Subsidiary Legislation made under ss. 184, 184ZA and 184ZB.

Funds (Transfer) Regulations 2026

LN.2026/134

Commencement **15.7.2026**

ARRANGEMENT OF REGULATIONS

Regulation

In exercise of the powers conferred on the Government by sections 184, 184ZA and 184ZB of the Proceeds of Crime Act 2015, the Government has made these Regulations–

PART 1
PRELIMINARY

Title.

1. These Regulations may be cited as the Funds (Transfer) Regulations 2026.

Commencement.

2. These Regulations come into operation on 15th July 2026.

Overview.

3. These Regulations specify–

(a) the information on–

(i) payers and payees which must accompany transfers of funds; and

(ii) originators and beneficiaries which must accompany transfers of virtual assets,

for the purposes of preventing, detecting and investigating money laundering, terrorist financing and proliferation financing; and

(b) the internal policies, procedures and controls which are required to ensure the implementation of restrictive measures,

where at least one of the payment service providers or virtual asset service providers involved in the transfer of funds or transfer of virtual assets is established or has its registered office in Gibraltar.

Scope.

4.(1) These Regulations apply to–

(a) transfers of funds, in any currency, which are sent or received by a payment service provider or an intermediary payment service provider established in Gibraltar; or

(b) transfers of virtual assets, including transfers of virtual assets executed by means of virtual asset ATMs, where the virtual asset service provider, or the intermediary virtual asset service provider, of either the originator or the beneficiary has its registered office in Gibraltar.

(2) These Regulations do not apply to the services in paragraph 18(a) to (m) and (o) of Schedule 2 to the 2019 Act.

(3) These Regulations do not apply to transfers of funds, or transfers of electronic money tokens that purport to maintain a stable value by reference to the value of a fiat currency, carried out using a payment card, an electronic money instrument, a mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics, if the following conditions are met–

(a) the card, instrument or device is used exclusively to pay for goods or services; and

(b) the number of that card, instrument or device accompanies all transfers flowing from the transaction.

(4) These Regulations do apply when a payment card, electronic money instrument, mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics is used in order to effect a transfer of funds or electronic money tokens between individuals acting as consumers for purposes other than trade, business or professional activity.

(5) These Regulations do not apply to persons that only undertake the activity of–

(a) converting paper documents into electronic data pursuant to a contract with a payment service provider; or

(b) providing payment service providers with messaging or other support systems for transmitting funds or with clearing and settlement systems.

(6) These Regulations do not apply to a transfer of funds where any of the following conditions is met–

(a) it involves the payer withdrawing cash from the payer's own payment account;

(b) it constitutes a transfer of funds to a public authority as payment for taxes, fines or other levies in Gibraltar;

(c) both the payer and the payee are payment service providers acting on their own behalf;

(d) it is carried out through cheque images exchanges, including truncated cheques.

(7) These Regulations do not apply to a transfer of virtual assets where any of the following conditions is met–

(a) both the originator and the beneficiary are virtual asset service providers acting on their own behalf;

(b) the transfer constitutes a person-to-person transfer of virtual assets carried out without the involvement of a virtual asset service provider.

(8) Electronic money tokens (“e-money tokens”) that purport to maintain a stable value by reference to the value of a fiat currency, must be treated as virtual assets under these Regulations.

(9) These Regulations do not apply to transfers of funds within Gibraltar to a payee’s payment account permitting payment exclusively for the provision of goods or services where all of the following conditions are met–

(a) the payment service provider of the payee is a relevant financial business within the meaning of the 2015 Act;

(b) the payment service provider of the payee is able to trace back, through the payee, by means of a unique transaction identifier, the transfer of funds from the person who has an agreement with the payee for the provision of goods or services; and

(c) the amount of the transfer of funds does not exceed the sterling equivalent of €1,000.

Interpretation.

5.(1) In these Regulations–

“2015”Act” means the Proceeds of Crime Act 2015;

“2019 Act” means the Financial Services Act 2019;

“batch file transfer” means a bundle of several individual transfers of funds or virtual assets put together for transmission;

“beneficiary” means a person that is the intended recipient of the transfer of virtual assets;

"data protection legislation" has the meaning given in section 2(1) of the Data Protection Act 2004;

"distributed ledger address" means an alphanumeric code that identifies an address on a network using distributed ledger technology (DLT) or similar technology where virtual assets can be sent or received;

"funds" means funds as defined in paragraph 15 of Schedule 2 to the 2019 Act;

"GDPR" means the Gibraltar GDPR as defined in section 2(1) of the Data Protection Act 2004;

"GFSC" means the Gibraltar Financial Services Commission within the meaning of section 21(1) of the 2019 Act;

"intermediary payment service provider" means a payment service provider that is not the payment service provider of the payer or of the payee and that receives and transmits a transfer of funds on behalf of the payment service provider of the payer or of the payee or of another intermediary payment service provider;

"intermediary virtual asset service provider" means a virtual asset service provider that–

(a) is not the virtual asset service provider of the originator or beneficiary; and

(b) receives and transmits a transfer of virtual assets on behalf of the virtual asset service provider of the originator or beneficiary, or another intermediary virtual asset service provider;

"legal entity identifier" or "LEI" means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity;

