Draft Regulations laid before Parliament under section 84(3) of the Financial Services and Markets Act 2023 (c. 29), for approval by resolution of each House of Parliament.

D R A F T   S T A T U T O R Y   I N S T R U M E N T S

2026 No.

FINANCIAL SERVICES

The Alternative Investment Fund Managers Regulations 2026

Made - - - - ***

Coming into force

CONTENTS

The Treasury make these Regulations in exercise of the powers conferred by sections 4(1), (2), (5) and (6), 84(2) and 86(5) of the Financial Services and Markets Act 2023(**a**).

PART 1

INTRODUCTION

Citation, commencement and extent

1. These Regulations—

(a) may be cited as the Alternative Investment Fund Managers Regulations 2026;

(b) come into force on [DATE];

(c) extend to England and Wales, Scotland and Northern Ireland.

(**a**) 2023 c. 29.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Financial Services and Markets Act 2000(**a**);

"AIF" has the meaning given by regulation 3 (meaning of AIF);

"AIFM" has the meaning given by regulation 4(1) (meaning of AIFM, etc);

"authorised Gibraltar AIFM" means an AIFM which has permission under Part 7 of the Financial Services Act 2019 of Gibraltar(**b**) to carry on the regulated activity of managing one or more AIFs;

"authorised UK AIFM" means a UK AIFM which has a Part 4A AIFM permission;

"depositary" means a person appointed by an AIFM in compliance with the rules regarding the appointment of depositaries in [PLACEHOLDER] of the [XXXX} sourcebook;

"external AIFM" has the meaning given by regulation 4(3)(a);

"Gibraltar AIF" means an AIF which is authorised or registered under the national law in Gibraltar, or has its registered office or head office in Gibraltar (but see paragraph (3) if the AIF is a limited partnership);

"Gibraltar AIFM" means an AIFM which is an authorised Gibraltar AIFM which is exercising an entitlement under the Financial Services and Markets Act 2000 (Gibraltar) Order 2001(**c**) to establish a branch or provide services in the United Kingdom;

"implementing provision" means a requirement that is imposed by or under—

(a) these Regulations; or

(b) the Act;

"internal AIFM" has the meaning given by regulation 4(3)(b);

"issuer" means a company which has its registered office in the United Kingdom and the shares of which are admitted to trading on a UK regulated market within the meaning of Article 2(1)(13A) of Regulation (EU) 600/2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012(**d**);

"leverage" means any method by which the AIFM increases the exposure of an AIF it manages whether through borrowing of cash or securities, or leverage embedded in derivative positions or by any other means;

"managing an AIF" has the meaning given by regulation 4(2), and related expressions are to be read accordingly;

"non-listed company" means a company which has its registered office in the United Kingdom and the shares of which are not admitted to trading on a UK regulated market within the meaning of Article 2(1)(13A) of Regulation (EU) 600/2014 on markets in financial instruments on markets in financial instruments and amending Regulation (EU) No. 648/2012;

"Part 4A AIFM permission" means permission under Part 4A of the Act(**e**) to carry on the regulated activity specified by article 51ZC (managing an AIF) of the Regulated Activities Order of managing an AIF;

(**a**) 2000 c. 8.
(**b**) Act No. 2019-26 https://www.gibraltarlaws.gov.gi/legislations/financial-services-act-2019-4690
(**c**) S.I. 2001/3084.
(**d**) EUR 2014/600, as amended by regulation 26 of S.I. 2018/1403, which inserted Article 2(1)(13A)
(**e**) Part 4A was inserted by section 11 of the Financial Services Act 2012 (c. 21).

"Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**a**);

"RVECA" means a venture capital fund within the meaning of Article 3(b) of the RVECA Regulation that is registered in accordance with Article 14a of that Regulation (**b**);

"RVECA Manager" means the manager of a venture capital fund that is registered in accordance with Article 14 of the RVECA Regulation(**c**);

"RVECA Regulation" means Regulation (EU) No 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds(**d**);

"securitisation special purpose entity" has the meaning given by regulation 3(1) of the Securitisation Regulations 2024(**e**);

"SEF" means a social entrepreneurship fund that is registered in accordance with Article 15a of the SEF Regulation(**f**);

"SEF Manager" means the manager of a social entrepreneurship fund that is registered in accordance with Article 15 of the SEF Regulation(**g**);

"SEF Regulation" means Regulation (EU) No 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds(**h**);

"sub-fund" means a separate part of the property of an undertaking that is pooled separately;

"third country" means a country or territory other than the United Kingdom;

"UK AIF" means an AIF which—

(a) is—

(i) an authorised unit trust scheme,

(ii) an authorised contractual scheme, or

(iii) an authorised open-ended investment company,

as defined in section 237(3) of the Act(**i**), or

(b) is not authorised or registered in the United Kingdom, but has its registered office or head office in the United Kingdom (but see paragraph (3) if the AIF is a limited partnership);

"UK AIFM" means an AIFM which has its registered office in the United Kingdom.

(2) The following terms have the same meaning in these Regulations as in the Act—

"authorised person" (see section 31);

"collective investment scheme" (see section 235);

"investment firm" (see section 424A);

(**a**) S.I. 2001/544.

(**b**) Article 14a was inserted by Article 1 of Regulation (EU) 2017/1991 of the European Parliament and of the Council of 25 October 2017 amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds; relevant amendments were made by regulation 5 of S.I. 2019/333.

(**c**) Article 14 was amended by Article 1 of Regulation (EU) 2017/1991 of the European Parliament and of the Council of 25 October 2017 and regulation 5 of S.I. 2019/333.

(**d**) EUR 2013/345.

(**e**) S.I. 2024/102.

(**f**) Article 15a was inserted by Article 2 of Regulation (EU) 2017/1991 of the European Parliament and of the Council of 25 October 2017 amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds; relevant amendments were made by regulation 5 of S.I. 2019/343.

(**g**) Article 15 was amended by Article 2 of Regulation (EU) 2017/1991 of the European Parliament and of the Council of 25 October 2017 and regulation 5 of S.I. 2019/343.

(**h**) EUR 2013/346.

(**i**) The definition of "an authorised contractual scheme" was inserted by regulation 3 of S.I. 2013/1388.

"the regulator" (see section 3A);

"UCITS" (see section 236A);

"UK UCITS" (see section 237(3));

"the Tribunal" (see section 417).

(3) In their application to an AIF that is a limited partnership, any reference in the definition of "Gibraltar AIF" and "UK AIF" to the AIF's registered office is to be read as a reference to its principal place of business.

(4) In these Regulations, any reference to a sourcebook is to a sourcebook, as amended from time to time, in the Handbook of Rules and Guidance published by the FCA containing Rules made by the FCA under the Act(**a**).

Meaning of "AIF"

3.—(1) "AIF" means a collective investment undertaking, including a sub-fund of such an undertaking, which—

(a) raises, has raised or intends to raise capital from a number of investors, with a view to investing it in accordance with a policy as to how the capital is to generate a return or investment outcome or the benefit of these investors, and

(b) is not a UK UCITS,

but does not include an entity or arrangements excluded by paragraph (3) or (6).

(2) An AIF may be open-ended or closed-ended, and constituted in any legal form, including under a contract, by means of a trust or under statute.

(3) The excluded entities are—

(a) an occupational pension scheme, within the meaning of section 1(1) of the Pension Schemes Act 1993(**b**);

(b) a holding company;

(c) an employee participation scheme or employee savings scheme;

(d) a securitisation special purpose entity.

(4) The Treasury may by regulations amend paragraph (3) to add or remove an entity.

(5) The power to make regulations under paragraph (4) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Arrangements do not constitute an AIF where—

(a) they are arrangements under which money or an asset is held for the stabilisation of a qualifying stablecoin, and

(b) both the conditions specified by paragraph (7) are met.

(7) The specified conditions are that—

(a) the issuer of the qualifying stablecoin does not pay, or arrange for another to pay, interest or yield arising from money or an asset held for the stabilisation of the qualifying stablecoin, or the benefits accruing from such to a holder;

(b) under normal conditions, the qualifying stablecoin offers a holder a right to redeem the stablecoin with the issuer at the same value, in the currency the stablecoin referenced at issue (excluding any fees that may be payable on redemption).

(**a**) The Handbook can be found online at https://handbook.fca.org.uk/handbook and a hard copy is available for inspection at FCA, 12 Endeavour Square, London, E20 1JN.

(**b**) 1993 c. 48. Relevant amendments to section 1 were made by section 239 of the Pensions Act 2004 (c. 35) and regulation 2 of S.I. 2019/192.

(8) In this regulation—

(a) "qualifying stablecoin" has the meaning given by article 88G of the Regulated Activities Order(**a**);

(b) money or an asset is held for the stabilisation of a qualifying stablecoin if it is held for the purpose mentioned in article 88G(2)(b) of the Regulated Activities Order;

(c) "closed-ended AIF" has the meaning given in [xxxx of the xxx sourcebook;

(d) "open-ended AIF" has the meaning given in [xxxx of the xxxx sourcebook.

Meaning of "AIFM", "managing an AIF", "external AIFM" and "internal AIFM"

4.—(1) "AIFM" means a legal person, the regular business of which is managing one or more AIFs, but does not include an entity excluded by paragraph (4).

