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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**FINANCIAL SERVICES AND MARKETS**

**The Alternative Investment Fund Managers Regulations 2013**

*Made* - - - - *\*\*\**  
*Coming into force* *22nd July 2013*

**THE ALTERNATIVE INVESTMENT  
FUND MANAGERS REGULATIONS 2013**

PART 1

1. Citation and commencement
2. Interpretation
3. Meaning of “AIF”
4. Meaning of “AIFM”, “managing an AIF”, “external AIFM” and “internal AIFM”

PART 2

UKAIFMs

5. Applications for Part 4A permission
6. Supplementary provisions about AIFMs
7. Changes in conditions relevant to authorisation
8. Notification to ESMA

PART 3

AIFMs

9. Meaning of “small AIFM”
10. Small registered UK AIFMs
11. Applications for entry on register of small registered UK AIFMs
12. Determination of applications
13. Procedure when refusing an application
14. Notification of new funds under the EuSEF Regulation or the EuVECA Regulation
15. Small registered AIFMs ceasing to meet the requirements for registration
16. Applications for revocation of registration
17. Grounds for revocation of registration

18. Procedure on revocation
19. Grounds for suspension of registration
20. Procedure on suspension
21. Disclosure obligations of small registered UK AIFMs
22. Power to direct small registered UK AIFMs and EuSEF and EuVECA Managers to take appropriate measures
23. Application of FCA rules to small authorised UK AIFMs

#### PART 4

##### AIFMs

24. Valuation
25. Disqualification of external valuer
26. Approval for delegation of functions by full-scope UK AIFMs
27. Revocation of approval for delegation
28. Liability following delegation under Article 20 of the directive
29. Depositary liability: general provisions
30. Depositary liability for loss of financial instruments held in custody
31. Depositary liability for other losses
32. Depositary liability and third country custodians
33. Management of third country AIFs

#### PART 5

##### AIFs

34. Introductory provision
35. Ways of acquiring control or shares
36. Meaning of “control” and calculation of voting rights
37. Confidential information
38. Notification of the acquisition or disposal of major holdings and control of non-listed companies
39. Disclosure in case of acquisition of control
40. Additional disclosure when control is acquired of non-listed companies
41. Sensitive information
42. Annual report of AIFs exercising control of non-listed companies
43. Asset stripping
44. FCA powers in relation to this Part

#### PART 6

##### AIFs

#### CHAPTER 1

45. References in this Part to an AIFM or an investment firm marketing an AIF
46. Application of the financial promotion and scheme promotion restrictions
47. Marketing at the initiative of the investor
48. Marketing under the designation ‘EuSEF’ or ‘EuVECA’
49. Marketing by full-scope EEA AIFMs of certain AIFs
50. Marketing by AIFMs of other AIFs
51. Marketing of AIFs by investment firms
52. Contravention by unauthorised person
53. Contravention by authorised person

## CHAPTER 2

### AIFs/AIFMs

54. FCA approval for marketing
55. Change to information provided with application
56. Suspension or revocation of approval granted to a full-scope EEA AIFM

## CHAPTER 3

57. Marketing under Article 36 of the directive
58. Marketing of AIFs managed by small third country AIFMs
59. Marketing under Article 42 of the directive
60. Manner and content of notifications
61. Material change to information
62. Revocation of entitlement to market
63. Suspension of entitlement to market
64. Procedure on suspension

## PART 7

### FCA

65. Designation as competent authority
66. Requirement to notify ESMA of information required from AIFMs
67. Use of information by FCA and supervisory cooperation
68. Limits on leverage
69. Exchange of information relating to potential systemic consequences of AIFM activity

## PART 8

### the Act

70. Application of procedural provisions of the Act
71. Application of provisions of the Act to unauthorised AIFMs

## PART 9

72. AIFMs managing AIFs immediately before 22nd July 2013
73. AIFs subject to prospectus directive
74. Closed-ended AIFs that make no additional investments
75. Closed-ended AIFs whose subscription period has closed
76. Permission to act as trustee or depositary of an AIF
77. Depositaries of EEA AIFs until 22nd July 2017
78. Permission for existing managers, depositaries and trustees of UCITS

## PART 10

79. Review
  80. Amendments to primary legislation
  81. Amendments to secondary legislation
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SCHEDULE 1 — AMENDMENTS TO PRIMARY LEGISLATION

