



Jersey

## **EUROPEAN UNION (UNITED KINGDOM EXIT – ALTERNATIVE INVESTMENT FUNDS) (JERSEY) REGULATIONS 2019**

### **Arrangement**

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#### **Regulation**

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*Made*

*26th March 2019*

*Coming into force*

*in accordance with Regulation 4*

**THE STATES**, in pursuance of Articles 2 and 5A of the European Union Legislation (Implementation) (Jersey) Law 2014<sup>1</sup>, have made the following Regulations –

### **1 Amendment of Financial Services (Jersey) Law 1998**

In the Financial Services (Jersey) Law 1998<sup>2</sup> –

- (a) for the definition “AIF” in Article 1 there is substituted –
  - “ “AIF” means a scheme or arrangement that –
    - (a) is an AIF within the meaning of Directive 2011/61/EU, in relation to which an AIFM (as defined in that Directive) is an AIFM to which the provisions of that Directive apply; or
    - (b) is an AIF within the meaning of the UK AIFM Regulations, in relation to which an AIFM (as defined in those Regulations) is an AIFM to which the provisions of those Regulations apply;”;
- (b) in the definition “Directive 2011/61/EU” in Article 1, for “as in force on 1st January 2013” there is substituted “as amended from time to time”;
- (c) after the definition “trust property” in Article 1 there is inserted –
  - “ “UK AIFM Regulations” means the Alternative Investment Fund Managers Regulations 2013 of the United Kingdom (S.I. 2013/1773) as amended from time to time;”;
- (d) in Article 2(11) for “(where managing AIFs has the same meaning as in Directive 2011/61/EU)” there is substituted “(where “managing”, in relation to an AIF, has the same meaning as in Directive 2011/61/EU or in the UK AIFM Regulations, as the case may be)”;
- (e) after paragraph 23(1)(c) of Schedule 2, there is inserted –

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- “(ca) is a small third country AIFM within the meaning of the UK AIFM Regulations; or”;
  - (f) in paragraph 23(2) of Schedule 2, for “that markets an AIF in a member State of the European Union or other EEA State to which Directive 2011/61/EU applies unless” there is substituted “that markets an AIF in the United Kingdom, in a member State of the European Union, or in any other EEA State to which Directive 2011/61/EU applies, unless”;
  - (g) in paragraph 23(3)(a) of Schedule 2, for “in an EEA State” there is substituted “in the United Kingdom or in an EEA State”;
  - (h) for paragraph 23(3)(b) of Schedule 2 there is substituted –
    - “(b) the laws of that country do not require compliance by that business with the UK AIFM Regulations or with Directive 2011/61/EU,”;
  - (i) for paragraph 23(4)(b) of Schedule 2 there is substituted –
    - “(b) “marketing” has the meaning given in the UK AIFM Regulations or in Directive 2011/61/EU, as the case may be.”.

## 2 Amendment of Alternative Investment Funds (Jersey) Regulations 2012

In the Alternative Investment Funds (Jersey) Regulations 2012<sup>3</sup> –

- (a) in the definition “AIFM” in Regulation 2, for “has the same meaning as in Directive 2011/61/EU” there is substituted “means an AIFM within the meaning of the UK AIFM Regulations or an AIFM within the meaning of Directive 2011/61/EU”;
- (b) in the definition “Directive 2011/61/EU” in Regulation 1, for “as in force on 1st January 2013” there is substituted “as amended from time to time”;
- (c) in the definition “marketing” in Regulation 2, for “in Directive 2011/61/EU” there is substituted “in the UK AIFM Regulations or in Directive 2011/61/EU, as the case may be”;
- (d) after the definition “subsidiary” in Regulation 2, there is inserted –
  - ““UK AIFM Regulations” means the Alternative Investment Fund Managers Regulations 2013 of the United Kingdom (S.I. 2013/1773) as amended from time to time;”;
- (e) for Regulation 3(1)(a) and (b), there is substituted –
  - “(a) it is an AIF within the meaning given in the UK AIFM Regulations, or an AIF within the meaning given in Directive 2011/61/EU;
  - (b) it is marketed in the United Kingdom, in a member State of the European Union, or in any other EEA State to which Directive 2011/61/EU applies;”.

### 3 Amendment of Alternative Investment Funds (Jersey) Order 2013

In the Alternative Investment Funds (Jersey) Order 2013<sup>4</sup> –

- (a) in Article 2(1), for “to be marketed in a member State of the European Union or other EEA State to which Directive 2011/61/EU applies” there is substituted “to be marketed in the United Kingdom, in a member State of the European Union, or in any other EEA State to which Directive 2011/61/EU applies”;
- (b) in Article 2(3), for “for so long as the national laws of the EEA State in which the AIF is being marketed or managed do not require compliance by the AIF with Directive 2011/61/EU” there is substituted “for so long as the laws of the country in which the AIF is being marketed or managed do not require compliance by the AIF with the UK AIFM Regulations or with Directive 2011/61/EU”;
- (c) for Article 3(a) there is substituted –
  - “(a) the services of a depository that is not carrying on fund services business, within the meaning of Article 2(10) of the Financial Services (Jersey) Law 1998<sup>5</sup>, and is appointed under –
    - (i) the UK AIFM Regulations, or
    - (ii) Article 21 of Directive 2011/16/EU (whether or not the AIFM is an AIFM to which Article 36 of Directive 2011/61/EU applies);”;
- (d) for Article 3(b) there is substituted –
  - “(b) the services of an AIFM that –
    - (i) is –
      - (A) a small third country AIFM for the purposes of the UK AIFM Regulations, or
      - (B) an AIFM in respect of which Article 3(2) of Directive 2011/61/EU applies, and
    - (ii) is not treated as an AIF services business under Article 3 of, and Part 5 of Schedule 2 to, the Financial Services (Jersey) Law 1998.”;
- (e) in Article 4(5), for “the national laws of the EEA State in which the AIFM is marketing or managing that AIF do not require compliance by the AIFM with Directive 2011/61/EU” there is substituted “the laws of the country in which the AIFM is marketing or managing that AIF do not require compliance by the AIFM with the UK AIFM Regulations or with Directive 2011/61/EU”.

### 4 Citation and commencement

These Regulations may be cited as the European Union (United Kingdom Exit – Alternative Investment Funds) (Jersey) Regulations 2019 and come into force on such day or days, and time or times, as the Minister for External Relations may by Order appoint.

**DR. M. EGAN**

*Greffier of the States*

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- 1* chapter 17.245  
*2* chapter 13.225  
*3* chapter 17.245.51  
*4* chapter 17.245.52  
*5* chapter 13.225