(2) Managing an AIF means performing at least risk management or portfolio management for the AIF.

(3) The AIFM of an AIF may be either—

(a) another person appointed by or on behalf of the AIF who, through that appointment, is responsible for managing the AIF ("external AIFM"), or

(b) where the legal form of the AIF permits internal management and where the AIF's governing body chooses not to appoint an external AIFM, the AIF itself ("internal AIFM").

(4) The excluded entities are—

(a) an occupational pension scheme, within the meaning of section 1(1) of the Pension Schemes Act 1993, including its trustees and managers;

(b) 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;

(c) a national central bank;

(d) a national, regional or local government or body or other institution which manages funds supporting social security and pension systems;

(e) a holding company;

(f) an employee participation scheme or employee savings scheme;

(g) a securitisation special purpose entity.

(5) The Treasury may by regulations amend paragraph (4) to add or remove an entity.

(6) The power to make regulations under paragraph (5) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(**a**) Article 88G was inserted by regulation 40 of S.I. 2026/102.

PART 2

AUTHORISED AND EXEMPT AIFMS

Applications for Part 4A AIFM permission

5. The regulator must not give a Part 4A AIFM permission to a person unless the applicant would be—

(a) an AIFM, and

(b) the only AIFM of each AIF it manages.

Liability following delegation

6.—(1) Any liability of an authorised UK AIFM to an AIF it manages, or to an investor of such an AIF, in relation to its activities under a Part 4A AIFM permission is not affected by—

(a) the delegation of functions by the AIFM to a third party ("a delegate");

(b) any sub-delegation of such functions by the delegate to another person ("a sub-delegate");

(c) any further sub-delegation of such functions by a sub-delegate.

(2) Paragraph (1) applies irrespective of any contractual arrangements that provide otherwise.

(3) A delegate or sub-delegate which has delegated or sub-delegated such functions must review on an ongoing basis the services provided by the person to whom functions have been delegated or sub-delegated.

Threshold condition for authorisation exemption

7.—(1) An AIFM meets the condition in this regulation(**a**) if—

(a) it is the AIFM of portfolios of AIFs, and

(b) the value of the AIFM's assets under management does not exceed—

(i) £500 million in total in cases where the portfolios of AIFs consist of AIFs that are unleveraged and have no redemption rights exercisable during a period of 5 years following the date of initial investment in each AIF, or

(ii) £100 million in total in all other cases (including any assets acquired through the use of leverage).

(2) In paragraph (1), an AIFM may be the AIFM of an AIF whether it manages the AIF directly, or indirectly through a company ("C") with which the AIFM is linked by common management or control, or by a substantive direct or indirect holding.

(3) Schedule 1 provides for how an AIFM's assets under management are calculated.

(4) The value of an AIFM's assets under management are not considered to have exceeded the relevant threshold in paragraph (1)(b) where paragraph 3(3) of Schedule 1 applies.

(5) For the purposes of this regulation "control" is to be determined in relation to an AIFM and C by applying the tests set out in paragraphs (a) to (d) of subsection (2), or paragraphs (a) or (b) of subsection (4), of section 1162 of the Companies Act 2006(**b**).

(**a**) The condition in this regulation is relevant for the purposes of determining whether an AIFM is excluded from the ambit of article 51ZC of the Financial Services and Markets 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).
(**b**) 2006 c. 46.

Exemption for below threshold internally managed investment companies

8.—(1) An AIFM is an exempt internally managed investment company where conditions A to E set out in paragraphs (2) to (6) are met in respect of it.

(2) Condition A is that the AIFM is—

(a) a UK AIFM,

(b) the internal AIFM of an AIF that is a body corporate and is not a collective investment scheme, and

(c) not an external AIFM in relation to any other AIF.

(3) Condition B is that the AIFM meets the condition in regulation 7 (threshold condition for authorisation exemption).

(4) Condition C is that the AIFM has its registered office or head office in the United Kingdom and is admitted to trading on—

(a) a UK recognised investment exchange (an "RIE") within the meaning of section 285(1) of the Act, or(**a**)

(b) a multilateral trading facility within the meaning of section 313 of the Act which is operated by an RIE.

(5) Condition D is that none of the individuals responsible for the management or operation of the AIFM—

(a) has been convicted of any offence involving fraud or dishonesty, or any indictable offence, or

(b) is subject to a prohibition order.

(6) Condition E is that grounds do not exist which would permit or require a court to make a disqualification order within the meaning of section 1(1) of the Company Directors Disqualification Act 1986(**b**) against an individual responsible for the management or operation of the AIFM.

(7) In paragraph (5), "offence" includes any act or omission which would have been an offence if it had taken place in the United Kingdom.

PART 3

VENTURE CAPITAL FUNDS AND SOCIAL ENTREPRENEURSHIP FUNDS

Chapter 1

Registration of RVECA and SEF Managers

Registration of RVECA and SEF Managers

9.—(1) The FCA must keep a register of RVECA Managers and SEF Managers ("the register").

(2) The FCA must enter a UK AIFM on the register if it—

(a) meets the condition in regulation 7 (threshold condition for authorisation exemption),

(b) has applied for registration as an RVECA Manager or SEF Manager, and

(c) meets the conditions in regulation 2(1) of the RVECA Regulation or regulation 2(1) of the SEF Regulation.

(**a**) 2007 c. 3. Section 1005 was substituted by paragraph 1 of Schedule 26 to the Finance Act 2007 (c. 11).

(**b**) 1986 c. 46. Section 1 was amended by section 5 of, and paragraph 2 of Schedule 4 to, the Insolvency Act 2000 (c. 39), section 204 of the Enterprise Act 2002 (c. 40), paragraph 2 of Schedule 7 to the Small Business, Enterprise and Employment Act 2015 (c. 26) and paragraph 2 of Schedule 13 to the Finance Act 2024 (c. 3).

(3) If an RVECA Manager or SEF Manager ceases to be a UK AIFM, it must inform the FCA immediately.

Form of the register of RVECA and SEF Managers

10.—(1) The FCA may—

(a) keep the register in any form it thinks fit;

(b) include on the register such information as it considers appropriate;

(c) exploit commercially the information contained in the register or any part of that information.

(2) The FCA must—

(a) publish the register on a regular basis;

(b) provide a certified copy of the register, or any part of it, to any person who asks for it—

(i) on payment of the fee (if any) fixed by the FCA, and

(ii) in a form in which it is legible to the person asking for it.

Determination of applications for RVECA and SEF Manager registration

11.—(1) The FCA—

(a) may determine an incomplete application for registration as an RVECA Manager or SEF Manager if it considers it appropriate to do so, and

(b) must determine such an application within six months beginning with the date on which it first receives the application.

(2) If the FCA decides to enter an RVECA Manager or SEF Manager on the register, it must give written notice of its determination to the applicant.

Procedure when refusing an application for RVECA and SEF Manager registration

12.—(1) If the FCA proposes to refuse an application for registration as an RVECA Manager or SEF Manager, it must give the applicant a warning notice.

(2) If the FCA decides to refuse such an application—

(a) it must give the applicant a decision notice, and

(b) the applicant may refer the matter to the Tribunal.

(3) If the FCA has not determined such an application before the end of the period of two months beginning with the day on which the applicant has provided all the information required by the FCA in connection with the application—

(a) the application is treated as refused, and

(b) the applicant may refer the matter to the Tribunal.

Chapter 2

Revocation of registration of RVECA and SEF Managers

Applications for revocation of RVECA and SEF Manager registration

13. An RVECA Manager or SEF Manager may apply to the FCA for its registration to be revoked and for a Part 4A AIFM permission.

Grounds for revocation of RVECA and SEF Manager registration

14.—(1) The FCA may revoke the registration of an RVECA Manager or SEF Manager if one or more of the grounds in paragraph (2) applies, subject to paragraph (3).

(2) The grounds are—

(a) the RVECA Manager or SEF Manager is not a UK AIFM;

(b) the RVECA Manager or SEF Manager does not meet the condition in regulation 7 (threshold condition for authorisation exemption);

(c) the RVECA Manager or SEF Manager has contravened an implementing provision that applies to it;

(d) the RVECA Manager or SEF Manager applies for or consents to the revocation of its registration;

(e) the RVECA Manager or SEF Manager is wound up;

(f) a fee due in respect of the registration has not been paid.

(3) If an RVECA Manager or SEF Manager applies to the FCA for a Part 4A AIFM permission under regulation 13, the FCA may not revoke its registration on the ground in paragraph (2)(b) until the FCA has determined the RVECA Manager or SEF Manager's application.

Procedure on revocation of RVECA and SEF Manager registration

15.—(1) If the FCA proposes to revoke the registration of an RVECA Manager or SEF Manager on a relevant ground, the FCA must give the RVECA Manager or SEF Manager a warning notice.

(2) If the FCA decides to revoke the registration of an RVECA Manager or SEF Manager on a relevant ground—

(a) the FCA must give the RVECA Manager or SEF Manager a decision notice, and

(b) the RVECA Manager or SEF Manager may refer the matter to the Tribunal.

(3) In this regulation, "relevant ground" means a ground in—

(a) regulation 14(2)(a) to (c),

(b) Article 21 of the RVECA Regulation, or

(c) Article 22 of the SEF Regulation.

