

[<sup>F1</sup>]<sup>F2</sup>SCHEDULE A1

Regulation 69A

Transfer of Functions to the Treasury and the FCA

**Textual Amendments**

- F1** Regulations revoked (14.12.2023 for the revocation of reg. 79) by Financial Services and Markets Act 2023 (c. 29), s. 86(3), **Sch. 1 Pt. 2** (with s. 1(4)); S.I. 2023/1382, reg. 2(c)(vi)
- F2** Sch. A1 inserted (31.12.2020) by The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/328), regs. 1(3), **15(2)** (as amended by S.I. 2019/325, reg. 58 and The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301), regs. 1, 3, **Sch. para. 19(b)**); 2020 c. 1, Sch. 5 para. 1(1)

**PART 1**

Directive functions transferred to the Treasury

1. The purposes set out in paragraphs 2 to 25 are specified for the purposes of Regulation 69A(1).
- 2.—(1) To specify how the thresholds referred to in regulation 9(1) are to be calculated and the treatment of AIFMs which manage AIFs whose assets under management, including any assets acquired through the use of leverage, occasionally exceed or fall below the relevant threshold in the same calendar year.
  - (2) To specify further the obligations of small AIFMs to register (including by amending regulations 10 and 11) and to provide information in order to allow effective monitoring of systemic risk.
3. To specify—
  - (a) the methods of leverage, including any financial or legal structures involving third parties controlled by the relevant AIF; and
  - (b) how leverage is to be calculated.
4. To specify—
  - (a) the risks the additional own funds or the professional indemnity insurance held by internally managed AIFs and external AIFMs must cover;
  - (b) the conditions for determining the appropriateness of additional own funds or the coverage of the professional indemnity insurance; and
  - (c) the manner of determining ongoing adjustments of the additional own funds or of the coverage of the professional indemnity insurance.
5. To specify the criteria to be used by the FCA in assessing whether AIFMs comply with their obligations under rules made by the FCA which were before IP completion day relied on to implement Article 12 of the directive.
6. To specify—
  - (a) the types of conflicts of interest referred to in rule 10.1.23 of the Senior Management, Systems and Controls sourcebook;
  - (b) the reasonable steps AIFMs are expected to take in terms of structures and organisational and administrative procedures in order to identify, prevent, manage, monitor and disclose conflicts of interest.

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**7.** To specify—

- (a) the risk management systems to be employed by AIFMs in relation to the risks which they incur on behalf of the AIFs that they manage;
- (b) the appropriate frequency of review of the risk management systems;
- (c) how the risk management function is to be functionally and hierarchically separated from the operating units, including the portfolio management function;
- (d) specific safeguards against conflicts of interest that allow for independent performance of risk management activities;
- (e) the following requirements—
  - (i) to implement an appropriate, documented and regularly updated due diligence process when investing on behalf of the AIF, according to the investment strategy, the objectives and risk profile of the AIF;
  - (ii) to ensure that the risks associated with each investment position of the AIF and their overall effect on the AIF's portfolio can be properly identified, measured, managed and monitored on an ongoing basis, including through the use of appropriate stress testing procedures;
  - (iii) to ensure that the risk profile of the AIF corresponds to the size, portfolio structure and investment strategies and objectives of the AIF as laid down in the AIF rules or instruments of incorporation, prospectus and offering documents.

**8.** To specify—

- (a) the liquidity management systems to be employed and the procedures to be adopted by AIFMs for each AIF that they manage which is not an unleveraged close-ended AIF;
- (b) the alignment required for the investment strategy, liquidity profile and redemption policy for each AIF managed by an AIFM.

**9.** To specify the administrative and accounting procedures, control and safeguard arrangements for electronic data processing and adequate internal control mechanisms which AIFMs are required to have.

**10.** To specify—

- (a) the criteria concerning the procedures for the proper valuation of the assets of an AIF and the calculation of the net asset value per unit or share;
- (b) the professional guarantees the external valuer must be able to provide to perform the valuation function effectively;
- (c) the frequency of valuation to be carried out by an open-ended AIF which is both appropriate to the assets held by the AIF and its issuance and redemption policy.

**11.** To specify—

- (a) the conditions for fulfilling the following requirements—
  - (i) that the AIFM must be able to justify its entire delegation structure on objective reasons;
  - (ii) that the delegate must dispose of sufficient resources to perform the respective tasks and the persons who effectively conduct the business of the delegate must be of sufficiently good repute and sufficiently experienced;
  - (iii) where the delegation concerns portfolio management or risk management, that it is conferred only on undertakings which are authorised or registered for the purpose of asset management and subject to supervision in the countries in which they are established;

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- (iv) where the delegation concerns portfolio management or risk management and is conferred on a third-country undertaking, that cooperation between the FCA and the supervisory authority of the undertaking is ensured;
- (v) that the delegation does not prevent the effectiveness of supervision of the AIFM, and, in particular, must not prevent the AIFM from acting, or the AIF from being managed, in the best interests of its investors;
- (vi) that the AIFM must be able to demonstrate that the delegate is qualified and capable of undertaking the functions in question, that it was selected with all due care and that the AIFM is in a position to monitor effectively at any time the delegated activity, to give at any time further instructions to the delegate and to withdraw the delegation with immediate effect when this is in the interest of investors;
- (vii) that no delegation of portfolio management or risk management is conferred on—
  - (aa) the depositary or a delegate of the depositary; or
  - (bb) any other entity whose interests may conflict with those of the AIFM or the investors of the AIF, unless such entity has functionally and hierarchically separated the performance of its portfolio management or risk management tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF;
- (viii) that the third party does not sub-delegate any of the functions delegated to it unless the following conditions are met—
  - (aa) the AIFM consented prior to the sub-delegation;
  - (bb) the AIFM notified the FCA before the sub-delegation arrangements become effective;
  - (cc) the sub-delegation and the sub-delegate satisfy the conditions imposed in paragraphs (i) to (vi) imposed on delegations and delegates;
- (ix) that no sub-delegation of portfolio management or risk management is conferred on—
  - (aa) the depositary or a delegate of the depositary; or
  - (bb) any other entity whose interests may conflict with those of the AIFM or the investors of the AIF, unless such entity has functionally and hierarchically separated the performance of its portfolio management or risk management tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF;
- (b) the conditions under which the AIFM is deemed to have delegated its functions to the extent that it becomes a letter-box entity and can no longer be considered to be the manager of the AIF.

**12. To specify—**

- (a) the particulars that need to be included in the written contract referred to in rule 3.11.19 of the Investment Funds sourcebook;
- (b) general criteria for assessing whether the prudential regulation and supervision of third countries have the same effect as the law of the United Kingdom and are effectively enforced;
- (c) the conditions for performing the depositary functions pursuant to rules 3.11.20, 3.11.21, 3.11.23 and 3.11.25 of the Investment Funds sourcebook, including—

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- (i) the type of financial instruments to be included in the scope of the depositary's custody duties in accordance with rule 3.11.21 of the Investment Funds sourcebook;
  - (ii) the conditions subject to which the depositary is able to exercise its custody duties over financial instruments registered with a central depositary;
  - (iii) the conditions subject to which the depositary is to safe-keep the financial instruments issued in a nominative form and registered with an issuer or a registrar, in accordance with rule 3.11.23 of the Investment Funds sourcebook;
- (d) the duties of a depositary to exercise all due skill, care and diligence in the selection and the appointment of any third party to whom it wants to delegate parts of its tasks, and to keep exercising all due skill, care and diligence in the periodic review and ongoing monitoring of any third party to whom it has delegated parts of its tasks and of the arrangements of the third party in respect of the matters delegated to it;
- (e) the obligation for the third party to segregate the assets of the depositary's clients from its own assets and from the assets of the depositary in such a way that they can at any time be clearly identified as belonging to clients of a particular depositary;
- (f) the conditions subject to which and circumstances in which financial instruments held in custody are to be considered as lost;
- (g) what is to be understood by external events beyond reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary pursuant to regulation 30(3);
- (h) the conditions subject to which and circumstances in which there is an objective reason to contract a discharge of the depositary's liabilities pursuant to regulation 30(4).

**13.** To state, on the basis of the criteria specified under paragraph 12(b), that the prudential regulation and supervision of a third country have the same effect as the law of the United Kingdom and are effectively enforced.

**14.** To specify the content and format of the AIFM's annual report, taking account of the types of AIF which the report will cover.

**15.—(1)** To specify the obligations of AIFMs periodically to disclose to investors, for each of the AIFs they manage, and for each of the AIFs they market in the United Kingdom—

- (a) the percentage of the AIF's assets which are subject to special arrangements arising from their illiquid nature;
- (b) any new arrangements for managing the liquidity of the AIF;
- (c) the current risk profile of the AIF and the risk management systems employed by the AIFM to manage those risks.

**(2)** To specify the obligations of AIFMs managing AIFs employing leverage, or marketing in the United Kingdom AIFs employing leverage, to disclose on a regular basis (and the frequency with which that disclosure must be made)—

- (a) any changes to the maximum level of leverage which the AIFM may employ on behalf of the AIF as well as any right of the reuse of collateral or any guarantee granted under the leveraging arrangement;
- (b) the total amount of leverage employed by that AIF.

**16.** To specify—

- (a) when leverage is to be considered to be substantial, for the purposes of rule 3.4.5 of the Investment Funds sourcebook;

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- (b) the obligations to report and provide information set out in section 3.4 of the Investment Funds sourcebook.

**17.** To set out principles specifying the circumstances in which the FCA applies the measures provided for in regulation 68, taking into account different strategies of AIFs, different market conditions in which AIFs operate and possible pro-cyclical effects of applying those provisions.

**18.—(1)** To specify—

- (a) the form and content of a model for the statement to be given by the FCA to the supervisory authorities of any country referred to in sub-paragraph (2) confirming that the AIFM is authorised to manage AIFs with a particular investment strategy;
- (b) the form of the transmission of the notification letter and accompanying information the FCA will send to the supervisory authorities referred to in paragraph (a).

(2) The countries referred to are—

- (a) any country where a UK AIFM intends to market a UK or third country AIF to professional investors;
- (b) any country where a third country AIFM intends to market a UK or third country AIF to professional investors.

**19.** To make further provision in relation to the co-operation arrangements—

- (a) referred to in regulation 33 between the FCA and the supervisory authorities of the third country where the AIF is established;
- (b) referred to in regulation 54(9) (as inserted by paragraph 2 of Schedule 1 to the Alternative Investment Fund Managers (Amendment) Regulations 2013) between the FCA and the supervisory authorities of the third country where the AIF is established.

**20.** To determine the minimum content of the co-operation arrangements referred to in paragraph 19(b) to ensure that both the FCA and the supervisory authorities receive sufficient information to be able to exercise their supervisory and investigatory powers in relation to AIFMs.

**21.—(1)** To determine the minimum content of the co-operation arrangements specified in paragraph (2) to ensure that the FCA and the supervisory authorities of the host country receive sufficient information to be able to exercise their supervisory and investigatory powers.

(2) The specified co-operation arrangements are the co-operation arrangements—

- (a) referred to in regulation 5A(3)(c) (as inserted by paragraph 2 of Schedule 1 to the Alternative Investment Fund Managers (Amendment) Regulations 2013);
- (b) referred to in regulation 54(9)(a) (as inserted by paragraph 2 of Schedule 1 to the Alternative Investment Fund Managers (Amendment) Regulations 2013).

**22.** To specify the procedures for coordination and exchange of information between the FCA and the supervisory authorities of the other countries in which the AIFM is operating.

**23.** To make provision regarding the co-operation arrangements referred to—

- (a) in regulation 57(4)(b) (as inserted by paragraph 3 of Schedule 2 to the Alternative Investment Fund Managers (Amendment) Regulations 2013);
- (b) in regulation 5A(3)(c) (as inserted by paragraph 2 of Schedule 1 to the Alternative Investment Fund Managers (Amendment) Regulations 2013);
- (c) in regulation 54(9)(a) (as inserted by paragraph 2 of Schedule 1 to the Alternative Investment Fund Managers (Amendment) Regulations 2013);
- (d) in regulation 59(2)(d).

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**24.** To make provision for the procedures for the exchange of information between the FCA, the Prudential Regulation Authority and supervisory authorities in third countries in connection with the supervision of AIFMs.

**25.** To establish common procedures for the FCA and the Prudential Regulation Authority to co-operate with supervisory authorities in third countries (or in third countries specified in the regulations) in relation to on-the-spot verifications and investigations in relation to the supervision of AIFMs.

