
STATUTORY INSTRUMENTS

2013 No. 1773

The Alternative Investment Fund Managers Regulations 2013

PART 8

Application of provisions of the Act

Application of procedural provisions of the Act

70.—(1) Part 9 of the Act applies in the case of a matter referred to the Tribunal under these Regulations as it applies in the case of a matter referred to the Tribunal under the Act.

(2) Part 26 of the Act applies to warning notices and decision notices given under these Regulations as it applies to such notices given under the Act.

Application of provisions of the Act to unauthorised AIFMs

71.—(1) The following provisions of the Act apply in respect of an unauthorised AIFM as they apply in respect of an authorised person—

- (a) section 165^{M1} (regulators' power to require information: authorised persons etc.);
- (b) section 166^{M2} (reports by skilled persons);
- (c) section 167^{M3} (appointment of persons to carry out general investigations);
- (d) section 176(3) (entry of premises under warrant);
- (e) section 205^{M4} (public censure);
- (f) section 206^{M5} (financial penalties).

(2) The following provisions of the Act apply in relation to the exercise of the powers under the provisions applied by paragraph (1)(a) to (c) as they apply in relation to the exercise of those powers in respect of authorised persons—

- (a) section 169^{M6} (investigations etc. in support of overseas regulator);
- (b) section 170^{M7} (investigations: general);
- (c) section 171^{M8} (powers of persons appointed under section 167);
- (d) section 174^{M9} (admissibility of statements made to investigators);
- (e) section 175^{M10} (information and documents: supplemental provisions);
- (f) section 176^{M11} (entry of premises under warrant);
- (g) section 176A^{M12} (retention of documents taken under section 176);
- (h) section 177^{M13} (offences).

(3) Sections 207 to 211 of, and paragraph 20 of Schedule 1ZA to, the Act^{M14} apply in relation to the exercise of the FCA's powers under section 205 or 206 of the Act as applied by paragraph (1)(e) and (f) as they apply in relation to their exercise in respect of authorised persons.

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Alternative Investment Fund Managers Regulations 2013, PART 8 is up to date with all changes known to be in force on or before 24 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)

(4) Unauthorised AIFMs are to be treated as regulated persons for the purposes of paragraph 21 of Schedule 1ZA to the Act.

(5) In this regulation “unauthorised AIFM” means a person who is not an authorised person but who is—

- (a) a small registered UK AIFM;
- (b) a small registered [^{F1}Gibraltar AIFM];
- (c) a full-scope [^{F2}Gibraltar AIFM] that is entitled to market an AIF following a notification under regulation 57;
- (d) an AIFM that is entitled to market an AIF following a notification under regulation 58;
- (e) an AIFM to which the requirement at regulation 59(3) applies; ^{F3} ...
- (f) a full-scope [^{F4}Gibraltar AIFM] that is exercising a right to market an AIF arising out of the EuSEF Regulation or the EuVECA Regulation [^{F5}; or
- (g) an AIFM to which regulation 75 (closed-ended AIFs whose subscription period has closed) applies]

Textual Amendments

- F1** Words in [reg. 71\(5\)\(b\)](#) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), [regs. 1\(3\), 13](#) (as amended by [S.I. 2019/325](#), [reg. 58](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F2** Words in [reg. 71\(5\)\(c\)](#) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), [regs. 1\(3\), 13](#) (as amended by [S.I. 2019/325](#), [reg. 58](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F3** Word in [reg. 71\(5\)\(e\)](#) omitted (16.6.2014) by virtue of [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), [arts. 1\(2\), 4\(4\)\(a\)](#) (as amended by [S.I. 2014/1313](#), [arts. 1, 2\(a\)](#))
- F4** Words in [reg. 71\(5\)\(f\)](#) substituted (31.12.2020) by [The Alternative Investment Fund Managers \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/328\)](#), [regs. 1\(3\), 13](#) (as amended by [S.I. 2019/325](#), [reg. 58](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F5** [Reg. 71\(5\)\(g\)](#) and preceding word added (16.6.2014) by [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), [arts. 1\(2\), 4\(4\)\(b\)](#) (as amended by [S.I. 2014/1313](#), [arts. 1, 2\(a\)](#))

Marginal Citations

- M1** Section 165 was amended by paragraph 15 of Schedule 2 to the Financial Services Act 2010 and paragraph 1 of Schedule 12 to the Financial Services Act 2012.
- M2** Section 66 was substituted by paragraph 5 of Schedule 12 to the Financial Services Act 2012.
- M3** Section 167 was amended by paragraph 7 of Schedule 12 to the Financial Services Act 2012 and by [S.I. 2007/126](#).
- M4** Section 205 was amended by paragraphs 1 and 11 of Schedule 9 to the Financial Services Act 2012.
- M5** Section 206 was amended by section 10 of the Financial Services Act 2010 and by paragraphs 1 and 12 of Schedule 9 to the Financial Services Act 2012.
- M6** Section 169 was amended by paragraph 9 of Schedule 12 to the Financial Services Act 2012.
- M7** Section 170 was amended by paragraph 10 of Schedule 12 to the Financial Services Act 2012.
- M8** Section 171 was amended by [S.I. 2007/126](#).
- M9** Section 174 was amended by paragraph 12 of Schedule 12 to the Financial Services Act 2012.
- M10** Section 175 was amended by paragraph 13 of Schedule 12 to the Financial Services Act 2012.
- M11** Section 176 was amended by paragraph 17 of Schedule 2 to the Financial Services Act 2010, paragraph 14 of Schedule 12 to the Financial Services Act 2012 and [S.I. 2005/1433](#).
- M12** Section 176A was inserted by paragraph 15 of Schedule 12 to the Financial Services Act 2012.

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M13 Section 177 was amended by paragraph 8 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2001/1090](#).

M14 Sections 207 to 211 were amended by paragraphs 18, 19 and 20 of Schedule 2 to the Financial Services Act 2010 and by paragraphs 1, 14, 15, 16, 17 and 18 of Schedule 9 to the Financial Services Act 2012. Schedule 1ZA was substituted by Schedule 3 to the 2012 Act.

Status:

Point in time view as at 31/12/2020.

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