Chapter 3

Suspension of registration of RVECA and SEF Managers

Grounds for suspension of RVECA and SEF Manager registration

16.—(1) The FCA may suspend the registration of an RVECA Manager or SEF Manager if it appears to the FCA that—

(a) the RVECA Manager or SEF Manager is not a UK AIFM;

(b) the RVECA Manager or SEF Manager does not meet the condition in regulation 7 (threshold condition for authorisation exemption);

(c) the RVECA Manager or SEF Manager has contravened, or is likely to contravene, an implementing provision or a requirement that applies to it imposed by the RVECA Regulation or the SEF Regulation.

(2) The suspension must be for a specified period until the occurrence of a specified event, or until specified conditions are complied with.

(3) In this regulation, “specified” means specified by the FCA in a notice given under regulation 17.

Procedure on suspension of RVECA and SEF Manager registration

17.—(1) If the FCA proposes to suspend a registration of an RVECA Manager or SEF Manager or suspends such a registration with immediate effect—

(a) it must give written notice to the RVECA Manager or SEF Manager, and

(b) the RVECA Manager or SEF Manager may refer the matter to the Tribunal.

(2) The suspension of the registration of an RVECA Manager or SEF Manager takes effect—

(a) immediately if the notice given under paragraph (1)(a) states that that is the case;

(b) on such date as may be specified in the notice, or

(c) if no date is specified in the notice, when the matter to which it relates is no longer open to review.

(3) The FCA may only suspend a registration with immediate effect or on a specified date if, having regard to the ground on which it is exercising its power under regulation 16, it considers that it is necessary for the suspension to take effect immediately or on that date.

(4) A notice given under paragraph (1) must state—

(a) the details of the suspension;

(b) when the suspension takes effect;

(c) the FCA's reasons for imposing the suspension and for its determination as to when the suspension takes effect;

(d) that the RVECA Manager or SEF Manager to whom it is given may make representations to the FCA within such period as may be specified in the notice (whether or not it has referred the matter to the Tribunal);

(e) that the RVECA Manager or SEF Manager has the right to refer the matter to the Tribunal.

(5) The FCA may extend the period allowed under the notice for making representations.

(6) Having considered any representations made by the RVECA Manager or SEF Manager to whom the notice was given—

(a) the FCA must give written notice to the RVECA Manager or SEF Manager as to whether it decides—

(i) to make the suspension in the way proposed (or, if the suspension has already been imposed, not to revoke the suspension),

(ii) to make the suspension in a way other than that proposed (or, if the suspension has already been imposed, to amend the suspension), or

(iii) not to make the suspension (or, if the suspension has already been imposed, to revoke the suspension);

(b) unless the FCA decides not to make, or to revoke, the suspension, the RVECA Manager or SEF Manager may refer the matter to the Tribunal.

(7) For the purposes of paragraph (2)(c), section 391(8) of the Act (publication) applies as if a notice under paragraph (1) or (6) were a supervisory notice.

Chapter 4

FCA directions to RVECA and SEF Managers

Directions to RVECA and SEF Managers to provide information

18.—(1) An RVECA Manager or SEF Manager must provide the FCA with such information as the FCA may direct which the FCA reasonably requires in order to carry out its functions under—

(a) these Regulations;

(b) the Act;

(c) the SEF Regulation;

(d) the RVECA Regulation.

(2) Information provided under paragraph (1) must be given at such times and in such manner, and verified in such manner, as the FCA may direct.

Directions to RVECA and SEF Managers to take appropriate measures

19.—(1) The FCA may direct an RVECA Manager or SEF Manager to take such specified steps as are necessary for the purpose of securing its compliance with—

(a) an implementing provision,

(b) the RVECA Regulation, or

(c) the SEF Regulation.

(2) An RVECA Manager or SEF Manager must comply with any direction given to it by the FCA under paragraph (1).

(3) Sections 55Y (exercise of own-initiative power: procedure) and 55Z3(2) (right to refer matters to the Tribunal) of the Act(**a**) apply to a direction to an RVECA Manager or SEF Manager under paragraph (1) as they apply to a requirement imposed on an authorised person under section 55L(3) of the Act (imposition of requirements by the FCA).

Chapter 5

Registration of RVECAs and SEFs

Application for RVECA and SEF registration

20.—(1) An application for registration of an RVECA or SEF under article 14a of the RVECA Regulation or article 15a of the SEF Regulation must—

(a) be made in such a manner as the FCA may direct, and

(b) contain or be accompanied by such information as the FCA may reasonably require for the purpose of determining the application.

(2) At any time after receiving an application and before determining it, the FCA may require the applicant to provide it with such further information as it considers necessary to enable it to determine the application.

(3) Different directions may be given, and different requirements imposed, in relation to different applications or categories of applications.

(**a**) Sections 55Y and 55Z3 were inserted by section 11 of the Financial Services Act 2012.

(4) The FCA may require an applicant to provide information which it is required to give under paragraph (1) or (2) in such form, or to verify it in such manner, as the FCA may specify.

Procedure when refusing an application for RVECA and SEF registration

21.—(1) If the FCA proposes to refuse an application for registration of an RVECA or SEF, it must give the applicant a warning notice.

(2) If the FCA decides to refuse such an application—

(a) it must give the applicant a decision notice, and

(b) the applicant may refer the matter to the Tribunal.

(3) If the FCA has not determined such an application before the end of the period of two months beginning with the day on which the applicant has provided all the information required by the FCA in connection with the application—

(a) the application is treated as refused, and

(b) the applicant may refer the matter to the Tribunal.

Revocation of RVECA and SEF registration

22.—(1) If the FCA proposes to revoke the registration of an RVECA or SEF otherwise than by consent, it must give separate warning notices to the AIFM, and where there is a depository, the depositary of the RVECA or SEF.

(2) If the FCA decides to the revoke the registration of an RVECA or SEF otherwise than by consent—

(a) it must give each of the AIFM and the depositary a decision notice, and

(b) either the AIFM or the depositary may refer the matter to the Tribunal.

PART 4

LIABILITY OF DEPOSITARIES FOR LOSS

Depositary liability: general provisions

23.—(1) This Part applies to a depositary of a UK AIF managed by an authorised UK AIFM or a Gibraltar AIFM.

(2) Any obligation or liability of a depositary under regulation 24 or 26 to the investors of the AIF may be invoked directly or indirectly through the AIFM, depending on the nature of the legal relationship between the depositary, the AIFM and the investors.

(3) For the purposes of regulations 24 to 26, the provision of services as specified by the Financial Markets and Insolvency (Settlement Finality) Regulations 1999(**a**) by a designated system (within the meaning of regulation 2(1) of those Regulations(**b**)), or the provision of similar services by a non-UK securities settlement system, is not to be considered a delegation of custody functions.

Depositary liability for loss of an asset

24.—(1) This regulation applies—

(**a**) S.I. 1999/2979.
(**b**) The definition of "designated system" was substituted by regulation 5 of S.I. 2019/341.

(a) to an asset which is held in accordance with section XXX of the [XXX sourcebook] by a depositary or a third party to whom the custody has been delegated or sub-delegated, and

(b) where the asset is deemed to have been lost under section [SECTION XXXX] of the [XXXX] sourcebook.

(2) The depositary must return an asset of the identical type or the corresponding amount to the AIF, or the AIFM acting on behalf of the AIF, without undue delay.

(3) But the depositary is not required to comply with the obligation in paragraph (2) if it can prove that regulation 25 (exceptions) applies.

Depositary liability for loss of a financial instrument held in custody: exceptions

25.—(1) This regulation applies where one or more of conditions A to C apply.

(2) Condition A is that the loss arose as a result of an external event beyond the depositary's reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary.

(3) Condition B is that—

(a) the lost asset was held in custody by a third party,

(b) the depositary had delegated its safekeeping functions to the third party in accordance with section XXXX of the XXXX sourcebook,

(c) a written contract between the depositary and the third party—

(i) expressly transfers the obligation in regulation 24 to the third party, and

(ii) enables the AIF, or the AIFM acting on behalf of the AIF, to make a claim against the third party in respect of the loss of the asset or for the depositary to make such a claim on their behalf, and

(d) a written contract between the depositary and the AIF, or the AIFM acting on behalf of the AIF, expressly allows a transfer of the depositary's obligation in regulation 24 and establishes an objective reason for the transfer.

(4) A third party ("X") to which custody of an asset has been delegated and to which the obligation in regulation 24 has been transferred in accordance with paragraph (3) is not required to return an asset of the identical type or corresponding amount to the AIF, the investors of the AIF, or the depository , if it can prove that—

(a) the lost asset was held in custody by another third party ("Y"),

(b) X had sub-delegated its safekeeping functions to Y in accordance with section XXXX of the XXXX sourcebook,

(c) a written contract between X and Y—

(i) expressly transfers from X to Y the obligation to return an asset of the identical type or corresponding amount to the AIF, or the investors of the AIF, and

(ii) enables the AIF, or the AIFM acting on behalf of the AIF, to make a claim against Y in respect of the loss of the asset or for the depositary to make such a claim on their behalf, and

(d) a written contract between X and the depositary expressly allows a transfer of X's obligation to return an asset of the identical type or corresponding amount to the AIF, or the investors of the AIF, and establishes an objective reason for the transfer.