## **PART 2**

### Directive functions transferred to the FCA

**26.—**(1) The purpose set out in sub-paragraph (2) is specified for the purposes of Regulation 69A(3).

(2) To specify—

- (a) the information to be notified to the FCA under rule 13.5.1 of the Supervision sourcebook by an AIFM to whom sub-paragraph (3) applies, and
- (b) standard forms, templates and procedures for the transmission of information in accordance with paragraph (a).

(3) This sub-paragraph applies to AIFMs intending to—

- (a) manage portfolios of investments in accordance with discretionary mandates given by investors;
- (b) provide services comprising—
  - (i) investment advice;
  - (ii) safe-keeping and administration in relation to shares or units of collective investment undertakings;
  - (iii) reception and transmission of orders in relation to financial instruments.

## **PART 3**

### Powers to make technical standards transferred to the FCA

**27.** The purposes set out in paragraphs 28 to 31 are specified for the purposes of Regulation 69A(5).

**28.** To specify—

- (a) the information to be provided to the FCA in an application for the authorisation of the AIFM, including the programme of activity;
- (b) standard forms, templates and procedures for the provision of that information.

**29.** To determine types of AIFMs, where relevant in the application of these Regulations, and to rules made by the FCA in relation to AIFMs.

**30.** To specify the—

- (a) requirements applicable to the AIFMs under paragraph 2C(1)(f) of Schedule 6 to the Act;
- (b) requirements applicable to shareholders and members with qualifying holdings referred to in regulation 5(3)(d);

(c) obstacles which may prevent effective exercise of the supervisory functions of the FCA.

31. To make provision for—

- (a) the manner in which a third country AIFM must comply with the requirements laid down in these Regulations, and in the Investment Funds sourcebook and other rules made by the FCA which apply to the AIFM, taking into account that the AIFM is established in a third country and in particular the presentation of the information required in sections 3.2, 3.3 and 3.4 of the Investment Funds sourcebook;
- (b) the conditions under which the law to which a third country AIFM or a third country AIF is subject is considered to provide for an equivalent rule having the same regulatory purpose and offering the same level of protection to the relevant investors.]

## SCHEDULE 1

Regulation 80

### AMENDMENTS TO PRIMARY LEGISLATION

## PART 1

### Amendments to the Financial Services and Markets Act 2000

1. The Act is amended as follows.

2. In section 1A(6) (the Financial Conduct Authority) <sup>M1</sup>, after paragraph (c) omit “or” and insert—

“(ca) the Alternative Investment Fund Managers Regulations 2013, or”.

#### Marginal Citations

**M1** Sections 1A and 1L were substituted by section 6 of the Financial Services Act 2012.

3. In section 1L(2) (supervision, monitoring and enforcement), after paragraph (a) omit “or” and insert—

“(aa) with requirements imposed on them by the Alternative Investment Fund Managers Regulations 2013, or”.

4. In section 55H (refusal by FCA to vary permission at request of authorised person), after subsection (4) insert—

“(4A) The FCA may also refuse an application under this section if it appears to the FCA that the authorised person would not comply with requirements in Part 5 of the Alternative Investment Fund Managers Regulations 2013 (AIFs which acquire control of non-listed companies and issuers) that would apply to the authorised person.”.

5. In section 55J (variation or cancellation on initiative of regulator)—

(a) in subsection (1)—

(i) at the end of paragraph (b), omit “or”, and

(ii) at the end of paragraph (c) insert—

“, or

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- (d) in the case of the FCA, A has failed to comply with a requirement in Part 5 of the Alternative Investment Fund Managers Regulations 2013 (AIFs which acquire control of non-listed companies and issuers), or it is for some other reason desirable to exercise the power for the purposes of ensuring compliance with such a requirement.”;
- (b) after subsection (6) insert—
- “(6A) Without prejudice to the generality of subsections (1) to (3), the FCA may, in relation to an authorised person who is a full-scope UK AIFM, exercise its power under this section to cancel the Part 4A permission if it appears to it that any of the following conditions is met—
- (a) the person has failed, during a period of at least six months, to carry on the regulated activity of managing an AIF;
  - (b) the person obtained the Part 4A permission to carry on the regulated activity of managing an AIF by making a false statement or by any other irregular means;
  - (c) in a case where the Part 4A permission includes permission to provide the discretionary portfolio management service referred to in Article 6.4(a) of the alternative investment fund managers directive, the person no longer complies with Directive 2006/49/EC of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions <sup>M2</sup>;
  - (d) the person no longer meets the conditions that a person must meet in order to obtain a Part 4A permission to carry on the regulated activity of managing an AIF;
  - (e) the person has seriously or systematically infringed—
    - (i) any provision of the Alternative Investment Fund Managers Regulations 2013;
    - (ii) a provision of any directly applicable EU regulation made under the alternative investment fund managers directive; or
    - (iii) any provision made by or under this Act which implements that directive.”.

#### Marginal Citations

**M2** OJ L 177, 30.6.2006, p.201.

6. In section 55V (determination of applications) after subsection (7) insert—
- “(8) In the case of an application for permission under this Part which—
- (a) relates to the regulated activity of managing an AIF, and
  - (b) would if granted result in the applicant becoming a full-scope UK AIFM,
- this section has effect subject to regulation 5 of the Alternative Investment Fund Managers Regulations 2013 and, accordingly, subsections (1) to (3) do not apply.”.
7. In section 59 (approval for particular arrangements) <sup>M3</sup> after subsection (7B) insert—
- “(7C) A regulator may not exercise the power in subsection (3) so as to provide for a function to be a controlled function in relation to the carrying on of the regulated activity of managing an AIF by an AIFM which—
- (a) is also an AIF;
  - (b) does not manage any AIF other than itself;



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- (c) is a body corporate; and
- (d) is not a collective investment scheme.”.

**Marginal Citations**

**M3** Section 59 was amended by section 14 of, and paragraph 3 of Schedule 5 to, the Financial Services Act 2012, and by S.I. 1012/1906.

8. In section 66(2)(b) (disciplinary powers) <sup>M4</sup> after sub-paragraph (i) omit “or” and insert—  
“(ia) by the Alternative Investment Fund Managers Regulations 2013, or”.

**Marginal Citations**

**M4** Section 66(2) was substituted by paragraph 14 of Schedule 5 to the Financial Services Act 2012.

9. In section 165 (regulators' power to require information: authorised persons etc.), in subsection (7)(b) omit “270 or”.

10. In section 168(4) (appointment of persons to carry out investigations in particular cases) <sup>M5</sup>, omit “or” at the end of paragraph (j), and after paragraph (j) insert—

- “(ja) a person may have contravened—
  - (i) any provision made by or under this Act for the purpose of implementing the alternative investment fund managers directive; or
  - (ii) any provision made by the Alternative Investment Fund Managers Regulations 2013; or”.

**Marginal Citations**

**M5** Section 168(4) was amended by paragraph 33 of Schedule 7 to the Counter-Terrorism Act 2008 (c. 28), paragraph 16 of Schedule 2 to the Financial Services Act 2010 and paragraph 8 of Schedule 12 to the Financial Services Act 2012, and by S.I. 2007/126 and S.I. 2012/2554.

11. In section 193(1) (interpretation of Part 13) <sup>M6</sup>, in the definition of “incoming firm”, omit “or” at the end of paragraph (aa) and after paragraph (aa) insert—

- “(ab) an EEA AIFM which is exercising, or has exercised, its right to market an AIF in the United Kingdom in accordance with Schedule 3; or”.

**Marginal Citations**

**M6** Section 193(1) was amended by paragraph 31 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2011/1613.

12. In section 194 (general grounds on which power of intervention is exercisable), after subsection (4) insert—

“(5) The FCA may exercise its power of intervention in respect of an EEA AIFM if it appears to the FCA that the EEA AIFM has contravened, or is likely to contravene, a requirement imposed by—

- (a) the Alternative Investment Fund Managers Regulations 2013; or

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- (b) any directly applicable EU regulation made under the alternative investment fund managers directive.”.

**13.** In section 195A (contravention by relevant EEA firm or EEAUCITS of directive requirements: home state regulator primarily responsible for securing compliance)<sup>M7</sup>—

- (a) in the heading, for “or EEAUCITS”, substitute “, EEAUCITS or EEA AIFM ”;
- (b) after subsection (1)(b) insert—
  - “; or
  - (c) that an EEA AIFM has contravened, or is contravening, a requirement falling within subsection (3A) (in a case to which Article 45.7 or 45.8 of the alternative investment fund managers directive applies).”;
- (c) after subsection (3) insert—
  - “(3A) A requirement falls within this subsection if it is imposed on the EEA AIFM—
    - (a) by or under any provision adopted in the AIFM's home state for the purpose of implementing the alternative investment fund managers directive; or
    - (b) by any directly applicable EU regulation made under that directive.”;
- (d) for subsection (8) substitute—
  - “(8) Condition B is—
    - (a) in the case of a relevant EEA firm, that the firm is acting in a manner which is clearly prejudicial to the interests of investors in the United Kingdom or the orderly functioning of the markets;
    - (b) in the case of an EEAUCITS, that the EEAUCITS is acting in a manner which is clearly prejudicial to the interests of investors in the United Kingdom; or
    - (c) in the case of an EEA AIFM, that the AIFM is acting in a manner which is clearly prejudicial to the interests of investors in the United Kingdom or the financial stability or integrity of the markets in the United Kingdom.”;
- (e) in subsection (11B), for “or (3)”, substitute “, (3) or (3A) ”;
- (f) in subsection (12)—
  - (i) in the definition of “the appropriate regulator” for “where the relevant EEA firm is” substitute “ in the case of a relevant EEA firm which is ”; and
  - (ii) in the definition of “home state” after paragraph (b) insert—
    - “(c) in relation to an EEA AIFM, the EEA State in which the AIFM has its registered office;”.

#### Marginal Citations

**M7** Section 195A was inserted by [S.I. 2007/126](#), substituted by [S.I. 2011/1613](#), and amended by paragraph 35 of Schedule 4 to the Financial Services Act 2012 and [S.I. 2012/916](#).

**14.** In section 199 (additional procedure for EEA firms in certain cases)<sup>M8</sup>—

- (a) in subsection (3A), for “or (f)”, substitute “, (f) or (h) ”;
- (b) in subsection (3B) for “to (8)” substitute “ and (5) ”;
- (c) after subsection (5), insert—
  - “(5A) Subsections (6) to (8) apply to an incoming EEA firm other than a firm falling within paragraph 5(da) or (h) of Schedule 3.”.

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**M8** Section 199 was amended by paragraph 39 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2007/126, S.I. 2007/3253, S.I. 2011/1613, S.I. 2012/916 and S.I. 2012/2015.

15. In section 204A(2) (meaning of “relevant requirement”) <sup>M9</sup>—

(a) omit “or” after paragraph (a);

(b) after paragraph (b) insert—

“, or

(c) by the Alternative Investment Fund Managers Regulations 2013.”.

**Marginal Citations**

**M9** Section 204A was inserted by paragraph 10 of Schedule 9 to the Financial Services Act 2012.

16. In section 237(3) (other definitions) <sup>M10</sup> in the definition of “a recognised scheme” omit “, 270”.

**Marginal Citations**

**M10** Section 237 was amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012 and by S.I. 2011/1613.

17. In section 261D(8) (authorisation orders for contractual schemes) <sup>M11</sup> for “permission to act as operator” substitute “such permission as may be necessary to act as operator”.

**Marginal Citations**

**M11** Section 261D was inserted by S.I. 2013/1388.

18. Omit sections 270 and 271 and the preceding cross-heading (schemes authorised in designated countries or territories) <sup>M12</sup>.

**Marginal Citations**

**M12** Sections 270 and 271 were amended by paragraphs 9 and 16 of Schedule 18 to the Financial Services Act 2012.

19. In section 272 (individually recognised overseas schemes) <sup>M13</sup>, in subsection (1)—

(a) after paragraph (b) insert “and”; and

(b) omit paragraph (c) (including the “and” following it).

**Marginal Citations**

**M13** Sections 272 and 277 to 281 were amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

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20. In section 277 (alteration of schemes and changes of operator, trustee or depositary), after subsection (3) insert—

“(4) If a change is made, or is to be made, to the law which applies to such a scheme in the country or territory in which it is managed and the change affects or will affect any of the matters mentioned at section 272(2) to (4), the operator of the scheme must give written notice of the change to the FCA—

- (a) at least one month before the change takes effect; or
- (b) if that is not reasonably practicable, as soon as it is reasonably practicable to do so.

(5) A notice under this section—

- (a) must be given in such manner as the FCA may direct; and
- (b) where the notice is given under subsection (1) or (3), must include such information as the FCA may direct for the purpose of determining whether the requirements for the making of an order under section 272 in respect of the scheme would continue to be satisfied following the alteration or replacement that is the subject of the notice.”.

