal entity incorporated in Gibraltar; or

(b) any other change occurs as a result of which the information stated for the ultimate beneficial owner in the Register is incorrect or incomplete.

(4) The express trust, corporate or legal entity incorporated in Gibraltar must give the notice as soon as reasonably practicable after it learns of the change or first has reasonable cause to believe that the change has occurred.

(5) The notice must require the addressee-

(a) to confirm whether or not the change has occurred; and

(b) if so,

(i) to state the date of the change; and

(ii) to confirm or correct the particulars included in the notice, and supply any that are missing from the notice.

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(6) A notice under this regulation must state that the addressee is to comply with the notice by no later than the end of the period of 1 month beginning with the date of the notice.

(7) The Minister may by Order make further provision about the giving of notices under this regulation, including the form and content of any such notices and the manner in which they must be given.

(8) An express trust, corporate or legal entity incorporated in Gibraltar is not required to give notice under this regulation if-

(a) the express trust, corporate or legal entity has already been informed of the relevant change; and

(b) in the case of an ultimate beneficial owner, that information was provided either by the person concerned or with his knowledge.

Enforcement of disclosure requirements.

14. Schedule 1 contains provisions for when an ultimate beneficial owner fails to comply with a notice under regulation 12 or regulation 13.

Additional Statements

Additional Statements to be noted in the Register.

15. Where any additional Statement made by an express trust, corporate or legal entity incorporated in Gibraltar in accordance with regulations 18 to 23 ceases to be true, the express trust, corporate or legal entity must inform the Registrar that-

(a) the additional statement has ceased to be true; and

(b) the date on which the additional statement ceased to be true.

16. *Revoked*.

17. *Revoked.*

Additional Statements - particulars of ultimate beneficial owner not confirmed.

18.(1) This regulation applies where-

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(a) an express trust, corporate or legal entity incorporated in Gibraltar has identified an ultimate beneficial owner in relation to the express trust, corporate or legal entity incorporated in Gibraltar; and

(b) all the required particulars of that person have not been confirmed for the purposes of-

(i) regulation 8;

(ii) regulation 11; or

(iii) regulation 11A.

(2) The express trust, corporate or legal entity incorporated in Gibraltar must-

(a) inform the Registrar that it has identified an ultimate beneficial owner in relation to the express trust, corporate or legal entity incorporated in Gibraltar but all the required particulars of that person have not been confirmed; and

(b) inform the Registrar of each ultimate beneficial owner which it has been unable to confirm the details of.

19. *Revoked*.

Additional Statements - failure to comply with a notice given under regulation 12.

20.(1) This regulation applies where-

(a) an express trust, corporate or legal entity incorporated in Gibraltar has given a notice under regulation 12; and

(b) the addressee of the notice has failed to comply with the notice within the time specified in it.

(2) The express trust, corporate or legal entity incorporated in Gibraltar must-

(a) inform the Registrar that it has given a notice under regulation 12 which has not been complied with; and

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(b) inform the Registrar in respect of each notice issued under regulation 12 which has not been complied with.

Additional Statements - failure to comply with a notice given under regulation 13.

21.(1) This regulation applies where-

(a) an express trust, corporate or legal entity incorporated in Gibraltar has given a notice under regulation 13; and

(b) the addressee of the notice has failed to comply with the notice within the time specified in it.

(2) The express trust, corporate or legal entity incorporated in Gibraltar must inform the Registrar for the addressee that the addressee has failed to comply with a notice under regulation 13 which has been given by the trust, corporate or legal entity.

Additional Statements – compliance with a notice given under regulation 12 or regulation 13 after the time specified in the notice.

22.(1) This regulation applies where-

(a) the Registrar has been informed of a notice under regulation 20 or 21; and

(b) the addressee of the notice to which the information relates has complied with the notice after the time specified in the notice.

(2) The express trust, corporate or legal entity incorporated in Gibraltar must inform the Registrar-

(a) that the notice has been complied with after the time specified in the notice; and

(b) the date on which the notice was complied with.

Additional Statements – restrictions notice.

23.(1) This regulation applies where an express trust, corporate or legal entity incorporated in Gibraltar has issued a restrictions notice under paragraph 1 of Schedule 1.

(2) The express trust, corporate or legal entity incorporated in Gibraltar must-

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(a) inform the Registrar that it has issued a restrictions notice under paragraph 1 of Schedule 1; and

(b) make a separate notification in respect of each ultimate beneficial owner which the express trust, corporate or legal entity has been unable to identify.

(3) Where the express trust, corporate or legal entity incorporated in Gibraltar withdraws the restrictions notice under paragraph 11 of Schedule 1, the express trust, corporate or legal entity must inform the Registrar-

(a) that it has withdrawn the restrictions notice by giving a withdrawal notice; and

(b) the date specified in the withdrawal notice as the date on which the withdrawal notice was given.

(4) Where a court makes an order under paragraph 8 of Schedule 1 directing that a relevant interest in the company ceases to be subject to restrictions, the express trust, corporate or legal entity incorporated in Gibraltar must inform the Registrar-

(a) that the court has made an order under paragraph 8 of Schedule 1 directing that a relevant interest in the express trust, corporate or legal entity ceases to be subject to restrictions; and

(b) the date on which that order takes effect.

The Register

Documents to be submitted to the Registrar.

24.(1) This regulation applies in relation to the authentication of a document or information sent or supplied by a person to whom these Regulations apply to the Registrar.

(2) A document or information sent or supplied in electronic form is sufficiently authenticated–

(a) if the identity of the sender is confirmed in a manner specified by the Registrar; or

(b) where no such manner has been specified by the Registrar, if the communication contains or is accompanied by a statement of the identity of the sender and the Registrar has no reason to doubt the truth of that statement,

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and in any other case if it signed by the person sending or supplying it.

(3) A document or information sent or supplied to the Registrar shall be in such form as the Registrar may require.

Keeping of records by the Registrar.

25.(1) The information contained in a document delivered to the Registrar under these Regulations, may be recorded and kept by him in any form he thinks fit, provided it is possible to inspect the information and to produce a copy of it in printed or electronic form; and this shall be sufficient compliance with any duty of his to keep, file or register the document.

(2) The originals of documents delivered to the Registrar in printed form shall be kept by him for a period of 10 years commencing on the relevant date, after which they must be destroyed.

(3) The records produced by the Registrar as a result of subregulation (1) must be kept by him for a period of at least five years from the relevant date and no more than 10 years from the relevant date, after which they must be destroyed.

(4) For the purposes of this regulation, "the relevant date" means the date on which the duty to provide the information or document to the Registrar under these Regulations ceased to exist.

Inspection, production and evidence of documents kept by Registrar - companies or legal entities.