(5) Condition C is that—

(a) the law of a non-UK country required the asset to be held in custody by a local entity,

(b) there was no local entity that satisfied the delegation requirement in section XXX] of the XXXXX sourcebook for the third party to be subject to effective prudential regulation and an external periodic audit,

(c) the constitutional instruments and any other binding contractual documents between the AIF and the investors concerned expressly allow for a discharge of the obligation of the depositary under regulation 24,

(d) information regarding the discharge was made available to the investors of the AIF,

(e) the AIF, or the AIFM on behalf of the AIF, instructed the depositary to delegate the custody of the assets to a local entity,

(f) a written contract between the depositary and the AIF, or the AIFM acting on behalf of the AIF, expressly allows for such a discharge, and

(g) a written contract between the depositary and the local entity expressly transfers the obligation of the depositary to the local entity and enables the AIF, or the AIFM acting on behalf of the AIF, to make a claim against the local entity in respect of the loss of assets or for the depositary to make such a claim on their behalf.

(6) Irrespective of any contractual arrangements that provide otherwise, but subject to paragraphs (3) to (5), the obligation of the depositary under regulation 24 or of a third party as referred to in paragraph (3)(c) or (4)(c) is not affected by any delegation by the depositary or sub-delegation by the third party of the depositary's safekeeping functions in accordance with section XXX of the XXXX sourcebook.

Depositary liability for other loss

26.—(1) The depositary is liable to the AIF, or investors of the AIF, for loss suffered by the AIF, or investors of an AIF, if—

(a) the loss is as a result of the depositary's negligent or deliberate failure to comply with an implementing provision that applies to it, and

(b) regulation 24 does not apply to the loss.

(2) Irrespective of any contractual arrangements that provide otherwise, any liability of the depositary to the AIF, or to investors of the AIF, under paragraph (1) is not affected by any sub-delegation by the depositary of the depositary's safekeeping functions referred to in section [XXXX] of the XXXX sourcebook.

PART 5

AIFs which acquire control of non-listed companies and issuers

Introductory provision

27. In this Part, a reference to an AIFM is to—

(a) an authorised UK AIFM; or

(b) a third country AIFM to which the requirement at regulation 49(5) applies

Ways of acquiring control or shares

28.—(1) This Part applies where control is acquired of a non-listed company or issuer in one of the following ways—

(a) one AIF acquires control individually,

(b) two or more AIFs managed by the same AIFM, acquire control jointly on the basis of an agreement aimed at acquiring such control, or

(c) two or more AIFs, managed by two or more AIFMs, acquire control jointly on the basis of an agreement aimed at acquiring such control.

(2) This Part also applies where an AIF acquires, holds or disposes of shares of a non-listed company (but control is not acquired).

(3) This Part does not apply where the non-listed company or issuer is—

(a) a small or medium enterprise within the meaning of section 382 or 465 of the Companies Act 2006; or

(b) a special purpose vehicle with the purpose of purchasing, holding or administering real estate.

Meaning of "control" and calculation of voting rights

29.—(1) For the purposes of this Part, "control" means—

(a) for a non-listed company, holding more than 50% of the voting rights of the company, and

(b) for an issuer, holding the percentage of voting rights that confers control, calculated in accordance with rules made by the Panel on Takeovers and Mergers under the Companies Act 2006.

(2) When calculating the percentage of voting rights for the purposes of this Part, if paragraph (1)(b) does not apply, in addition to the voting rights held directly by the AIF the voting rights of the following are included—

(a) an undertaking controlled by the AIF; and

(b) a person acting in their own name but on behalf of the AIF or on behalf of an undertaking controlled by the AIF.

(3) For the purposes of this Part, if paragraph (1)(b) does not apply, voting rights are calculated on the basis of all the shares to which voting rights are attached even if the exercise of those rights is suspended.

Confidential information

30.—(1) This regulation applies to—

(a) employees of a non-listed company or issuer;

(b) representatives of the employees, and

(c) experts who assist the employees or representatives,

who receive information in accordance with this Part.

(2) If the information mentioned in paragraph (1) is provided in confidence—

(a) regulation 25 of the Information and Consultation of Employees Regulations 2004(**a**) (breach of statutory duty), or

(b) regulation 25 of the Information and Consultation of Employees Regulations (Northern Ireland) 2005(**b**) (breach of statutory duty)

applies to the information or documents given in confidence by an employer pursuant to the employer's obligation under those Regulations.

(**a**)
(**b**)

Notification of the acquisition of major holdings and control of non-listed companies

31.—(1) When an AIF acquires control of a non-listed company, the AIFM managing the AIF must notify the following persons of such control—

(a) the non-listed company;

(b) the company's shareholders of which the identities and addresses are available to the AIFM or can be made availble to the company or through a register to which the AIFM has or can obtain access.

(2) The notification required under paragraph (1) must contain the following additional information—

(a) the resulting situation in terms of voting rights in the company,

(b) the conditions subject to which control was acquired, including information about the identity of the different shareholders involved, any person entitled to exercise voting rights on their behalf and, if applicable, the chain of undertakings through which voting rights are effectively held, and

(c) the date on which control was acquired.

(3) The AIFM must—

(a) in its notification to the non-listed company, request the board of directors of the company to inform the employees' representatives or, where there are none, the employees themselves, without undue delay of the acquisition of control by the AIF and of the information, in paragraph (2), and

(b) use its best efforts to ensure the board of directors complies with its request.

(4) The notifications required under this regulation by an AIFM must be made as soon as possible and in any event no later than ten working days after the date on which the AIF reaches, exceeds or falls below the relevant threshold or acquires control over the non-listed company.

Disclosure in case of acquisition of control

32.—(1) When an AIF acquires control of a non-listed company or an issuer, the AIFM managing the AIF must make available the information in paragraph (2) to—

(a) the company or issuer,

(b) the shareholders of the company or issuer of which the identities and addresses are available to the AIFM or can be made available by the company or issuer or through a register to which the AIFM has or can obtain access, and

(c) the FCA.

(2) The information is—

(a) the identity of the AIFM which either individually or in agreement with other AIFMs manages the AIF or AIFs that have acquired control;

(b) the policy for preventing and managing conflicts of interest, in particular between—

(i) the AIFMs or the AIFs, and

(ii) the company or issuer;

(c) the specific safeguards to ensure that any agreement between—

(i) the AIFMs or the AIFs and

(ii) the company or issuer,

is concluded at arm's length; and

(d) the policy for external and internal communication relating to the company or issuer, in particular as regards employees of the company or issuer.

(3) The AIFM must—

(a) in its notification to the company or issuer, request the board of directors of the company to give the employees' representatives or, where there are none, the employees themselves, without undue delay the information in paragraph (2), and

(b) use its best efforts to ensure that the board of directors complies with its request.

Additional disclosure when control is acquired of non-listed companies

33.—(1) When an AIF acquires control of a non-listed company, the AIFM managing the AIF must ensure that within a period of 20 working days starting on the day on which control is acquired, the AIF, or the AIFM acting on behalf of the AIF, discloses its intentions with regard to the matters in paragraph (2) to—

(a) the non-listed company; and

(b) the shareholders of the non-listed company of which the identities and addresses are available to the AIFM or can be made available by the non-listed company or through a register to which the AIFM has or can gain access.

(2) The matters are the future business of the non-listed company and the likely repercussions on employment by the company, including any material change in the conditions of employment.

(3) The AIFM must—

(a) request that the board of directors of the non-listed company notifies the employees' representatives or, where there are none, the employees themselves, about the AIF's intentions with regard to the matters in paragraph (2); and

(b) use its best efforts to ensure the board of directors complies with its request.

Sensitive information

34. Where the communication of information as requested pursuant to a duty in regulation 31(3), 32(3) or 33(3) would seriously harm the functioning of the non-listed company, or would be seriously prejudicial to it, the board of directors is not obliged to comply with the request.

Annual report of AIFs exercising control of non-listed companies

35.—(1) When an AIF acquires control of a non-listed company, the AIFM managing the AIF must include in the AIF's annual report, prepared in accordance with [xxxx of the XXXXX] sourcebook, the information in paragraph (3) relating to the non-listed company.

(2) The duty in paragraph (1) does not arise if—

(a) the non-listed company has its registered office in the United Kingdom and is required to draw up an annual report under the Companies Act 2006; and

(b) the AIFM ensures that—

(i) the annual report of the non-listed company contains the information in paragraph (3), and

(ii) the report is made available by the board of directors of the company to the employees' representatives or, where there are none, to the employees themselves within the period in which the annual report must be drawn up.

(3) The information referred to in paragraph (1) is—

(a) a fair review of the development of the company’s business representing the situation at the end of the period covered by the annual report;

(b) any important events that have occurred since the end of the financial year of the AIF;

(c) the company’s likely future development; and

(d) in relation to the company’s acquisition or disposal of its own shares—

(i) the reasons for acquisitions made during the financial year; and

(ii) the number and nominal value or, in the absence of a nominal value, the accountable part of the shares, acquired and disposed of during the financial year and the proportion of the subscribed capital which they represent.

(4) If the information in paragraph (3) is included in the company’s annual report, the AIFM must make the information available to the investors of the AIF in so far as already available within six months following the end of the financial year of the AIF, and in any event, no later than the date on which the annual report of the company must be drawn up.