21. After section 277 insert—

**“Regular provision of information relating to compliance with requirements for recognition**

(1) The operator of a scheme recognised by virtue of section 272 must provide to the FCA such information as the FCA may direct, at such times as the FCA may direct, for the purpose of determining whether the requirements for the making of an order under section 272 in respect of the scheme continue to be satisfied.

(2) A direction under subsection (1) may not require information to be provided within the period of 12 months beginning with the date on which information was last required to be provided to the FCA in respect of the scheme pursuant to a requirement under section 274(2)(c) or a direction under subsection (1) or section 277(5)(b).

(3) The information must be provided in such manner as the FCA may direct.”.

22. Omit the cross-heading “Schemes recognised under sections 270 and 272” before section 278.

23. In section 278 (rules as to scheme particulars) omit “270 or”.

24. In section 279 (revocation of recognition)—

- (a) in the opening words, omit “direct that a scheme is to cease to be recognised by virtue of section 270 or”;
- (b) in paragraph (c) omit “in the case of an order under section 272,”.

25. In section 280 (procedure)—

- (a) in subsection (1) for “give a direction under section 279 or to make an order under that section” substitute “make an order under section 279”; and
- (b) in subsection (2) omit “give a direction or”.

26. In section 281 (directions)—

- (a) in subsection (1) omit “270 or”; and
- (b) in subsection (2)(c) for “a scheme under section 272” substitute “such a scheme”.

27. In section 380(6)(a) (injunctions) <sup>M14</sup>—

- (a) omit “or” after sub-paragraph (i);

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(b) after sub-paragraph (ii) insert—

“; or

(iii) which is imposed by the Alternative Investment Fund Managers Regulations 2013.”.

**Marginal Citations**

**M14** [Section 380](#) was amended by paragraph 19 of Schedule 9 to the Financial Services Act 2012.

**28.** In section 382(9)(a) (restitution orders) <sup>M15</sup>—

(a) omit “or” after sub-paragraph (i);

(b) after sub-paragraph (ii) insert—

“; or

(iii) which is imposed by the Alternative Investment Fund Managers Regulations 2013.”.

**Marginal Citations**

**M15** [Section 382](#) was amended by paragraph 21 of Schedule 9 to the Financial Services Act 2012.

**29.** In section 384(7) (power of FCA or PRA to require restitution) <sup>M16</sup>—

(a) omit “and” after paragraph (a);

(b) after paragraph (b) insert—

“; and

(c) a requirement imposed by the Alternative Investment Fund Managers Regulations 2013.”.

**Marginal Citations**

**M16** [Section 384](#) was amended by paragraph 23 of Schedule 9 to the Financial Services Act 2012 and [S.I. 2007/126](#).

**30.** In section 398 (misleading the FCA or PRA: residual cases) <sup>M17</sup>—

(a) in subsection (1) for “imposed by or under this Act, or by the short selling regulation,” substitute “ falling within subsection (1A) ”;

(b) after subsection (1) insert—

“(1A) A requirement falls within this subsection if it is imposed by or under—

(a) this Act;

(b) the Alternative Investment Fund Managers Regulations 2013;

(c) the short selling regulation;

(d) Regulation (EU) No 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds <sup>M18</sup>; or

(e) Regulation (EU) No 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds <sup>M19</sup>.”.

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**Marginal Citations**

**M17** Section 398 was amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012.

**M18** OJ L 115, 25.4.2013, p.1.

**M19** OJ L 115, 25.4.2013, p.18.

**31.** In section 417(1) (definitions) <sup>M20</sup> in the appropriate places insert—

““AIF” has the meaning given in regulation 3 of the Alternative Investment Fund Managers Regulations 2013;”

““full-scope UK AIFM” has the meaning given in regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013;”.

**Marginal Citations**

**M20** Section 417(1) was amended by paragraph 16 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16), section 964 of the Companies Act 2006 (c. 46), section 174 of the Banking Act 2009 (c. 1), paragraph 31 of Schedule 2 to the Financial Services Act 2010 and section 49 of the Financial Services Act 2012, and by S.I. 2002/1775, S.I. 2007/126, S.I. 2009/1941, S.I. 2010/22, S.I. 2012/916, S.I. 2012/1809, S.I. 2012/1906, S.I. 2012/2554 and S.I. 2013/504.

**32.** In section 425 (expressions relating to authorisation elsewhere in the single market) <sup>M21</sup>, in subsection (1)(a)—

(a) at the beginning insert “ “alternative investment fund managers directive”, ”, and

(b) after “ “life assurance consolidation directive”, ”, insert “ “EEA AIFM”, ”.

**Marginal Citations**

**M21** Section 425 was amended by S.I. 2003/2066, S.I. 2004/3379, S.I. 2006/2975, S.I. 2007/126, S.I. 2007/3253 and S.I. 2012/1906.

**33.** In Schedule 1ZA (the Financial Conduct Authority), in paragraph 23(2)(a) (fees) <sup>M22</sup> for “other Acts mentioned in section 1A(6)” substitute “ other enactments mentioned in section 1A(6) (a) to (ca) ”.

**Marginal Citations**

**M22** Schedule 1ZA was substituted for Schedule 1 by section 6 of, and Schedule 3 to, the Financial Services Act 2012.

**34.—**(1) Schedule 3 (EEA passport rights) is amended as follows.

(2) In paragraph 1 (the single market directives) <sup>M23</sup> omit “and” at the end of paragraph (e), and after paragraph (f) insert—

“; and

(g) the alternative investment fund managers directive.”.

(3) After paragraph 4D (the emission allowance auctioning directive) <sup>M24</sup>, insert—

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*“The alternative investment fund managers directive*

**4E.** “The alternative investment fund managers directive” means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers.”.

(4) In paragraph 5 (EEA firm) <sup>M25</sup>, omit “or” at the end of paragraph (f), and after paragraph (g) insert—

“; or

(h) an AIFM (as defined in Article 4.1(b) of the alternative investment fund managers directive) which is authorised (in accordance with Article 6.1 of that directive) by its home state regulator.”.

(5) In paragraph 5A (definition of “relevant office” for EEA firm) <sup>M26</sup>, after paragraph (a) insert—

“(aa) in relation to a firm falling within sub-paragraph (h) of that paragraph, its registered office;”.

(6) In paragraph 7A (definition of “relevant office” for EEA right), after paragraph (a) insert—

“(aa) in relation to a person whose entitlement is subject to the conditions of the alternative investment fund managers directive, its registered office;”.

(7) In paragraph 10A (definition of “relevant office” for UK firm), after paragraph (a) insert—

“(aa) in relation to a firm whose EEA right derives from the alternative investment fund managers directive, its registered office;”.

(8) After paragraph 11C (UCITS) <sup>M27</sup>, insert—

*“EEA AIFM*

**11D.** “EEA AIFM” means an EEA firm falling within paragraph 5(h) which is exercising in the United Kingdom a right deriving from the alternative investment fund managers directive.”.

(9) In paragraph 13 (establishment) <sup>M28</sup>—

(a) in sub-paragraph (1), for “or (f)”, in the first place, substitute “, (f) or (h) ”;

(b) at the end of sub-paragraph (1)(ba), omit “and”;

(c) after sub-paragraph (1)(c), insert—

“; and

(d) in the case of a firm falling within paragraph 5(h), its home state regulator has informed it that the consent notice has been sent to the appropriate UK regulator.”;

(d) in sub-paragraph (2)(b), after “5(a)”, insert “ or (h) ”.

(10) In paragraph 14 (services) <sup>M29</sup>—

(a) in sub-paragraph (1)(b), for “or (f)” substitute “, (f) or (h) ”;

(b) in sub-paragraph (1)(c), for “or (e)”, substitute “, (e) or (h) ”;

(c) in sub-paragraph (2), for “or (e)”, substitute “, (e) or (h) ”;

(d) after sub-paragraph (3), insert—

“(3A) In cases where the firm is an EEA AIFM that seeks to market an AIF in exercise of its rights under Article 32 of the alternative investment fund managers directive, the appropriate UK regulator must ensure that the regulator's notice may be transmitted to it electronically.”.

(11) In paragraph 19 (establishment) <sup>M30</sup>—

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- (a) in sub-paragraph (1) for “and (5A)” substitute “, (5A) and (7BC) ”;
  - (b) after sub-paragraph (7B), insert—
    - “(7BA) Sub-paragraph (7BB) applies where—
      - (a) the firm's EEA right derives from the alternative investment fund managers directive,
      - (b) the first condition is satisfied, and
      - (c) the appropriate UK regulator is satisfied that the firm complies, and will continue to comply, with—
        - (i) the provisions implementing the alternative investment fund managers directive, and
        - (ii) any directly applicable EU regulation made under that directive.
    - (7BB) The appropriate UK regulator must—
      - (a) within two months of receiving the firm's notice of intention, give a consent notice to the host state regulator,
      - (b) send with that notice confirmation that the firm has been authorised by it pursuant to Article 6.1 of the alternative investment fund managers directive, and
      - (c) immediately notify the firm that it has given the consent notice to the host state regulator.
    - (7BC) If the firm's EEA right derives from the alternative investment fund managers directive, the third condition does not apply.”;
  - (c) in sub-paragraph (12A)(a), after “UCITS directive”, insert “ or the alternative investment fund managers directive ”.
- (12) In paragraph 20 (services) <sup>M31</sup>—
- (a) in sub-paragraph (1), for “sub-paragraphs (4D) and (4E)”, substitute “ sub-paragraphs (4D) to (4F) ”;
  - (b) after sub-paragraph (3C), insert—
    - “(3D) If the firm's EEA right derives from the alternative investment fund managers directive, the appropriate UK regulator must—
      - (a) if the condition in sub-paragraph (3E) is satisfied—
        - (i) within one month of receiving the firm's notice of intention, send a copy of the firm's notice of intention to the host state regulator;
        - (ii) send with that notice confirmation that the firm has been authorised by it pursuant to Article 6.1 of that directive, with such other information as may be specified; and
        - (iii) immediately notify the firm that it has given the notice and confirmation to the host state regulator; or
      - (b) give the firm written notice of its refusal to send a copy of the notice of intention to the host state regulator and its reasons for that refusal.
    - (3E) The condition is that the appropriate UK regulator is satisfied that the firm complies, and will continue to comply, with—
      - (a) the provisions implementing the alternative investment fund managers directive, and
      - (b) any directly applicable EU regulation made under that directive.”;



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- (c) in sub-paragraph (4A) after “sub-paragraph (3A)(b)” insert “ or (3D)(b) ”;
  - (d) in sub-paragraph (4B), after “any of the insurance directives or from”, insert “ the alternative investment fund managers directive, ”; and
  - (e) after sub-paragraph (4E), insert—
    - “(4F) This paragraph does not apply to—
    - (a) the operator of a UCITS established in the United Kingdom seeking to exercise an EEA right to market the units of that UCITS in the territory of another EEA State; or
    - (b) a UK firm seeking to exercise an EEA right under the alternative investment fund managers directive to market an AIF.”.
- (13) In the heading before paragraph 20B (notice of intention to market)<sup>M32</sup>, after “market” insert “ a UCITS ”.
- (14) After paragraph 20B, insert—

*“Notice of intention to market an AIF*

**20C.**—(1) A full-scope UK AIFM may not exercise in the territory of another EEA State an EEA right under the alternative investment fund managers directive to market a UK AIF or EEA AIF managed by it unless two conditions are satisfied.

(2) The first condition is that the full-scope UK AIFM has given the appropriate UK regulator, in the specified way, notice of its intention to market the AIF (“notice of intention”) which contains, and is accompanied by, such information as may be specified.

(3) The appropriate UK regulator must ensure that the notice of intention and any accompanying information may be transmitted to it electronically.

(4) The second condition is that the appropriate UK regulator has sent a copy of the notice of intention to the host state regulator, and has given written notice to the full-scope UK AIFM that it has done so.

(5) Sub-paragraph (6) applies where—

(a) the appropriate UK regulator is satisfied that the full-scope UK AIFM complies, and will continue to comply, with—

(i) the provisions implementing the alternative investment fund managers directive, and

(ii) any directly applicable EU regulation made under that directive, and

(b) if the UK AIF or EEA AIF is a feeder AIF, its master AIF is a UK AIF or EEA AIF that is managed by—

(i) a full-scope UK AIFM, or

(ii) an AIFM authorised in another EEA State in accordance with Article 6.1 of the alternative investment fund managers directive.

(6) The appropriate UK regulator must send a copy of the notice of intention to the host state regulator within 20 working days of receiving it.