PART 1 — Amendments to the Financial Services and Markets Act 2000

1. The Act is amended as follows.
  2. In section 1A(6) (the Financial Conduct Authority), after paragraph (c)...
  3. In section 1L(2) (supervision, monitoring and enforcement), after paragraph (a)...
  4. In section 55H (refusal by FCA to vary permission at...
  5. In section 55J (variation or cancellation on initiative of regulator)—...
  6. In section 55V (determination of applications) after subsection (7) insert —...
  7. In section 59 (approval for particular arrangements) after subsection (7B)...
  8. In section 66(2)(b) (disciplinary powers) after sub-paragraph (i) omit “or”...
  9. In section 165 (regulators’ power to require information: authorised persons...
  10. In section 168(4) (appointment of persons to carry out investigations...
  11. In section 193(1) (interpretation of Part 13), in the definition...
  12. In section 194 (general grounds on which power of intervention...
  13. In section 195A (contravention by relevant EEA firm or EEA...
  14. In section 199 (additional procedure for EEA firms in certain...
  15. In section 204A(2) (meaning of “relevant requirement”)—
  16. In section 237(3) (other definitions) in the definition of “a...
  17. In section 261D(8) (authorisation orders for contractual schemes) for “permission...
  18. Omit sections 270 and 271 and the preceding cross-heading (schemes...
  19. In section 272 (individually recognised overseas schemes), in subsection (1)—...
  20. In section 277 (alteration of schemes and changes of operator,...
  21. After section 277 insert— Regular provision of information relating to...
  22. Omit the cross-heading “Schemes recognised under sections 270 and 272”...
  23. In section 278 (rules as to scheme particulars) omit “270...
  24. In section 279 (revocation of recognition)— (a) in the opening...
  25. In section 280 (procedure)— (a) in subsection (1) for “give...
  26. In section 281 (directions)— (a) in subsection (1) omit “270...
  27. In section 380(6)(a) (injunctions)— (a) omit “or” after sub-paragraph (i);...
  28. In section 382(9)(a) (restitution orders)— (a) omit “or” after sub-paragraph...
  29. In section 384(7) (power of FCA or PRA to require...
  30. In section 398 (misleading the FCA or PRA: residual cases)—...
  31. In section 417(1) (definitions) in the appropriate places insert— “AIF”...
  32. In section 425 (expressions relating to authorisation elsewhere in the...
  33. In Schedule 1ZA (the Financial Conduct Authority), in paragraph 23(2) (a)...
  34. (1) Schedule 3 (EEA passport rights) is amended as follows....
  35. In paragraph 2(2) of Schedule 5 (permission for open-ended investment...
  36. In paragraph 2B of Schedule 6 (threshold conditions)—
- PART 2 — Amendments to other primary legislation
37. Charities Act (Northern Ireland) 1964
  38. Fair Trading Act 1973
  39. Companies Act 1989
  40. Value Added Tax Act 1994

41. Terrorism Act 2000
42. Companies Act 2006
43. Charities Act (Northern Ireland) 2008
44. Charities Act 2011
- PART 3 — Transitional provisions in respect of recognised overseas schemes
45. (1) A collective investment scheme which immediately before 22nd July...

## SCHEDULE 2 — AMENDMENTS TO SECONDARY LEGISLATION

### PART 1 — Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

1. Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
- PART 2 — Amendments to other secondary legislation
2. Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
3. Companies (No. 2) (Northern Ireland) Order 1990
4. Individual Savings Account Regulations 1998
5. Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001
6. Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001
7. Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001
8. Financial Services and Markets Act 2000 (Exemption) Order 2001
9. Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001
10. Open-Ended Investment Companies Regulations 2001
11. Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001
12. Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001
13. Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001
14. Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001
15. Uncertificated Securities Regulations 2001
16. Financial Services and Markets Act 2000 (Collective Investment Schemes) (Designated Countries and Territories) Order 2003
17. Financial Conglomerates and Other Financial Groups Regulations 2004
18. Child Trust Funds Regulations 2004
19. Financial Services and Markets Act 2000 (Financial Promotion) Order 2005
20. Offshore Funds (Tax) Regulations 2009
21. Financial Services and Markets Act 2000 (Short Selling) Regulations 2012
22. Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013
23. Financial Services Act 2012 (Misleading Statements and Impressions) Order 2013
24. CRC Energy Efficiency Scheme Order 2013

Explanatory Note