(5) If the information in paragraph (3) is included in the AIF’s annual report, the AIFM must request and use its best efforts to ensure that the board of directors of the non-listed company makes that information available to employees’ representatives of the company or where there are none, to the employees themselves, no later than six months following the end of the financial year of the AIF.

Asset stripping

36.—(1) When an AIF acquires control of a non-listed company or an issuer, for a period of 24 months following the acquisition of control the AIFM managing the AIF—

(a) must not facilitate, support or instruct any distribution, capital reduction, share redemption or acqusition by the company of its own shares;

(b) in so far as the AIFM is authorised to vote on behalf of the AIF at the meetings of the governing body of the company or issuer, must not vote in favour of a distribution, capital reduction, share redemption or acquisition by the company or issuer of its own shares; and

(c) in any event, must use its best efforts to prevent distributions, capital reductions, share redemptions or the acquisition by the company or issuer of its own shares.

(2) In paragraph (1), “distribution” means a distribution to shareholders, including a payment of dividends and of interest relating to shares—

(a) made when on the closing date of the last financial year the net assets as set out in the company or issuer’s annual accounts are, or following such a distribution would become, lower than the amount of the subscribed capital plus those reserves which may be not distributed under the law or the statutes, on the understanding that where the uncalled part of the subscribed capital is not included in the assets shown in the balance sheet, this amount must be deducted from the amount of subscribed capital; or

(b) the amount of which would exceed the amount of the profits at the end of the last financial year plus any profits brought forward and sums drawn from reserves available for this purpose, less any losses brought forward and sums placed to reserve in accordance with the law or the statutes.

(3) In paragraph (1), “capital reduction” does not include a reduction in subscribed capital, the purpose of which is—

(a) to off-set losses incurred, or

(b) to include sums of money in a non-distributable reserve, provided following that operation, the amount of such reserve is not more than 10% of the reduced subscribed capital.

(4) In paragraph (1) “share redemption” or “acquistion by the company or issuer of its own shares”—

(a) refers to a redemption or acquisition of shares, including shares previously acquired by the company or issuer and held by it and shares acquired by a person acting in that person’s own name but on the company or issuer’s behalf, that would have the effect of reducing the net assets below the amount mentioned in paragraph (2)(a); but

(b) does not include an acquisition of shares in the circumstances described in section 659(2)(b) or (c) of the Companies Act 2006 or an acquisition permitted by Chapter 4 of Part 18 of that Act.

(5) In this regulation “statutes” means the instrument of incorporation of the company or issuer.

FCA powers in relation to this Part

37. An authorised UK AIFM that contravenes any provision of this Part is to be treated as having contravened rules made under section 137A of the Act (FCA’s general rule making power).

PART 6

MARKETING OF AIFS

Chapter 1

General provisions

Application of this Part

38.—(1) This Part applies to the marketing of an AIF by an AIFM or an investment firm.

(2) But this Part, except for regulations 44 and 45, does not apply to the marketing of—

(a) an RVECA or SEF;

(b) a scheme which is recognised under section 271A of the Act(**a**);

(c) an AIF where a relevant offering to an investor is made at the initiative of that investor.

(3) In this Part—

(a) an AIFM markets an AIF it manages when the AIFM makes a relevant offering, or when another person makes such an offering at the initiative of, or on behalf of, the AIFM;

(b) an investment firm markets an AIF when it makes a relevant offering at the initiative of, or on behalf of, the AIFM of that AIF.

(4) In this regulation, “relevant offering” means a direct or indirect offering or placement of units or shares of the AIF to or with an investor domiciled, or with a registered office, in the United Kingdom or Gibraltar.

Interpretation of this Part

39. In this Part—

“feeder AIF” means an AIF which—

(**a**) Section 271A was inserted by paragraph 1 of Schedule 9 to the Financial Services Act 2021 (c. 22).

(a) invests at least 85% of its assets in units or shares of another AIF,

(b) invests at least 85% of its assets in more than one other AIF where those AIFs have identical investment strategies, or

(c) otherwise has an exposure of at least 85% of its assets to another AIF,

and each such other AIF is known as a "master AIF";

"master AIF" has the meaning given in the definition of "feeder AIF";

"professional investor" means an investor who would be considered to be a professional client within the meaning of section 3.5 of the Conduct of Business sourcebook;

"retail investor" means an investor who is not a professional investor;

"third country AIF" means an AIF which—

(a) is neither a UK AIF nor a Gibraltar AIF, or

(b) is a feeder AIF, the master AIF of which is either—

(i) managed by a third country AIFM, or

(ii) is neither a UK AIF nor a Gibraltar AIF;

"third country AIF custodian" has the meaning given by regulation 48(5)(a);

"third country AIFM" means an AIFM which is neither a UK AIFM nor a Gibraltar AIFM.

Manner and content of notifications

40.—(1) A notification under this Part must—

(a) be made in such manner as the FCA may direct;

(b) contain or be accompanied by such information as the FCA may direct.

(2) The FCA's powers under this regulation may be exercised differently for different purposes or notifications.

(3) The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001(**a**)apply in respect of any notifications made under these Regulations

Material change to information provided to FCA

41.—(1) If there is a material change to the information provided to the FCA under this Part, the AIFM must give written notice of the change to the FCA—

(a) in the case of a change planned by the AIFM ("planned change"), at least one month before implementing the change, or

(b) in other cases, as soon as reasonably practicable and, at the latest, immediately after an unplanned change has occurred.

(2) Subject to paragraph (3), if a planned change would mean the AIFM no longer complied with an implementing provision applicable to it, the FCA must inform the AIFM without undue delay that it must not implement the change.

(3) Paragraph (2) does not apply to AIFMs marketing under regulations 48 or 49.

(4) If—

(a) a planned change is implemented, or

(**a**)

(b) an unplanned change takes place,

as a result of which the AIFM no longer complies with an implementing provision that applies to it, the FCA must take steps to ensure that the AIFM complies with that implementing provision or ceases to market the AIF.

(5) The FCA may use its powers under—

(a) where applicable, section 55J and 55L of the Act (variation or cancellation on initiative of regulator and imposition of requirement by the FCA)(**a**), or

(b) regulations 42 to 44 (suspension and revocation of entitlement to market),

in taking the steps mentioned in paragraph (4), but this paragraph does not limit the powers of the FCA.

(6) The FCA may make rules specifying when a planned change is a material change for the purposes of paragraph (1).

Chapter 2

General restrictions on marketing

Restrictions on marketing of AIFs

42.—(1) An AIFM described in column A of the table below must not market in the United Kingdom an AIF that is described in the entry in column B of same row of the table unless the requirements of the regulation in column C in the same row of the table are met.

A (AIFM)	**B (AIF)**	**C (requirements)**
Authorised UK AIFM	AIF except a third country AIF	Regulation 46
Gibraltar AIFM	AIF except a third country AIF	Regulation 47
Authorised UK AIFM or Authorised Gibraltar AIFM	Third country AIF	Regulation 48
Third country AIFM	AIF	Regulation 49

(2) An investment firm must not market an AIF unless the requirements in paragraph (1) applicable to the AIF and the AIFM of the AIF are met.

(3) The requirements of a regulation are not considered met where the FCA has suspended or revoked the AIFM's entitlement to market the AIF.

Financial promotion and scheme promotion restrictions

43. Where a person may market an AIF under regulation 42—

(a) to the extent that such marketing falls within section 21(1) (restrictions on financial promotion)(**b**) or 238(1) (restrictions on promotion)(**c**) of the Act, the person may market the AIF to a retail investor only if the person does so without breaching the restriction in that section;

(**a**) Sections 55J and 55L were inserted by section 11 of the Financial Services Act 2012.
(**b**) Section 21 was amended by section 27 of the Financial Guidance and Claims Act 2018 (c. 10) and sections 20 and 69 of the Financial Services and Markets Act 2023.
(**c**) Section 238 was amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012 and regulation 3 of S.I. 2013/1388.

(b) to the extent that any activity falling within section 21(1) or 238(1) of the Act does not amount to marketing by an AIFM or an investment firm for the purposes of this Part, the restriction in that section applies to the person.

Contravention by authorised person

44.—(1) In this regulation, "unlawful marketing" means the marketing of an AIF—

(a) by an authorised person that is an AIFM or an investment firm in contravention of regulation 42, or

(b) by an authorised person that is an AIFM in contravention of a provision of the RVECA Regulation or the SEF Regulation.

(2) Unlawful marketing is actionable at the suit of a private person who suffers loss as a result of such marketing, subject to the defences and other incidents applying to actions for breach of statutory duty.

(3) Section 168 of the Act (appointment of persons to carry out investigations in particular cases) applies as if the reference at subsection (2)(c) to a contravention of section 238 of the Act included reference to unlawful marketing.

Contravention by unauthorised person

45.—(1) In this regulation, "unlawful marketing" means the marketing of an AIF—

(a) by an AIFM or an investment firm that is not an authorised person in contravention of regulation 42, or

(b) by an AIFM that is not an authorised person in contravention of a provision of the RVECA Regulation or the SEF Regulation.

(2) Subject to paragraph (3), section 25 of the Act (contravention of section 21) applies to unlawful marketing as it applies to the contravention of section 21(1) of the Act.