26.(1) The following listed entities or persons may make a request to the Registrar to inspect the information on the Register, relating to an express trust, or a corporate or a legal entity incorporated in Gibraltar, subject to the conditions in subregulations (2) to (8)-

(a) a competent authority;

(b) a financial intelligence unit;

(c) obliged entities;

(d) a member of the public.

(1A) The Registrar must ensure that-

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(a) the GFIU has, at all times, direct and immediate access to the information on the Register; and

(b) such other person delegated functions of the Registrar under regulation 5 has direct and immediate access to the information on the Register as the Registrar considers necessary for the purpose of undertaking such functions.

(2) The agencies referred to in paragraphs (a) and (b) must have access to the information in a timely manner, without restriction and without alerting the express trust, corporate or legal entity on whose information is requested.

(3) The obliged entities referred to in paragraph (c) must have timely access to the information on the beneficial owner within the framework of customer due diligence in accordance with Part III of the Act.

(4) A person or organisation as referred to in subregulation (1)(d) must only have access to the following information on the beneficial owner-

(a) the name;

(b) the month and year of birth;

(c) the nationality;

(d) the country of residence;

(e) the nature and extent of the beneficial interest.

(5) Where an obliged entity or a member of the public requests or is granted access to, any information in respect of a beneficial owner, the Registrar may by notice inform the beneficial owner by whatever means, and provide such further information regarding the request, as he deems appropriate.

(5A) *Deleted*.

(6) A person or entity listed in subregulation (1)(a) to (d) may request-

(a) a copy in such form as the Registrar considers appropriate of any information contained in those records to which they are entitled to request an inspection; or

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(b) a certified copy of, or extract from any such record to which they are entitled to request an inspection.

(7) The following subregulations shall not apply to a search relating to an express trust-

(a) subregulation (1)(c) and (1)(d);

(b) subregulation (3);

(c) subregulation (4); and

(d) subregulation (5).

(8) No information shall be made available under this regulation any later than 10 years from the date on which the duty to provide that information to the Registrar under these Regulations ceased to exist.

Inspection of documents kept by Registrar – nominators.

26ZA.(1) The following persons may make a request to the Registrar to inspect the information on the Register, relating to nominators-

(a) a competent authority; and

(b) a financial intelligence unit.

(2) The Registrar must ensure that-

(a) the GFIU has, at all times, direct and immediate access to the information on the Register; and

(b) such other person delegated functions of the Registrar under regulation 5 has direct and immediate access to the information on the Register as the Registrar considers necessary for the purpose of undertaking such functions.

(3) On receiving a request under subregulation (1), the Registrar must ensure that the persons referred to in subregulation (1) have access to the information in a timely manner, without restriction and without alerting the nominator whose information is requested, his nominee or the relevant corporate or legal entity.

(4) The persons referred to in subregulation (1) may request-

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(a) a copy, in such form as the Registrar considers appropriate, of any information or document; or

(b) a certified copy of, or extract from, any document,

which they are entitled to inspect under this regulation.

(5) No information shall be made available under this regulation any later than 10 years from the date of termination of the nominee arrangement, or the date on which the nominee arrangement ceased to be a nominee arrangement for the purposes of regulation 6A, as the case may be.

Inspection of documents kept by Registrar – appointors.

26ZB.(1) The following persons may make a request to the Registrar to inspect the information on the Register, relating to appointors-

(a) a competent authority; and

(b) a financial intelligence unit.

(2) The Registrar must ensure that-

(a) the GFIU has, at all times, direct and immediate access to the information on the Register; and

(b) such other person delegated functions of the Registrar under regulation 5 has direct and immediate access to the information on the Register as the Registrar considers necessary for the purpose of undertaking such functions.

(3) On receiving a request under subregulation (1), the Registrar must ensure that the persons referred to in subregulation (1) have access to the information in a timely manner, without restriction and without alerting the appointor whose information is requested, the relevant director or the relevant corporate or legal entity.

(4) The persons referred to in subregulation (1) may request-

(a) a copy, in such form as the Registrar considers appropriate, of any information or document; or

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(b) a certified copy of, or extract from, any document,

which they are entitled to inspect under this regulation.

(5) No information shall be made available under this regulation any later than 10 years from the date on which the appointor ceases to be an appointor for the purposes of regulation 6B.

Duty to report inconsistencies.

26A.(1) Where an obliged entity has obtained information pursuant to regulation 26, and it becomes apparent to the obliged entity that the information obtained is materially inconsistent with other information in its possession, the obliged entity must provide the Registrar with such details of the inconsistencies as the Registrar may specify within 30 days of their discovery or such later time as may be agreed with the Registrar.

(2) Any information to be provided to the Registrar under this regulation must be in such form or verified in such manner as the Registrar may specify.

(3) On receipt of a report pursuant to subregulation (1), the Registrar may take such measures as he considers necessary or expedient to clarify the inconsistencies and ensure the accuracy of the information on the Register including putting the relevant corporate or legal entity on notice of the inconsistency and requiring the relevant corporate or legal entity to issue a notice pursuant to regulation 13(2).

(4) On receipt of a report pursuant to subregulation (1), the Registrar may place such notice in the Register as he considers appropriate until the relevant inconsistency has been clarified to his satisfaction.

Disclosure to other financial intelligence units and UK relevant Government Authority.

27. The GFIU, or any other Gibraltar competent authority to which the Registrar has delegated his responsibilities under regulation 5(2), may disclose-

(a) the information it receives from the Registrar, following a request for an inspection under regulation 26, 26ZA or 26ZB; or

(b) the information discovered by it from the Register following an urgent request,

to a financial intelligence unit or to a relevant Government Authority in the United Kingdom at no cost to the recipient parties.

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Data Protection.

28. The Registrar and GFIU shall ensure the searches and transmission of information under regulations 26, 26ZA, 26ZB and 27 comply with the Data Protection Act 2004 and the Gibraltar GDPR.

Fees.

29.(1) The Registrar may require fees be payable to him in addition to any other fee which he may specify for his performance of any function under these Regulations, including the receipt by him of any notice or other document which under these Regulations is required to be given, delivered, sent or forwarded to him.

(2) Where a notice or document which under these Regulations is required to be given, delivered, sent or forwarded to the Registrar or lodged with the Registrar within a specified time is–

(a) given, delivered, sent or forwarded to the Registrar or lodged with him outside the specified time; or

(b) substituted by a notice or document outside the specified time,

a supplementary fee specified by the Registrar in respect of that late or substituted notice or document shall be payable, in addition to the fee due at the date the late or substituted document is delivered, sent or forwarded to the Registrar or lodged with him as provided from time to time in respect of that notice or document.

(3) The Registrar may charge a person or entity listed in regulation 26(1) (c) or (d) a fee for obtaining information under regulation 26.