"Minister" means the Minister with responsibility for financial services;

"money laundering" has the meaning given in section 7(2) of the 2015 Act;

"originator" means a person that holds a virtual asset account with a virtual asset service provider, a distributed ledger address or a device allowing the storage of virtual assets, and allows a transfer of virtual assets from that account, distributed ledger address, or device, or, where there is no such account, distributed ledger address, or device, a person that orders or initiates a transfer of virtual assets;

"payee" means a person that is the intended recipient of the transfer of funds;

"payer" means a person that holds a payment account and allows a transfer of funds from that payment account or, where there is no payment account, that gives a transfer of funds order;

"payment account" means a payment account as defined in paragraph 15 of Schedule 2 to the 2019 Act;

"payment service provider" means the categories of payment service provider referred to in paragraph 15 of Schedule 2 to the 2019 Act and includes small e-money institutions, within the meaning of the Financial Services (Electronic Money) Regulations 2020, providing transfer of funds services;

"Payment Services Regulations" means the Financial Services (Payment Services) Regulations 2020;

"person-to-person transfer of virtual assets" means a transfer of virtual assets without the involvement of any virtual asset service provider;

"proliferation financing" has the meaning given in section 1ZB of the 2015 Act;

"self-hosted address" means a distributed ledger address not linked to either–

(a) a virtual asset service provider; or

(b) an entity not established in Gibraltar and providing services similar to those of a virtual asset service provider;

"terrorist financing" has the meaning given in section 1ZA(1) of the 2015 Act;

"transfer of virtual assets" means any transaction with the aim of moving virtual assets from one distributed ledger address, virtual asset account or other device allowing the storage of virtual assets to another, carried out by at least one virtual asset service provider acting on behalf of either an originator or a beneficiary, irrespective of whether the originator and the beneficiary are the same person and irrespective of whether the virtual asset service provider of the originator and that of the beneficiary are one and the same;

"transfer of funds" means any transaction at least partially carried out by electronic means on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, irrespective of whether the payer and the payee are the same person and irrespective of whether the payment service provider of the payer and that of the payee are one and the same, including–

(a) a credit transfer as defined in paragraph 15 of Schedule 2 to the 2019 Act;

(b) a direct debit as defined in paragraph 15 of Schedule 2 to the 2019 Act;

(c) a money remittance as defined in paragraph 17(6) of Schedule 2 to the 2019 Act, whether national or cross-border;

(d) a transfer carried out using a payment card, an electronic money instrument, a mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics;

"unique transaction identifier" means a combination of letters, numbers or symbols determined by the payment service provider, in accordance with the protocols of the payment and settlement systems or messaging systems used for the transfer of funds, or determined by a virtual asset service provider, which permits the traceability of the transaction back to the payer and the payee or the traceability of the transfer of virtual assets back to the originator and the beneficiary;

"virtual asset" has the meaning given in section 7(1) of the 2015 Act;

"virtual asset account" means an account held by a virtual asset service provider in the name of one or more individuals or legal persons and that can be used for the execution of transfers of virtual assets;

"virtual asset ATM" means a physical or on-line electronic terminal that enables a virtual asset service provider to perform, in particular, the activity of providing transfer services for virtual assets on behalf of customers;

"virtual asset service provider" means an undertaking which by way of business carries on–

(a) the regulated activity in paragraph 139 or 139A of Schedule 2 to the 2019 Act (providing distributed ledger technology services or virtual asset arrangements); or

(b) the activity in regulation 4(1)(c) of the Proceeds of Crime Act 2015 (Relevant Financial Business) (Registration) Regulations 2021.

(2) In the Regulations "distributed ledger technology" or "DLT" means a technology that enables the operation and use of a distributed ledger (an information repository that keeps records of transactions and that is shared across, and synchronised between, a set of DLT network nodes using a consensus mechanism).

(3) In sub-regulation (2)–

"consensus mechanism" means the rules and procedures by which an agreement is reached, among DLT network nodes, that a transaction is validated; and

"DLT network node" means a device or process that is part of a network and that holds a complete or partial replica of records of all transactions on a distributed ledger.

PART 2
OBLIGATIONS ON PAYMENT SERVICE PROVIDERS

Obligations on the payment service provider of the payer

Information accompanying transfers of funds.

6.(1) The payment service provider of the payer must ensure that transfers of funds are accompanied by the following information on the payer–

(a) the name of the payer;

(b) the payer's payment account number;

(c) the payer's address including the name of the country, official personal document number and customer identification number, or, alternatively, the payer's date and place of birth; and

(d) subject to the existence of the necessary field in the relevant payments message format, and where provided by the payer to its payment service provider, the current LEI of the payer or, in its absence, any available equivalent official identifier.

(2) The payment service provider of the payer must ensure that transfers of funds are accompanied by the following information on the payee–

(a) the name of the payee;

(b) the payee's payment account number; and

(c) subject to the existence of the necessary field in the relevant payments message format, and where provided by the payer to its payment service provider, the current LEI of the payee or, in its absence, any available equivalent official identifier.

(3) Despite sub-regulations (1)(b) and (2)(b), where a transfer is not made to or from a payment account, the payment service provider of the payer must ensure that the transfer of funds is accompanied by a unique transaction identifier rather than the payment account number.