(7) When sending a copy of the notice of intention to the host state regulator, the appropriate UK regulator must send with the notice confirmation that the full-scope UK AIFM concerned is authorised to manage AIFs with a particular investment strategy, and a statement of that strategy.

(8) If the notice of intention relates to an EEA AIF, the appropriate UK regulator must, when it sends a copy of the notice to the host state regulator, also inform the competent authority

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of the EEA AIF that the full-scope UK AIFM may start marketing the AIF in the EEA States covered by the notice.

(9) The appropriate UK regulator must notify the full-scope UK AIFM immediately that the copy of the notice of intention has been sent to the host state regulator.

(10) The full-scope UK AIFM may market the AIF in the territory of the host state regulator from the date it receives the notification referred to in sub-paragraph (9).

(11) If the appropriate UK regulator refuses to send a copy of the notice of intention to the host state regulator—

- (a) the appropriate UK regulator must give the AIFM written notice of its refusal and its reasons for that refusal; and
- (b) the AIFM may refer the matter to the Tribunal.

(12) In this paragraph—

“competent authority” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;

“EEA AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;

“feeder AIF” has the meaning given in Article 4.1(m) of the alternative investment fund managers directive;

“master AIF” has the meaning given in Article 4.1(y) of that directive;

“specified” means specified in rules;

“UK AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013.”.

(15) After paragraph 28 (management companies: request for information) <sup>M33</sup> insert—

*“Full-scope UK AIFMs: notification of breach by host state regulator*

**29.** If a host state regulator informs the FCA in accordance with paragraph 5 of Article 45 of the alternative investment fund managers directive that a full-scope UK AIFM has refused to provide the information or to take the steps referred to in that paragraph, the appropriate UK regulator must—

- (a) take steps to ensure that the AIFM provides the information or complies with the rules of which it is in breach;
- (b) request any necessary information from a supervisory authority in a country that is not an EEA State; and
- (c) notify the host state regulator of the steps taken under paragraph (a).”.

#### Marginal Citations

**M23** Paragraph 1 was amended by S.I. 2000/2952, S.I. 2003/1473, S.I. 2003/2066, S.I. 2007/126 and S.I. 2007/3253.

**M24** Paragraph 4D was inserted by S.I. 2012/1906.

**M25** Paragraph 5 was amended by S.I. 2003/1473, S.I. 2003/2066, S.I. 2004/3379, S.I. 2006/3221, S.I. 2007/126, S.I. 2007/3253, S.I. 2011/1613 and S.I. 2012/1906.

**M26** Paragraphs 5A, 7A and 10A were inserted by S.I. 2003/1473.

**M27** Paragraph 11C was inserted by S.I. 2011/1613.

**M28** Paragraph 13 was amended by paragraph 2 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2003/1473, S.I. 2003/2066, S.I. 2007/126 and S.I. 2012/1906.

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**M29** Paragraph 14 was amended by paragraph 3 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2003/1473, S.I. 2003/2066, S.I. 2007/126 and S.I. 2012/1906.

**M30** Paragraph 19 was amended by paragraph 10 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2003/1473, S.I. 2003/2066, S.I. 2007/3253, S.I. 2011/1613, S.I. 2012/916 and S.I. 2012/1906.

**M31** Paragraph 20 was amended by paragraph 11 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2001/1376, S.I. 2003/1473, S.I. 2003/2066, S.I. 2007/126, S.I. 2007/3253, S.I. 2011/1613 and S.I. 2012/1906.

**M32** Paragraph 20B was inserted by S.I. 201/1613 and amended by paragraph 13 of Schedule 4 to the Financial Services Act 2012.

**M33** Paragraph 28 was amended by paragraph 21 of Schedule 4 to the Financial Services Act 2000.

35. In paragraph 2(2) of Schedule 5 (permission for open-ended investment companies to operate collective investment schemes)<sup>M34</sup>, after “regulated activity” insert “ other than the activity of managing an AIF ”.

#### Marginal Citations

**M34** Schedule 5 was amended by S.I. 2003/2066.

36. In paragraph 2B of Schedule 6 (threshold conditions)<sup>M35</sup>—

- (a) in sub-paragraph (1), for “or (4)(a)”, substitute “, (4)(a) or (7) ”;
- (b) after sub-paragraph (6), insert—

“(7) If A is seeking to carry on, or is carrying on, the regulated activity of managing an AIF and is, or upon being granted Part 4A permission to carry on that regulated activity would be, a full-scope UK AIFM, A’s head office and registered office must be in the United Kingdom.”.

#### Marginal Citations

**M35** Parts 1A to 1G of Schedule 6 were substituted by S.I. 2013/555.

## PART 2

### Amendments to other primary legislation

#### Charities Act (Northern Ireland) 1964

37. Until its repeal by the Charities Act (Northern Ireland) 2008 comes into force<sup>M36</sup>, section 25 of the Charities Act (Northern Ireland) 1964<sup>M37</sup> (common investment schemes), has effect with the insertion after subsection (3) of the following—

“(3A) A common investment scheme may provide for appropriate bodies to be admitted to participate in the scheme (in addition to the participating charities) to such extent as the trustees appointed to manage the fund may determine.

(3B) In this section “appropriate body” means—

- (a) a Scottish recognised body,
- (b) an England and Wales charity, or
- (c) any body of persons or trust that—

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- (i) is established in an EEA state other than the United Kingdom, and
- (ii) is a charity as defined by paragraph 1 of Schedule 6 to the Finance Act 2010

<sup>M38</sup>

and, in the application of the relevant provisions in relation to a scheme which contains provisions authorised by subsection (3A), “charity” includes an appropriate body. “The relevant provisions” are subsections (1), (4) to (7), (11) and (in relation only to a charity within paragraph (b)) subsection (12).

(3C) In subsection (3B) “Scottish recognised body” means a body—

- (a) established under the law of Scotland, or
- (b) managed or controlled wholly or mainly in or from Scotland,

to which the Commissioners for Her Majesty's Revenue and Customs have given intimation, which has not subsequently been withdrawn, that relief is due under Part 10 of the Income Tax Act 2007, or that qualifying relief is due under Part 11 of the Corporation Tax Act 2010, in respect of income of the body which is applicable and applied to charitable purposes only.

(3D) In that subsection “England and Wales charity” means an institution—

- (a) which is a charity under the law of England and Wales, and
- (b) to which the Commissioners for Her Majesty's Revenue and Customs have given intimation, which has not subsequently been withdrawn, that relief is due under Part 10 of the Income Tax Act 2007, or that qualifying relief is due under Part 11 of the Corporation Tax Act 2010, in respect of income of the institution which is applicable and applied to charitable purposes only.

(3E) For purposes of this section relief under any provision of Part 11 of the Corporation Tax Act 2010 other than—

- (a) section 480 (exemption for profits of small-scale trades), and
- (b) section 481 (exemption from charges under provisions to which section 1173 applies),

is qualifying relief under that Part.”.

#### Marginal Citations

**M36** 2008 c. 12 (N.I.); see [section 185](#) and paragraph 1 of Schedule 9.

**M37** 1964 c. 33 (N.I.).

**M38** 2010 c. 13.

#### Fair Trading Act 1973

**38.** In section 118(6A) of the Fair Trading Act 1973<sup>M39</sup> (trading schemes to which Part 11 applies) after paragraph (e) insert—

- “(ea) managing a UCITS;
- (eb) acting as trustee or depositary of a UCITS;
- (ec) managing an AIF;
- (ed) acting as trustee or depositary of an AIF;”.

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#### Marginal Citations

**M39** 1973 c. 41. Section 118(6A) was inserted by [S.I. 2001/3649](#) and amended by [S.I. 2006/3384](#).

#### Companies Act 1989

**39.** In section 176(8) of the Companies Act 1989 <sup>M40</sup> (power to make provision about certain other charges) after paragraph (e) omit “or” and insert—

- “(ea) managing a UCITS;
- (eb) acting as trustee or depository of a UCITS;
- (ec) managing an AIF;
- (ed) acting as trustee or depository of an AIF; or”.

#### Marginal Citations

**M40** 1989 c. 40. Section 176(8) was inserted by [S.I. 2001/3649](#) and amended by [S.I. 2006/3384](#).

#### Value Added Tax Act 1994

**40.** In Part 2 of Schedule 9 (exemptions) to the Value Added Tax Act 1994 <sup>M41</sup>, in Group 5 (finance)—

- (a) omit paragraphs (g) and (h) of item 9; and
- (b) in note (6) omit the definition of “recognised collective investment scheme authorised in a designated country or territory”.

#### Marginal Citations

**M41** 1994 c. 23. Item 9 and note (6) of Group 5 were substituted by [S.I. 2008/2547](#).

#### Terrorism Act 2000

**41.** In paragraph 6(1A) of Schedule 6 to the Terrorism Act 2000 <sup>M42</sup> (financial information) after paragraph (e) insert—

- “(ea) managing a UCITS,
- (eb) acting as trustee or depository of a UCITS,
- (ec) managing an AIF,
- (ed) acting as trustee or depository of an AIF”.

#### Marginal Citations

**M42** 2000 c. 11. Paragraph 6(1A) was inserted by [S.I. 2001/3649](#) and amended by [S.I. 2006/3384](#).

#### Companies Act 2006

**42.** In section 1278(1) of the Companies Act 2006 <sup>M43</sup> omit paragraph (f).

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**Marginal Citations**

M43 2006 c. 46.

**Charities Act (Northern Ireland) 2008**

43. In sections 43(5) (schemes to establish common investment funds) and 44(5) (schemes to establish common deposit funds) of the Charities Act (Northern Ireland) 2008—

- (a) in paragraph (a), omit “or”;
- (b) after paragraph (b), insert—
  - “; or
- (c) any body of persons or trust that—
  - (i) is established in an EEA state other than the United Kingdom, and
  - (ii) is a charity as defined by paragraph 1 of Schedule 6 to the Finance Act 2010.”.

**Charities Act 2011**

44. In sections 97(3) (bodies which may participate in common investment schemes) and 101(3) (bodies which may participate in common deposit schemes) of the Charities Act 2011<sup>M44</sup>—

- (a) in paragraph (a), omit “or”;
- (b) after paragraph (b), insert—
  - “; or
- (c) any body of persons or trust that—
  - (i) is established in an EEA state other than the United Kingdom, and
  - (ii) is a charity as defined by paragraph 1 of Schedule 6 to the Finance Act 2010.”.

**Marginal Citations**

M44 2011 c. 25.

## PART 3

### Transitional provisions in respect of recognised overseas schemes

45.—(1) A collective investment scheme which immediately before 22nd July 2013 was recognised by virtue of section 270 of the Act (schemes authorised in designated countries or territories) is to be treated on and after that date as if it were recognised pursuant to an order under section 272 of the Act (individually recognised overseas schemes), and may be revoked in accordance with the provisions applying to such an order.

(2) Sub-paragraphs (3) to (5) apply in relation to a collective investment scheme which immediately before 22nd July 2013 was recognised by virtue of section 270 of the Act or pursuant to an order under section 272 of the Act.

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(3) The operator of the scheme is to be treated for the purposes of section 277A(2)<sup>M45</sup> of the Act (regular provision of information relating to compliance with requirements for recognition) as if it had provided information to the FCA pursuant to a direction under section 277A(1) of the Act on 21st July 2013.

(4) If the FCA gives a direction under section 277(5) (alteration of schemes and changes of operator, trustee or depositary) or 277A(1) of the Act pursuant to which requires the operator is required to provide information to the FCA before 22nd July 2014, and the operator has not provided such information before 5th August 2014, the scheme will cease to be recognised on 5th August 2014.

(5) If the operator of the scheme gives written notice of a proposed alteration to the FCA under section 277(1) of the Act after 21st July 2013 but before 22nd July 2014, section 277(2) of the Act applies to that proposal as if the reference in section 277(2)(b) to a period of one month referred to a period of three months.

(6) In this paragraph “the operator” has the meaning given in section 237(2) of the Act (other definitions).

#### Marginal Citations

**M45** Section 277A is inserted by paragraph 21 of this Schedule.

## SCHEDULE 2

Regulation 81

### AMENDMENTS TO SECONDARY LEGISLATION

## PART 1

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

#### Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

1.—(1) The Regulated Activities Order is amended as follows.

(2) In article 3(1) (interpretation)<sup>M46</sup>—

(a) in paragraph (a) of the definition of “overseas person” for “51” substitute “ 51ZA, 51ZB, 51ZC, 51ZD, 51ZE ”; and

(b) insert the following definitions in the appropriate places—

““AIFM” has the meaning given by regulation 4 of the Alternative Investment Fund Managers Regulations 2013;

“EEA AIFM” has the meaning given by regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013;

“full-scope UK AIFM” has the meaning given by regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013;

“small registered UK AIFM” has the meaning given by regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013;

“UCITS” has the meaning given by Article 1.2 of the UCITS directive;

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“UK AIF” has the meaning given by regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013;”.