(4) The fee referred to in subregulation (3) may not exceed the administrative cost of making the information available, including the costs of developing and maintaining the Register.

Online registration.

29A. The Registrar may, in the case of a person or entity listed in regulation 26(1) (c) or (d), make access to the information on the Register under regulation 26 subject to an online registration process.

Reliance on regulation 26 by obliged entities.

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30.(1) Obliged entities must fulfil the requirements of Part III of the Act by using a risk-based approach.

(2) Obliged entities may use the Register, by making an application under regulation 26, as an aid but must not rely exclusively on the Register to fulfil their customer due diligence requirements in accordance with Part III of the Act.

Application for non-disclosure of ultimate beneficial owner.

31.(1) Where exceptional circumstances exist, an individual (who is an ultimate beneficial owner) or a corporate or legal entity incorporated in Gibraltar (on behalf of an ultimate beneficial owner) may make an application to the Registrar to refrain from disclosing, to the listed persons or entities in paragraphs (c) and (d) of regulations 26(1), the particulars of information required to be submitted to the Registrar under regulations 8 and 11 relating to that ultimate beneficial owner.

(2) The application referred to in subregulation (1) must contain-

(a) the name and any former name of the ultimate beneficial owner;

(b) the date of birth of the ultimate beneficial owner;

(c) the usual residential address of the ultimate beneficial owner;

(d) the name and registered number (if applicable) of each express trust, corporate or legal entity in relation to which the ultimate beneficial owner is or proposes to become an ultimate beneficial owner;

(e) a statement on the grounds on which the application is made which includes the applicable exceptional circumstances; and

(f) evidence which supports the statement required by paragraph (e).

(3) The Registrar must determine the application for non-disclosure under subregulation (1) and, within 7 days beginning with the date that the determination is made, send to the ultimate beneficial owner, or corporate or legal entity incorporated in Gibraltar notice of the determination.

(4) Where the application for non-disclosure is not granted the Registrar must give reasons in the notice provided for in subregulation (3).

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(5) Where the application is unsuccessful, the notice under subregulation (3) must inform the ultimate beneficial owner, or corporate or legal entity of their right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

(6) The ultimate beneficial owner, or corporate or legal entity incorporated in Gibraltar may apply for permission to appeal as referred to in subregulation (5) to the Supreme Court within the period specified in that subregulation.

(7) "exceptional circumstances" in this regulation has the meaning attributed to it in regulation 32(2).

Exemption to disclosure of ultimate beneficial owner.

32.(1) In exceptional circumstances, the Registrar may refuse to grant access to the information on the beneficial owner of a corporate or legal entity incorporated in Gibraltar to the listed persons or entities in paragraphs (c) and (d) of regulation 26(1).

(2) The exceptional circumstances referred to in subregulation (1) are where the beneficial owner is a minor or is otherwise incapable or where access would expose the beneficial owner to the risk of-

(a) fraud;

(b) kidnapping;

(c) blackmail;

(d) violence; or

(e) intimidation.

(3) Each application received by the Registrar for non-disclosure of the information held on the Register, under regulation 31, must be decided on a case by case basis by the Registrar upon a detailed evaluation of the exceptional nature of the circumstances.

(4) Where the search in the Register relates to a corporate or legal entity incorporated in Gibraltar, the Registrar must not refuse to grant access to the credit institutions, financial institutions or to the obliged entities listed in paragraph (k) of section 9(1) of the Act which are public officials.

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(5) The Minister must publish annual statistical data on the number of exemptions granted under this regulation and the reasons stated.

Matters relating to an application made under regulation 31.

33.(1) For the purpose of determining an application made under 31 the Registrar may-

(a) direct that additional information or evidence should be delivered to the Registrar;

(b) refer any question relating to an assessment of the nature or extent of any risk of violence or intimidation to a relevant body or to any other person the Registrar considers may be able to assist in making the assessment; and

(c) accept any answer to a question referred under paragraph (b) as providing sufficient evidence of the nature or extent of any risk.

(2) The Registrar must not make available for public inspection-

(a) any application made under regulation 31;

(b) any documents provided in support of that application;

(c) any notice provided under regulation 34, 35(4) or 36; or

(d) any representations delivered under regulation 37.

(3) A person who makes an application under regulation 31 must inform the Registrar in writing without delay upon becoming aware of any change to any information or evidence provided to the Registrar in connection with the application.

Withdrawal of an application made under regulation 31.

34. If a person in relation to whom an application has been made under regulation 31 that has not yet been determined notifies the Registrar in writing that the person no longer wishes the Registrar to determine the application, the Registrar is not required to determine the application under 31(3).

Appealing against a determination made under regulation 31.

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35.(1) Subject to subregulation (2), an applicant who has received notice under regulation 31(6) that the applicant's application has been unsuccessful may appeal to the Supreme Court on the grounds that the determination-

(a) is unlawful;

(b) is irrational or unreasonable; or

(c) has been made on the basis of a procedural impropriety or otherwise contravenes the rules of natural justice.

(2) No appeal may be brought unless the permission of the court has been obtained.

(3) No application for such permission may be made after 28 days beginning with the date of the notice under regulation 31 unless the court is satisfied that there was good reason for the failure of the applicant to seek permission before the end of that period.

(4) An applicant who seeks permission to appeal must serve written notice of the application on the Registrar within 7 days beginning on the date on which the application for permission was issued.

(5) The Supreme Court in determining an appeal may hold a closed court hearing and may-

(a) dismiss the appeal;

(b) quash the determination.

(6) Where the court quashes a determination it may refer the matter to the Registrar with a direction to reconsider it and make a determination in accordance with the findings of the court.

Duration of a determination made under regulation 31.

36. A determination made under regulation 31(3) that an application is successful continues to have effect until-

(a) either-

(i) the person to whom the determination relates; or

(ii) the person's personal representative,

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notifies the Registrar in writing that he wishes the determination cease to have effect; or

(b) the Registrar revokes the determination under regulation 37.

Revocation of a determination made under regulation 31.

37.(1) The Registrar may revoke a determination made under 31(3) that an application is successful if-

(a) the applicant in relation to the determination or, if different, any person to whom the application relates has been found guilty of an offence under regulation 43 (general false statement) in respect of purported compliance with any provision of these Regulations;

(b) the Registrar has sent a notice in accordance with subregulation (2) to the applicant in relation to the determination and, if different, the person to whom the determination relates; and

(c) the period of 28 days beginning with the date of that notice has expired.

(2) The notice mentioned in subregulation (1)(b) must inform the addressee-

(a) of the Registrar's intention to revoke the determination;

(b) that the addressee may, within 28 days beginning with the date of the notice, deliver representations in writing to the Registrar as to why the Registrar should not revoke the determination; and

(c) that if the Registrar receives such representations within that period, the Registrar will have regard to the representations in deciding whether to revoke the determination.