(4) Before transferring funds, the payment service provider of the payer must verify the accuracy of the information referred to in sub-regulation (1) and, where applicable, sub-regulation (3), on the basis of documents, data or information obtained from a reliable and independent source.

(5) Verification under sub-regulation (1) is deemed to have taken place where one of the following applies–

(a) the identity of the payer has been verified in accordance with section 10 of the 2015 Act and the information obtained pursuant to that verification has been retained in accordance with section 25 of the 2015 Act; or

(b) section 11(2) of the 2015 Act applies to the payer.

(6) Without limiting regulations 7 and 8, the payment service provider of the payer must not execute any transfer of funds before ensuring full compliance with this regulation.

Transfers of funds within Gibraltar.

7.(1) Despite regulation 6(1) and (2), where all payment service providers involved in the payment chain are established in Gibraltar, transfers of funds must be accompanied by at least the payment account number of both the payer and the payee or, where regulation 6(3) applies, the unique transaction identifier.

(2) Despite sub-regulation (1), the payment service provider of the payer must, within three working days of receiving a request for information from the payment service provider of the payee or from the intermediary payment service provider, make available the following–

(a) for transfers of funds exceeding the sterling equivalent of €1,000, whether such transfers are carried out in a single transaction or in several transactions which appear to be linked, the information on the payer or the payee in accordance with regulation 6;

(b) for transfers of funds not exceeding the sterling equivalent of €1,000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed the sterling equivalent of €1,000, at least–

(i) the names of the payer and of the payee; and

(ii) the payment account numbers of the payer and of the payee or, where regulation 6(3) applies, the unique transaction identifier.

(3) Despite regulation 6(4), in the case of transfers of funds referred to in sub-regulation (2)(b) the payment service provider of the payer need not verify the information on the payer unless the payment service provider of the payer–

(a) has received the funds to be transferred in cash or in anonymous electronic money; or

(b) has reasonable grounds for suspecting money laundering, terrorist financing or proliferation financing.

Transfers of funds to outside Gibraltar.

8.(1) In the case of a batch file transfer from a single payer where the payment service providers of the payees are established outside Gibraltar, regulation 6(1) does not apply to the individual transfers bundled together in the batch if–

(a) the batch file contains the information referred to in regulation 6(1), (2) and (3);

(b) that information has been verified in accordance with regulation 6(4) and (5); and

(c) the individual transfers carry the payment account number of the payer or, where regulation 6(3) applies, the unique transaction identifier.

(2) Despite regulation 6(1), where the payment service provider of the payee is established outside the Gibraltar, transfers of funds which do not exceed the sterling equivalent of €1,000 and do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed the sterling equivalent of €1,000, must be accompanied by at least–

(a) the names of the payer and of the payee; and

(b) the payment account numbers of the payer and of the payee or, where regulation 6(3) applies, the unique transaction identifier.

(3) Despite regulation 6(4), the payment service provider of the payer need not verify the information on the payer referred to in sub-regulation (2) unless the payment service provider of the payer–

(a) has received the funds to be transferred in cash or in anonymous electronic money; or

(b) has reasonable grounds for suspecting money laundering, terrorist financing or proliferation financing.

Obligations on the payment service provider of the payee

Detection of missing information on the payer or payee.

9.(1) The payment service provider of the payee must implement effective procedures to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.

(2) The payment service provider of the payee must implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the following information on the payer or the payee is missing–

(a) for transfers of funds where the payment service provider of the payer is established in Gibraltar, the information referred to in regulation 7;

(b) for transfers of funds where the payment service provider of the payer is established outside Gibraltar, the information referred to in regulation 6(1)(a), (b) and (c) and (2)(a) and (b);

(c) for batch file transfers where the payment service provider of the payer is established outside Gibraltar, the information referred to in regulation 6(1)(a), (b) and (c), and 4(2)(a) and (b), in respect of that batch file transfer.

(3) In the case of transfers of funds exceeding the sterling equivalent of €1,000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked, before crediting the payee's payment account or making the funds available to the payee, the payment service provider of the payee must verify the accuracy of the information on the payee referred to in sub-regulation (2) on the basis of documents, data or information obtained from a reliable and independent source (and this sub-regulation applies without limiting the requirements in regulations 60 and 61 of the Payment Services Regulations).

(4) In the case of transfers of funds which do not exceed the sterling equivalent of €1,000 and do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed the sterling equivalent of €1,000, the payment service provider of the payee need not verify the accuracy of the information on the payee, unless the payment service provider of the payee–

(a) effects the pay-out of the funds in cash or in anonymous electronic money; or

(b) has reasonable grounds for suspecting money laundering, terrorist financing or proliferation financing.

(5) Verification as referred to in sub-regulations (3) and (4) is deemed to have taken place where one of the following applies–

(a) the identity of the payee has been verified in accordance with section 10 of the 2015 Act and the information obtained pursuant to that verification has been retained in accordance with section 25 of the 2015 Act; or

(b) section 11(2) of the 2015 Act applies to the payee.

Transfers of funds with missing or incomplete information on payer or payee.

10.(1) The payment service provider of the payee must implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in section 11 of the 2015 Act for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.