(3) In articles 4(2) (specified activities: general) <sup>M47</sup>, 8(a) (sums received by persons authorised to deal etc.), 15(2)(g) (absence of holding out etc.), 16(1)(b) (dealing in contractually based investments) <sup>M48</sup> and 33(b)(iii) (introducing), for “51” substitute “ 51ZA, 51ZB, 51ZC, 51ZD, 51ZE ”.

(4) In articles 9AA, 51A, 52A, 58A and 60A (information society services) <sup>M49</sup>—

(a) in the heading, at the end insert “ and managers of UCITS and AIFs ”;

(b) for “exclusion” substitute “ exclusions ”; and

(c) at the end insert “ and article 72AA (managers of UCITS and AIFs). ”.

(5) In article 12A (information society services) <sup>M50</sup>—

(a) in the heading, at the end insert “ and managers of UCITS and AIFs ”;

(b) for “exclusion” substitute “ exclusions ”; and

(c) at the end insert “ , and article 72AA (managers of UCITS and AIFs). ”.

(6) In articles 20 <sup>M51</sup>, 36(2) <sup>M52</sup>, 50, 55(2), 63A <sup>M53</sup>, 63E <sup>M54</sup>, 63I and 63M <sup>M55</sup> (other exclusions), for “and 72A (information society services)” substitute “ , 72A (information society services) and 72AA (managers of UCITS and AIFs) ”.

(7) In articles 24 <sup>M56</sup>, 36(1) <sup>M57</sup>, 39C <sup>M58</sup> and 55(1) (other exclusions), for “and article 72D (large risks contracts where risk situated outside the EEA)” substitute “ , article 72AA (managers of UCITS and AIFs) and article 72D (large risks contracts where risk situated outside the EEA) ”.

(8) In article 36(3) (other exclusions) <sup>M59</sup>, for “the exclusion in article 72 (overseas persons)” substitute “ the exclusions in articles 72 (overseas persons) and 72AA (managers of UCITS and AIFs) ”.

(9) In articles 39 and 44 (other exclusions) <sup>M60</sup>, for “and 72C (provisions of information about contracts of insurance on an incidental basis)” substitute “ , 72AA (managers of UCITS and AIFs) and 72C (provisions of information about contracts of insurance on an incidental basis) ”.

(10) After article 42 (introductions to qualifying custodians), insert—

#### **“Depositaries of UCITS and AIFs**

**42A.** A person does not carry on an activity of the kind specified by article 40 if the person carries on the activity in relation to—

(a) a UCITS, and the person has a Part 4A permission to carry on the activity specified in article 51ZB in respect of that UCITS; or

(b) an AIF, and the person has a Part 4A permission to carry on the activity specified in article 51ZD in respect of that AIF.”.

(11) In the heading of Chapter 10 (collective investment schemes) omit ‘schemes’.

(12) For article 51 (establishing etc. a collective investment scheme) and the cross-heading following it, substitute—

#### **“Managing a UCITS**

**51ZA.—**(1) Managing a UCITS is a specified kind of activity.



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(2) A person manages a UCITS when the person carries on collective portfolio management of the UCITS within the meaning of the UCITS directive, which includes the functions referred to in Annex 2 to that directive (the text of which is set out in Schedule 6) in relation to a UCITS.

(3) If a person manages a UCITS and also carries on other activities in connection with or for the purposes of the management of that UCITS, such other activities are also included in the activity specified in paragraph (1).

#### **Acting as trustee or depositary of a UCITS**

**51ZB.**—(1) Acting as—

- (a) the trustee of an authorised unit trust scheme, or
- (b) the depositary of an open-ended investment company or authorised contractual scheme,

where the scheme or company is a UCITS, is a specified kind of activity.

(2) In paragraph (1), “authorised contractual scheme”, “authorised unit trust scheme”, “trustee” and “depositary” have the meanings given by section 237 of the Act (other definitions).

#### **Managing an AIF**

**51ZC.**—(1) Managing an AIF is a specified kind of activity.

(2) A person manages an AIF when the person performs at least risk management or portfolio management for the AIF.

(3) A person does not manage an AIF if the functions they perform for the AIF have been delegated to it by another person, provided that such other person is not an AIFM that has delegated such functions to the extent that it is a letter-box entity.

(4) Paragraph (5) applies if a person manages an AIF, and also carries on—

- (a) one or more of the additional activities listed in paragraph 2 of Annex 1 to the alternative investment fund managers directive (the text of which is set out in Schedule 7) for that AIF; or
- (b) one or more other activities in connection with or for the purposes of the management of that AIF.

(5) The additional or other activities are included in the activity specified in paragraph (1).

(6) Any expression used in this article which is not defined in this Order and is used in the alternative investment fund managers directive has the same meaning as in that directive.

#### **Acting as trustee or depositary of an AIF**

**51ZD.**—(1) Acting as—

- (a) the depositary of an AIF falling within paragraph (2),
- (b) the trustee of an authorised unit trust scheme which is an AIF that does not fall within paragraph (2), or
- (c) the depositary of an open-ended investment company or authorised contractual scheme which is an AIF that does not fall within paragraph (2),

is a specified kind of activity.

(2) An AIF falls within this paragraph if it is—

- (a) an AIF managed by a full-scope UK AIFM; or

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- (b) a UK AIF managed by an EEA AIFM.
- (3) In paragraph (1)(a) “depository” means—
  - (a) a person appointed in compliance with the requirement for the AIFM to appoint a depository at Article 21.1 of the alternative investment fund managers directive; or
  - (b) an Article 36 custodian as defined in regulation 57(5)(a) of the Alternative Investment Fund Managers Regulations 2013.
- (4) In paragraph (1)(b) “authorised unit trust scheme” and “trustee” have the meanings given by section 237 of the Act.
- (5) In paragraph (1)(c) “authorised contractual scheme” and “depository” have the meanings given by section 237 of the Act.
- (6) Until 22nd July 2017, an AIF also falls within paragraph (2) if the FCA or an authority in another EEA State has permitted a person with its registered office or a branch in the United Kingdom to be appointed as a depository of the AIF in accordance with Article 61.5 of the alternative investment fund managers directive.

#### **Establishing etc. a collective investment scheme**

**51ZE.** Establishing, operating or winding up a collective investment scheme is a specified kind of activity.

#### *Exclusions*

#### **Persons excluded from managing an AIF**

**51ZF.** There is excluded from article 51ZC the activity of managing an AIF if the person carrying on the activity is listed or described in Schedule 8.

#### **Operating a collective investment scheme in relation to a UCITS or an AIF**

**51ZG.—**(1) A person does not carry on an activity of the kind specified by article 51ZE if the person carries on the activity—

- (a) in relation to a UCITS, and—
    - (i) at the time the person carries on the activity, the UCITS is managed by a person with a Part 4A permission to carry on the activity specified by article 51ZA in respect of that UCITS; or
    - (ii) no more than the permitted period has passed since the UCITS was managed by a person with such a Part 4A permission; or
  - (b) in relation to an AIF, and—
    - (i) at the time the person carries on the activity, the AIF is managed by—
      - (aa) a person with a Part 4A permission to carry on the activity specified by article 51ZC in respect of that AIF; or
      - (bb) a person registered as a small registered UK AIFM because the conditions in regulation 10(4) of the Alternative Investment Fund Managers Regulations 2013 are met in respect of that AIF; or
    - (ii) no more than the permitted period has passed since the AIF was managed by a person with such a Part 4A permission or registration.
- (2) In this article “the permitted period” means a period calculated as follows—

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- (a) subject to sub-paragraphs (b) and (c), the period is 30 days;
- (b) if, before the end of the period, the FCA receives notice of the action being taken to appoint a person with a Part 4A permission or registration to manage the UCITS or AIF, the period is extended by a further 30 days, and may be so extended a second time;
- (c) if, before the end of the period calculated in accordance with sub-paragraphs (a) and (b), the FCA receives notice of a proposal in respect of the UCITS or AIF for a new manager under section 251(3) of the Act, a new operator under section 261Q(5) of the Act or a new director under regulation 21(1)(e) of the Open-Ended Investment Company Regulations 2001, the period is further extended until the earlier of—
  - (i) the date on which the FCA gives written notice of its approval to the proposal;
  - (ii) the date on which the FCA gives a decision notice refusing the proposal; or
  - (iii) one month after the date on which notice of the proposal was given.”

(13) In article 51A (information society services) <sup>M61</sup>, for “Article 51 is” substitute “ Articles 51ZA, 51ZB, 51ZC, 51ZD, and 51ZE are also ”.

(14) In articles 64 (agreeing to carry on specified kinds of activity) <sup>M62</sup>, 68(1) and (3)(b)(ii) (activities carried on in connection with the sale of goods or supply of services) <sup>M63</sup> and 69(2)(b)(ii) (groups and joint enterprises), for “51”, substitute “ 51ZA, 51ZB, 51ZC, 51ZD, 51ZE ”.

(15) In article 72E(5) (Business Angel-led Enterprise Capital Funds) <sup>M64</sup>, for “51(1)(a)” substitute “ 51ZA, 51ZC or 51ZE ”.

(16) After article 72A (information society services) <sup>M65</sup>, insert—

#### “Managers of UCITS and AIFs

**72AA.**—(1) This article applies to a person with a Part 4A permission to carry on the activity of the kind specified by article 51ZA or 51ZC.

(2) Activities carried on by the person in connection with or for the purposes of managing a UCITS or, as the case may be, managing an AIF, are excluded from the activities specified by this Part, other than the activities mentioned in paragraph (1).”

(17) After Schedule 5 (specified benchmarks) <sup>M66</sup> insert—

#### “SCHEDULE 6

Article 51ZA

#### FUNCTIONS INCLUDED IN THE ACTIVITY OF MANAGING A UCITS: ANNEX II TO THE UCITS DIRECTIVE

1. Investment management.
2. Administration—
  - (a) legal and fund management accounting services;
  - (b) customer inquiries;
  - (c) valuation and pricing (including tax returns);
  - (d) regulatory compliance monitoring;
  - (e) maintenance of unit-holder register;
  - (f) distribution of income;
  - (g) unit issues and redemptions;
  - (h) contract settlements (including certificate dispatch);

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- (i) record keeping.
3. Marketing.

## SCHEDULE 7

Article 51ZC

### ADDITIONAL ACTIVITIES INCLUDED IN THE ACTIVITY OF MANAGING AN AIF LISTED IN PARAGRAPH 2 OF ANNEX I TO THE ALTERNATIVE INVESTMENT FUND MANAGERS DIRECTIVE

- (a) Administration—
  - (i) legal and fund management accounting services;
  - (ii) customer inquiries;
  - (iii) valuation and pricing, including tax returns;
  - (iv) regulatory compliance monitoring;
  - (v) maintenance of unit-/shareholder register;
  - (vi) distribution of income;
  - (vii) unit/shares issues and redemptions;
  - (viii) contract settlements, including certificate dispatch;
  - (ix) record keeping;
- (b) Marketing;
- (c) Activities related to the assets of AIFs, namely services necessary to meet the fiduciary duties of the AIFM, facilities management, real estate administration activities, advice to undertakings on capital structure, industrial strategy and related matters, advice and services related to mergers and the purchase of undertakings and other services connected to the management of the AIF and the companies and other assets in which it has invested.

## SCHEDULE 8

Article 51ZF

### PERSONS EXCLUDED FROM REGULATED ACTIVITY OF MANAGING AN AIF

#### Interpretation of this Schedule

1. Any expression used in this Schedule which is used in the alternative investment fund managers directive has the same meaning as in that directive.

#### Persons excluded

2. A small registered UK AIFM, in respect of the AIFs managed by it by virtue of which it is entitled to be registered as a small registered UK AIFM (but not in respect of any other AIFs managed by it).

3. An AIFM in so far as it manages one or more AIFs whose only investors are—
- (a) the AIFM,
  - (b) the parent undertakings of the AIFM,

- (c) the subsidiaries of the AIFM, or
- (d) other subsidiaries of those parent undertakings,

provided that none of the investors is an AIF.

4. An institution for occupational retirement provision which falls within the scope of Directive [2003/41/EC](#) of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision <sup>M67</sup>, including, where applicable, the authorised entities responsible for managing such institutions and acting on their behalf referred to in Article 2.1 of that directive, or the investment managers appointed pursuant to Article 19.1 of that directive, in so far as they do not manage AIFs.