(3) If within the period specified in subregulation (2)(b) the addressee of the notice delivers representations in writing to the Registrar as to why the Registrar should not revoke the determination, the Registrar must have regard to the representations in deciding whether to revoke the determination.

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(4) The Registrar must send notice of the Registrar's decision as to whether to revoke a determination to the applicant in relation to the determination and, if different, the person to whom the determination relates within 7 days beginning with the date of the decision.

Further appeal.

37A. A person who is aggrieved by the decision of the Registrar under regulation 37 may within 14 days of the Registrar's decision appeal to the Supreme Court.

(2) In determining an appeal under subregulation (1) the Supreme Court may confirm, quash or substitute the Registrar's decision and make such other orders as it deems appropriate.

Warning and Restrictions Notices

Content of a warning notice.

38. A warning notice given under paragraph 1 of Schedule 1 must-

(a) specify the date on which the warning notice is given;

(b) be accompanied by a copy of the notice given under regulation 12 or 13 to which the warning notice relates;

(c) identify the addressee's relevant interest in the express trust, corporate or legal entity incorporated in Gibraltar by reference to the shares or right in question;

(d) state that the express trust, corporate or legal entity incorporated in Gibraltar will consider reasons provided to it as to why the addressee failed to comply with the notice given under regulation 12 or 13;

(e) explain the effect of a restrictions notice; and

(f) state that, by virtue of restrictions notice, certain acts or failures to act may constitute an offence.

Content of a restrictions notice.

39. A restrictions notice issued under paragraph 1 of Schedule 1 must-

(a) specify the date on which the restrictions notice is issued;

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(b) be accompanied by a copy of the warning notice which preceded the restrictions notice;

(c) identify the addressee's relevant interest in the express trust, corporate or legal entity by reference to the shares or right in question;

(d) explain the effect of the restrictions notice;

(e) state that, by virtue of the restrictions notice, certain acts or failures to act may constitute an offence; and

(f) state than an aggrieved person may apply to the court for an order directing that the relevant interest ceases to be subject to restrictions.

Failure to comply with a regulation 12 or 13 notice: valid reason.

40. An express trust, corporate or legal entity incorporated in Gibraltar must take into account any incapacity of the addressee of a notice given under regulation 12 or 13 in deciding what counts as a "valid reason" sufficient to justify the addressee's failure to comply with the notice.

Withdrawal of a restrictions notice.

41. Where an express trust, corporate or legal entity incorporated in Gibraltar is required to withdraw a restrictions notice under paragraph 11 of Schedule 1 by notice (a "withdrawal notice"), the withdrawal notice must-

(a) be given before the end of the period of 14 days beginning with the day on which the express trust, corporate or legal entity incorporated in Gibraltar became required to withdraw the restrictions notice under that paragraph;

(b) specify the date on which the withdrawal notice is given;

(c) identify the addressee's relevant interest in the company by reference to the shares or right in question; and

(d) state that the relevant interest is no longer subject to restrictions.

Requests

Requests to trustees.

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41A.(1) The Registrar or the GFIU may make a request under this regulation to a trustee of an express trust for the provision of information, which the trustee must record and maintain, under section 61 of the Trustees Act.

(2) In this regulation, "express trust" includes an express trust governed by Gibraltar law which does not generate tax consequences.

Requests for information about accounts and safe-deposit boxes

Duty to establish mechanism for requests.

41B.(1) The Minister must ensure that a central automated mechanism (referred to in this Part as "the central automated mechanism") is established for making and responding to requests under this Part.

(2) Any reference in sections 41B to 41I to "this Part" is a reference to sections 41B to 41I.

Duty to respond to requests for information.

41C.(1) Each credit institution and provider of safe custody services must establish and maintain systems which enable that institution or provider to respond, using the central automated mechanism, to a request for information made under this Part by a relevant authority.

(2) A credit institution or provider of safe custody services who receives such a request must, using the central automated mechanism, provide the information requested fully and rapidly to the person who made the request.

Requests for information about accounts.

41D.(1) A relevant authority may make a request, using the central automated mechanism, to a credit institution, for any information specified in this regulation relating to an account held with that institution.

(2) The following information may be requested-

(a) the name of the account holder;

(b) where the account holder is an individual, the date of birth of the account holder;

(c) where the account holder is an individual, the address of the account holder;

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(d) where the account holder is a firm, the address of its registered office and, if different, its principal place of business;

(e) the name of any person purporting to act on behalf of the account holder;

(f) the name and date of birth of any individual with a beneficial interest in the account or the account holder;

(g) the address of any individual with a beneficial interest in the account or the account holder;

(h) where the beneficial interest in the account holder is held by a firm, the address of its registered office and, if different, its principal place of business;

(i) the International Bank Account Number (IBAN) of the account;

(j) any other number by which the individual account is identified by the credit institution;

(k) the date of opening of the account;

(l) if the account has been closed, the date of closing; and

(m) any other numbers which are specific to an individual who is mentioned in sub-paragraphs (a) to (c) or (e) to (g) and which may be used to verify that individual's identity (such as a passport or driving licence number) contained within any documents or information obtained by the credit institution to satisfy the customer due diligence requirements in sections 10, 10A, 11 and 17 to 22 of the Act.

Requests for information about safe-deposit boxes.

41E.(1) A relevant authority may make a request, using the central automated mechanism, to a provider of safe custody services for any of the information specified in this regulation in relation to a safe-deposit box held with that provider.

(2) The following information may be requested-

(a) the name of the customer to whom the safe-deposit box was or is made available;

(b) where the customer is an individual, their date of birth;

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(c) where the customer is an individual, their address;

(d) where the customer is a firm, the address of its registered office and, if different, its principal place of business;

(e) the name of any person (except for employees of the provider of safe custody services) who the provider of safe custody services knows holds, or held, a key for the safe-deposit box, or has or has had access to the safe-deposit box in any other way;

(f) the date on which the safe-deposit box was made available to the customer and, if appropriate, ceased to be available; and

(g) any other numbers which are specific to an individual who is mentioned in sub-paragraphs (a) to (c) and (e) and which may be used to verify that individual's identity (such as a passport or driving licence number) contained within any documents or information obtained by the provider of safe custody services to satisfy the customer due diligence requirements in sections 10, 10A, 11 and 17 to 22 of the Act.

Requirements for making a request for information.

41F.(1) The GFIU may request information under this Part for any purpose in connection with its functions.