(2) Where the payment service provider of the payee becomes aware, when receiving a transfer of funds, that the information referred to in regulation 6(1)(a), (b) and (c), 6(2)(a) and (b), 7(1) or 8 is missing or incomplete or has not been filled in using characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system as referred to in regulation 9(1), the payment service provider of the payee must, on a risk-sensitive basis–

(a) reject the transfer; or

(b) request the required information on the payer and the payee before or after crediting the payee's payment account or making the funds available to the payee.

(3) Where a payment service provider repeatedly fails to provide the required information on the payer or the payee, the payment service provider of the payee must–

(a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with sub-regulation (2)(b) if the required information is still not provided; or

(b) directly reject any future transfers of funds from that payment service provider, or restrict or terminate its business relationship with that payment service provider.

(4) The payment service provider of the payee must report that failure, and the steps taken, to the GFSC.

Assessment and reporting.

11. The payment service provider of the payee must take into account missing or incomplete information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious and whether it is to be reported to the GFIU in accordance with the 2015 Act.

Obligations on intermediary payment service providers

Retention of information on payer and payee accompanying transfer.

12. Intermediary payment service providers must ensure that all the information received on the payer and the payee that accompanies a transfer of funds is retained with the transfer.

Detection of missing information on payer or payee.

13.(1) The intermediary payment service provider must implement effective procedures to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.

(2) The intermediary payment service provider must implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the following information on the payer or the payee is missing–

(a) for transfers of funds where the payment service providers of the payer and the payee are established in Gibraltar, the information referred to in regulation 7;

(b) for transfers of funds where the payment service provider of the payer or of the payee is established outside Gibraltar, the information referred to in regulation 4(1)(a), (b) and (c), and regulation 4(2)(a) and (b);

(c) for batch file transfers where the payment service provider of the payer or of the payee is established outside the Union, the information referred to in regulation 4(1)(a), (b) and (c), and regulation 4(2)(a) and (b), in respect of that batch file transfer.

Transfers of funds with missing information on payer or payee.

14.(1) The intermediary payment service provider must establish effective risk-based procedures for determining whether to execute, reject or suspend a transfer of funds lacking the required payer and payee information and for taking the appropriate follow-up action.

(2) Where the intermediary payment service provider becomes aware, when receiving a transfer of funds, that the information referred to in regulation 6(1)(a), (b) and (c), 6(2)(a) and (b), 7(1), or 8 is missing or has not been filled in using characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system as referred to in regulation 9(1), that intermediary payment service provider must on a risk-sensitive basis–

(a) reject the transfer; or

(b) request the required information on the payer and the payee before or after the transmission of the transfer of funds.

(3) Where a payment service provider repeatedly fails to provide the required information on the payer or the payee, the intermediary payment service provider must–

(a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with sub-regulation (2)(b) if the required information is still not provided; or

(b) directly reject any future transfers of funds from that payment service provider or restrict or terminate its business relationship with that payment service provider.

(4) The intermediary payment service provider must report that failure, and the steps taken, to the GFSC.

Assessment and reporting.

15. The intermediary payment service provider must take into account missing information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious, and whether it is to be reported to the GFIU in accordance with the 2015 Act.

PART 3
OBLIGATIONS ON VIRTUAL ASSET SERVICE PROVIDERS

Obligations on the virtual asset service provider of the originator

Information accompanying transfers of virtual assets.

16.(1) The virtual asset service provider of the originator must ensure that transfers of virtual assets are accompanied by the following information on the originator–

(a) the name of the originator;

(b) the originator's distributed ledger address, in cases where a transfer of virtual assets is registered on a network using DLT or similar technology, and the virtual asset account number of the originator, where such an account exists and is used to process the transaction;

(c) the originator's virtual asset account number, in cases where a transfer of virtual assets is not registered on a network using DLT or similar technology;

(d) the originator's address, including the name of the country, official personal document number and customer identification number, or alternatively, the originator's date and place of birth; and

(e) subject to the existence of the necessary field in the relevant message format, and where provided by the originator to its virtual asset service provider, the current LEI or, in its absence, any other available equivalent official identifier of the originator.

(2) The virtual asset service provider of the originator must ensure that transfers of virtual assets are accompanied by the following information on the beneficiary–

(a) the name of the beneficiary;

(b) the beneficiary's distributed ledger address, in cases where a transfer of virtual assets is registered on a network using DLT or similar technology, and the beneficiary's virtual asset account number, where such an account exists and is used to process the transaction;

(c) the beneficiary's virtual asset account number, in cases where a transfer of virtual assets is not registered on a network using DLT or similar technology; and

(d) subject to the existence of the necessary field in the relevant message format, and where provided by the originator to its virtual asset service provider, the current LEI or, in its absence, any other available equivalent official identifier of the beneficiary.

(3) Despite sub-regulations (1)(c), and (2)(c), in the case of a transfer of virtual assets not registered on a network using DLT or similar technology and not made to or from a virtual

asset account, the virtual asset service provider of the originator must ensure that the transfer of virtual assets is accompanied by a unique transaction identifier.

(4) The information referred to in sub-regulations (1) and (2) must be submitted in advance of, or simultaneously or concurrently with, the transfer of virtual assets and in a secure manner and in accordance with the data protection legislation, but is not required to be attached directly to, or be included in, the transfer of virtual assets.