5. The European Central Bank, the European Investment Bank, the European Investment Fund, a bilateral development bank, the World Bank, the International Monetary Fund, any other supranational institution or similar international organisation, or a European Development Finance Institution, in the event that such institution or organisation manages AIFs and in so far as those AIFs act in the public interest.

6. A national central bank.

7. A national, regional or local government or body or other institution which manages funds supporting social security and pension systems.

8. A holding company.

9. An employee participation scheme or employee savings scheme.

10. A securitisation special purpose entity.

11. An AIFM, the registered office of which is not in an EEA State.”.

#### Marginal Citations

**M46** The definition of “overseas person” was amended by [S.I. 2003/1475](#), [S.I. 2003/1476](#), [S.I. 2006/2383](#), [S.I. 2006/3384](#) and [S.I. 2009/1342](#). Other amendments to article 3 are not relevant here.

**M47** [Article 4\(2\)](#) was amended by [S.I. 2009/1389](#).

**M48** [Article 16](#) was amended by [S.I. 2006/3384](#).

**M49** [Articles 9AA, 51A, 52A, 58A](#) and [60A](#) were inserted by [S.I. 2002/1776](#).

**M50** [Article 12A](#) was inserted by [S.I. 2002/1776](#).

**M51** [Articles 20](#) and [50](#) were amended by [S.I. 2002/1776](#).

**M52** [Articles 36\(2\)](#) and [55\(2\)](#) were added by [S.I. 2003/1475](#) and amended by [S.I. 2006/2383](#) and [S.I. 2009/1342](#).

**M53** [Article 63A](#) was inserted by [S.I. 2002/1776](#) and substituted by [S.I. 2003/1475](#).

**M54** [Articles 63B to 63I](#) were inserted by [S.I. 2006/2383](#).

**M55** [Articles 63J to 63M](#) were inserted by [S.I. 2009/1342](#).

**M56** [Article 24](#) was amended by [S.I. 2002/1776](#) and [S.I. 2003/1476](#).

**M57** [Articles 36\(1\)](#) and [55\(1\)](#) were amended by [S.I. 2002/1776](#), [S.I. 2003/1475](#) and [S.I. 2003/1476](#).

**M58** [Article 39C](#) was inserted by [S.I. 2003/1476](#).

**M59** [Article 36\(3\)](#) was added by [S.I. 2006/3384](#).

**M60** [Articles 39](#) and [44](#) were amended by [S.I. 2002/1776](#) and [S.I. 2003/1476](#).

**M61** [Article 51A](#) was inserted by [S.I. 2002/1776](#).

**M62** [Article 64](#) was amended by [S.I. 2002/682](#), [S.I. 2006/3384](#) and [S.I. 2009/1389](#).

**M63** [Article 68](#) was amended by [S.I. 2001/3544](#) and [S.I. 2003/1476](#).

**M64** [Article 72E](#) was inserted by [S.I. 2005/1518](#) and amended by [S.I. 2006/3384](#) and [S.I. 2007/2157](#).

**M65** [Article 72A](#) was inserted by [S.I. 2002/1776](#) and amended by [2004/3379](#).

**M66** [Schedule 5](#) was added by [S.I. 2013/655](#).

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**M67** OJ L 235, 23.9.2003, p10.

## PART 2

### Amendments to other secondary legislation

#### Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

2.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 <sup>M68</sup> is amended as follows.

(2) In article 2(1), in the definition of “relevant collective investment scheme” omit “, 270 (schemes authorised in designated countries or territories)”.

(3) In article 4(1)(d)(ix)—

- (a) omit the words from the beginning to “that section or”; and
- (b) for “that Act” substitute “ the 2000 Act ”.

#### Marginal Citations

**M68** [S.I. 1975/1023](#). The definition of “relevant collective investment scheme” in article 2(1) was inserted, and article 4(d) was substituted, by [S.I. 2001/3816](#). Article 4 was further amended by [S.I. 2013/472](#), [S.I. 2013/1198](#) and other instruments not relevant here.

#### Companies (No. 2) (Northern Ireland) Order 1990

3. In article 98(8) of the Companies (No. 2) (Northern Ireland) Order 1990 <sup>M69</sup> (power to make provision about certain other charges) after sub-paragraph (e) omit “or” and insert—

- “(ea) managing a UCITS;
- (eb) acting as trustee or depositary of a UCITS;
- (ec) managing an AIF;
- (ed) acting as trustee or depositary of an AIF; or”.

#### Marginal Citations

**M69** [S.I. 1990/1504 \(N.I. 10\)](#). Article 98(8) was inserted by [S.I. 2001/3649](#).

#### Individual Savings Account Regulations 1998

4. In regulation 2(1)(b) of the Individual Savings Account Regulations 1998 <sup>M70</sup> (interpretation), in paragraph (b) of the definition of “non-UCITS retail scheme” omit “270 or”.

#### Marginal Citations

**M70** [S.I. 1998/1870](#). The definition of “non-UCITS retail scheme” was inserted by [S.I. 2005/3350](#) and amended by [S.I. 2008/704](#) and [S.I. 2009/1994](#).

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## **Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001**

5.—(1) The Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001 <sup>M71</sup> is amended as follows.

(2) In article 2(1) (interpretation) in the definition of “relevant scheme activities” for “the activity specified by article 51” substitute “ any activity specified by article 51ZA, 51ZB, 51ZD or 51ZE ”.

(3) In article 16 (communications required or authorised by enactments)—

(a) renumber the text of the article as paragraph (1) of the article;

(b) after that paragraph insert—

“(2) A communication which may be made because a condition imposed by regulation 49 or 50 of the Alternative Investment Fund Managers Regulations 2013 has been met, is to be treated as authorised by those Regulations for the purposes of paragraph (1) in so far as it is made to a professional investor (as defined in regulation 2(1) of those Regulations).

(3) A communication permitted by Article 2.2, 4 or 14.3 of Regulation (EU) No 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds, or by Article 2.2, 4 or 15.3 of Regulation (EU) No 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds, is to be treated as authorised by another enactment for the purposes of paragraph (1).”.

### **Marginal Citations**

**M71** [S.I. 2001/1060](#). Article 2 was amended by [S.I. 2002/1310](#) and [S.I. 2005/2114](#).

## **Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001**

6. In paragraph 5(2)(a) of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001 <sup>M72</sup> (arrangements not amounting to a collective investment scheme) for “51 (establishing etc. a collective investment scheme)” substitute “ 51ZA (managing a UCITS), 51ZB (acting as trustee or depositary of a UCITS), 51ZC (managing an AIF), 51ZD (acting as trustee or depositary of an AIF), 51ZE (establishing etc. collective investment scheme) ”.

### **Marginal Citations**

**M72** [S.I. 2001/1062](#). Paragraph 5(2)(a) was amended by [S.I. 2006/3384](#).

## **Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001**

7. For article 3(2)(g) of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 <sup>M73</sup> (investment business), substitute—

“(ga) article 51ZA (managing a UCITS);

(gb) article 51ZB (acting as a trustee or depositary of a UCITS);

(gc) article 51ZC (managing an AIF);

(gd) article 51ZD (acting as a trustee or depositary of an AIF);

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(ge) article 51ZE (establishing etc. a collective investment scheme);”.

**Marginal Citations**

**M73** [S.I. 2001/1177](#). Article 3 was amended by [S.I. 2003/1476](#), [S.I. 2006/1969](#) and [S.I. 2006/3384](#).

**Financial Services and Markets Act 2000 (Exemption) Order 2001**

**8.**—(1) The Financial Services and Markets Act 2000 (Exemption) Order 2001 <sup>M74</sup> is amended as follows.

(2) For article 5(1)(g) (persons exempt in respect of particular regulated activities) substitute—

- “(ga) article 51ZA (managing a UCITS);
- (gb) article 51ZB (acting as a trustee or depositary of a UCITS);
- (gc) article 51ZC (managing an AIF);
- (gd) article 51ZD (acting as a trustee or depositary of an AIF);
- (ge) article 51ZE (establishing etc. a collective investment scheme);”.

(3) In paragraphs 44(1) and (2) and 45 of the Schedule (persons exempt in respect of particular regulated activities – charities and schemes established under the Trustee Investments Act 1961) for “article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme)” substitute “ articles 51ZA to 51ZE of the Regulated Activities Order (managing or acting as trustee or depositary of a UCITS or an AIF, or establishing etc. a collective investment scheme) ”.

**Marginal Citations**

**M74** [S.I. 2001/1201](#). Article 5 was amended by [S.I. 2003/1675](#), [S.I. 2006/1969](#) and [S.I. 2007/125](#).

**Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001**

**9.** For article 4(d) of the Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001 <sup>M75</sup>, substitute—

- “(da) article 51ZA (managing a UCITS);
- (db) article 51ZB (acting as a trustee or depositary of a UCITS);
- (dc) article 51ZC (managing an AIF);
- (dd) article 51ZD (acting as a trustee or depositary of an AIF);
- (de) article 51ZE (establishing etc. a collective investment scheme);”.

**Marginal Citations**

**M75** [S.I. 2001/1227](#). Article 4 was amended by [S.I. 2001/3650](#), [S.I. 2002/682](#), [S.I. 2004/2737](#), [S.I. 2006/1969](#) and [S.I. 2012/1906](#).

**Open-Ended Investment Companies Regulations 2001**

**10.**—(1) The Open-Ended Investment Companies Regulations 2001 <sup>M76</sup> are amended as follows.

(2) In regulation 15 (requirements for authorisation)—

- (a) for paragraph (6) substitute—



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“(6) If the company has only one director, that director must be a body corporate which is an authorised person and which has a Part 4A permission to carry on the regulated activity of managing a UCITS or, as the case may be, managing an AIF.”;

- (b) in paragraph (8)(e) after “the depositary of an open-ended investment company” insert “ that is a UCITS or, as the case may be, of an open-ended investment company that is an AIF ”.

(3) In regulation 62(3) (exemptions from liability to be void), for “This regulation” substitute “ Except in the case of the depositary of an AIF (as to which see regulations 29 to 32 of the Alternative Investment Fund Managers Regulations 2013), this regulation ”.

#### Marginal Citations

**M76** S.I. 2001/1228. Regulation 15 was amended by S.I. 2003/2066, S.I. 2011/1265 and S.I. 2013/472.

### Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001

**11.**—(1) The Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001 <sup>M77</sup> are amended as follows.

(2) In regulation 1(2) (interpretation) in the appropriate places insert—

““authorised contractual scheme” has the meaning given at section 237(3) of the Act;”;

““authorised open-ended investment company” has the meaning given at section 237(3) of the Act;”;

““authorised unit trust scheme” has the meaning given at section 237(3) of the Act;”;

““relevant AIFM” means an EEA firm falling within paragraph 5(h) of Schedule 3 to the Act which—

(a) is authorised by its home state regulator to provide services specified by Annex I to the alternative investment fund managers directive; and

(b) is providing those services, or services specified by Article 6.4 of that directive (discretionary portfolio management and non-core services), in the United Kingdom;”;

““UK AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013.”.

(3) In regulation 2 (persons not to be regarded as relevant persons)—

(a) omit “and” after sub-paragraph (1)(c);

(b) after sub-paragraph (1)(d) insert—

“; and

(e) any relevant AIFM.”;

(c) after paragraph (3) insert—

“(4) A relevant AIFM is prescribed in relation to all authorised activities other than any services specified by Annex I to the alternative investment fund managers directive provided in respect of an authorised unit trust scheme, an authorised contractual scheme or an authorised open-ended investment company.”.

(4) In regulation 3(1) (persons who may elect to participate)—

(a) omit “and” after sub-paragraph (b);

(b) after sub-paragraph (c) insert—

“; and

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- (d) any relevant AIFM which has established a branch in the United Kingdom in exercise of an EEA right to the extent that it—
  - (i) provides services specified by Annex I to the alternative fund managers directive in respect of a UK AIF which is not an authorised unit trust scheme, an authorised contractual scheme or an authorised open-ended investment company, unless the relevant AIFM is a member of another investor-compensation scheme which affords investors protection which equals or exceeds that provided by the Financial Services Compensation Scheme; or
  - (ii) provides services specified in Article 6.4 of the alternative investment fund managers directive (discretionary portfolio management and non-core services), and is a member of a home State investor-compensation scheme which meets the condition in paragraph (2);”.
- (5) In regulation 4 (persons in respect of whom inspection under section 224 does not apply)—
  - (a) omit “and” after paragraph (c);
  - (b) after paragraph (d) insert—
    - “; and
  - (e) any relevant AIFM to the extent that it provided services in the United Kingdom other than services specified by Annex I to the alternative investment fund managers directive that were provided in respect of an authorised unit trust scheme, an authorised contractual scheme or an authorised open-ended investment company.”.