(2) Subject to subregulation (1), a relevant authority may only request information under this Part for one or more of the following purposes-

(a) to investigate money laundering, terrorism (within the meaning of section 4 of the Terrorism Act 2018), or terrorist financing;

(b) to investigate whether property has been obtained through any conduct mentioned in sub-paragraph (a); or

(c) to carry out its supervisory functions (where the relevant authority carries out a supervisory function).

(3) Only an appropriate officer of the relevant authority may make a request under this Part on behalf of that authority.

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(4) A request under this Part must not be made by a relevant authority (other than the GFIU) unless the making of that request is first approved in writing by a senior officer of that authority.

(5) That senior officer must not approve the making of a request unless the officer is satisfied that the request complies with the requirements of this regulation and is proportionate to the purpose or purposes of the request.

(6) A senior officer must maintain a record in writing of any refusal to approve a request.

(7) Relevant authorities must take into account any guidance which has been issued by the Minister, or issued by an appropriate body or the GFIU and approved by the Minister, in relation to who may be designated as an appropriate or a senior officer.

Access to requests and responses, guidance and review.

41G.(1) The GFIU may access, using the central automated mechanism, all information or documents relating to requests and responses to requests made under this Part and may use the information or documents-

(a) in carrying out its functions;

(b) for any of the purposes listed in regulation 45F(2);

(c) to prepare guidance under this Part;

(d) to provide anonymised information to the Minister for the purposes of issuing guidance, preparing reports and making recommendations under this Part.

(2) The GFIU must on request provide all or part of the information referred to in paragraph (1)(d) to the Minister or an appropriate body approved by the Minister.

(3) Credit institutions, providers of safe custody services and relevant authorities may take into account any guidance which has been issued by the Minister, or issued by an appropriate body or the GFIU and approved by the Minister, in relation to this Part.

(4) The Minister must from time to time-

(a) carry out a review of the central automated mechanism; and

(b) publish a report setting out the conclusions of the review.

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(5) The Minister must publish the first report before the end of the first calendar year after the central automated mechanism is established.

(6) The Minister must publish subsequent reports annually.

(7) A copy of the reports published under subregulations (5) and (6) must be laid before Parliament, and sent to each relevant authority.

Record keeping.

41H.(1) Each credit institution and provider of safe custody services must keep the records specified in subregulation (2) for a period of five years beginning with the date of the closure of the account or safe-deposit box.

(2) The records are a copy of any document or information needed in order to respond to a request made under this Part.

(3) Once the period referred to in subregulation (1) has expired, the credit institution or provider of safe custody services must delete any personal data retained for the purposes of these Regulations unless—

(a) the relevant person is required to retain records containing personal data—

(i) by or under any enactment, or

(ii) for the purposes of any court proceedings;

(b) the data subject has given consent to the retention of that data; or

(c) the relevant person has reasonable grounds for believing that records containing the personal data need to be retained for the purpose of legal proceedings.

Interpretation.

41I. For the purposes of this Part-

(a) an "appropriate officer" is an officer who has received appropriate training and who has been authorised in writing by a relevant authority to make requests under this Part;

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(b) "firm" means any entity that, whether or not a legal person, is not an individual and includes a body corporate and a partnership or other unincorporated association;

(c) "relevant authority" means the GFIU, the Royal Gibraltar Police, HM Customs, and the Financial Services Commission; and

(d) a "senior officer" is an officer who has received appropriate training, who has sufficient knowledge of money laundering and terrorist financing, and who has been authorised in writing by a relevant authority to authorise or refuse the making of requests under this Part.

Penalties and offences

Power to impose civil penalties.

42.(1) The Registrar may impose a penalty of such amount as he considers appropriate, not exceeding £10,000.00, on any person specified in subregulation (7) ("specified person") who fails to comply with any requirement in regulations 6(1), 6(2), 6(5), 6A(2), 6A(3), 6A(4), 6A(5), 6A(6), 6B(1), 6B(2), 6B(4), 6B(5), 8(1), 8(2), 8(3), 8(4), 8A(1), 8A(2), 8B(1), 8B(2), 8B(3), 8B(4), 8C(1), 8C(2), 8C(3), 8C(4), 9(1), 9(2), 9(5), 11(1), 11(2), 11(3), 11(4), 11A(1), 12(1), 12(2), 13(2), 15, 18(2),20(2), 21(2), 22(2), 23(2), 23(3) or 23(4).

(2) The Registrar must not impose a penalty on a specified person under subregulation (1) where there are reasonable grounds for him to be satisfied that the specified person took all reasonable steps to ensure the requirement would be complied with.

(3) Where the Registrar proposes to impose a penalty under this regulation, he must give the specified person written notice of–

(a) his proposal to impose the penalty and the proposed amount;

(b) the reasons for imposing the penalty; and

(c) the right to make representations to him within a specified period (which may not be less than 28 days).

(4) The Registrar must then decide, within a reasonable period, whether to impose a penalty under this regulation and it must give the specified person written notice of-

(a) his decision not to impose a penalty; or

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(b) the following matters-

(i) his decision to impose a penalty and the amount;

(ii) the reasons for his decision; and

(iii) the right to appeal under regulation 43.

(5) A penalty imposed under this regulation is payable to the Government General Account.

(6) In subregulation (1) "appropriate" means an effective, proportionate and dissuasive penalty.

(7) For the purposes of subregulation (1) and this regulation more generally the "specified persons" are–

(a) an express trust;

(b) a corporate or legal entity incorporated in Gibraltar;

(c) a director of a corporate or legal entity incorporated in Gibraltar;

(d) a beneficial owner; and

(e) a nominee.

Appeals.

43.(1) A person may appeal the imposition of a penalty by the Registrar under regulation 42 to the Magistrates' Court.

(2) The Magistrates' Court may uphold, vary or quash the penalty as it deems fit.

General false statement offence.

44.(1) It is an offence for a person knowingly or recklessly-

(a) to deliver or cause to be delivered to the Registrar, for any purpose of these Regulations, a document; or

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(b) to make to the Registrar, for any such purpose, a statement,

that is misleading, false or deceptive in a material particular.

(2) A person guilty of an offence under this regulation is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or to both;

(b) on summary conviction for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.

Criminal Penalties.

45.(1) Any person specified in subregulation (5) ("specified person") who fails to comply with a requirement under regulations 6(1), 6(2), 6(5), 6A(2), 6A(3), 6A(5), 6B(1), 6B(2), 6B(5), 8(1), 8(2), 8(3), 8(4), 8A(1), 8A(2), 8B(1), 8B(2), 8B(3), 8B(4), 8C(1), 8C(2), 8C(3), 8C(4), 9(1), 9(2), 11(1), 11(2), 11(3), 11(4), 11A, 12(1), 12(2), 13(2), 15, 18(2), 20(2), 21(2), 22(2), 23(2), 23(3), 23(4), 41C(1) and 41C(2) is guilty of an offence and is liable-

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both.

