
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Alternative Investment Fund Managers
(Amendment etc.) (EU Exit) Regulations 2018

PART 2

Amendment of secondary legislation

CHAPTER 2

Amendment of the Alternative Investment Fund Managers (Amendment) Regulations 2013

Schedule 1

20.—(1) Schedule 1 is amended as follows.

(2) In paragraph 1—

- (a) omit sub-paragraph (3);
- (b) omit sub-paragraph (4)(a);
- (c) in sub-paragraph (4)(b)(1), in new subsection (5B)—
 - (i) in paragraph (b), for “an EEA state”, in both places, substitute “the United Kingdom”;
 - (ii) in paragraph (c)—
 - (aa) for “an EEA state” substitute “the United Kingdom”;
 - (bb) for “provisions made under Article 42 of the alternative investment fund managers directive,” substitute “regulation 59 of the Alternative Investment Fund Managers Regulations 2013(2), and”;
 - (iii) in paragraph (d)—
 - (aa) for “an EEA state” substitute “the United Kingdom”;
 - (bb) at the end, omit “and”;
 - (iv) omit paragraph (e);
- (d) in sub-paragraph (5)(b), in the opening words of the substituted paragraph (aa), for “is subject to the conditions of” substitute “derives from”;
- (e) in sub-paragraph (6), in paragraph (b) of the new text, for “country that is not an EEA State” substitute “third country”.

(3) In paragraph 2—

- (a) in sub-paragraph (2)—

(1) Sub-paragraph (4) was amended by [S.I. 2014/1292](#).

(2) [S.I. 2013/1773](#). Regulations 50 is amended and regulation 59 is revoked by [S.I. 2013/1797](#), but those amendments have not yet come into force.

- (i) in paragraph (a), in the inserted text, for “provisions implementing Article 42 of the directive” substitute “regulation 59 of these Regulations”;
- (ii) omit paragraphs (b) and (c);
- (iii) in paragraph (d), in the inserted text—
 - (aa) omit “mentioned in Article 3.4 of the directive”;
 - (bb) for “of the directive” the second time it is mentioned, substitute “applying to a full-scope AIFM”;
- (iv) in sub-paragraph (e), in the new definition of “third country feeder AIF” —
 - (aa) after “UK AIF” insert “, Gibraltar AIF”;
 - (bb) for “an EEA State” substitute “the United Kingdom or Gibraltar”;
- (v) in sub-paragraph (f)—
 - (aa) for paragraph (b) of the new definition of “UK AIFM” substitute—
 - “(b) has its registered office in a third country, and the United Kingdom is—
 - (i) the only country in which the AIFM intends to market AIFs;
 - (ii) the country in which—
 - (aa) most of the AIFs managed by that AIFM are established; or
 - (bb) the largest amount of assets is being managed; or
 - (iii) the country in which an AIFM intends to develop effective marketing for most of the AIFs it is managing.”;
 - (bb) omit paragraph (c);
- (b) in sub-paragraph (5), in new regulation 5A—
 - (i) omit paragraphs (1) and (2);
 - (ii) in paragraph (3)—
 - (aa) omit sub-paragraph (a);
 - (bb) in sub-paragraph (b)(i), omit “, other competent authorities, ESMA”;
 - (cc) in sub-paragraph (b)(ii) for “pursuant to the directive” substitute “pursuant to the Financial Services and Markets Act 2000(3), these Regulations, and any EU tertiary legislation made under the directive which forms part of EU retained law”;
 - (dd) for sub-paragraph (c), substitute—
 - “(c) appropriate co-operation arrangements are in place between the FCA, the competent authority in relation to any EEA AIF managed by the applicant and the supervisory authorities of the third country in which the applicant has its registered office, in order to ensure an efficient exchange of information that enables the FCA to carry out its duties in accordance with the Financial Services and Markets Act 2000, these Regulations, and any EU tertiary legislation made under the directive which forms part of EU retained law;”;
 - (ee) in sub-paragraph (f), for “or the competent authority in relation to any EEA AIF managed by the applicant of its supervisory functions under

- the directive” substitute “of its supervisory functions under the Financial Services and Markets Act 2000, these Regulations and any EU tertiary legislation made under the directive which forms part of EU retained law”;
- (iii) in sub-paragraph (4)(a) for “an EEA State” substitute “the United Kingdom or in Gibraltar”;
 - (iv) omit sub-paragraph (5);
 - (v) in sub-paragraph (6)—
 - (aa) omit paragraph (a);
 - (bb) in paragraph (b), for “an EEA State” substitute “the United Kingdom or in Gibraltar”;
 - (cc) in paragraph (c), in the closing words, for “ESMA” substitute “the FCA”;
 - (c) omit sub-paragraph (6);
 - (d) in sub-paragraph (8), in the words inserted into regulation 29(1)—
 - (i) in paragraph (a), for “an EEA AIFM” substitute “a Gibraltar AIFM”;
 - (ii) in paragraph (b)(ii), for “provisions implementing Article 36 or Article 42 of the directive” substitute “regulations 57 or 59 of these Regulations”;
 - (e) omit sub-paragraph (10);
 - (f) in sub-paragraph (11), in the table—
 - (i) in the fourth entry, in the first column, for “EEA AIFM with its registered office in an EEA State other than the United Kingdom” substitute “Gibraltar AIFM with its registered office in Gibraltar”;
 - (ii) in the fifth entry, in the first column, for “EEA AIFM” substitute “Gibraltar AIFM”;
 - (iii) in the sixth entry, in the first column, for “or a full-scope EEA AIFM” substitute “or a Gibraltar AIFM”;
 - (iv) in the seventh entry, in the first column, for “a full-scope EEA AIFM” substitute “a full-scope Gibraltar AIFM”;
 - (g) in sub-paragraph (12)(a), in new paragraph (1)(b), for “EEA AIFM” substitute “Gibraltar AIFM”;
 - (h) in sub-paragraph (12)(b), in the new paragraph (9)—
 - (i) in paragraph (a)—
 - (aa) for “in an EEA State other than the UK, the competent authority in that EEA State”, substitute “in Gibraltar, the Financial Services Commission”; and
 - (bb) for “the FCA or competent authority to carry out its duties in accordance with the directive” substitute—
 - “—
 - (i) the FCA to carry out its duties in accordance with the Financial Services and Markets Act 2000, these Regulations, and any EU tertiary legislation made under the directive which forms part of EU retained law, and
 - (ii) the Financial Services Commission to carry out its duties in accordance with the Financial Services (Alternative Investment Fund Managers) Regulations 2013 of Gibraltar;”;
 - (ii) in paragraph (c)—

- (aa) for “in an EEA State other than the UK, with that EEA State” substitute “in Gibraltar, with Gibraltar”; and
- (bb) for “each other EEA State” substitute “each EEA State”;
- (i) in sub-paragraph (15)(b)—
 - (i) in the opening words, for “paragraph (4)” substitute “paragraph (4A)(4)”;
 - (ii) in the new paragraph (5)—
 - (aa) at the end of paragraph (a), omit “, or”;
 - (bb) omit paragraph (b).

(4) Paragraph 4A is inserted by regulation 10(9)(e) of these Regulations.