(5) In the case of a transfer of virtual assets made to a self-hosted address, the virtual asset service provider of the originator must–

(a) obtain and hold the information referred to in sub-regulations (1) and (2); and

(b) ensure that the transfer of virtual assets can be individually identified,

and (without limiting any specific risk mitigating measures taken in accordance with section 19B of the 2015 Act), in the case of a transfer of an amount exceeding the sterling equivalent of €1,000 to a self-hosted address, the virtual asset service provider of the originator must take adequate measures to assess whether that address is owned or controlled by the originator.

(6) Before transferring virtual assets, the virtual asset service provider of the originator must verify the accuracy of the information referred to in sub-regulation (1) on the basis of documents, data or information obtained from a reliable and independent source.

(7) Verification as referred to in sub-regulation (6) is deemed to have taken place where one of the following applies–

(a) the identity of the originator has been verified in accordance with section 10 of the 2015 Act and the information obtained pursuant to that verification has been retained in accordance with section 25 of the 2015 Act; or

(b) section 11(2) of the 2015 Act applies to the originator.

(8) The virtual asset service provider of the originator must not allow for the initiation, or execute any transfer, of virtual assets before ensuring full compliance with this regulation.

Batch file transfers of virtual assets.

17. In the case of a batch file transfer of virtual assets from a single originator, regulation 16(1) does not apply to the individual transfers bundled together in the batch if–

(a) the batch file contains the information referred to in regulation 16(1), (2) and (3);

(b) that information has been verified in accordance with regulation 16(6) and (7) and

(c) the individual transfers carry the distributed ledger address of the originator where regulation 16(2)(b) applies, the virtual asset account number of the originator where regulation 16(2)(c) applies, or the unique transaction identifier where regulation 16(3) applies.

Obligations on the virtual asset service provider of the beneficiary

Detection of missing information on originator or beneficiary.

18.(1) The virtual asset service provider of the beneficiary must implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the information referred to in regulation 16(1) and (2) on the originator and the beneficiary is included in, or follows, the transfer or batch file transfer of virtual assets.

(2) In the case of a transfer of virtual assets made from a self-hosted address, the virtual asset service provider of the beneficiary must–

(a) obtain and hold the information referred to in regulation 16(1) and (2); and

(b) ensure that the transfer of virtual assets can be individually identified,

and (without limiting any specific risk mitigating measures taken in accordance with section 19B of the 2015 Act) in the case of a transfer of an amount exceeding €1,000 from a self-hosted address, the virtual asset service provider of the beneficiary must take adequate measures to assess whether that address is owned or controlled by the beneficiary.

(3) Before making the virtual assets available to the beneficiary, the virtual asset service provider of the beneficiary must verify the accuracy of the information on the beneficiary referred to in regulation 16(2) on the basis of documents, data or information obtained from a reliable and independent source.

(4) Verification as referred to in sub-regulation (2) and (3) is deemed to have taken place where one of the following applies–

(a) the identity of the beneficiary has been verified in accordance with section 10 of the 2015 Act and the information obtained pursuant to that verification has been retained in accordance with section 25 of the 2015 Act; or

(b) section 11(2) of the 2015 Act applies to the beneficiary.

Transfers of virtual assets with missing or incomplete information on originator or beneficiary.

19.(1) The virtual asset service provider of the beneficiary must implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in section 11 of the 2015 Act, for determining whether to execute, reject, return or suspend a transfer of virtual assets lacking the required complete information on the originator and the beneficiary and for taking the appropriate follow-up action.

(2) Where the virtual asset service provider of the beneficiary becomes aware that the information referred to in regulation 16(1) or (2) or 17 is missing or incomplete, that virtual asset service provider must, on a risk-sensitive basis and without undue delay–

(a) reject the transfer or return the transferred virtual assets to the originator's virtual asset account; or

(b) request the required information on the originator and the beneficiary before making the virtual assets available to the beneficiary.

(3) Where a virtual asset service provider repeatedly fails to provide the required information on the originator or the beneficiary, the virtual asset service provider of the beneficiary must–

(a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with sub-regulation (2)(b) if the required information is still not provided; or

(b) directly reject any future transfers of virtual assets to or from, or restrict or terminate its business relationship with, that virtual asset service provider.

(4) The virtual asset service provider of the beneficiary must report that failure, and the steps taken, to the GFSC.

Assessment and reporting.

20. The virtual asset service provider of the beneficiary must take into account missing or incomplete information on the originator or the beneficiary as a factor when assessing whether a transfer of virtual assets, or any related transaction, is suspicious and whether it is to be reported to the GFIU in accordance with the 2015 Act.

Obligations on intermediary virtual asset service providers

Retention of information on originator and beneficiary accompanying transfer.

21. Intermediary virtual asset service providers must ensure that all the information received on the originator and the beneficiary that accompanies a transfer of virtual assets is transmitted with the transfer and that records of such information are retained and made available on request to the competent authorities.

Detection of missing information on originator or beneficiary.

22. The intermediary virtual asset service provider must implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the information on the originator or the beneficiary referred to in regulation 16(1)(a), (b) and (c) and (2)(a), (b) and (c) has been submitted previously, simultaneously or concurrently with the transfer or batch file transfer of virtual assets, including where the transfer is made to or from a self-hosted address.

