

**TECHNICAL STANDARDS (ALTERNATIVE INVESTMENT FUNDS
MANAGEMENT DIRECTIVE) (EU EXIT) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

Modifications

- F. The FCA makes the modifications specified in the Annex to this instrument to the Commission Delegated Regulation (EU) 694/2014 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers.

Commencement

- G. This instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.

Citation

H. This instrument may be cited as the Technical Standards (Alternative Investment Funds Management Directive) (EU Exit) Instrument 2019.

By order of the FCA Board
28 March 2019

In this instrument, underlining indicates new text and striking through indicates deleted text.

Annex

COMMISSION DELEGATED REGULATION (EU) No 694/2014 of 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers

~~(Text with EEA relevance)~~

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Article 1

Types of AIFMs

1. An AIFM may be either or both of the following:
 - an AIFM of open-ended AIF(s);
 - an AIFM of closed-ended AIF(s).

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5. For the purposes of ~~Article 61(3)~~ regulations 74 and 75 (4) of Directive 2011/61/EU the Alternative Investment Fund Managers Regulations 2013, an AIFM in so far as it manages AIFs whose shares or units are, at the request of any of its shareholders or unitholders, repurchased or redeemed prior to the commencement of its liquidation phase or wind-down, directly or indirectly, out of the assets of the AIFs after an initial period of at least 5 years during which redemption rights are not exercisable shall also be considered to be an AIFM of a closed-ended AIF.

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~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

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