
STATUTORY INSTRUMENTS

2019 No. 328

The Alternative Investment Fund Managers
(Amendment etc.) (EU Exit) Regulations 2019

PART 3

Amendment of EU delegated legislation

Depository functions, due diligence duties and segregation obligation

34.—(1) Before Article 85, omit “(Articles 21(7)-(9) and 21(11)(c) and (d)(iii) of [Directive 2011/61/EU](#))”.

(2) In Article 85(1), for “Article 21(7) of [Directive 2011/61/EU](#)” substitute “rule 3.11.20 of the Investment Funds sourcebook”.

(3) In Article 86—

(a) in point (a)—

(i) for “points (a), (b) and (c) of Article 18(1) of [Directive 2006/73/EC](#)” substitute “paragraphs (1), (2) and (3) of rule 7.13.3 of the Client Assets sourcebook”;

(ii) for “Union law” substitute “the law applicable in the United Kingdom, or in any part of the United Kingdom”;

(iii) for “Article 16 of [Directive 2006/73/EC](#)” substitute “rules 6.2.2R, 6.3.4A-1R, 6.6.2R, 6.6.3, 6.6.34, 7.13.12, 7.15.3 and 7.15.20 of the Client Assets sourcebook (so far as relevant)”;

(b) in point (e), for “competent authorities” substitute “FCA”.

(4) In Article 87, for “Article 21(7) of [Directive 2011/61/EU](#)” substitute “rule 3.11.20 of the Investment Funds sourcebook”.

(5) In Article 88(1)(a), for “the last subparagraph of Article 51(3) of [Directive 2009/65/EC](#) and Article 10 of Commission [Directive 2007/16/EC](#)” substitute “rule 5.2.19(3) and (3A) of the Collective Investment Schemes sourcebook”.

(6) In Article 89—

(a) in paragraph 1—

(i) in the opening words, for “point (a) of Article 21(8) of [Directive 2011/61/EU](#)”, substitute “rule 3.11.21 of the Investment Funds sourcebook”;

(ii) in point (a), for “Article 21(8)(a)(ii) of [Directive 2011/61/EU](#)” substitute “rule 3.11.21(2) of the Investment Funds sourcebook”;

(iii) in point (c), for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”;

(b) in paragraph 2, for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”.

(7) In Article 90—

- (a) in paragraphs 1 and 2, for “point (b) of Article 21(8) of [Directive 2011/61/EU](#)” substitute “rule 3.11.23 of the Investment Funds sourcebook”;
 - (b) in paragraph 4, for “competent authorities” substitute “FCA”.
- (8) In Article 91—
- (a) in point (b) of paragraph 1, for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”;
 - (b) in paragraph 3—
 - (i) in point (a), in the opening words, for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”;
 - (ii) in point (b), for “point (b) of Article 21(8) of [Directive 2011/61/EU](#)” substitute “rule 3.11.23 of the Investment Funds sourcebook”;
 - (iii) in point (d), for “Article 21(7) of [Directive 2011/61/EU](#)” substitute “rule 3.11.20 of the Investment Funds sourcebook”.
- (9) In Article 92—
- (a) in paragraphs 2 and 4, for “Article 21(9) of [Directive 2011/61/EU](#)” substitute “rule 3.11.25 of the Investment Funds sourcebook”;
 - (b) in paragraph 3, for “competent authorities of the AIFM” substitute “FCA”.
- (10) In Article 93, in the opening words, for “point (a) of Article 21(9) of [Directive 2011/61/EU](#)” substitute “rule 3.11.25(1) of the Investment Funds sourcebook”.
- (11) In Article 94—
- (a) in paragraph 1, in the opening words, for “point (b) of Article 21(9) of [Directive 2011/61/EU](#)” substitute “rule 3.11.25(2) of the Investment Funds sourcebook”;
 - (b) in paragraphs 1(a), 2 and 4, for “Article 19 of [Directive 2011/61/EU](#) and its implementing measures” substitute “rules 3.9.1 to 3.9.13 of the Investment Funds sourcebook and regulation 24 of the AIFM Regulations 2013”;
 - (c) in paragraph 3, for “Article 19 of [Directive 2011/61/EU](#)” substitute “rules 3.9.1 to 3.9.13 of the Investment Funds sourcebook and regulation 24 of the AIFM Regulations 2013”.
- (12) In Article 95, in the opening words, for “point (c) of Article 21(9) of [Directive 2011/61/EU](#)” substitute “rule 3.11.25(3) of the Investment Funds sourcebook”.
- (13) In Article 96(1), for “point (d) of Article 21(9) of [Directive 2011/61/EU](#)” substitute “rule 3.11.25(4) of the Investment Funds sourcebook”.
- (14) In Article 97(1), in the opening words, for “point (e) of Article 21(9) of [Directive 2011/61/EU](#)” substitute “rule 3.11.25(5) of the Investment Funds sourcebook”.
- (15) In Article 98—
- (a) in paragraph 1—
 - (i) for “point (c) of Article 21(11) of [Directive 2011/61/EU](#)” substitute “rule 3.11.28(3) of the Investment Funds sourcebook”;
 - (ii) for “competent authorities” substitute “the FCA”;
 - (b) in paragraph 2, in the opening words, for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”;
 - (c) in paragraph 3, in the opening words, for “point (d) of Article 21(11) of [Directive 2011/61/EU](#)” substitute “rule 3.11.28(4) of the Investment Funds sourcebook”;
 - (d) in paragraph 5, for “Article 21(4) of [Directive 2011/61/EU](#)”, substitute “rule 3.11.7 of the Investment Funds sourcebook”;

- (e) in paragraph 6, for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”.
- (16) In Article 99—
 - (a) in paragraph 1—
 - (i) in the opening words—
 - (aa) for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”; and
 - (bb) for “point (iii) of Article 21(11)(d) of [Directive 2011/61/EU](#)” substitute “rule 3.11.28(4)(c) of the Investment Funds sourcebook”;
 - (ii) in point (c), for “the third subparagraph of Article 21(11) of [Directive 2011/61/EU](#)” substitute “rule 3.11.29 of the Investment Funds sourcebook”;
 - (iii) in point (e)—
 - (aa) for “points (a), (b) and (c) of Article 18(1) of [Directive 2006/73/EC](#)” substitute “paragraphs (1), (2) and (3) of rule 7.13.3 of the Client Assets sourcebook”;
 - (bb) for “Union law” substitute “the law applicable in the United Kingdom, or in any part of the United Kingdom”;
 - (cc) for “Article 21(7) of [Directive 2011/61/EU](#)” substitute “rule 3.11.20 of the Investment Funds sourcebook”;
 - (b) in paragraph 2, for “Article 21(11) of [Directive 2011/61/EU](#)” substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”;
 - (c) in paragraph 3—
 - (i) for “Article 21(11) of [Directive 2011/61/EU](#)” the first time it occurs, substitute “rules 3.11.28 to 3.11.30 of the Investment Funds sourcebook”;
 - (ii) for “the third subparagraph of Article 21(11) of [Directive 2011/61/EU](#)” substitute “rule 3.11.29 of the Investment Funds sourcebook”.