Virtual asset transfers with missing information on originator or beneficiary.

23.(1) The intermediary virtual asset service provider must establish effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in section 11 of the 2015 Act, for determining whether to execute, reject, return or suspend a transfer of virtual assets lacking the required information on the originator and the beneficiary and for taking the appropriate follow up action.

(2) Where the intermediary virtual asset service provider becomes aware, when receiving a transfer of virtual assets, that the information referred to in regulation 16(1)(a), (b) and (c) and 16(2)(a), (b) and (c) or 17(1), is missing or incomplete, that intermediary virtual asset service provider must, on a risk-sensitive basis and without undue delay–

(a) reject the transfer or return the transferred virtual assets; or

(b) request the required information on the originator and the beneficiary before making the transmission of the transfer of virtual assets.

(3) Where the virtual asset service provider repeatedly fails to provide the required information on the originator or the beneficiary, the intermediary virtual asset service provider must–

(a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with sub-regulation (2)(b) if the required information is still not provided; or

(b) directly reject any future transfers of virtual assets to or from, or restrict or terminate its business relationship with, that virtual asset service provider.

(4) The intermediary virtual asset service provider must report that failure, and the steps taken, to the GFSC.

Assessment and reporting.

24. The intermediary virtual asset service provider must take into account missing information on the originator or the beneficiary as a factor when assessing whether a transfer of virtual assets, or any related transaction, is suspicious, and whether it is to be reported to the GFIU in accordance with the 2015 Act.

PART 4
COMMON MEASURES APPLICABLE BY PAYMENT SERVICE PROVIDERS AND VIRTUAL ASSET SERVICE PROVIDERS

Internal policies, procedures and controls for implementation of restrictive measures.

25.(1) Payment service providers and virtual asset service providers must have in place internal policies, procedures and controls to ensure the implementation of restrictive measures when performing transfers of funds and virtual assets under these Regulations.

(2) The GFSC may issue guidance on the measures referred to in sub-regulation (1).

PART 5
INFORMATION, DATA PROTECTION AND RECORD-RETENTION

Provision of information.

26. Payment service providers and virtual asset service providers must respond fully and without delay to enquiries concerning information required under these Regulations made by the competent authorities responsible for preventing and combating money laundering, terrorist financing or proliferation financing.

Data protection.

27.(1) The processing of personal data under these Regulations is subject to the data protection legislation.

(2) Payment service providers and virtual asset service providers must process personal data on the basis of these Regulations only for the purposes of the prevention of money laundering, terrorist financing and proliferation financing, and must not process it further in a manner which is incompatible with those purposes or for commercial purposes.

(3) Payment service providers and virtual asset service providers must provide new customers with the information required by Article 13 of the GDPR before establishing a business relationship or carrying out an occasional transaction.

(4) The information in sub-regulation (3) must be provided in a concise, transparent, intelligible and easily accessible form in accordance with Article 12 of the GDPR and must, in particular, include a general notice concerning the legal obligations of payment service providers and virtual asset service providers under these Regulations when processing personal data for the purposes of the prevention of money laundering, terrorist financing and proliferation financing.

(5) Payment service providers and virtual asset service providers must ensure at all times that the transmission of any personal data on the parties involved in a transfer of funds or a transfer of virtual assets is conducted in accordance with the data protection legislation.

Record retention.

28.(1) Information on the payer and payee or originator and beneficiary must not be retained for longer than strictly necessary.

(2) Payment service providers of the payer and of the payee must retain records of the information referred to in regulations 6 to 9, and virtual asset service providers of the originator and beneficiary must retain records of the information referred to in regulations 16 to 18, for a period of five years.

(3) Payment service providers and virtual asset service providers must ensure that personal data is deleted on the expiry of the retention period in sub-regulation (1) unless–

(a) retention is required by another enactment; or

(b) the Minister by order provides for the retention of records specified in the Order.

(4) The Minister must not make an order under sub-regulation (3)(b) unless–

(a) a thorough assessment of the necessity and proportionality for further retention has been carried out; and

(b) the Minister considers that further retention is necessary for the prevention, detection or investigation of money laundering, terrorist financing or proliferation financing.

(5) An order under sub-regulation (10)(b) cannot require retention of records for a period of more than 5 years.

Cooperation with other authorities.

29. The GFSC may exchange information or cooperate with other domestic authorities (within the meaning of section 45 of the 2019 Act) or equivalent authorities in other jurisdictions for the purposes of the prevention, detection or investigation of money laundering, terrorist financing or proliferation financing under these Regulations.

PART 6
SANCTIONS AND ENFORCEMENT

Sanctions

Administrative penalties.

30.(1) Where the GFSC is satisfied that a person has contravened a provision of these Regulations, it may impose an administrative penalty on that person which does not exceed the higher of the following–

(a) where the amount of the benefit derived from the contravention can be determined, twice the amount of that benefit; or

(b) the sterling equivalent of €1,000,000.

(2) In the case of a contravention by a credit institution or financial institution, the GFSC may impose an administrative penalty under sub-regulation (1) not exceeding–

(a) in the case of a legal person–

(i) the sterling equivalent of €5,000,000; or

(ii) 10% of the total annual turnover according to the latest available accounts approved by the management body;

(b) in the case of an individual, the sterling equivalent of €5,000,000.

