

Finansinspektionen's Regulatory Code

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Regulations

amending Finansinspektionen's regulations (FFFS 2013:10) regarding alternative investment fund managers;

FFFS 2024:27

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decided on 18 December 2024.

Finansinspektionen prescribes pursuant to section 4, point 4 and section 5, point 12 of the Alternative Investment Fund Managers Ordinance (2013:587) that Chapter 1, section 9; Chapter 3, sections 16 and 17; and Chapter 9, section 5 of Finansinspektionen's regulations (FFFS 2013:10) regarding alternative investment fund managers shall have the following wording.

Chapter 1

Section 9 Unless otherwise stated, the terms and expressions used in these regulations have the same meaning and scope as in the Alternative Investment Fund Managers Act (2013:561).

In addition, the following terms and expressions are defined as:

1. *Employees in strategic management positions*: Employees other than senior management who have management roles and are responsible for the day-to-day activities of the AIF manager, e.g. employed persons responsible for portfolio management, HR, administration or marketing.

2. *The delegated regulation for MiFID 2*: Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

3. *Discretionary pension benefit*: A pension benefit that an AIF manager grants to employees on an individual basis as part of their variable remuneration package. This does not include accrued benefits earned by employees under the terms of the manager's pension scheme.

4. *DORA Regulation*: Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011.

5. *Remuneration*: All remuneration and benefits from the AIF manager and all amounts that are paid directly by the fund (including carried interest) to an employee. *Remuneration and benefits from the AIF manager* refers to, for example, cash salaries and other cash remuneration, remuneration in the form of units or shares in an alternative investment fund or an instrument that achieves a corresponding

common interest as units or shares in an alternative investment fund, pension provisions, severance pay or company cars.

6. *Remuneration policy*: The grounds and principles on which remuneration shall be based, applied and monitored, as well as on which the AIF manager shall define which employees can impact the manager's and each managed alternative investment fund's risk profiles.

7. *Internal rules*: Policy and governance documents, guidelines, instructions or other written documents adopted by the board of directors, or an equivalent decision-making body, or the managing director, or an equivalent member of senior management, and through which the operations are controlled.

8. *Control function*: An AIF manager's function(s) for risk control, compliance and internal audits or the equivalent.

9. *Risk-takers*: An employee belonging to a category of staff whose professional activities can have a material impact on an AIF manager's or a managed alternative investment fund's risk profile. This normally refers to employees who can enter into agreements or take positions on behalf of the AIF manager or a managed alternative investment fund or in any other way impact the manager's or the managed fund's risks.

10. *Variable remuneration*: Remuneration, the amount or size of which is not determined in advance. Variable remuneration does not include commission-based salary not linked to future risk assumptions that may alter an AIF manager's or an alternative investment fund's profit and loss statement or balance sheet.

11. *Specially regulated staff*: Senior management and employees in the following categories of staff that have been identified by the AIF manager as identified staff in accordance with Chapter 9, section 5:

1. employees in strategic management positions,
2. employees responsible for control functions,
3. risk takers, and
4. employees whose total remuneration is equal to or exceeds the total remuneration to any of the members of senior management.

12. *Capital Requirements Regulation*: Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012.

13. *Senior management*: The managing director, the deputy managing director and other members of an AIF manager's governing body or a similar body that report directly to the board of directors or the managing director. For a manager which is not a limited liability company, the reference is to equivalent members of the governing body.

14. *Investment Firms Regulation*: Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014.

Chapter 3

Section 16 Where an AIF manager in accordance with Chapter 8, section 14 or 16 of the Alternative Investment Fund Managers Act (2013:561) outsources or has outsourced to a third party a certain task or certain functions on behalf of the manager, the manager shall state in the business plan to whom it intends to give or has given the assignment and describe the scope of the assignment.

The manager shall also describe in the business plan

1. the objective grounds justifying the delegation,
2. how the service provider fulfils the requirements on resources, expertise, experience and good reputation as set out in Article 77 of the Commission's Delegated Regulation,
3. the service provider's other significant operations,
4. such circumstances as may give rise to a conflict between the interests of the service provider and the interests of the principal or the investors.
5. how the manager ensures that the requirements set out in Articles 75 and 79 of the Commission Delegated Regulation are fulfilled,
6. where applicable, how the manager ensures that it meets the requirements set out in Chapter V of the DORA Regulation on outsourcing agreements and third-party ICT service providers, and
7. where applicable, if the assignment has been further delegated and, if yes, to whom.

The manager shall append to the business plan copies of the delegation agreements it has entered into or intends to enter into.

Section 17 The business plan shall contain information regarding the manner in which IT activities will be organised. A general description shall be provided regarding the existing systems as well as their functions and areas of use.

Information shall also be provided regarding the measures to be taken with respect to information security. An AIF manager shall specify in particular which measures it will take with regard to information security to fulfil the provisions in the DORA Regulation set out in section 16, second paragraph, point 6. The manager, in this context, shall also account for the confidentiality protection functions it uses in order to prevent unauthorised persons from obtaining access to classified information.

Chapter 9

Section 5 An AIF manager shall analyse the risks associated with its remuneration policy and remuneration structure. Based on this analysis, the AIF manager shall identify identified staff. The manager shall document and specifically explain if employees in any of the categories of staff set out in Chapter 1, section 9, second paragraph, point 11 are not considered to have a material impact on the AIF manager's or the managed alternative investment funds' risk profile and therefore shall not be classified as identified staff.

These regulations shall enter into force on 17 January 2025.

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