Title: The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2021 **SI No:** 2021/1252 **Other departments or agencies:** **Financial Conduct Authority, Prudential Regulation Authority, Financial Services Compensation Scheme** **Contact for enquiries**: **christina.pavlis@hmtreasury.gov.uk**	De minimis assessment **Date: 11/11/2021** **Type of regulation: Domestic** **Date measure comes into force:** **15/12/2021**
Cost of Preferred (or more likely) Option £33,000 / 5 = £0-6,600 (negligible)	**Equivalent Annual Net Direct Cost to Business per year** (EANDCB in 2019 prices) **£0-6,600 (negligible)**

1. What is the problem under consideration? Why is government intervention necessary?

As the common European Union (EU) membership of the United Kingdom (UK) and Gibraltar has ended, the Government is committed to the creation of a new legal and institutional framework for financial services market access between the jurisdictions. This will operate on the basis of high standards of regulation, of alignment of law, and regulatory and supervisory practices, and of mutual cooperation.

The Gibraltar Authorisation Regime (GAR) became established through the Financial Services Act 2021. Work is underway to operationalise the GAR via a framework of Statutory Instruments. In the meantime, temporary arrangements must remain in place to avoid Gibraltar suffering abrupt loss of access to the UK market and UK consumer detriment. It must be extended by 12 months at a time. The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2021 ("2021 Regulations") will extend temporary arrangements to 31 December 2022.

2. What are the policy objectives and the intended effects?

Prior to EU exit, market access between the UK and Gibraltar had been governed through the Financial Services and Markets Act 2000 (Gibraltar) Order 2001 ("Gibraltar Order").

The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019 (SI 2019/589) ("2019 Regulations") amended arrangements in the Gibraltar Order and access has continued under the Gibraltar Order, now the main component of the temporary regime. The 2019 Regulations were extended by the Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2020 (SI 2020/1274) until 31 December 2021.

To avoid disruption to the sector and UK consumers, the 2021 Regulations will amend Regulation 12(1) of the 2019 Regulations to extend the Gibraltar Order, as well as section 409 to the Financial Services and Markets Act 2000, by 12 months to 31 December 2022. In turn, this will prolong, as saved for Gibraltar, the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1149).

As the GAR comes into force, the Gibraltar Order and other savings provisions shall be repealed.

3. What policy options have been considered, including any alternatives to regulation? Please justify preferred option.

Business as usual. If the Government were to fail to extend the temporary arrangements, Gibraltar would lose its current breadth and depth of access to the UK's financial services market when the current extension (SI 2020/1274) expires on 31 December 2021.

From that point on, and until the commencement of the new and permanent regime, the Government of Gibraltar would have the option of pursuing third country access where HM Treasury has introduced provisions for third countries. Moreover, the discontinuity would cause significant disruption to existing UK customers.

4. Please justify why the net impacts (i.e., net costs or benefits) to business will be less than £5 million a year.

To do this, please set out the following:

- What will businesses have to do differently?

Nothing. The impact of this instrument is to extend the temporary arrangements intended to preserve the status quo. Gibraltar's authorised financial services firms will be able to continue providing services, cross-border and through UK-located branches; UK firms will similarly continue to access Gibraltar; and there will be continuity for UK consumers. The Government of Gibraltar determines the terms of the UK's access to the Gibraltarian market.

- How many businesses will this impact per year?

The impact of this instrument on Gibraltar-based firms is out of scope for EANDCB assessment as they are located outside the UK. However, Gibraltar-based firms have made extensive use of the existing market access arrangements between the UK and Gibraltar. According to 2019 data from the Financial Conduct Authority (FCA), there are over 100 Gibraltar-based firms operating in the UK, including insurance firms, credit institutions, asset managers and e-money firms. Government of Gibraltar data from 2020 highlights that approximately 92% of Gibraltar's financial services business is with the UK and that more than 20% of motor insurance policies in the UK are provided by Gibraltar-based insurers[1].

FCA data from May 2019 shows that over 3000 UK-based firms have cross-border services passports into Gibraltar, and 11 UK-based firms have permissions to establish a branch in Gibraltar. However, as firms may request permissions to several jurisdictions simultaneously at no extra cost, it is difficult to determine which are active. So, the number of UK-based firms operating in the Gibraltarian market is likely to be lower.

This instrument will deliver benefits to UK consumers by providing individuals and small businesses with a greater choice of financial products from a wider range of providers, regardless of whether they are based in the UK or in Gibraltar, and by facilitating market access for UK firms doing business with Gibraltar.

- What is the direct cost/benefit per business per year?

  E.g., what will be the familiarisation costs?

[1] Gibraltar Finance site accessed on 27 September 2021. www.gibraltarfinance.gi/news/insurance-policy-gibraltars-ties-run-deep-with-uk-sector-91

- Mean staff hours for familiarisation x hourly labour costs
- Any non-labour costs of updating systems?

Minimal. It is assumed the affected business population will incur costs (time and labour) in familiarising themselves with the relevant instrument, especially in reading and comprehension. HM Treasury calculates familiarisation costs as an approximation of the time spent reading the instrument on the basis of the word length of the instrument, the difficulty of the text based on the Flesch Reading Score and the hourly rate of an external legal expert that a business may procure to read the instrument.

The instrument will preserve the existing temporary arrangements, so the only costs for UK-based firms would be familiarisation costs which are considered in the table below. We do not expect these costs to be a concern to businesses, who are largely body corporates with a medium-to-high turnover.

Number of words in SI (rounded up to nearest 100)	Words read per minute	Hourly rate (£)	Number of business affected	Familiarisation costs per firm (£) (rounded to 2 significant figures)	Total familiarisation costs (£) (rounded to 2 significant figures)
200	100	330	0-3000	£11	£0-6,600 (per annum)

5. Please confirm whether your measure could be subject to call-in by BRE under the following criteria. If yes, please provide a justification of why a full impact assessment is not appropriate:

a) **Significant distributional impacts (such as significant transfers between different businesses or sectors)**
   No
b) **Disproportionate burdens on small businesses**
   No. We do not expect these costs to be a concern for small businesses as those affected are largely body corporates in the financial services sector.
c) **Significant gross effects despite small net impacts**
   No
d) **Significant wider social, environmental, financial, or economic impacts**
   No
e) **Significant novel or contentious elements**
   No

Sign-off for de minimis assessment: SCS

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

SCS of International Policy and Partnerships

Signed: ***John O'Regan*** Date: 19/10/2021

SCS of Better Regulation Unit

Signed: ***Linda Timson*** Date: 21/10/2021

Sign-off for de minimis assessment: Minister

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***John Glen MP, Economic Secretary to the Treasury*** Date: 03/11/2021