
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Alternative Investment Fund Managers
(Amendment etc.) (EU Exit) Regulations 2018

PART 2

Amendment of secondary legislation

CHAPTER 1

Amendment of the Alternative Investment Fund Managers Regulations 2013

Marketing of AIFs

10.—(1) In regulation 45, for “an EEA State” both times it occurs, substitute “the United Kingdom or Gibraltar”.

(2) In the heading to regulation 48, for “‘EuSEF’ or ‘EuVECA’” substitute “‘SEF’ or ‘RVECA’”.

(3) In regulation 48—

- (a) for “EuSEF” substitute “SEF”;
- (b) for “EuVECA” substitute “RVECA”.

(4) In regulation 49(1)—

- (a) in the heading, for “EEA” substitute “Gibraltar”;
- (b) renumber the existing provision as paragraph (1);
- (c) in paragraph (1), as renumbered—
 - (i) in the opening words, for “EEA” substitute “Gibraltar”;
 - (ii) in sub-paragraph (a), omit “(EEA passport rights)”;

(d) after paragraph (1), insert—

“(2) References in this regulation to Schedule 3 to the Act are to that Schedule as it applies in relation to Gibraltar AIFMs and Gibraltar AIFs.”.

(5) In regulation 50(2), in the table, in the entry relating to full-scope EEA AIFMs, for “EEA” substitute “Gibraltar”.

(6) In regulation 54(3)—

- (a) in paragraph (1), in sub-paragraph (b)—
 - (i) for “EEA”, the first time it occurs, substitute “Gibraltar”;
 - (ii) in paragraph (ii), for the words “in relation to” to the end, substitute “referred to in paragraph 14(1)(b) of Schedule 3 to the Act as that paragraph applies in relation to Gibraltar”;

(1) Regulation 49 is amended by [S.I. 2013/1797](#).
(2) Regulation 50 is amended by [S.I. 2013/1797](#).
(3) Regulation 54 is amended by [S.I. 2013/1797](#).

- (iii) omit “(EEA passport rights)”;
- (b) in paragraph (4), in the opening words, for “EEA”, substitute “Gibraltar”;
- (c) in paragraph (5), for sub-paragraph (b), substitute—
 - “(b) where the AIF concerned is a Gibraltar AIF, the Financial Services Commission of Gibraltar.”.
- (7) In regulation 56(4), in the heading and in the opening words, for “EEA AIFM” substitute “Gibraltar AIFM”.
- (8) In regulation 57(5)—
 - (a) for the heading, substitute “Marketing of third country AIFs managed by full-scope UK AIFMs”;
 - (b) in paragraph (1)(b)—
 - (i) for “an EEA AIF”, substitute “a Gibraltar AIF”;
 - (ii) omit “that is a feeder AIF, the master AIF of which is either managed by a third country AIFM or is a third country AIF”;
 - (c) in paragraph (2)(b), for “EEA AIFM” substitute “Gibraltar AIFM”;
 - (d) in paragraph (4)—
 - (i) in sub-paragraph (a), for “the directive” substitute “the Financial Services and Markets Act 2000, these Regulations, any EU tertiary legislation made under the directive which forms part of retained EU law and rules made by the FCA”;
 - (ii) in sub-paragraph (b)—
 - (aa) for “the competent authority of the full-scope EEA AIFM (in the case of such an AIFM)” substitute “the Financial Services Commission of Gibraltar (in the case of a Gibraltar AIFM)”;
 - (bb) for “or other competent authority” substitute “or the Financial Services Commission of Gibraltar”;
 - (cc) for “the directive” substitute “these Regulations or the Financial Services (Alternative Investment Fund Managers) Regulations 2013 of Gibraltar(6)”;
 - (e) in paragraph (5)—
 - (i) in the opening words, for “Article 21 of the directive” substitute “section 3.11 of the Investment Funds sourcebook, and regulations 29 to 32 of these Regulations”;
 - (ii) in sub-paragraph (a) for “Article 21.7 to 21.9 of the directive (each an “Article 36 custodian”)” substitute “rules 3.11.4(2), 3.11.20, 3.11.21, 3.11.23 and 3.11.25 of the Investment Funds sourcebook (a “third country AIF custodian”)”.
- (9) In regulation 59(7)—
 - (a) in the heading for “under Article 42 of the directive” substitute “of AIFs managed by other third country AIFMs”;
 - (b) in paragraph (2)—
 - (i) insert at the beginning “Subject to paragraph (4A),”;

(4) Regulation 56 is amended by [S.I. 2013/1797](#).

(5) Regulations 57 to 64 are revoked by [S.I. 2013/1797](#), but that revocation is not yet in force.

(6) L.N. 2013/103.

(7) [S.I. 2013/1773](#). Regulations 50 is amended and regulation 59 is revoked by [S.I. 2013/1797](#), but those amendments have not yet come into force.

- (ii) in sub-paragraph (b) for “Articles 22 to 24 of the directive” substitute “sections 3.2, 3.3 and 3.4 of the Investment Funds sourcebook”;
- (iii) in sub-paragraph (d)—
 - (aa) in paragraph (i), for “the competent authority of the other EEA State where the AIF is established” substitute “the Financial Services Commission of Gibraltar”;
 - (bb) in the words after paragraph (ii), for the words “and, if applicable” to the end, substitute “to carry out its duties in accordance with the Financial Services and Markets Act 2000, these Regulations, any EU tertiary legislation made under the directive which forms part of retained EU law and rules made by the FCA”;
- (c) in paragraph (3), insert at the beginning “Subject to paragraph (4A),”;
- (d) in paragraph (4), insert at the beginning “Subject to paragraph (4A),”;
- (e) after paragraph (4), insert—
 - “(4A) Paragraphs (2)(a) to (c), (3) and (4) do not apply to any collective investment scheme which has been declared to be a recognised scheme under section 272 of the Act.”.