(3) As applied by paragraph (2), the reference in section 25(1)(a) to imprisonment for a term not exceeding six months is to be read as a reference to imprisonment for a term not exceeding three months.

(4) Section 168 of the Act (appointment of persons to carry out investigations in particular cases) applies as if the reference at subsection (2)(c) to a contravention of section 21 of the Act included reference to unlawful marketing.

(5) Section 30 of the Act (enforceability of agreements resulting from unlawful communications) applies in relation to—

(a) controlled agreements entered into in consequence of unlawful marketing, as it applies in relation to controlled agreements entered into in consequence of an unlawful communication;

(b) the exercise of rights conferred by a controlled investment in consequence of unlawful marketing, as it applies in relation to the exercise of such rights in consequence of an unlawful communication.

Chapter 3

Marketing of AIFs by UK and Gibraltar AIFMs

Marketing of AIFs by authorised UK AIFMs

46.—(1) This regulation applies to an authorised UK AIFM seeking to market an AIF, except a third country AIF, managed by the AIFM.

(2) The AIFM must give written notification to the FCA before marketing the AIF.

Marketing of AIFs by Gibraltar AIFMs

47.—(1) This regulation applies to a Gibraltar AIFM seeking to market an AIF, except a third country AIF, managed by the AIFM.

(2) The AIFM must not market the AIF unless the FCA has received a regulator's notice in relation to the marketing of the AIF under Schedule 3 to the Act as it applies in relation to Gibraltar AIFMs and Gibraltar AIFs(**a**).

Chapter 4

National Private Placement

Marketing of third country AIFs managed by authorised UK AIFMs and authorised Gibraltar AIFMs

48.—(1) This regulation applies to an authorised UK AIFM ("A") or an authorised Gibraltar AIFM ("B") seeking to market a third country AIF managed by the AIFM.

(2) The AIFM must give written notification to the FCA before marketing the AIF, including a statement confirming that the conditions applicable to it which are specified in paragraph (3) or (5) are met.

(3) The specified conditions for A are—

(a) subject to paragraph (7), A complies with the requirements of—

(i) the Act,

(ii) these Regulations, and

(iii) rules made by the FCA;

(b) appropriate cooperation arrangements for the purpose of systemic risk oversight are in place between the relevant authority and the supervisory authorities of the relevant third country;

(c) the relevant third country is not named on the list of High-Risk jurisdictions subject to a Call of Action published by the Financial Action Task Force as that list has effect from time to time.

(4) In paragraph (3)(b), cooperation arrangements are appropriate only if they—

(a) are in line with international standards, and

(b) ensure an efficient exchange of information that enables the relevant authority to carry out its duties in accordance with—

(i) these Regulations (in the case of A), or

(**a**) Schedule 3 is applied to Gibraltar-based firms by regulation 2 of S.I. 2001/3084. Relevant amendments to that regulation were made by article 2 of S.I. 2005/1, article 2 of S.I. 2006/1805, article 2 of S.I. 2012/2017, article 3 of S.I. 2014/1292 and regulation 5 of S.I. 2019/589.

(ii) the Financial Services (Alternative Investment Fund Managers) Regulations 2020 of Gibraltar (in the case of B).

(5) The specified conditions for B are—

(a) the conditions specified in paragraphs (3)(b) and (c);

(b) subject to paragraph (7), it is complying with any requirements which apply to Gibraltar AIFMs under the law of Gibraltar.

(6) Subject to paragraph (7), the AIFM must continue to comply with the requirements specified in paragraphs (3)(a) or (5)(b) as applicable during the period specified in paragraph (8).

(7) An AIFM which would otherwise be required to appoint a depositary under [FCA rule reference] need not comply with the requirements of section XXXX of the XXX sourcebook, and regulations 23 to 26 of these Regulations, if the AIFM—

(a) ensures that one or more entities, other than the AIFM, are appointed to carry out the safekeeping, cash monitoring and oversight functions referred to in section XXX of the XXXX sourcebook (a "third country AIF custodian"), and

(b) informs the FCA about the identity of such entities.

(8) The specified period starts on the date on which the UK AIFM or authorised Gibraltar AIFM gives the notification under paragraph (2) and ends—

(a) if an investor's acquisition of units or shares of the AIF results from marketing that is permitted because of the notification, on the date on which the final such investor disposes of such units or shares;

(b) if there is no acquisition of units or shares of the AIF resulting from such marketing, on the date on which the AIFM ceases marketing the AIF.

(9) The AIFM must give written notification to the FCA when it ceases marketing the AIF in the UK.

(10) In this regulation—

"the relevant authority" means—

(a) in the case of A, the FCA;

(b) in the case of B, the Financial Services Commission of Gibraltar;

"the relevant third country" means—

(a) in the case of a UK AIF or a Gibraltar AIF, the country where the master AIF is established;

(b) in the case of any other AIF, the country where the AIF is established.

Marketing of AIFs managed by third country AIFMs

49.—(1) This regulation applies to a third country AIFM seeking to market an AIF managed by the AIFM.

(2) The AIFM must give written notification to the FCA before marketing the AIF, including a statement that—

(a) the conditions in paragraph (3) are met;

(b) the AIFM is responsible for complying with those conditions during the period specified in paragraph (6).

(3) Subject to paragraph (7), the conditions are—

(a) the AIFM is the person responsible for complying with the implementing provisions relating to the marketing of the AIF,

(b) the AIFM complies with the information disclosure, annual reports and reporting rules set out in Part 5 of that AIF in respect of the AIF,

(c) the AIFM has provided the FCA with its address and electronic means of communication and keeps such details updated,

(d) the AIFM has paid any relevant FCA fees,

(e) appropriate cooperation arrangements for the purpose of systemic risk oversight are in place between the relevant authority and the supervisory authorities of the relevant third country,

(f) the relevant third country is not named on the list of High-Risk jurisdictions subject to a Call of Action published by the Financial Action Task Force as that list has effect from time to time, and

(g) the AIFM is complying with the conditions in this paragraph in respect of any other AIF that—

(i) it has notified to the FCA under paragraph (2); and.

(ii) in relation to which the period specified in paragraph (6) has yet to end

(4) In paragraph (3)(c), cooperation arrangements are appropriate only if they—

(a) are in line with international standards, and

(b) ensure an efficient exchange of information that enables the FCA to carry out its duties in accordance with—

(i) the Act,

(ii) these Regulations,

(iii) rules made by the FCA.

(5) Subject to paragraph (7), during the period specified in paragraph (6), an AIFM that has given a notification under paragraph (2) in respect of an AIF must comply with the requirements specified in paragraph (3)(b).

(6) The specified period starts on the date on which the AIFM gives the notification under paragraph (2) and ends—

(a) if an investor's acquisition of units or shares of the AIF results from marketing that is permitted because of the notification, on the date on which the final such investor disposes of such units or shares;

(b) if there is no acquisition of units or shares of the AIF resulting from such marketing, on the date on which the AIFM ceases marketing the AIF.

(7) Paragraphs (3)(a) to (c) and (5) do not apply to any AIF which has been declared to be a recognised scheme under section 272 of the Act.

(8) The AIFM must give written notification to the FCA when it ceases marketing the AIF in the UK.

(9) In this regulation—

"the relevant authority" means—

(a) the FCA, and

(b) if applicable, the Financial Services Commission of Gibraltar;

"the relevant third country" means—

(a) the country where the third country AIFM is established, and

(b) if applicable, the third country where the AIF is established.

Chapter 5

Suspension and revocation of entitlement to market

Suspension of entitlement to market

50.—(1) The FCA may suspend an AIFM's entitlement to market an AIF under this Part if a ground in paragraph (2) is met.

(2) The grounds are that it appears to the FCA that—

(a) the AIFM, or the third country AIF custodian has contravened, or is likely to contravene, an implementing provision that applies to it;

(b) the AIFM, or the third country AIF custodian has in purported compliance with an implementing provision, knowingly or recklessly given the FCA information which is false or misleading in a material particular;

(c) where applicable, one or more of the conditions confirmed in a notification under regulation 48 or 49 as being met is no longer satisfied;

(d) it is undesirable in the interests of investors or potential investors that the AIF should continue to be marketed.

(3) The suspension must be—

(a) for a specified period,

(b) until the occurrence of a specified event, or

(c) until specified conditions are complied with.

(4) In this regulation, "specified" means specified by the FCA in a notice given under regulation 51.

Procedure on suspension

51.—(1) If the FCA proposes to suspend an AIFM's entitlement to market an AIF or suspends such entitlement with immediate effect—

(a) it must give written notice to—

(i) the AIFM, and

(ii) if applicable, the third country AIF custodian of that AIF;

(b) the AIFM or the third country AIF custodian may refer the matter to the Tribunal.

(2) The suspension takes effect—

(a) when specified in the notice, or

(b) if no date is so specified, when the matter to which it relates is no longer open to review.

(3) The FCA may only suspend an entitlement with immediate effect or on a specified date if, having regard to the ground on which it is exercising its power under regulation 49, it considers that it is necessary for the suspension to take effect immediately or on that date.

