

STATUTORY INSTRUMENTS

2013 No. 1797

The Alternative Investment Fund Managers (Amendment) Regulations 2013

Citation and commencement

1.—(1) These Regulations may be cited as the Alternative Investment Fund Managers (Amendment) Regulations 2013.

(2) This regulation and regulations 2 (interpretation) and 6 (consultation on rules made for the purposes of Article 35 or 37 to 41 of the directive) come into force on 22nd July 2013.

[^{F1}(3) Regulations 3 and 4 and Schedules 1 and 2 come into force on such day as the Treasury may by regulations appoint.]

^{F1}(4)

(5) Regulation 5 (amendments to Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001) comes into force immediately after the principal regulations come into force.

[^{F2}(6) Regulations made by the Treasury under paragraph (3) may make different provision for different purposes.

(7) The power to make regulations under paragraph (3) is exercisable by statutory instrument.]

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| F1 | Reg. 1(3) substituted for reg. 1(3)(4) (31.12.2020) by The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/328) , regs. 1(3), 17(a) (as amended by S.I. 2019/325, reg. 58); 2020 c. 1, Sch. 5 para. 1(1) |
| F2 | Reg. 1(6)(7) inserted (31.12.2020) by The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/328) , regs. 1(3), 17(b) (as amended by S.I. 2019/325, reg. 58); 2020 c. 1, Sch. 5 para. 1(1) |

Interpretation

2. In these Regulations—

“the Act” means the Financial Services and Markets Act 2000;

“the directive” means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers ;

“the FCA” means the Financial Conduct Authority;

“the PRA” means the Prudential Regulation Authority;

“the principal regulations” means the Alternative Investment Fund Managers Regulations 2013 ;

“the Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ;

“rule” means a rule made by the FCA or the PRA under the Act.

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Amendments to legislation that ^{F3}implemented] Articles 35 and 37 to 41 of the directive

3. Schedule 1, which contains amendments to the Act and the principal regulations, has effect.

F3 Words in reg. 3 heading substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **18(1)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)

Amendments to legislation that come into force ^{F4}on appointment by the Treasury]

4. Schedule 2, which contains further amendments to the Act and the principal regulations, amendments to the Regulated Activities Order, and related transitional provisions, has effect.

F4 Words in reg. 4 heading substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **18(2)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)

Amendments to Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001

5. In the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001 —
- (a) in regulation 2(6) (establishment of a branch: contents of consent notice) after subparagraph (a) insert—
 - “(aa) particulars of the programme of operations to be carried on through the branch, including a description of the particular EEA activities to be carried on;”,
 - and
 - (b) in regulation 17A(1) (full-scope UK AIFM: changes to branch details or services) for “2(6) (b) to (e)” substitute “2(6)(aa) to (e)”.

Consultation on rules made for the purposes of ^{F5}the provisions amended by Schedule 1]

6.—^{F6}(1) Before the date on which the Treasury makes regulations under regulation 1(3) appointing the day when the amendments in Schedule 1 to these Regulations come into force, the FCA or the PRA may make rules for the purpose of the provisions amended by Schedule 1 without complying with sections 138I to 138L of the Act (consultation).]

(2) Paragraph (3) applies in relation to rules that, as a result of paragraph (1), are made by the FCA or the PRA without complying with sections 138I to 138L of the Act, but does not apply in relation to rules that are revoked before they come into force.

(3) After the rules are made, sections 138I to 138L of the Act apply in respect of those rules with the modifications set out in paragraphs (4) to (7).

(4) Section 138I of the Act has effect as if—

- (a) in subsection (1)—
 - (i) in the opening words for “Before making any rules” there were substituted “ Before any rules made by the FCA come into force ”, and
 - (ii) in paragraph (b) for “a draft of the proposed rules” there were substituted “ the rules ”,
- (b) in subsection (2)—
 - (i) in the opening words for “draft” there were substituted “ rules ”,
 - (ii) in paragraphs (b) and (d) “proposed” were omitted, and