(2) In deciding whether an express trust, corporate or legal entity incorporated in Gibraltar has committed an offence under subregulation (1), the court must consider whether the express trust, corporate or legal entity incorporated in Gibraltar followed any relevant guidance which was at the time issued by the Registrar.

(3) A specified person is not guilty of an offence under this regulation if he took all reasonable steps to avoid committing the offence.

(4) Where a specified person is convicted of an offence under this regulation, the specified person shall not also be liable to a penalty under regulation 42.

(5) For the purposes of subregulation (1) and this regulation more generally the "specified persons" are–

(a) an express trust;

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(b) a credit institution;

(c) a provider of safe custody services;

(d) a corporate or legal entity incorporated in Gibraltar;

(e) a corporate or legal entity incorporated in Gibraltar;

(f) a beneficial owner; and

(g) a nominee.

Prosecution of offences.

46.(1) Proceedings may not be commenced against a person for any offence under regulation 45 except by, or with the consent of, the Attorney General.

(2) Proceedings for an offence under regulation 45 may be instituted only against a relevant person or where such a person is an express trust, company or legal entity incorporated in Gibraltar against any person who is liable to be proceeded against under regulation 47.

Offences by an express trust, company or legal entity.

47.(1) Where a company or a legal entity incorporated in Gibraltar has committed an offence under regulation 45, and it shown-

(a) to have been committed with the consent or the connivance of an officer of the company or by a person in a legal entity holding a position equivalent to an officer of a company; or

(b) to be attributable to any neglect on his part,

then in addition to the company or legal entity, any officer of the company and any person in a legal entity holding a position equivalent to an officer of the company is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) Where an offence under regulation 45 had been committed, and it shown-

(a) to have been committed with the consent or the connivance of a trustee of an express trust; or

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(b) to be attributable to any neglect on his part,

then that trustee is guilty of an offence and liable to be proceeded against and punished accordingly.

Recovery of charges and penalties through the court.

48. A charge or penalty imposed on an express trust, corporate or legal entity incorporated in Gibraltar by the Registrar under regulation 42 is a debt due from that express trust, corporate or legal entity incorporated in Gibraltar to the Registrar, and is recoverable accordingly.

Power of a court to order a person to remedy default or delay.

49.(1) This regulation applies if-

(a) the details of a person are without sufficient cause included in, or omitted from, the information that an express trust, corporate or legal entity incorporated in Gibraltar delivers to the Registrar concerning a beneficial owner in relation to the vehicle;

(b) default is made or unnecessary delay takes place in informing the Registrar under these Regulations that a person-

(i) has become a beneficial in relation to the vehicle; or

(ii) has ceased to be a beneficial owner in relation to the vehicle.

(2) A person aggrieved, or any other interested party, may apply to the magistrates' court for an order requiring the express trust, corporate or legal entity incorporated in Gibraltar to deliver to the Registrar the information necessary to rectify the position.

(3) The magistrates' court may either refuse the application or may make such order as it deems appropriate, including an order for damages.

(4) In this regulation-

(a) "any other interested party" means-

(i) any members of the corporate or legal entity incorporated in Gibraltar;

(ii) any trustee of the express trust;

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(iii) any other person who is a beneficial owner in relation to the vehicle;

(b) "vehicle" means a corporate or a legal entity incorporated in Gibraltar or an express trust.

Overriding Instruments.

50. These Regulations must be construed in accordance with the fundamental right to private life as protected by the following instruments-

(a) article 8 of the European Convention on Human Rights;

(b) article 7 of the Gibraltar Constitution Order 2006;

(c) article 7 of the Charter of Fundamental Rights of the European Union;

(d) Directive 95/46/EC of the European Parliament and Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (as may be amended from time to time or replaced);

(e) Data Protection Act 2004;

(f) GDPR.

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SCHEDULE 1

FAILURE TO COMPLY WITH NOTICE UNDER REGULATION 12 OR 13

(regulation 14)

Right to issue restrictions notice.

1.(1) This paragraph applies if-

(a) a notice under regulation 12 or 13 is served by an express trust, corporate or legal entity incorporated in Gibraltar on a person who has a relevant interest in the express trust, corporate or legal entity; and

(b) the person fails to comply with that notice within the time specified in it.

(2) The express trust, corporate or legal entity incorporated in Gibraltar may give the person a notice under this paragraph (a "warning notice") informing the person that it is proposing to issue the person with a notice (a "restrictions notice") with respect to the relevant interest.

(3) The express trust, corporate or legal entity incorporated in Gibraltar may issue the restrictions notice if, by the end of the period of 1 month beginning with the date on which the warning notice was given-

(a) the person has not complied with the notice served under regulation 12 or 13; and

(b) the express trust, corporate or legal entity incorporated in Gibraltar has not been provided with a valid reason sufficient to justify the person's failure to comply with the notice served under that regulation.

(4) A restrictions notice is issued on a person by sending the notice to the person at the last known address for that person.

(5) The effect of a restrictions notice is set out in paragraph 3.

(6) In deciding whether to issue a restrictions notice, the express trust, corporate or legal entity incorporated in Gibraltar must have regard to the effect of the notice on the rights of third parties in respect of the relevant interest.

Relevant interests.

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2.(1) For the purposes of this Schedule, a person has a relevant interest in an express trust, corporate or legal entity incorporated in Gibraltar if the person-

(a) holds any shares in the express trust, corporate or legal entity incorporated in Gibraltar;

(b) holds any voting rights in the express trust, corporate or legal entity incorporated in Gibraltar; or

(c) holds the right to appoint or remove any member of the board of directors of the company or trustee of the trust.

(2) References to "the relevant interest" are to the shares or rights in question.

(3) Schedule 2 applies for the interpretation of subparagraph (1) save that, where the relevant interest is by virtue of paragraph 10 or 11 of Schedule 2 treated for the purposes of that Schedule as held by a person other than the person who in fact holds the interest, both the holder and the other person are to be regarded for the purposes of this Schedule as having the relevant interest.

Effect of restrictions notice.

3.(1) The effect of a restrictions notice issued under paragraph 1 with respect to a relevant interest is as follows-

(a) any transfer of the interest is void;

(b) no rights are exercisable in respect of the interest;

(c) no shares may be issued in right of the interest or in pursuance of an offer made to the interest-holder;

(d) except in a liquidation, no payment may be made of sums due from the company in respect of the interest, whether in respect of capital or otherwise.

(2) An agreement to transfer an interest that is subject to the restriction in subparagraph (1)(a) is void.

(3) Subparagraph (2) does not apply to an agreement to transfer the interest on the making of an order under paragraph 8 made by virtue of subparagraph (3)(b) of that paragraph (removal of restrictions in case of court-approved transfer).

