

**2018 No. 134**

**FINANCIAL SERVICES AND MARKETS**

**The Alternative Investment Fund Managers (Amendment)  
Regulations 2018**

*Made* - - - - *1st February 2018*

*Laid before Parliament* *5th February 2018*

*Coming into force in accordance with regulation 1*

The Treasury are designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to financial services.

The Treasury make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 1A(6)(d), 1L(2)(b), 22(1), 39(4)(b), 66A(4)(b), 168(4)(k), 204A(2)(b) and (4), 380(6)(a)(i) and (9), 382(9)(a)(i) and (12), 384(7)(a) and (10) of, and paragraph 23(2)(b) of Schedule 1ZA and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000(c).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Alternative Investment Fund Managers (Amendment) Regulations 2018.

(2) These Regulations, apart from regulation 4, come into force on 1st March 2018.

(3) Regulation 4 comes into force on 2nd April 2018.

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(a) S.I. 2012/1759.

(b) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and the European Union (Amendment) Act 2008 (c. 7), Schedule, Part 1.

(c) 2000 c. 8. Sections 1A and 1L were inserted by section 6(1) of the Financial Services Act 2012 (c. 21). Section 39 was amended by paragraph 5(3) of Schedule 18 to the Financial Services Act 2012. Section 66A was inserted by section 32(2) of the Financial Services (Banking Reform) Act 2013 (c. 33). Section 168 was amended by paragraph 8 of Schedule 12 to the Financial Services Act 2012. Section 204A was inserted by paragraph 10 of Schedule 9 to the Financial Services Act 2012 and amended by paragraph 15 of Schedule 1 to the Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773) and regulation 2 of the Undertakings for Collective Investment in Transferable Securities Regulations 2016 (S.I. 2016/255). Section 380 was amended by paragraph 19(3), and paragraph 19 of Schedule 9 to the Financial Services Act 2012, and paragraph 27 of Schedule 1 to the Alternative Investment Fund Managers Regulations 2013. Section 382 was amended by paragraph 21 and paragraph 21 of Schedule 9 to the Financial Services Act 2012 and paragraph 28 of Schedule 1 of the Alternative Investment Fund Managers Regulations 2013. Section 384 was amended by paragraph 15 of Schedule 5 to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), paragraph 23 of Schedule 9 of the Financial Services Act 2012, paragraph 29 of Schedule 1 to the Alternative Investment Fund Managers Regulations 2013. Paragraph 23 of Schedule 1ZA was inserted by Schedule 3 to the Financial Services Act 2012. There are other amendments to these provisions but none is relevant here.

## Amendments to the Alternative Investment Fund Managers Regulations 2013

2.—(1) The Alternative Investment Fund Managers Regulations 2013(a) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in the definition of “EuSEF Regulation” after “funds” insert “as amended by Regulation (EU) No 2017/1991 of the European Parliament and of the Council of 25 October 2017 amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds(b)”;
- (b) in the definition of “EuVECA Regulation” after “funds” insert “as amended by Regulation (EU) No 2017/1991 of the European Parliament and of the Council of 25 October 2017 amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds”.

(3) In regulation 11 (applications for entry on register of small registered UK AIFMs), after paragraph (4) insert—

“(5) This regulation does not apply in relation to an application for registration as a EuSEF Manager or a EuVECA Manager.”.

(4) In regulation 12 (determination of applications), after paragraph (1) insert—

“(1A) Paragraph (1) does not apply in relation to an application for registration as a EuSEF Manager or a EuVECA Manager (in respect of which see Article 15(4) of the EuSEF Regulation or Article 14(4) of the EuVECA Regulation).”.

(5) In regulation 13 (procedure when refusing an application)—

- (a) in paragraph (1), after “regulation 11(1)” insert “, Article 15 of the EuSEF Regulation or Article 14 of the EuVECA Regulation”;
- (b) after paragraph (2), insert—

“(3) Paragraph (2)(a) does not apply in relation to an application for registration as a EuSEF Manager or a EuVECA Manager (in respect of which see Article 15b of the EuSEF Regulation or Article 14b of the EuVECA Regulation).”.

(6) In regulation 15(1) (small registered AIFMs ceasing to meet the requirements for registration), after “(4)(a)” omit “or (c)”.

(7) In regulation 17(1) (grounds for revocation of registration)—

- (a) for “Article 14” substitute “Article 15”;
- (b) for “Article 13” substitute “Article 14”;
- (c) in sub-paragraph (a), after “(4)” insert “(a) or (b)”;
- (d) in sub-paragraph (b), omit “, or a requirement imposed by the EuSEF Regulation or the EuVECA Regulation,”.

(8) In regulation 18 (procedure on revocation)—

- (a) in paragraph (1), after “17(1)(a) or (b)” insert “, or under Article 22 of the EuSEF Regulation or Article 21 of the EuVECA Regulation”;
- (b) in paragraph (2), for “the grounds mentioned in regulation 17(1)(a) or (b)” substitute “such grounds or under such an Article”.

