

Chapter 3

Requirements for alternative investment fund managers

3.2 Investor information

Application

3.2.1

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This section applies to a *full-scope UK AIFM* of:

- (1) a *UK AIF*;
- (2) an *EEA AIF*; and
- (3) a *non-EEA AIF*.

Prior disclosure of information to investors

3.2.2

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An *AIFM* must, for each *UK AIF* and *EEA AIF* that it manages, and for each *AIF* it *markets* in the *EEA*, make available to *AIF* investors before they invest, in line with the *instrument constituting the fund*, the following information and any material changes to it:

- (1)
 - (a) a description of the investment strategy and objectives of the *AIF*;
 - (b) if the *AIF* is a *feeder AIF*, information on where the *master AIF* is established;
 - (c) if the *AIF* is a fund of funds, information on where the underlying funds are established;
 - (d) a description of the types of assets in which the *AIF* may invest;
 - (e) the investment techniques that the *AIF*, or the *AIFM* on behalf of the *AIF*, may employ and all associated risks;
 - (f) any applicable investment restrictions;
 - (g) the circumstances in which the *AIF* may use *leverage*;
 - (h) the types and sources of *leverage* permitted and the associated risks;
 - (i) any restrictions on the use of *leverage* and any *collateral* and asset reuse arrangements; and
 - (j) the maximum level of *leverage* which the *AIFM* is entitled to employ on behalf of the *AIF*;
- (2) a description of the procedures by which the *AIF* may change its investment strategy or investment policy, or both;
- (3) a description of the main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, the applicable law and the existence or

- absence of any legal instruments providing for the recognition and enforcement of judgments in the territory where the *AIF* is established;
- (4) the identity of the *AIFM*, the *AIF's depositary*, the auditor and any other service providers and a description of their duties and the investors' rights;
 - (5) a description of how the *AIFM* complies with the requirements referred to in ■ IPRU-INV 11.3.11G (Professional negligence) relating to professional liability risk;
 - (6) a description of:
 - (a) any *AIFM management function* delegated by the *AIFM*;
 - (b) any safe-keeping function delegated by the *depositary*;
 - (c) the identity of each delegate appointed in accordance with ■ FUND 3.10 (Delegation); and
 - (d) any conflicts of interest that may arise from such delegations;
 - (7) a description of the *AIF's* valuation procedure and of the pricing methodology for valuing assets, including the methods used in valuing any hard-to-value assets, in line with ■ FUND 3.9 (Valuation);
 - (8) a description of the *AIF's* liquidity risk management, including the redemption rights of investors in normal and exceptional circumstances, and the existing redemption arrangements with investors;
 - (9) a description of all fees, charges and expenses, and the maximum amounts directly or indirectly borne by investors;
 - (10) a description of how the *AIFM* ensures a fair treatment of investors;
 - (11) whenever an investor obtains preferential treatment or the right to obtain preferential treatment, a description of:
 - (a) that preferential treatment;
 - (b) the type of investors who obtain such preferential treatment; and
 - (c) where relevant, their legal or economic links with the *AIF* or *AIFM*;
 - (12) the procedure and conditions for the issue and sale of *units* or *shares*;
 - (13) the latest net asset value of the *AIF* or the latest market price of the *unit* or *share* of the *AIF*, in line with ■ FUND 3.9 (Valuation);
 - (14) the latest annual report, in line with ■ FUND 3.3 (Annual report of an AIF);
 - (15) where available, the historical performance of the *AIF*;
 - (16) (a) the identity of the *prime brokerage firm*;

- (b) a description of any material arrangements of the *AIF* with its *prime brokerage firm* and the way any conflicts of interest are managed;
- (c) the provision in the contract with the *depository* on the possibility of transfer and reuse of *AIF* assets; and
- (d) information about any transfer of liability to the *prime brokerage firm* that may exist; and

(17) a description of how and when the information required under ■ FUND 3.2.5 R and ■ FUND 3.2.6 R will be disclosed.

[Note: article 23(1) of *AIFMD*]

3.2.3

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- (1) An *AIFM* must inform investors before they invest in the *AIF* of any arrangement made by the *depository* to contractually discharge itself of liability, in accordance with regulation 30 of the *AIFMD UK Regulation*.
- (2) The *AIFM* must also inform investors without delay of any changes with respect to *depository* liability.

[Note: article 23(2) of *AIFMD*]

3.2.4

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Where the *AIF* is required to publish a *prospectus* under section 85 of the *Act* or the equivalent provision implementing article 3 of the *Prospectus Directive* in the *AIF's Home State*, only information referred to in ■ FUND 3.2.2 R and ■ 3.2.3 R that is additional to that contained in the *prospectus* needs to be disclosed, either separately or as additional information in the *prospectus*.

[Note: article 23(3) of *AIFMD*]

Additional information to be made available on securities financing transactions and total return swaps

3.2.4A

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- (1) The *Securities Financing Transactions Regulation* sets out the additional information which a *full-scope UK AIFM* must make available to investors before they invest.
- (2) ■ COLL 4.2.5BEU and ■ COLL 4.2.5CEU copy out the relevant provisions of that regulation.
- (3) A *full-scope UK AIFM* of an *AIF* that does not use *securities financing transactions* or *total return swaps* is not required to include the information in ■ COLL 4.2.5CEU in its pre-contractual documents.

Preparation of key information document in accordance with the PRIIPs regulation

3.2.4B

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- (1) The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).

- (2) The requirements of the *PRIIPs Regulation* are directly applicable.
- (3) As a result, if an *AIFM* makes the *AIF* it manages available to *retail clients* in the *United Kingdom* it must comply with the *PRIIPs Regulation*.
- (4) This means that, in addition to the prior disclosure of information set out at ■ FUND 3.2.2R and ■ FUND 3.2.3R, the *AIFM* must prepare:
 - (a) a *key information document*; or
 - (b) if the *AIF* is a *non-UCITS retail scheme*, a *key information document* or a *NURS-KII document*.

Periodic disclosure

3.2.5 R An *AIFM* must, for each *UK AIF* and *EEA AIF* it manages, and each *AIF* it markets in the *EEA*, disclose to investors periodically:

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

[Note: article 23(4) of *AIFMD*]

3.2.6 R An *AIFM* that manages a *UK AIF* or an *EEA AIF* or markets an *AIF* in the *EEA* must, for each such *AIF* that employs *leverage*, disclose on a regular basis:

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

[Note: article 23(5) of *AIFMD*]

Subordinate measures

3.2.7 G Articles 108 and 109 of the *AIFMD level 2 regulation* provide detailed rules supplementing this section.