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(4) An agreement to transfer any associated right, otherwise than in liquidation, is void.

(5) Subparagraph (4) does not apply to an agreement to transfer any such right on the making of an order under paragraph 8 made by virtue of subparagraph (3)(b) of that paragraph (removal of restrictions in case of court-approved transfer).

(6) An "associated right", in relation to a relevant interest, is-

(a) a right to be issued with any shares issued in right of the relevant interest; or

(b) a right to receive payment of any sums due from the express trust, corporate or legal entity incorporated in Gibraltar in respect of the relevant interest.

(7) The provisions of this paragraph are subject to any directions given under paragraph 4.

Protection of third party rights.

4.(1) The court may give a direction under this paragraph if, on application by any person aggrieved, the court is satisfied that a restrictions notice issued by the express trust, corporate or legal entity incorporated in Gibraltar under paragraph 1 unfairly affects the rights of third parties in respect of the relevant interest.

(2) The direction is given for the purpose of protecting those third party rights.

(3) The direction is a direction that certain acts will not constitute a breach of the restrictions placed on the relevant interest by the restrictions notice.

(4) An order containing a direction under this paragraph-

(a) must specify the acts that will not constitute a breach of the restrictions; and

(b) may confine the direction to cases where those acts are done by persons, or for the purposes, described in the order.

(5) The direction may be given subject to such terms as the court thinks fit.

Breach of restrictions.

5.(1) A person commits an offence if the person does anything listed in subparagraph (2) knowing that the interest is subject to restrictions.

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(2) The things are-

(a) exercising or purporting to exercise any right to dispose of a relevant interest;

(b) exercising or purporting to exercise any right to dispose of any right to be issued with a relevant interest; or

(c) voting in respect of a relevant interest, whether as holder of the interest or as proxy, or appointing a proxy to vote in respect of a relevant interest.

(3) A person who has a relevant interest that the person knows to be subject to restrictions commits an offence if the person-

(a) knows a person to be entitled, apart from the restrictions, to vote in respect of the interest, whether as holder or as proxy;

(b) does not know the person to be aware of the fact that the interest is subject to restrictions; and

(c) fails to notify the person of that fact.

(4) A person commits an offence if the person-

(a) either has a relevant interest that the person knows to be subject to restrictions or is entitled to an associated right; and

(b) enters in that capacity into an agreement that is void by virtue of paragraph 3(2) or (4).

(5) References in this Schedule to an interest being "subject to restrictions" are to an interest being subject to restrictions by virtue of a restrictions notice under paragraph 1.

Offence.

6. If shares in an express trust, corporate or legal entity incorporated in Gibraltar are issued in contravention of a restriction imposed by virtue of a restrictions notice under paragraph 1, an offence is committed by-

(a) the express trust, corporate or legal entity incorporated in Gibraltar; and

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(b) every officer of the express trust, corporate or legal entity incorporated in Gibraltar who is in default.

Penalty.

7.(1) A person guilty of an offence under paragraph 5 or 6 is liable-

(a) on conviction on indictment, to a fine;

(b) on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) The provisions of paragraphs 5 and 6 are subject to any direction given under paragraph 4 or 8.

Relaxation of restrictions.

8.(1) An application may be made to the court for an order directing that the relevant interest cease to be subject to restrictions.

(2) An application for an order under this paragraph may be made by the express trust, corporate or legal entity incorporated in Gibraltar in question or by any person aggrieved.

(3) The court must not make an order under this paragraph unless-

(a) it is satisfied that the information required by the notice served under regulation 12 or 13 has been disclosed to the express trust, corporate or legal entity incorporated in Gibraltar and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure; or

(b) the relevant interest is to be transferred for valuable consideration and the court approves the transfer.

(4) An order under this paragraph made by virtue of subparagraph (3)(b) may continue, in whole or in part, the restrictions mentioned in paragraph 3(1)(c) and (d) so far as they relate to a right acquired or offer made before the transfer.

(5) Where any restrictions continue in force under subparagraph (4)-

(a) an application may be made under this paragraph for an order directing that the relevant interest ceases to be subject to those restrictions; and

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(b) subparagraph (3) does not apply in relation to the making of such an order.

Orders for sale.

9.(1) The court may order that the relevant interest subject to restrictions be sold subject to the court's approval as to the sale.

(2) An application for an order under subparagraph (1) may only be made by the express trust, corporate or legal entity incorporated in Gibraltar in question.

(3) If the court makes an order under this paragraph, it may make such further order relating to the sale or transfer of the interest as it thinks fit.

(4) An application for an order under subparagraph (3) may be made-

(a) by the express trust, corporate or legal entity incorporated in Gibraltar in question;

(b) by the person appointed by or in pursuance of the order to effect the sale; or

(c) by any person with an interest in the relevant interest.

(5) On making an order subparagraph (1) or (3), the court may order that the applicant's costs be paid out of the proceeds of sale.

Proceeds of sale.

10.(1) If a relevant interest is sold in pursuance of an order under paragraph 9, the proceeds of the sale, less the costs of the sale, must be paid into court for the benefit of those who are beneficially interested in the relevant interest.

(2) A person who is beneficially interested in the relevant interest may apply to the court for the whole or part of those proceeds to be paid to that person.

(3) On such an application, the court must order the payment to the applicant of-

(a) the whole of the proceeds of sale together with any interest on the proceeds; or

(b) if another person was also beneficially interested in the relevant interest at the time of the sale, such proportion of the proceeds, and any interest, as the value of the applicant's interest bears to the total value of the relevant interest.

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(4) If the court has ordered under paragraph 9 that the costs of an applicant under that paragraph are to be paid out of the proceeds of sale, the applicant is entitled to payment of those costs out of the proceeds before any person receives any part of the proceeds under this paragraph.

Express trust, corporate or legal entity's power to withdraw a restrictions notice.

11. An express trust, corporate or legal entity incorporated in Gibraltar that issues a person with a restrictions notice under paragraph 1 must by notice withdraw the restrictions notice if-

(a) it is satisfied that there is a valid reason sufficient to justify the person's failure to comply with the notice served under regulation 12 or 13;

(b) the notice under regulation 12 or 13 is complied with; or

(c) it discovers that the rights of a third party in respect of the relevant interest are being unfairly affected by the restrictions notice.

Supplementary provision.

12.(1) The Minister may by Order make further provision about the procedure to be followed by an express trust, corporate or legal entity incorporated in Gibraltar in issuing and withdrawing restrictions notices.

(2) The Order may in particular make provision about-

(a) the form and content of warning notices and restrictions notices, and the manner in which they must be given;

(b) the factors to be taken into account in deciding what counts as a "valid reason" sufficient to justify a person's failure to comply with a notice under regulation 12 or 13; and

(c) the effect of withdrawing a restrictions notice on matters that are pending with respect to the relevant interest when the notice is withdrawn

Offences for failing to comply with notices.