- (iii) in paragraph (e) for “proposals” there were substituted “ rules ”,
 - (c) for subsection (3) there were substituted—
 - “(3) The FCA must have regard to any representations made to it in accordance with subsection (2)(e) and must consider whether to amend the rules before they come into force.”,
 - (d) in subsection (4) for “If the FCA makes the proposed rules, it” there were substituted “ The FCA ”,
 - (e) in subsection (5) for “If the rules differ from the draft” there were substituted “ If the rules that come into force differ from the rules ”,
 - (f) for subsection (7)(a) there were substituted—
 - “(a) an analysis of the costs together with an analysis of the benefits that would arise—
 - (i) if the rules came into force as published under subsection (1)(b), or
 - (ii) if subsection (5) applies, from the rules as amended, and”, and
 - (g) in subsection (9) for “a draft” there were substituted “ rules ”.
- (5) Section 138J of the Act has effect as if—
- (a) in subsection (1)—
 - (i) in the opening words for “Before making any rules” there were substituted “ Before any rules made by the PRA come into force ”, and
 - (ii) in paragraph (b) for “a draft of the proposed rules” there were substituted “ the rules ”,
 - (b) in subsection (2)—
 - (i) in the opening words for “draft” there were substituted “ rules ”,
 - (ii) in paragraphs (b) and (d) “proposed” were omitted, and
 - (iii) in paragraph (e) for “proposals” there were substituted “ rules ”,
 - (c) for subsection (3) there were substituted—
 - “(3) The PRA must have regard to any representations made to it in accordance with subsection (2)(e) and must consider whether to amend the rules before they come into force.”,
 - (d) in subsection (4) for “If the PRA makes the proposed rules, it” there were substituted “ The PRA ”,
 - (e) in subsection (5) for “If the rules differ from the draft” there were substituted “ If the rules that come into force differ from the rules ”,
 - (f) for subsection (7)(a) there were substituted—
 - “(a) an analysis of the costs together with an analysis of the benefits that would arise—
 - (i) if the rules came into force as published under subsection (1)(b), or
 - (ii) if subsection (5) applies, from the rules as amended, and”, and
 - (g) in subsection (9) for “a draft” there were substituted “ rules ”.
- (6) Section 138K of the Act has effect as if—
- (a) in subsection (1) for “proposes to make a rule (“the proposed rule”) which would apply” there were substituted “ makes a rule which applies ”,
 - (b) in subsection (2)(a) “proposed” were omitted,

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- (c) in the opening words of subsection (3) for “a regulator makes a rule” there were substituted “a rule comes into force”;
 - (d) in subsection (3)(b) “draft of the proposed” were omitted, and
 - (e) in subsection (4)(a) for “the impact of the rule is significantly different from the impact of the proposed rule” there were substituted “the impact of the rule as it comes into force is significantly different from the impact of the rule published under section 138I(1)(b) or 138J(1)(b) (as the case may be)”.
- (7) Section 138L(5) of the Act has effect as if—
- (a) in paragraph (a) for “the overall position if the rules are made and the overall position if the rules are not made” there were substituted “the overall position if the rules come into force as published under section 138I(1)(b) or 138J(1)(b) (as the case may be) and the overall position if the rules are amended before coming into force”;
 - (b) in paragraph (b) for “the overall position after the making of the rules and the overall position before they were made” there were substituted “the overall position after any amendment of the rules and the overall position before any such amendment”.

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| <p>F5 Words in reg. 6 heading substituted (31.12.2020) by The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/328), regs. 1(3), 19(2) (as amended by S.I. 2019/325, reg. 58); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F6 Reg. 6(1) substituted (31.12.2020) by The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/328), regs. 1(3), 19(1) (as amended by S.I. 2019/325, reg. 58); 2020 c. 1, Sch. 5 para. 1(1)</p> |
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Desmond Swayne
Robert Goodwill
Two of the Lords Commissioners of Her
Majesty's Treasury

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Changes and effects yet to be applied to :

- Sch. 1 para. 2(2)(f) words substituted by [S.I. 2019/328 reg. 20\(3\)\(a\)\(v\)\(aa\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 20(3)(a)(v)(aa) substituted immediately before IP completion day by S.I. 2019/710, regs. 1(2), 13(b))
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)