ALTERNATIVE INVESTMENT FUNDS (JERSEY) ORDER 2013

Official Consolidated Version

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ALTERNATIVE INVESTMENT FUNDS (JERSEY) ORDER 2013

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Jersey

ALTERNATIVE INVESTMENT FUNDS (JERSEY) ORDER 2013

THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Regulations 3, 6, 16 and 29 of the Alternative Investment Funds (Jersey) Regulations 2012, and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [see endnotes]

1 Interpretation

In this Order "AIF Regulations" means the Alternative Investment Funds (Jersey) Regulations 2012.

2 Exemption from application of AIF Regulations for certain AIFs

(1) The AIF Regulations do not apply in relation to an AIF in respect of which –

(a) a certificate has been granted under the Collective Investment Funds (Recognized Funds) (Rules) (Jersey) Order 2003; or

(b) a certificate has been granted under Article 8B of the Collective Investment Funds (Jersey) Law 1988,

if the Commission grants permission in writing for that AIF to be marketed in the United Kingdom, in a member State of the European Union, or in any other EEA State to which Directive 2011/61/EU applies.[1]

(2) In this Article "EEA State" means a State which is a member State of the European Union or any other State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as adjusted by the Protocol signed at Brussels on the 17th March 1993.

(3) An AIF in respect of which the AIF Regulations apply shall not be required to hold a certificate under Regulation 7 of the AIF Regulations for so long as the laws of the country in which the AIF is being marketed or managed do not require compliance by the AIF with the UK AIFM Regulations or with Directive 2011/61/EU.[2]

3 Prescribed services[3]

For the purposes of the definition of "service provider" in Regulation 2 of the AIF Regulations, the following services are prescribed –

(a) the services of a depositary that is not carrying on fund services business, within the meaning of Article 2(10) of the Financial Services (Jersey) Law 1998, and is appointed under –

(i) the UK AIFM Regulations, or

(ii) Article 21 of Directive 2011/16/EU (whether or not the AIFM is an AIFM to which Article 36 of Directive 2011/61/EU applies);

(b) the services of an AIFM that –

(i) is –

(A) a small third country AIFM for the purposes of the UK AIFM Regulations, or

(B) an AIFM in respect of which Article 3(2) of Directive 2011/61/EU applies, and

(ii) is not treated as an AIF services business under Article 3 of, and Part 5 of Schedule 2 to, the Financial Services (Jersey) Law 1998.

4 Service provider to be approved by the Commission

(1) A service provider must be approved by the Commission before carrying out any service prescribed under the AIF Regulations.

(2) Approval under paragraph (1) is deemed to have been given to a service provider to carry on the services of a depositary described in Article 3(a) if the service provider is –

(a) a trustee, custodian or depositary registered under Article 9 of the Financial Services (Jersey) Law 1998 as a person carrying on fund services business; or

(b) a person granted a permit under Article 7 of the Collective Investment Funds (Jersey) Law 1988 to be a trustee, custodian or depositary.

(3) Approval under paragraph (1) is deemed to have been given to a service provider to carry on the services described in Article 3(b) if the service provider –

(a) is a person registered under Article 9 of the Financial Services (Jersey) Law 1998 as a person carrying on fund services business and that business includes the business described in Article 2(11) of that Law;

(b) is a person registered under Article 9 of the Financial Services (Jersey) Law 1998 as a person carrying on AIF services business;

(c) is a person granted a permit under Article 7 of the Collective Investment Funds (Jersey) Law 1988 to be a manager; or

(d) is a person who has been granted a certificate, that is in force, under Article 8B of the Collective Investment Funds (Jersey) Law 1988 in relation to the AIF for which the person is the service provider.[4]

(4) If under paragraph (1) the Commission approves a service provider described in Article 3(a) (except where approval is deemed to have been given under paragraph (2)), the service provider shall be treated for all purposes as if it had been registered under Article 9 of the Financial Services (Jersey) Law 1998.

(5) An AIFM providing the services referred to in Article 3(b) in respect of an AIF shall be exempt from the requirement in paragraph (1) for so long as the laws of the country in which the AIFM is marketing or managing that AIF do not require compliance by the AIFM with the UK AIFM Regulations or with Directive 2011/61/EU.[5]

5 Citation

This Order may be cited as the Alternative Investment Funds (Jersey) Order 2013.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Alternative Investment Funds (Jersey) Order 2013	R&O.96/2013	22 July 2013
Alternative Investment Funds (Amendment) (Jersey) Order 2015	R&O.40/2015	27 March 2015
European Union (United Kingdom Exit – Alternative Investment Funds) (Jersey) Regulations 2019	R&O.26/2019	11 p.m. on 31 December 2020 (R&O.189/2020)

Table of Endnote References

[1] *Article 2(1)* *amended by R&O.26/2019*
[2] *Article 2(3)* *amended by R&O.26/2019*
[3] *Article 3* *amended by R&O.26/2019*
[4] *Article 4(3)* *amended by R&O.40/2015*
[5] *Article 4(5)* *amended by R&O.26/2019*