13.(1) A person to whom a notice under regulation 12 or 13 is addressed commits an offence if the person-

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(a) fails to comply with the notice; or

(b) in purported compliance with the notice-

(i) makes a statement that the person knows to be false in a material particular; or

(ii) recklessly makes a statement that is false in a material particular.

(2) Where the person is a corporate or legal entity, an offence is also committed by every officer of the corporate or legal entity who is in default.

(3) A person does not commit an offence under subparagraph (1)(a), or subparagraph (2) as it applies in relation to that subparagraph, if the person proves that the requirement to give information was frivolous or vexatious.

(4) A person guilty of an offence under this paragraph is liable-

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the standard scale, or to both.

Offences for failing to provide information.

14.(1) A person commits an offence if the person-

(a) fails to comply with a duty under regulation 12 or 13; or

(b) in purported compliance with such a duty-

(i) makes a statement that the person knows to be false in a material particular;

(ii) recklessly makes a statement that is false in a material particular.

(2) Where the person is an express trust, corporate or legal entity incorporated in Gibraltar, an offence is also committed by every officer of the express trust, corporate or legal entity who is in default.

(3) A person guilty of an offence under this paragraph is liable-

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(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 6 month or to a fine not exceeding level 4 on the standard scale, or to both.

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SCHEDULE 2

SUPPLEMENTARY INTERPRETATION

(regulation 3)

Introduction.

1. This Schedule sets out rules for interpretation of these Regulations.

Joint interests.

2. If two or more persons each hold a share or right jointly, each of them is treated for the purposes of this Schedule as holding that share or right.

Joint arrangements.

3.(1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated for the purposes of this Schedule as holding the combined shares or rights of both of them.

(2) A "joint arrangement" is an arrangement between the holders of share, or rights, that they will exercise all or substantially all the rights conferred by their respective shares, or rights, jointly in a way that is pre-determined by the arrangement.

(3) "Arrangement" has the meaning given by paragraph 12

Calculating shareholding.

4.(1) In relation to an express trust, corporate or legal entity incorporated in Gibraltar that has a share capital, a reference to holding "more than 25% of the shares" in that express trust, corporate or legal entity is to holding shares comprised in the issued share capital of that entity of a nominal value exceeding, in aggregate, 25% of that share capital.

(2) In relation to an express trust, corporate or legal entity incorporated in Gibraltar that does not have a share capital-

(a) a reference to holding shares in that entity is to holding a right to share in the capital or, as the case may be, profits of that express trust, corporate or legal entity;

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(b) a reference to holding "more than 25% of the shares" in that entity is to holding a right or rights to share in more than 25% of the capital or, as the case may be, profits of that entity.

Voting rights.

5.(1) A reference to the voting rights in an express trust, corporate or legal entity incorporated in Gibraltar is to the rights conferred on shareholders in respect of their shares, or, in the case of an entity not having a share capital, on members, to vote at general meetings of the entity on all or substantially all matters.

(2) In relation to an express trust, corporate or legal entity incorporated in Gibraltar that does not have general meetings at which matters are decided by the exercise of the voting rights-

(a) a reference to exercising voting rights in the entity is to be read as a reference to exercising rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in an express trust, corporate or legal entity;

(b) a reference to exercising more than 25% of the voting rights in the entity is to be read as a reference to exercising the right under constitution of the entity to block changes to the overall policy of the entity or to the terms of its constitution.

Calculation voting rights.

6. In applying this Schedule, the voting rights in an express trust, corporate or legal entity incorporated in Gibraltar are to be reduced by any rights held by the entity itself.

Rights to appoint or remove members of the board.

7. A reference to the right to appoint or approve a majority of the board of directors of an express trust, corporate or legal entity incorporated in Gibraltar is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

"Board of directors" interpretation.

8. References to a board of directors in the case of an entity that does not have such a board, are to be read as references to the equivalent management body of that entity.

Shares or rights held indirectly.

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9.(1) A person holds a share "indirectly" if the person has a majority stake in an express trust, corporate or legal entity incorporated in Gibraltar and that entity-

(a) holds the share in question; or

(b) is part of a chain of entities-

(i) each of which, other than the last, has a majority stake in the entity immediately below it in the chain; and

(ii) the last of which holds that right.

(2) A person holds a right "indirectly" if the person has a majority stake in the entity and that entity-

(a) holds that right; or

(b) is part of a chain of entities-

(i) each of which, other than the last, has a majority stake in the entity immediately below it in the chain; and

(ii) the last of which holds that right.

(3) For these purposes, A has a "majority stake" in B if-

(a) A holds a majority of the voting rights in B;

(b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B;

(c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B; or

(d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, an entity is to be treated as having the right to appoint a director if-

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(a) a person's appointment as director follows necessarily form that person's appointment as director of the entity; or

(b) the directorship is held by the entity itself.

Shares held by nominees.

10. A share held by a person as nominee for another is to be treated for the purposes of this Schedule as held by the other, and not by the nominee.

Rights treated as held by person who controls their exercise.

11.(1) Where a person controls a right, the right is to be treated for the purposes of this Schedule as held by that person, and not by the person who in fact holds the right, unless that person also controls it.

(2) A person "controls" a right if, by virtue of any arrangement between that person and others, the right is exercisable only-

(a) by that person;

(b) in accordance with that person's directions or instructions; or

(c) with that person's consent or concurrence.

"Arrangement" interpretation.

12.(1) "Arrangement" includes-

(a) any scheme, agreement or understanding, whether or not it is legally enforceable; and

(b) any convention, custom or practice of any kind.

(2) But something does not count as an arrangement unless there is at least some degree of stability about it, whether by its nature or term, the time it has been in existence or otherwise.

Rights exercisable only in certain circumstances etc.

13.(1) Rights that are exercisable only in certain circumstances are to be taken into account only-

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(a) when the circumstances have arisen, and for so long as they continue to obtain; or

(b) when the circumstances are within the control of the person having the rights.

(2) But rights that are exercisable by an administrator or by creditors while an entity is in relevant insolvency proceedings are not to be taken into account even while the entity is in those proceedings.

(3) "Relevant insolvency proceedings" means-

(a) administration within the meaning of the Insolvency Act 2011; or

(b) proceedings under the insolvency law of another country or territory during which an entity's assets and affairs are subject to the control or supervision of a third party or creditor.

(4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

Rights attached to shares held by way of security.

14. Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person-

(a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions; and

(b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving that value of the security, or of realising it, the rights are exercisable only in that person's interests.

SCHEDULE 3

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