(3) Where a legal person is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated accounts in accordance with Part 7 of the Companies Act 2014, the relevant total annual turnover for the purpose of sub-regulation (2) is the total annual turnover (or the corresponding type of income) according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

(4) A penalty imposed under this regulation may recovered as if it were a civil debt owed to the GFSC.

(5) A penalty under this regulation may not be imposed on a person who for the same contravention has been convicted of an offence.

Suspension or withdrawal of authorisation or registration.

31.(1) The GFSC may suspend, withdraw or revoke the authorisation or registration of a person who has contravened a provision of these Regulations where, in GFSC's opinion, suspension, withdrawal or revocation is appropriate having regard to all the circumstances.

(2) A suspension under sub-regulation (1) must specify the period during which it applies, which must not exceed 18 months.

Management prohibition.

32.(1) The GFSC may prohibit an individual from exercising managerial functions in an entity which has contravened a provision of these Regulations, if the individual is responsible for that contravention.

(2) A prohibition under sub-regulation (1) must specify the period during which it applies.

(3) Subject to sub-regulation (4), the period specified must not exceed 18 months.

(4) A prohibition which is imposed on an individual who is responsible for an entity's repeated contravention of these Regulations may have effect for an indefinite period.

Directions.

33.(1) Where the GFSC–

(a) believes or suspects on reasonable grounds that a person is contravening or has contravened a provision of these Regulations; or

(b) considers that it is in the public interest to do so,

the GFSC may by notice in writing served on the person, direct the person, at its own expense, to take or refrain from taking any course of action in relation to the fulfilment of its obligations under these Regulations that the GFSC specifies in the notice.

(2) The GFSC may from time to time revoke or vary a direction given under this regulation in the same manner as it was given.

Determination of sanction

Liability of legal persons.

34.(1) The GFSC may take action under regulations 30 to 33 against a legal person where–

(a) a controlling individual contravenes these Regulations for the benefit of that legal person; or

(b) a lack of supervision or control by a controlling individual has made it possible for a person under the controlling individual's authority to contravene these Regulations for the benefit of that legal person.

(2) In sub-regulation (1) a "controlling individual" means an individual who–

(a) has a leading position within the legal person, based on–

(i) a power to represent the legal person;

(ii) authority to take decisions on behalf of the legal person; or

(iii) authority to exercise control within the legal person; and

(b) acts alone or as part of an organ of the legal person.

Liability of individuals.

35. Where obligations under these regulations apply to legal persons, the GFSC may take action under regulations 30 to 33 against members of the management body and other individuals to whom a contravention is attributed.

Effective application of sanctions.

36.(1) In determining the type, duration or level of action to be taken under regulations 30 to 33, the GFSC must take account of all relevant circumstances, including–

(a) the gravity and the duration of the contravention;

(b) the degree of responsibility of the person responsible;

(c) the financial strength of the person responsible, as indicated–

(i) in the case of a legal person, by its total turnover; or

(ii) in the case of an individual, by the individual’s annual income;

(d) the benefit derived from the contravention by the person responsible, insofar as it can be determined;

(e) the losses to third parties caused by the contravention, insofar as they can be determined;

(f) the level of cooperation of the person responsible with the GFSC;

(g) any previous contravention by the person responsible.

Procedure relating to sanctions

Warning notices.

37.(1) Before taking action under regulations 30 to 33, the GFSC must give the person concerned a warning notice, stating the action proposed and the reasons for it.

(2) Sub-regulation (1) does not apply if the GFSC is satisfied that a warning notice–

(a) cannot be given because of urgency;

(b) should not be given because of the risk that steps would be taken to undermine the effectiveness of the action to be taken; or

(c) is superfluous having regard to the need to give notice of legal proceedings or for some other reason.

(3) A warning notice–

(a) must give the recipient not less than 14 days to make representations; and

(b) must specify a period within which the recipient may decide whether to make oral representations.

(4) The period for making representations may be extended by the GFSC.

Issue of decision notices and directions.

38.(1) This regulation applies where the GFSC has–

(a) issued a warning notice; or

(b) dispensed with the requirement to issue a warning notice in accordance with regulation 37(2).

(2) After considering any representations made in accordance with regulation 37, the GFSC must issue–

(a) a decision notice stating that the GFSC will take the action specified in the warning notice;

(b) a discontinuance notice stating that the GFSC does not propose to take that action; or

(c) a combined notice consisting of–

(i) a decision notice stating that the GFSC will take certain action specified in the warning notice; and

(ii) a discontinuance notice in respect of the remaining actions.

(3) A decision notice takes effect, and the specified action may be taken–

(a) at the end of the period for bringing an appeal if no appeal is brought; or

(b) when any appeal is finally determined or withdrawn.

Interim orders.

39. The GFSC may apply to the Supreme Court for permission to take action under regulations 30 to 33 where a decision notice has been issued and has not yet taken effect (whether or not a warning notice has been issued).

Service of notice and documents.

