

Changes to legislation: The Alternative Investment Fund Managers (Amendment) Regulations 2013, Paragraph 1 is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 1

Amendments to legislation that implement Articles 35 and 37 to 41 of the directive

Amendments to the Act

1.—(1) The Act is amended as follows.

(2) In section 55V(8) (determination of applications) ^{M1} for “regulation 5” insert “ regulations 5 and 5A ”.

^{F1}(3)

(4) ^{M2}In section 418 (carrying on regulated activities in the United Kingdom) —

^{F2}(a)

(b) [^{F3}after subsection (5AA)] insert—

“(5B) The [^{F4}seventh] case is where—

(a) the regulated activity being carried on by the person is the regulated activity of managing an AIF,

(b) the AIF being managed—

(i) has its registered office in [^{F5}the United Kingdom], or

(ii) is marketed in [^{F5}the United Kingdom],

(c) if the AIF being managed is marketed in [^{F6}the United Kingdom], it is marketed otherwise than in accordance with [^{F7}regulation 59 of the Alternative Investment Fund Managers Regulations 2013, and]

(d) the person does not have a registered office in [^{F8}the United Kingdom], ^{F9}...

^{F10}(e)

^{F11}(5C), and

[^{F12}(c) in subsection (6) for “(5AA)” substitute “ (5B) ”.]

(5) In Schedule 3 (EEA passport rights)—

(a) in paragraph 5(h) (EEA firm) ^{M3} omit “Article 6.1 of”,

(b) in paragraph 7A(aa) (EEA right: meaning of “relevant office”) ^{M4} for paragraph (aa) substitute—

“(aa) in relation to a person whose entitlement [^{F13}derives from] the alternative investment fund managers directive—

(i) if the person's registered office is in an EEA State, its registered office;

(ii) if the person's registered office is not in an EEA State, the registered office or branch of its legal representative (as defined in Article 4(1)(u) of the alternative investment fund managers directive);”,

(c) in paragraph 10A(aa) (UK firm: meaning of “relevant office”) ^{M5} for paragraph (aa) substitute—

“(aa) in relation to a firm whose EEA right derives from the alternative investment fund managers directive—

(i) if the firm's registered office is in an EEA State, its registered office;

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- (ii) if the firm's registered office is not in an EEA State, the registered office or branch of its legal representative (as defined in Article 4(1)(u) of the alternative investment fund managers directive);”,
- (d) in paragraph 14(3A) (services) ^{M6} after “Article 32” insert “ , 35, 39 or 40 ”,
- (e) in paragraph 19(7BB)(b) (establishment) ^{M7} omit “Article 6.1 of”,
- (f) in paragraph 20(3D)(a)(ii) (services) ^{M8} omit “Article 6.1 of”, and
- (g) in paragraph 20C (notice of intention to market an AIF) ^{M9}—
 - (i) in sub-paragraph (1) for “a UK AIF or EEA AIF” substitute “ an AIF ”,
 - (ii) for sub-paragraph (5)(b) substitute—
 - “(b) if the AIF is a third country AIF or a third country feeder AIF—
 - (i) appropriate co-operation arrangements are in place between the FCA and the supervisory authorities of the relevant third country in order to ensure an efficient exchange of information that allows the FCA to carry out its duties in accordance with the alternative investment fund managers directive,
 - (ii) the relevant third country is not listed as a Non-Cooperative Country and Territory by the Financial Action Task Force,
 - (iii) the relevant third country has signed an agreement with the United Kingdom and with each other EEA State in which the units or shares of the AIF are intended to be marketed, and
 - (iv) the agreement fully complies with the standards laid down in Article 26 of the Organisation for Economic Co-operation and Development's Model Tax Convention on Income and on Capital 2010 ^{M10} and ensures an effective exchange of information on tax matters, including any multilateral tax agreements.”, and
 - (iii) in sub-paragraph (12), in the appropriate places insert the following definitions—
 - ““relevant third country” means—
 - (a) in relation to a third country AIF, the country in which the AIF is authorised or registered or, if the AIF is not authorised or registered, the country in which it has its registered office;
 - (b) in relation to a third country feeder AIF, the country in which the master AIF is authorised or registered or, if the master AIF is not authorised or registered, the country in which it has its registered office;
 - “third country AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;
 - “third country feeder AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;
 - “third country AIFM” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013.”.
- (6) In paragraph 2B of Schedule 6 (threshold conditions - location of offices) ^{M11}, in sub-paragraph (7), for “a full-scope UK AIFM, A's head office and registered office must be in the United Kingdom” substitute—
 - “a full-scope UK AIFM—
 - (a) A's head office and registered office must be in the United Kingdom, or

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(b) A's registered office must be in a ^{F14}third country].”.

Textual Amendments

- F1** Sch. 1 para. 1(3) omitted (31.12.2020) by virtue of [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(a)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Sch. 1 para. 1(4)(a) omitted (31.12.2020) by virtue of [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(b)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Sch. 1 para. 1(4)(b) substituted (16.6.2014) by [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), arts. 1(2), **5(b)(i)** (as amended by [S.I. 2014/1313](#), arts. 1, 2(a))
- F4** Word in Sch. 1 para. 1(4)(b) substituted (16.6.2014) by [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), arts. 1(2), **5(b)(ii)** (as amended by [S.I. 2014/1313](#), arts. 1, 2(a))
- F5** Words in Sch. 1 para. 1(4)(b) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(c)(i)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Sch. 1 para. 1(4)(b) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(c)(ii)(aa)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Sch. 1 para. 1(4)(b) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(c)(ii)(bb)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Sch. 1 para. 1(4)(b) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(c)(iii)(aa)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Word in Sch. 1 para. 1(4)(b) omitted (31.12.2020) by virtue of [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(c)(iii)(bb)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Sch. 1 para. 1(4)(b) omitted (31.12.2020) by virtue of [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(c)(iv)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Sch. 1 para. 1(4)(b) omitted (16.6.2014) by virtue of [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), arts. 1(2), **5(b)(iii)** (as amended by [S.I. 2014/1313](#), arts. 1, 2(a))
- F12** Sch. 1 para. 1(4)(c) substituted (16.6.2014) by [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), arts. 1(2), **5(c)** (as amended by [S.I. 2014/1313](#), arts. 1, 2(a))
- F13** Words in Sch. 1 para. 1(5)(b) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(d)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in Sch. 1 para. 1(6) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), regs. 1(3), **20(2)(e)** (as amended by [S.I. 2019/325](#), reg. 58); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** Section 55V was inserted by section 11 of the [Financial Services Act 2012 \(c.21\)](#) and amended by the principal regulations
- M2** Amended by [S.I. 2002/1775](#) and [S.I. 2012/1906](#)
- M3** Inserted by the principal regulations
- M4** Inserted by [S.I. 2003/1473](#) and amended by the principal regulations
- M5** Inserted by [S.I. 2003/1473](#) and amended by the principal regulations
- M6** Inserted by the principal regulations
- M7** Inserted by the principal regulations

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- M8** Inserted by the principal regulations
- M9** Inserted by the principal regulations
- M10** ISBN 978-92-64-17517-4
- M11** [Paragraph 2B](#) was substituted by [S.I. 2013/555](#) and sub-paragraph (7) was inserted by the principal regulations

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)