(9) After Part 3A (ELTIFs) insert—

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(a) S.I. 2013/1773. There are amendments to this instrument but none is relevant to this regulation.

(b) OJ L293 10.11.2017 p.1.

## “PART 3B

### Qualifying social entrepreneurship funds and qualifying venture capital funds

#### **Manner of application for registration of a qualifying social entrepreneurship fund or qualifying venture capital fund**

**23D.**—(1) An application for registration of a qualifying social entrepreneurship fund under Article 15a of the EuSEF Regulation, or of a qualifying venture capital fund under Article 14a of the EuVECA Regulation, must—

- (a) be made in such a manner as the FCA may direct; and
- (b) contain or be accompanied by such information as the FCA may reasonably require for the purpose of determining the application.

(2) At any time after receiving an application and before determining it, the FCA may require the applicant to provide it with such further information as it considers necessary to enable it to determine the application.

(3) Different directions may be given, and different requirements imposed, in relation to different applications or categories of applications.

(4) The FCA may require an applicant to provide information which it is required to give under paragraph (1)(b) or paragraph (2) of this regulation in such form, or to verify it in such manner, as the FCA may specify.

#### **Procedure in relation to the refusal of an application for registration of a qualifying social entrepreneurship fund or qualifying venture capital fund**

**23E.**—(1) If the FCA proposes to refuse an application made by a UK AIFM for registration of a qualifying social entrepreneurship fund under Article 15a of the EuSEF Regulation, or of a qualifying venture capital fund under Article 14a of the EuVECA Regulation, it must give the applicant a warning notice.

(2) If the FCA decides to refuse an application—

- (a) it must give the applicant a decision notice; and
- (b) the applicant may refer the matter to the Tribunal.

#### **Procedure in relation to the revocation of registration of a qualifying social entrepreneurship fund or qualifying venture capital fund otherwise than by consent**

**23F.**—(1) If the FCA proposes to revoke the registration of a qualifying social entrepreneurship fund or a qualifying venture capital fund otherwise than by consent, the FCA must give separate warning notices to the AIFM and the depositary of the qualifying social entrepreneurship fund or qualifying venture capital fund.

(2) If the FCA decides to revoke the registration of a qualifying social entrepreneurship fund or a qualifying venture capital fund otherwise than by consent—

- (a) the FCA must give each of the AIFM and the depositary a decision notice; and
- (b) either of them may refer the matter to the Tribunal.”.

### **Amendments to the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013**

**3.** In article 1(2) (citation, commencement and interpretation) of the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013(a)—

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(a) S.I. 2013/419. Article 1 was amended by paragraph 22 of Schedule 2 to the Alternative Investment Fund Managers Regulations (S.I. 2013/1773). There have been further amendments to this article but none is relevant here.

- (a) in the definition of “EuSEF Regulation” after “funds” insert “as amended by Regulation (EU) No 2017/1991 of the European Parliament and of the Council of 25 October 2017 amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds”;
- (b) in the definition of “EuVECA Regulation” after “funds” insert “as amended by Regulation (EU) No 2017/1991 of the European Parliament and of the Council of 25 October 2017 amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds”.

**Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001**

4. In article 63B(6) (entering into and administering regulated home reversion plans) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(a)—

- (a) in sub-paragraph (a) omit “and Wales”; and
- (b) after sub-paragraph (a) insert—

“(aa) in relation to Wales, means a place at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016(b), is provided wholly or mainly to persons aged 18 or over;”.

*David Rutley*  
*Mark Spencer*

1st February 2018

Two of the Lords Commissioners of Her Majesty’s Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Regulation 2 of these Regulations amends the Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773) following amendments to Regulation (EU) No 346/2013 on European social entrepreneurship funds and Regulation (EU) No 345/2013 on European venture capital funds by Regulation (EU) No 2017/1991 of the European Parliament and of the Council of 25 October 2017 (OJ L293 10.11.2017 p.1). The amendments in these Regulations make minor changes to the procedures to be followed for making an application to register as a manager of a European social entrepreneurship fund or of a European venture capital fund, and for the refusal and revocation of such a registration. They also make provision for a registration of a European social entrepreneurship fund or a European venture capital fund by an authorised alternative investment fund manager, and for the refusal and revocation of such a registration.

Regulation 3 of these Regulations amends the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013 (S.I. 2013/419) to update the definitions of “EuSEF Regulation” and “EuVECA Regulation” following amendments by Regulation (EU) No 2017/1991 of the European Parliament and of the Council of 25 October 2017.

Regulation 4 of these Regulations is an unrelated amendment of regulation 63B(6) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) to update the definition of “care home”, in relation to Wales, following the passing of the Regulation and Inspection of Social Care (Wales) Act 2016 (2016 anaw 2).

A full impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.

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(a) S.I. 2001/544. Article 63B was inserted by article 18 of Part 2 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383). There have been further amendments to this article but none is relevant here.

(b) 2016 anaw 2

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