#### Marginal Citations

**M77** [S.I. 2001/1783](#). Regulation 1 was amended by [S.I. 2003/1476](#), [S.I. 2003/2066](#), [S.I. 2006/3221](#) and [S.I. 2011/1613](#). Regulation 2 was amended by [S.I. 2003/1476](#), [S.I. 2003/2066](#) and [S.I. 2011/1613](#). Regulations 3 and 4 were amended by [S.I. 2003/1476](#) and [S.I. 2003/2066](#).

### Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

**12.**—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 <sup>M78</sup> are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “single market restrictions”, after paragraph (g) insert—

“(ga) articles 47.2, 47.3, 51, 52 and 53.2 of the alternative investment fund managers directive;”.

(3) In regulation 9 (disclosure by regulators or regulator workers to certain other persons)—

(a) for paragraph (2) for the words from “the disclosure is provided for” to the end substitute “the condition in paragraph (2ZA) is met or the conditions in (2B) are met.”;

(b) after paragraph (2) insert—

“(2ZA) The condition in this paragraph is that the disclosure is provided for by a cooperation agreement of the kind referred to in—

(a) article 63 of the markets in financial instruments directive;

(b) article 46 of the banking consolidation directive;

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- (c) article 16.3 of the life assurance consolidation directive;
  - (d) article 16.3 of the non- life assurance directive;
  - (e) article 102.3 of the UCITS directive; or
  - (f) article 26 of the reinsurance directive.”;
- (c) after paragraph (2A) insert—
- “(2B) The conditions in this paragraph are that—
- (a) the conditions in articles 25 or 26 of Directive [95/46/EC](#) of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>M79</sup> are met;
  - (b) the regulator or regulator worker is satisfied that the disclosure is necessary for the purpose of complying with a requirement of the alternative investment fund managers directive; and
  - (c) in the case of disclosure of information received from an EEA competent authority—
    - (i) that authority has given its express agreement to the disclosure; and
    - (ii) if such agreement was given for a particular purpose, the disclosure is solely for that purpose.”.

**Marginal Citations**

**M78** [S.I. 2001/2188](#). In regulation 2, the definition of “single market restrictions” was amended by [S.I. 2013/504](#) and the regulation was amended by other instruments that are not relevant here. In regulation 9, paragraph (2) was amended by [S.I. 2004/3379](#), [S.I. 2006/3221](#), [S.I. 2006/3413](#), [S.I. 2007/3255](#) and [S.I. 2011/1613](#), and paragraph (2A) was inserted by [S.I. 2003/693](#) and amended by [S.I. 2004/3379](#).

**M79** OJ L 281 23/11/95, p.31.

**Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001**

<sup>F3</sup>**13.** . . . . .

**Textual Amendments**

**F3** [Sch. 2 para. 13](#) revoked (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 3](#)

**Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001**

**14.**—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001 <sup>M80</sup> are amended as follows.

(2) After regulation 2(5) (establishment of a branch: contents of consent notice) insert—

“(6) In the case of an EEA AIFM, the prescribed information is—

- (a) a statement that the firm is an EEA AIFM;
- (b) the identity of the AIFs that the EEA AIFM intends to manage;
- (c) the organisational structure of the branch;

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- (d) the address in the home state of each AIF that the EEA AIFM intends to manage from which documents relating to that AIF may be obtained;
  - (e) the names and contact details of the persons responsible for the management of the branch.
- (7) In paragraph (6) “home state” in relation to an AIF means—
- (a) the EEA State in which the AIF is authorised or registered, or in the case of multiple authorisations or registrations, the EEA State in which the AIF was first authorised or registered; or
  - (b) if the AIF is not authorised or registered in an EEA State, the EEA State in which it has its registered office or head office.”.
- (3) After regulation 3(4) (provision of services: contents of regulator's notice) insert—
- “(5) In the case of an EEA AIFM, the prescribed information is—
- (a) a statement that the firm is an EEA AIFM;
  - (b) if the EEA AIFM wishes to manage an AIF in the United Kingdom—
    - (i) particulars of the programme of operations to be carried on in the United Kingdom, including a description of the particular EEA activities to be carried on; and
    - (ii) the identity of the AIFs that the EEA AIFM intends to manage; and
  - (c) if the EEA AIFM wishes to market an AIF in the United Kingdom—
    - (i) the documents and information set out in Annex IV to the alternative investment fund managers directive; and
    - (ii) a statement to the effect that the AIFM concerned is authorised to manage AIFs with a particular management strategy.”.
- (4) After regulation 7 (insurance firms: changes to services) insert—

**“EEA AIFM: changes to branch details or services**

**7A.**—(1) An EEA AIFM which is exercising an EEA right in the United Kingdom deriving from the alternative investment fund managers directive must not make a material change to any of the matters referred to in regulation 2(6)(b) to (e) or 3(5)(b) or (c) unless the relevant requirement has been complied with.

(2) Where the relevant requirement has been complied with, the EEA AIFM's permission is to be treated as varied accordingly.

(3) For the purposes of this regulation, the “relevant requirement” is that the home state regulator has informed the appropriate UK regulator that it has approved the proposed change.

(4) In this regulation “the appropriate UK regulator” has the same meaning as in paragraph 14 of Schedule 3.”.

- (5) After regulation 17 (relevant details for purposes of regulation 16) insert—

**“Full-scope UK AIFM: changes to branch details or services**

**17A.**—(1) A full-scope UK AIFM which has exercised an EEA right, deriving from the alternative investment fund managers directive, to establish a branch must not change any of the matters referred to in regulation 2(6)(b) to (e) unless the relevant requirements have been complied with.

(2) A full-scope UK AIFM which is providing services in exercise of an EEA right deriving from the alternative investment fund managers directive, other than the EEA right to market an AIF, must not change—

- (a) the programme of operations, or the EEA activities, to be carried out in exercise of that right,
- (b) the EEA States, other than the United Kingdom, in which it manages AIFs, or
- (c) the identity of the AIFs it manages in those States,

unless the relevant requirements have been complied with.

(3) A full-scope UK AIFM which is marketing an AIF in exercise of an EEA right deriving from the alternative investment fund managers directive, must not make a material change to any of the following matters, unless the relevant requirements have been complied with—

- (a) the programme of operations identifying the AIF the AIFM intends to market and information on where the AIF is established;
- (b) the AIF rules or instruments of incorporation;
- (c) identification of the depositary of the AIF;
- (d) the description of, or any information on, the AIF available to investors;
- (e) where the master AIF is established, if the AIF is a feeder AIF;
- (f) any additional information referred to in Article 23.1 of the alternative investment fund managers directive, for each AIF the AIFM intends to market;
- (g) the EEA States, other than the United Kingdom, in which the AIFM intends to market the units or shares of the AIF to professional investors;
- (h) information about arrangements made for the marketing of the AIF and, where relevant, arrangements established to prevent the AIF from being marketed to retail investors, including in the case where the AIFM relies on the activities of independent entities to provide investment services in respect of the AIF.

(4) For the purposes of this regulation, the “relevant requirements” in the case of a planned change are that—

- (a) the AIFM has given written notice of the change to the appropriate UK regulator at least one month before implementing the change; and
- (b) either—
  - (i) the appropriate UK regulator has consented to the change; or
  - (ii) the appropriate UK regulator has not objected to the change in the period of one month beginning on the day on which the firm gave notice.

(5) For the purposes of this regulation, the “relevant requirements” in the case of an unplanned change are that—

- (a) the AIFM has given written notice of the change to the appropriate UK regulator as soon as reasonably practicable and, at the latest, immediately after an unplanned change has occurred; and
- (b) the appropriate UK regulator has not objected to the change.

(6) If a planned change would mean the AIFM no longer complied with an implementing provision, the appropriate UK regulator must inform the AIFM without undue delay that—

- (a) the FCA objects to the change; and
- (b) the AIFM must not implement the change.

(7) If—

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- (a) a planned change is implemented, or
- (b) an unplanned change takes place,

as a result of which the AIFM no longer complies with an implementing provision, the appropriate UK regulator must take steps to ensure that the AIFM complies with that provision or ceases to exercise the EEA right.

(8) If a change notified under paragraph (4)(a) or (5)(a) does not affect compliance with an implementing provision, the appropriate UK regulator must—

- (a) give a notice to the host state regulator informing it of the change; and
- (b) inform the firm that it has given the notice, stating the date on which it did so.

(9) If the appropriate UK regulator objects to a change under paragraph (6), takes steps under paragraph (7) or refuses to give notice to the host state regulator under paragraph (8)—

- (a) the AIFM may refer the matter to the Tribunal; and
- (b) the appropriate UK regulator must give notice to the AIFM of the reasons for its decision to object, to take such steps or to refuse to give such notice.

(10) In this regulation—

“depository” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;

“feeder AIF” has the meaning given in Article 4.1(m) of the alternative investment fund managers directive;

“implementing provision” means a provision implementing the alternative investment fund managers directive or a provision of any directly applicable EU regulation made under that directive;

“master AIF” has the meaning given in Article 4.1(y) of that directive;

“retail investor” has the meaning given in Article 4.1(aj) of that directive.”.

#### Marginal Citations

**M80** S.I. 2001/2511. Regulation 2(5) was amended by S.I. 2004/1862, **regulation 3(4)** was added by S.I. 2003/1473 and regulation 7 was amended by S.I. 2013/642.

### Uncertificated Securities Regulations 2001

**15.** After regulation 9(10)(f) of the Uncertificated Securities Regulations 2001 <sup>M81</sup> (injunctions and restitution orders) insert—

- “(fa) managing a UCITS;
- (fb) acting as trustee or depository of a UCITS;
- (fc) managing an AIF;
- (fd) acting as trustee or depository of an AIF;”.

#### Marginal Citations

**M81** S.I. 2001/3755.

## **Financial Services and Markets Act 2000 (Collective Investment Schemes) (Designated Countries and Territories) Order 2003**

16. The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Designated Countries and Territories) Order 2003 <sup>M82</sup> is revoked.

**Marginal Citations**  
**M82** S.I. 2003/1181.

## **Financial Conglomerates and Other Financial Groups Regulations 2004**

17.—(1) The Financial Conglomerates and Other Financial Groups Regulations 2004 <sup>M83</sup> are amended as follows.

(2) In regulation 1(2) (interpretation), in the definition of “regulated entity”—

- (a) at the end of paragraph (c) omit “or”;
- (b) after paragraph (d) insert—

“; or

- (e) an alternative investment fund manager (as referred to in Article 4(1)(b), (l) or (ab) of the alternative investment fund managers directive) or an undertaking which is outside the EEA but which would require authorisation in accordance with that Directive if it had its registered office in the EEA; and”.

(3) In regulation 7(1) (supervision of third-country financial conglomerates and third-country groups - interpretation), before the definition of “asset management company” insert—

““alternative investment fund manager” means—

- (a) any EEA firm falling within paragraph 5(h) of Schedule 3 to the Act <sup>M84</sup>; or
- (b) any UK firm whose EEA right derives from the alternative investment fund managers directive”.

(4) In regulation 9 (supervision of third-country banking groups), after paragraph (5) insert—

“(6) Where a regulator has, for the purposes of Article 30a of the conglomerates directive (alternative investment fund managers), included an alternative investment fund manager in the scope of supervision of a credit institution in a third-country group, each reference in this regulation to a “credit institution” is to be treated as including a reference to that alternative investment fund manager.”.

(5) In regulation 10 (supervision of third-country groups subject to the capital adequacy directive), after paragraph (6) insert—

“(7) Where a regulator has, for the purposes of Article 30a of the conglomerates directive, included an alternative investment fund manager in the scope of supervision of—

- (a) credit institutions and investment firms in a third-country group; or
- (b) investment firms in a third-country group,

each reference in this regulation to an “investment firm” is to be treated as including a reference to that alternative investment fund manager.”.

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**Marginal Citations**

**M83** [S.I. 2004/1862](#). In regulation 1, the definition of “regulated entity” was amended by [S.I. 2006/3221](#), [S.I. 2007/126](#), [S.I. 2010/2628](#), [S.I. 2011/1613](#) and [S.I. 2013/472](#). Regulations 7, 9 and 10 have been amended by various instruments, none of which is relevant here.

**M84** [Paragraph 5\(h\)](#) is inserted by paragraph 33(4) of Schedule 1 to these Regulations.

**Child Trust Funds Regulations 2004**

**18.** In regulation 2(1)(b) of the Child Trust Funds Regulations 2004 (interpretation) <sup>M85</sup>, in paragraph (b) of the definition of “non-UCITS retail scheme” omit “270 or”.