40.(1) Any notice or other document to be served by or on behalf of the GFSC under or in connection with these Regulations is validly served on the recipient if–

(a) in the case of an individual, it is delivered to the individual, or left or sent by recorded delivery service addressed to the individual, at the individual’s usual or last known business or home address;

(b) in the case of an unincorporated body, it is delivered to any partner, manager or other similar officer of that body, or is left at, or sent by recorded delivery service to the last known place of business of that body;

(c) in the case of a body corporate, it is left at, or sent by recorded delivery service to its registered office in Gibraltar or, if its registered office is not in Gibraltar, its last known place of business in Gibraltar; or

(d) in the case of any other person, it is left at or sent by recorded delivery service to the address in Gibraltar notified by the person to the GFSC for the service of notices or other documents.

(2) Sub-regulation (1) applies without limiting any other method of service adopted by the GFSC.

Variation or revocation of indefinite management prohibition.

41.(1) An individual who is subject to an indefinite management prohibition imposed under regulation 32(4) may apply to the GFSC to vary or revoke the prohibition.

(2) The GFSC must, before the end of the period for consideration–

(a) grant the application; or

(b) give a warning notice stating why it proposes not to grant the application.

(3) The "period for consideration" means the period of three months beginning with the date on which the GFSC receives the application.

(4) A warning notice must–

(a) give the recipient not less than 28 days to make representations; and

(b) specify a period within which the recipient may decide whether to make oral representations.

(5) The period for making representations may be extended by the GFSC.

(6) After considering any representations made the GFSC must issue–

(a) a decision notice stating that the application is refused; or

(b) an acceptance notice stating that the application is granted.

(7) An application under sub-regulation (1) has no effect if it is made within one year of the GFSC giving a warning notice in respect of a previous application made by the same individual.

(8) A decision notice under this regulation takes effect immediately.

Appeals and miscellaneous

Appeals.

42.(1) Any person aggrieved by the exercise of a power or the issue of a decision notice under these Regulations may appeal to the Supreme Court within 21 days of–

(a) the day that the power was exercised; or

(b) the date of the decision notice was issued.

(2) The court may confirm, reverse or vary the matter appealed against or may direct the GFSC to take any actions which the court directs.

(3) The institution of an appeal does not operate as a stay of the matter appealed against, but the court may, it its discretion, order a stay.

Public statement.

43.(1) Subject to sub-regulation (3), where the GFSC has taken action under regulations 30 to 33, it must publish on its website a statement specifying–

(a) the action taken by the supervisory body;

(b) the type and nature of the contravention; and

(c) the identity of the person to whom the contravention is attributed.

(2) Before publishing a statement under sub-regulation (1), the GFSC must conduct a case by case assessment of the proportionality of publication.

(3) The GFSC may take the measures in sub-regulation (4) where–

(a) the assessment under sub-regulation (2) determines that publication of the identity of the person to whom the contravention is attributed or personal data of that person is disproportionate; or

(b) the GFSC considers that publication would jeopardise an ongoing investigation or the stability of financial markets.

(4) The measures are–

(a) delaying publication of the statement until the reasons for not publishing it cease to exist;

(b) publishing the statement on an anonymous basis, in a manner which accords with the law, where it is considered that such publication ensures an effective protection of the personal data concerned;

(c) not publishing the statement, where the measures set out in paragraphs (a) and (b) would be insufficient to ensure–

(i) the stability of financial markets would not be put in jeopardy; or

(ii) the proportionality of the publication of a statement with regard to actions taken in respect of minor contraventions.

(5) Where a statement is to be published on an anonymous basis in accordance with sub-regulation (4)(b), that publication may be postponed for a reasonable period of time if it is foreseen that within that period the reasons for anonymous publication will cease to exist.

(6) The GFSC must publish any decision annulling any action it has taken under regulations 30 to 33.

(7) No publication can be made while an appeal could be brought or is pending.

(8) A statement published by the GFSC in accordance with this regulation must be maintained on its website for a period of five years.

(9) Personal data contained within a published statement may only be kept on the website for the period permitted in accordance with Gibraltar law.

Reporting of breaches.

44.(1) The GFSC must establish effective mechanisms to encourage the reporting to them of breaches of these Regulations.

(2) Those mechanisms must include at least those referred to in section 6A(2) of the 2015 Act.

(3) Payment service providers and virtual asset service providers, in cooperation with the GFSC, must establish appropriate internal procedures for their employees, or persons in a comparable position, to report breaches internally through a secure, independent, specific and anonymous channel, proportionate to the nature and size of the payment service provider or the virtual asset service provider concerned.

Monitoring.

45. The GFSC must effectively monitor and take the measures necessary to ensure compliance with these Regulations and encourage, through effective mechanisms, the reporting to it of breaches of the provisions of these Regulations.

PART 7
OTHER PROVISIONS

Guidance.

46. The GFSC may issue guidance to payment service providers and virtual asset service providers on measures to be taken in accordance with these Regulations, in particular, as regards the implementation of–

(a) regulations 9, 10, 13 and 14 by the GFSC and payment service providers; and

(b) regulations 16 to 19 and 21 and 24 by the GFSC and virtual asset service providers.

Revocations.

47. The following enactments are revoked on the day these Regulations come into operation–

(a) Regulation (EU) 2015/847, as it forms part of the law of Gibraltar; and

(b) the Proceeds of Crime Act 2015 (Transfer of Virtual Assets) Regulations 2021.