

## Chapter 3

# Requirements for alternative investment fund managers



## 3.5 Investment in securitisation positions

3.5.1 **G** [deleted]

3.5.2 **G** [deleted]

3.5.3 **G** [deleted]

### Application

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

- a *UK AIF*;
- an *EEA AIF*; and
- a *non-EEA AIF*.

### Corrective action

3.5.5 **R** Where an *AIFM* is exposed to a securitisation that does not meet the requirements provided for in the *Securitisation Regulation*, it must, in the best interests of the investors in the relevant *AIFs*, act and take corrective action, if appropriate.

[**Note:** article 17 of *AIFMD*]

3.5.6 **G** Article 41 of the *Securitisation Regulation* replaces the original article 17 of *AIFMD* with an amended provision. ■ FUND 3.5.4R and ■ 3.5.5R transpose article 17 of *AIFMD*, as amended.

3.5.7 **G** A more general consequence of the replacement of article 17 of *AIFMD* is that from 1 January 2019, Section 5 (Investment in Securitisation Positions) of the *AIFMD level 2 regulation* no longer applies, subject to transitional provisions. Where the transitional provisions are inapplicable, article 5 (Due-diligence requirements for institutional investors) of the *Securitisation Regulation* (in combination with ■ FUND 3.5.4R and ■ 3.5.5R), completely replaces Section 5 (articles 50 to 56 inclusive) of the *AIFMD level 2 regulation*.

### 3.5.8

**G** The relevant transitional provisions apply to certain securitisations issued during periods before 1 January 2019. They are set out in articles 43(5) and 43(6) of the *Securitisation Regulation*. Where the transitional provisions apply, they have the effect that article 51 of the *AIFMD level 2 regulation*, concerning requirements for retained interest, and the due-diligence requirements provided for in Section 5 of that regulation, may continue to apply to eligible securitisations, instead of article 5 of the *Securitisation Regulation*.