(4) A notice under paragraph (1)(a) must—

(a) give details of the suspension,

(b) inform the person to whom it is given of when the suspension takes effect,

(c) state the FCA's reasons for giving the suspension and for its determination as to when the suspension takes effect,

(d) inform the person to whom it is given that it may make representations to the FCA within such period as may be specified in it (whether or not it has referred the matter to the Tribunal), and

(e) inform the person to whom it is given of its right to refer the matter to the Tribunal.

(5) The FCA may extend the period allowed under the notice for making representations.

(6) Having considered any representations made by a person to whom the notice was given—

(a) the FCA must give written notice to the AIFM and, if applicable, the third country AIF custodian as to whether it decides—

(i) to make the suspension in the way proposed (or, if the suspension has already been imposed, not to revoke the suspension),

(ii) to make the suspension in a way other than that proposed (or, if the suspension has already been imposed, to amend the suspension), or

(iii) not to make the suspension (or, if the suspension has already been imposed, to revoke the suspension), and

(b) unless the FCA decides not to make, or to revoke, the suspension, the AIFM or the third country AIF custodian may refer the matter to the Tribunal.

(7) For the purposes of paragraph (2)(b), section 391(8) of the Act (publication) applies as if a notice under paragraph (1) or (6) were a supervisory notice.

Revocation of entitlement to market

52.—(1) The FCA may revoke an AIFM's entitlement to market an AIF under this Part if it appears to the FCA that—

(a) the AIFM, or the third country AIF custodian contravened an implementing provision which applies to it,

(b) the AIFM, or the third country AIF custodian has in purported compliance with an implementing provision, knowingly or recklessly given the FCA information which is false or misleading in a material particular,

(c) where applicable, one or more of the conditions confirmed in a notification under regulation 48 or 49 as being met is no longer satisfied,

(d) it is undesirable in the interests of investors or potential investors that the AIF should continue to be marketed, or

(e) the AIF is wound up.

(2) If the FCA proposes to revoke an AIFM's entitlement to market an AIF on a ground mentioned in paragraph (1)(a) to (d), it must give a warning notice to—

(a) the AIFM, and

(b) if applicable, the third country AIF custodian of that AIF.

(3) If the FCA decides to revoke an AIFM's entitlement to market an AIF under paragraph (1)—

(a) it must give a decision notice to—

(i) the AIFM, and

(ii) if applicable, the third country AIF custodian of that AIF;

(b) the AIFM or the third country AIF custodian may refer the matter to the Tribunal.

Suspension and revocation of entitlement to market - simplified procedure

53.—(1) Paragraph (2) applies where—

(a) an AIFM has contravened an implementing provision due to failure to—

(i) pay a fee,

(ii) comply with its reporting requirements, or

(iii) keep its contact details up to date;

(b) the contravention has been ongoing for a minimum of one month;

(c) the FCA has given the AIFM a written notice specifying the contravention and giving it an opportunity to make representations within such period as is specified in it (which must be a minimum of one month from the date of the notice);

(d) the AIFM has not responded to the notice within the specified period and has not rectified the contravention;

(e) the FCA has given the AIFM a further notice specifying—

(i) a date from which the AIFM's entitlement to market an AIF will be suspended (such date must be a minimum of 14 days from the date of the further notice), and

(ii) the steps that the AIFM may take to avoid suspension.

(2) The FCA may suspend the AIFM's entitlement to market any AIF it manages.

(3) Paragraph (4) applies where—

(a) the FCA has suspended an AIFM's entitlement to market an AIF under paragraph (2),

(b) the FCA has given the AIFM a written notice of its intention to revoke its entitlement to market the AIF and giving it an opportunity to make representations within such period as is specified in it (which must be a minimum of 14 days from the date of the notice),

(c) the AIFM has not responded to the notice within the specified period and has not rectified the contravention referred to in paragraph (1)(a), and

(d) the FCA has given the AIFM a further notice specifying—

(i) a date from which the AIFM's entitlement to market an AIF will be revoked (such date must be a minimum of 14 days from the date of the further notice) and

(ii) the steps that the AIFM may take to avoid revocation.

(4) The FCA may revoke an AIFM's entitlement to market an AIF with effect from a date which must be no less than three months from the date of the suspension.

(5) The AIFM must continue to comply with any applicable conditions until the date of revocation.

Registers of notified, suspended or revoked AIFs

54.—(1) The FCA may keep, maintain and publish in such manner as it considers appropriate, registers of—

(a) AIFs that have been notified to it under this Part, and

(b) AIFs that have had their entitlement to market suspended or revoked under this Part.

(2) The FCA may include on the registers such information as it considers appropriate.

PART 7

DUTIES AND POWERS OF THE FCA

Designation as competent authority

55. The FCA is responsible for all functions of the competent authority provided for in the RVECA Regulation and the SEF Regulation.

Use of information by FCA

56. The FCA must use the information it gathers under section XX of the XXXX sourcebook and regulation 18 in respect of AIFMs it supervises for the purposes of advancing its objectives.

Limits on leverage

57.—(1) The FCA may use its powers under section 55J and 55L of the Act (variation or cancellation on initiative of regulator and imposition of requirements by the FCA) to impose limits on leverage or other restrictions on the management of an AIF.

(2) This regulation does not limit the powers of the FCA.

FCA rules specifying information to be notified by UK firms exercising passport rights in Gibraltar

58.—(1) The FCA may make rules to specify—

(a) the information to be notified to the FCA under rule XXXX of the XXXXX sourcebook, as it applies in relation to Gibraltar(**a**), by an AIFM to whom paragraph (2) applies, and

(b) standard forms, templates and procedures for notifications under sub-paragraph (a).

(2) This paragraph applies to a UK AIFM wishing to establish a branch in Gibraltar for the first time and intending to—

(a) manage portfolios of investments in accordance with discretionary mandates given by investors;

(b) provide services comprising any of—

(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.

(3) Rules made under this regulation are to be considered for the purposes of the Act as if they were made under section 137A of the Act(**b**).

(**a**) Chapter 13 of the Supervision sourcebook and its annexes continue to have effect in relation to Gibraltar by virtue of section 2.3 of the General Provisions sourcebook. Section 2.3 of the General Provisions sourcebook was inserted by the Exiting the European Union: Gibraltar (General Rules) Instrument 2019, a copy of which is available at https://api-handbook.fca.org.uk/files/instrument/2019/FCA_2019_34.pdf or may be obtained from the FCA, 12 Endeavour Square, London, E20 1JN. Chapter 13 of the Supervision sourcebook and its annexes were otherwise deleted in their entirety by the Exiting the European Union: Regulatory Processes Sourcebooks (Amendments) Instrument 2019, a copy of which is available at https://api-handbook.fca.org.uk/files/instrument/2019/FCA_2019_24.pdf or may be obtained from the FCA, 12 Endeavour Square, London, E20 1JN.

(**b**) Section 137A was inserted by section 24 of the Financial Services Act 2012.

FCA rules specifying information and reporting requirements

59. The FCA may make rules concerning—

(a) the provision of information disclosure, annual reports and reporting requirements for AIFMs marketing AIFs under regulation 49;

(b) the reporting requirements for operators of collective schemes recognised pursuant to sections 271A or 272 of the Act.

PART 8

APPLICATIONS OF PROVISIONS OF THE ACT

Application of procedural provisions of the Act

60.—(1) Part 9 of the Act applies in the case of a matter referred to the Tribunal under these Regulations as it applies in the case of a matter referred to the Tribunal under the Act.

(2) Part 26 of the Act applies to warning notices and decision notices given under these Regulations as it applies to such notices given under the Act.

Application of provisions of the Act to unauthorised AIFMs

61.—(1) The following provisions of the Act apply in respect of an unauthorised AIFM as they apply in respect of an authorised person—

(a) section 165 (regulators' power to require information: authorised persons etc.)(**a**);

(b) section 166 (reports by skilled persons)(**b**);

(c) section 167 (appointment of persons to carry out general investigations)(**c**);

(d) section 176(3) (entry of premises under warrant)(**d**);

(e) section 205 (public censure)(**e**);

(f) section 206 (financial penalties)(**f**).

(2) The following provisions of the Act apply in relation to the exercise of the powers under the provisions applied by paragraph (1)(a) to (c) as they apply in relation to the exercise of those powers in respect of authorised persons—

(a) section 169 (investigations etc. in support of overseas regulator)(**g**);

(b) section 170 (investigations: general)(**h**);

(c) section 171 (powers of persons appointed under section 167)(**i**);

(**a**) Relevant amendments to section 165 were made by paragraph 1 of Schedule 12 to the Financial Services Act 2012, paragraph 9 of Schedule 1 to S.I. 2013/1773, paragraph 36 of Schedule 2 to the Bank of England and Financial Services Act 2016 (c. 14), paragraph 5 of Schedule 2 and paragraph 4 of Schedule 9 to the Financial Services Act 2021, article 6 of S.I. 2022/466, section 9 of the Financial Services and Markets Act 2023 and paragraph 5 of the Schedule to S.I. 2025/22.

(**b**) Section 166 was substituted by paragraph 5 of Schedule 12 to the Financial Services Act 2012.

(**c**) Relevant amendments to section 167 were made by paragraph 7 of Schedule 12 to the Financial Services Act 2012 and paragraph 7 of Schedule 2 to the Financial Services Act 2021.

(**d**) Section 176(3) was amended by paragraph 9 of Schedule 2 to the Financial Services Act 2021.