**Marginal Citations**

**M85** [S.I. 2004/1450](#). The definition of “non-UCITS retail scheme” was amended by [S.I. 2010/582](#).

**Financial Services and Markets Act 2000 (Financial Promotion) Order 2005**

**19.** In the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 <sup>M86</sup>—

(a) after article 29(2) (communications required or authorised by enactments) insert—

“(3) A communication which may be made because a condition imposed by regulation 49 or 50 of the Alternative Investment Fund Managers Regulations 2013 has been met, is to be treated as authorised by those Regulations for the purposes of paragraph (1) in so far as it is made to a professional investor (as defined in regulation 2(1) of those Regulations).

(4) A communication permitted by Article 2.2, 4 or 14.3 of Regulation (EU) No 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds, or by Article 2.2, 4 or 15.3 of Regulation (EU) No 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds, is to be treated as authorised by an enactment other than the Act for the purposes of paragraph (1).”;

(b) in article 40(a) omit “270 or”.

**Marginal Citations**

**M86** [S.I. 2005/1529](#).

**Offshore Funds (Tax) Regulations 2009**

**20.** In regulation 74(2) of the Offshore Funds (Tax) Regulations 2009 <sup>M87</sup> (the equivalence condition) omit “, 270”.

**Marginal Citations**

**M87** [S.I. 2009/3001](#). Regulation 74 was amended by [S.I. 2011/1211](#).



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## Financial Services and Markets Act 2000 (Short Selling) Regulations 2012

21. Omit regulation 2(14) of the Financial Services and Markets Act 2000 (Short Selling) Regulations 2012 <sup>M88</sup>.

### Marginal Citations

M88 [S.I. 2012/2554](#).

## Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013

22.—(1) The Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013 <sup>M89</sup> is amended as follows.

(2) In article 1(2) (interpretation) at the end insert—

““EuSEF Regulation” means Regulation (EU) No 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds;

“EuVECA Regulation” means Regulation (EU) No 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds;”.

(3) In article 2(2) (qualifying EU provisions: general)—

(a) after sub-paragraph (b) insert—

“(ba) any directly applicable regulation made under the alternative investment fund managers directive;”;

(b) after sub-paragraph (e) insert—

“(f) the EuSEF Regulation and any directly applicable regulation made under that Regulation;

(g) the EuVECA Regulation and any directly applicable regulation made under that Regulation.”.

(4) In article 3 (qualifying EU provisions: disciplinary measures)—

(a) in paragraph (2)—

(i) after sub-paragraph (b) insert—

“(ba) any directly applicable regulation made under the alternative investment fund managers directive;”;

(ii) after sub-paragraph (e) insert—

“(f) the EuSEF Regulation and any directly applicable regulation made under that Regulation;

(g) the EuVECA Regulation and any directly applicable regulation made under that Regulation.”;

(b) in paragraph (3)—

(i) in sub-paragraph (b) after “UCITS directive” insert “ or the alternative investment fund managers directive ”;

(ii) after sub-paragraph (d) insert—

“(e) in relation to a contravention of a requirement imposed by the EuSEF Regulation, the EuVECA Regulation or any directly applicable regulation made under either the EuSEF Regulation or the EuVECA Regulation, the FCA.”.

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- (5) In article 5 (qualifying EU provisions: injunctions and restitution)—
- (a) in paragraph (2)—
- (i) after sub-paragraph (b) insert—
- “(ba) any directly applicable regulation made under the alternative investment fund managers directive;”;
- (ii) after sub-paragraph (e) insert—
- “(f) the EuSEF Regulation and any directly applicable regulation made under that Regulation;
- (g) the EuVECA Regulation and any directly applicable regulation made under that Regulation.”;
- (b) in paragraph (5)—
- (i) in sub-paragraph (b) after “UCITS directive” insert “ or the alternative investment fund managers directive ”;
- (ii) after sub-paragraph (e) insert—
- “(f) in relation to a contravention of a requirement imposed by the EuSEF Regulation, the EuVECA Regulation or any directly applicable regulation made under either the EuSEF Regulation or the EuVECA Regulation, the FCA.”.
- (6) In article 6(2) (qualifying EU provisions: fees)—
- (a) after sub-paragraph (b) insert—
- “(ba) any directly applicable regulation made under the alternative investment fund managers directive;”;
- (b) after sub-paragraph (g) insert—
- “(h) the EuSEF Regulation and any directly applicable regulation made under that Regulation;
- (i) the EuVECA Regulation and any directly applicable regulation made under that Regulation.”.

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**Marginal Citations**

**M89** [S.I. 2013/419](#).

**Financial Services Act 2012 (Misleading Statements and Impressions) Order 2013**

**23.** For article 2(b)(ii) of the Financial Services Act 2012 (Misleading Statements and Impressions) Order 2013 <sup>M90</sup> (relevant agreements – specified kinds of activity) substitute—

- “(ia) article 51ZA (managing a UCITS),
- (ib) article 51ZB (acting as a trustee or depositary of a UCITS),
- (ic) article 51ZC (managing an AIF),
- (id) article 51ZD (acting as a trustee or depositary of an AIF),
- (ii) article 51ZE (establishing etc. a collective investment scheme),”.

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**Marginal Citations**

**M90** [S.I. 2013/637](#).

**CRC Energy Efficiency Scheme Order 2013**

**24.** In regulation 3 of the CRC Energy Efficiency Scheme Order 2013 <sup>M91</sup> (interpretation), in the definition of “regulated activity” for “51(1)(a)” substitute “ 51ZA, 51ZC or 51ZE ”.]

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**Marginal Citations**

**M91** [S.I. 2013/1119](#).

### Changes to legislation:

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### Changes and effects yet to be applied to :

- reg. 2(1) amendment to earlier affecting provision S.I. 2013/1797 Sch. 1 para. 2(2) by [S.I. 2019/328 reg. 20\(3\)\(a\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 2(1) amendment to earlier affecting provision S.I. 2013/1797 Sch. 2 para. 3(2) (a) by [S.I. 2019/328 reg. 21\(2\)\(a\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 2(1) words inserted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 2(1) words inserted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(d\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 2(1) words inserted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(e\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 2(1) words omitted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of S.I. 2019/328, reg. 20(3)(a)(ii) without ever being in force)
- reg. 2(1) words omitted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(c\)\(i\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of S.I. 2019/328, reg. 20(3)(a)(ii) without ever being in force)
- reg. 2(1) words omitted by [S.I. 2013/1797 Sch. 2 para. 3\(2\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 2(1) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(f\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 5(1) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(4\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 5(3)(b) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(4\)\(b\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)

- reg. 5(4) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(4\)\(c\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 5(7) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(4\)\(d\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 5(8) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(4\)\(e\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 10(2)(c) substituted by [S.I. 2013/1797 Sch. 1 para. 2\(7\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 13(3) words substituted by [S.I. 2019/328 reg. 5\(1\)\(a\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 13(3) words substituted by [S.I. 2019/328 reg. 5\(1\)\(b\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 29(1) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(8\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 32(3) words omitted by [S.I. 2019/328 reg. 6\(4\)\(a\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 32(3) words substituted by [S.I. 2019/328 reg. 6\(4\)\(b\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 33 words inserted by [S.I. 2013/1797 Sch. 1 para. 2\(9\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 34 substituted by [S.I. 2013/1797 Sch. 2 para. 3\(4\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 49 amendment to earlier affecting provision S.I. 2013/1797 Sch. 1 para. 2(10) by [S.I. 2019/328 reg. 20\(3\)\(e\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 49 heading words omitted by [S.I. 2013/1797 Sch. 1 para. 2\(10\)\(a\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of S.I. 2019/328, reg. 20(3)(e) without ever being in force)
- reg. 49 words omitted by [S.I. 2013/1797 Sch. 1 para. 2\(10\)\(b\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of S.I. 2019/328, reg. 20(3)(e) without ever being in force)

- reg. 49(a) word inserted by [S.I. 2013/1797 Sch. 2 para. 3\(5\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 49(a) word omitted by [S.I. 2013/1797 Sch. 1 para. 2\(10\)\(c\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of S.I. 2019/328, reg. 20(3)(e) without ever being in force)
- reg. 49(b) word omitted by [S.I. 2013/1797 Sch. 2 para. 3\(5\)\(b\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 50 amendment to earlier affecting provision S.I. 2013/1797 Sch. 1 para. 2(11) by [S.I. 2019/328 reg. 20\(3\)\(f\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 50 Table substituted by [S.I. 2013/1797 Sch. 1 para. 2\(11\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 50 substituted by [S.I. 2013/1797 Sch. 2 para. 3\(6\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 54(1) amendment to earlier affecting provision S.I. 2013/1797 Sch. 1 para. 2(12) (a) by [S.I. 2019/328 reg. 20\(3\)\(g\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 54(1) substituted by [S.I. 2013/1797 Sch. 1 para. 2\(12\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 56 amendment to earlier affecting provision S.I. 2013/1797 Sch. 2 para. 3(7) by [S.I. 2019/328 reg. 21\(2\)\(b\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 57-64 omitted by [S.I. 2013/1797 Sch. 2 para. 3\(8\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 57 heading omitted by [S.I. 2013/1797 Sch. 2 para. 3\(8\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 57(1)(b) words substituted by [S.I. 2019/328 reg. 10\(8\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(8)(b)(i) omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 13(a))
- reg. 57(3) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(13\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)



- reg. 57(5) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(13\)\(b\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 58(1) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(14\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 58(3) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(14\)\(b\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 59(1) words substituted by [S.I. 2013/1797 Sch. 1 para. 2\(15\)\(a\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 71(5)(c)-(e) omitted by [S.I. 2013/1797 Sch. 2 para. 3\(9\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 2(1)(c) words inserted by [S.I. 2013/1797 Sch. 1 para. 2\(2\)\(c\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of [S.I. 2019/328, reg. 20\(3\)\(a\)\(ii\)](#) without ever being in force)
- reg. 2(4) inserted by [S.I. 2013/1797 Sch. 1 para. 2\(3\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 5A amendment to earlier affecting provision [S.I. 2013/1797 Sch. 1 para. 2\(5\)](#) by [S.I. 2019/328 reg. 20\(3\)\(b\)](#) (This S.I. is amended by [S.I. 2019/325, reg. 58](#); This amendment not applied to legislation.gov.uk. The original amendments by [S.I. 2013/1797](#) are prospective)
- reg. 5A inserted by [S.I. 2013/1797 Sch. 1 para. 2\(5\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 88A amendment to earlier affecting provision [S.I. 2013/1797 Sch. 1 para. 2\(6\)](#) by [S.I. 2019/328 reg. 20\(3\)\(c\)](#) (This S.I. is amended by [S.I. 2019/325, reg. 58](#); This amendment not applied to legislation.gov.uk. The original amendments by [S.I. 2013/1797](#) are prospective)
- reg. 88A substituted for reg. 8 by [S.I. 2013/1797 Sch. 1 para. 2\(6\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of [S.I. 2019/328, reg. 20\(3\)\(c\)](#) without ever being in force)
- reg. 29(1)(b) substituted by [S.I. 2013/1797 Sch. 2 para. 3\(3\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European

Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)

- reg. 49(c) and word inserted by [S.I. 2013/1797 Sch. 1 para. 2\(10\)\(d\)](#) (This amendment not applied to legislation.gov.uk. This amendment is omitted (20.2.2019) by virtue of S.I. 2019/328, reg. 20(3)(e) without ever being in force)
- reg. 49(c) omitted by [S.I. 2013/1797 Sch. 2 para. 3\(5\)\(c\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 54(9) amendment to earlier affecting provision S.I. 2013/1797 Sch. 1 para. 2(12)(b) by [S.I. 2019/328 reg. 20\(3\)\(h\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 54(9)(10) inserted by [S.I. 2013/1797 Sch. 1 para. 2\(12\)\(b\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)
- reg. 56-56C substituted for reg. 56 by [S.I. 2013/1797 Sch. 2 para. 3\(7\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 68.6 of the directive as the date when the national regimes set out in Articles 36 and 42 of the directive are to be terminated. No such date has as yet been specified)
- reg. 59(5) amendment to earlier affecting provision S.I. 2013/1797 Sch. 1 para. 2(15)(b) by [S.I. 2019/328 reg. 20\(3\)\(i\)\(ii\)](#) (This S.I. is amended by S.I. 2019/325, reg. 58; This amendment not applied to legislation.gov.uk. The original amendments by S.I. 2013/1797 are prospective)
- reg. 59(5)(6) inserted by [S.I. 2013/1797 Sch. 1 para. 2\(15\)\(b\)](#) (This amendment comes into force on the date specified by the delegated act adopted by the European Commission pursuant to Article 67.6 of the directive as the date when the rules set out in Articles 35 and 37 to 41 of the directive become applicable. No such date has as yet been specified)