(**e**) Relevant amendments to section 205 were made by paragraph 11 of Schedule 9 to the Financial Services Act 2012.

(**f**) Relevant amendments to section 206 were made by section 10 of the Financial Services Act 2010 (c. 28) and paragraph 12 of Schedule 9 to the Financial Services Act 2012.

(**g**) Section 169 was amended by paragraph 9 of Schedule 12 to the Financial Services Act 2012, regulation 10 of S.I. 2016/680 and regulation 46 of S.I. 2019/632.

(**h**) Relevant amendments to section 170 were made by paragraph 11 of Schedule 12 to the Financial Services Act 2012.

(**i**) Relevant amendments to section 171 were made by paragraph 8 of Schedule 2 to the Financial Services Act 2012.

(d) section 174 (admissibility of statements made to investigators)(**a**);

(e) section 175 (information and documents: supplemental provisions)(**b**);

(f) section 176 (entry of premises under warrant)(**c**);

(g) section 176A (retention of documents taken under section 176)(**d**);

(h) section 177 (offences)(**e**).

(3) Sections 207 to 211 of, and paragraph 20 of Schedule 1ZA(**f**) to, the Act apply in relation to the exercise of the FCA's powers under section 205 or 206 of the Act as applied by paragraph (1)(e) and (f) as they apply in relation to their exercise in respect of authorised persons.

(4) Unauthorised AIFMs are to be treated as regulated persons for the purposes of paragraph 21 of Schedule 1ZA to the Act.

(5) In this regulation, "unauthorised AIFM" means a person who is not an authorised person but who is—

(a) an RVECA Manager or SEF Manager;

(b) an AIFM to which regulation 8 applies;

(c) [a small registered Gibraltar AIFM;]

(d) a Gibraltar AIFM that is entitled to market an AIF following a notification under regulation 40;

(e) an AIFM that is entitled to market an AIF following a notification under regulation 41;

(f) an AIFM to which the requirement at regulation 41(5) applies;

(g) a Gibraltar AIFM that is exercising a right to market an AIF arising out of the RVECA Regulation or the SEF Regulation.

[name]
[name]
[date] Two of the Lords Commissioners of His Majesty's Treasury

---

(**a**) Section 174 was amended by paragraph 12 of Schedule 12 to the Financial Services Act 2012 and regulation 10 of S.I. 2016/680.
(**b**) Relevant amendments to section 175 were made by paragraph 13 of Schedule 12 to the Financial Services Act 2012.
(**c**) Relevant amendments to section 176 were made by paragraph 17 of Schedule 2 to the Financial Services Act 2010, paragraph 14 of Schedule 12 to the Financial Services Act 2012, paragraph 9 of Schedule 2 to the Financial Services Act 2021, paragraph 16 of Schedule 3 to S.I. 2024/105 and regulation 41 of S.I. 2026/102.
(**d**) Section 176A was inserted by paragraph 15 of Schedule 12 to the Financial Services Act 2012.
(**e**) Section 177 was amended by paragraph 17 of Schedule 4 to S.I. 2001/1090, paragraph 8 of Schedule 12 to the Financial Services Act 2012 and regulation 10 of S.I. 2016/680.
(**f**) Schedule 1ZA was inserted by Schedule 3 to the Financial Services Act 2012.

SCHEDULE

Regulation 7

Calculation of assets under management

Total value of assets under management

1.—(1) An AIFM's assets under management are determined by—

(a) identifying all AIFs for which it is appointed as the external AIFM or the AIF for which it is the internal AIFM,

(b) identifying for each managed AIF the portfolio of assets,

(c) determining the corresponding value of assets under management (including all assets acquired through use of leverage) in accordance with the valuation rules laid down in the law of the country where the AIF is established and, where applicable, in the AIF rules or instruments of incorporation, and

(d) aggregating the determined values of assets under management for all AIFs managed.

(2) The calculation in sub-paragraph (1) does not include—

(a) any UCITS for which the AIFM acts as the management company within the meaning of the Act (see section 237(2)),

(b) any investment by an AIF in other AIFs managed by the same AIFM, where the AIFM is externally appointed,

(c) any investment by the sub-fund of an internally or externally managed AIF in another sub-fund of the same AIF, or

(d) portfolios of AIFs that the AIFM is managing under delegation;

but does include any AIF managed by the AIFM for which the AIFM has delegated functions in accordance with section XXXX of the XXXX sourcebook.

(3) When calculating the total value of assets under management—

(a) each derivative instrument position is converted into its equivalent position in the underlying assets of that derivative using the conversion methodologies set out in paragraphs X and X, and

(b) the absolute value of that equivalent position is used for the calculation.

2.—(1) An AIFM which is an exempt or registered AIFM must—

(a) calculate its assets under management using the latest available asset values at least once every year;

(b) identify a "threshold calculation date", taking into account the time and frequency of the valuation of its assets under management;

(c) calculate its assets under management on that date every year;

(d) if it changes its threshold calculation date, notify the FCA of the new date with a reasonable explanation for the change.

(2) In this paragraph, "the latest available asset values" means the values for each AIF produced during the 12 months preceding the date of the calculation.

(3) For the purposes of this Schedule, "exempt or registered AIFM" means an AIFM which is—

(a) allowed to carry on the regulated activity of managing an AIF without a Part 4A AIFM permission under regulation 8 (exemption for below threshold internally managed investment companies), or

(b) registered under regulation 9 (registration of RVECA and SEF managers).

Ongoing monitoring of assets under management

3.—(1) Exempt and registered AIFMs must establish, implement and apply procedures to monitor on an ongoing basis the total value of assets under management to reflect an up-to- date overview of the assets under management.

(2) The monitoring under paragraph (1) must include the observation of subscription and redemption activity or, where applicable, capital draw downs, capital distributions and the value of the assets invested for each AIF.

(3) The proximity of the total value assets under management to the threshold set out in regulation 7(1)(b) and the anticipated subscription and redemption activity must be taken into account in order to assess the need for more frequent calculations of the total value of assets under management.

Occasional breach of the threshold

4.—(1) A "breach" of the threshold occurs where a registered AIFM's assets under management exceed the threshold in regulation 7(1)(b).

(2) A registered AIFM which breaches the threshold must assess whether the breach is temporary.

(3) In this paragraph a breach is "temporary" if it is likely to continue for a period of no more than three months.

(4) If the AIFM considers that the breach is not temporary, it must apply for a Part 4A AIFM permission before the end of the period of 30 days beginning with the day on which the breach began.

(5) Before the end of the period of three months beginning with the day on which a breach began, the exempt or registered AIFM must recalculate the total value of its assets under management to demonstrate that the breach has come to an end so that a Part 4A AIFM permission is not required.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the regulation of alternative investment fund managers and alternative investment funds. They replace the Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773) ("the 2013 Regulations"), following the repeal of those Regulations by the Financial Services and Markets Act 2023 (FSMA). These Regulations restate, with modifications, the provisions of the 2013 Regulations which are being maintained in regulations. Other provisions of the 2013 Regulations are being restated in rules made by the Financial Conduct Authority ("FCA").

Part 1 contains introductory provisions, including definitions of key terms such as "AIF" and "AIFM".

In Part 2, regulation 5 sets a requirement before an applicant can be given a permission under Part 4A of the Financial Services and Markets Act 2000 ("FSMA") to carry on the regulated activity of managing an AIF. Regulation 6 maintains the liability of authorised UK AIFMs following a delegation of its functions. Regulation 7 contains the threshold of assets managed, calculated in accordance with Schedule 1, below which certain AIFMs need not comply with the full requirements for authorisation as an AIFM. Regulation 8 exempts small internally managed investment companies from requiring authorisation.

Part 3 includes provision relating to registered venture capital funds (RVECAs) and social entrepreneurship funds (SEFs), to which Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 apply. Regulations 9 to 12 provide for applications to be registered as, and the registration of, RVECA and SEF Managers. Regulation 13 allows an RVECA or SEF Manager to apply to revoke its registration to opt up to become an authorised AIFM. Regulation 14 contains the grounds on which an RVECA or SEF Manager's registration may be revoked and regulation 15 contains the procedure for doing so. Grounds 16 and 17 contain the grounds and procedure for the suspension of an RVECA or SEF Manager's registration. Regulations 18 and 19 give the FCA the power to direct RVECA and SEF Managers, to provide information or otherwise to secure compliance with applicable legal requirements. Regulations 20 to 22 provide for applications to register an RVECA or SEF, as well as how that registration may be refused or revoked.

Part 4 concerns the liability of depositaries appointed for AIFs managed by authorised AIFMs. This includes provision about liability following the loss of a financial instrument held in custody or for other loss, as well as for the retention of liability after appointment or delegation.

Part 5 imposes various requirements on AIFMs of AIFs who are or may be taking control of non-listed UK companies to provide employees and their representatives with specified information.

Part 6 requires approval by the FCA or the giving of notification to the FCA before AIFMs and investment firms may market AIFs in certain circumstances. It also provides for the procedure by which approval may be obtained or notification given, and the consequences of marketing without meeting the requirements.

Part 7 gives the FCA various duties and powers which arise out of these Regulations.

Part 8, applies various provisions of FSMA to enable enforcement of the requirements in the Regulations.

[IMPACT ASSESSMENT PARAGRAPH]