

Finansinspektionen's Regulatory Code

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

FFFS 2014:29

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decided on 26 June 2014

Finansinspektionen prescribes pursuant to section 4, points 4 and 7 and section 5, points 1 and 3 of the Alternative Investment Fund Managers Ordinance (2013:587) that Chapter 3, section 12, Chapter 7, section 1, Chapter 10, section 1, part 1.5 of appendix 1 and parts 1.9, 4.1 and 4.2 of appendix 2 of Finansinspektionen's regulations (FFFS 2013:10) regarding alternative investment fund managers shall have the following wording.

Chapter 3

Section 12 Where an AIF manager is included in a group or in a consolidated situation in accordance with Article 18 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, the business plan shall include a schematic overview of the group's or the consolidated situations' structure, information regarding the individual undertakings that form this group and their share of ownership in the AIF manager applying for authorisation. Information shall be provided regarding all links included in the ownership chain.

It shall also be stated in the business plan whether the manager is included in a financial conglomerate in accordance with the Special Supervision of Financial Conglomerates Act (2006:531).

Information shall also be provided where the manager has close relations with any legal or natural person in the manner set out in Chapter 1, section 11, point 18 of the Alternative Investment Fund Managers Act (2013:561).

Chapter 7

Section 1 An AIF manager's own funds in accordance with Chapter 7, sections 2–4 of the Alternative Investment Fund Managers Act (2013:561) may include items that are included in the own funds in accordance with Articles 25–91 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and Chapter 3, sections 1 and 3–11 of Finansinspektionen's regulations (FFFS 2014:12) regarding prudential requirements and capital buffers.

Chapter 10

Section 1 An AIF manager conducting discretionary portfolio management pertaining to financial instruments, in its management and when conducting services pursuant to Chapter 3, section 2 of the Alternative Investment Fund Managers Act (2013:561), shall apply the provisions set out in Chapter 6, sections 1–5, section 6, section 7, first paragraph, section 12, first paragraph and second paragraph points 2 and 4, sections 13 and 14, Chapters 7–17, Chapter 19, Chapter 20, sections 1–10 and Chapter 21, sections 1 and 2 of Finansinspektionen’s regulations (FFFS 2007:16) regarding investment services and activities.

These regulations shall enter into force on 2 August 2014.

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Appendix 1

1.5 Append a description or outline of the consolidated situation in accordance with Article 18 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms that might potentially be in place following the acquisition.

The number of participations shall be stated as a percentage of the number of issued participations. If the number of voting rights differs from the number of participations, also state the number of votes as a percentage of the total number of voting rights.

Also, list owners that in any other way have significant influence over the target company. Also, indicate which undertakings are under the supervision of Finansinspektionen or an equivalent foreign authority.

For each undertaking that is part of such a group, state if it is

- a financial holding company,
- a mixed financial holding company,
- under the supervision of Finansinspektionen or an equivalent foreign authority,
- or
- not subject to such financial supervision.

Appendix 2

1.9 Append a description or outline of the consolidated situation in accordance with Article 18 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms that might potentially be in place following the acquisition.

The number of participations shall be stated as a percentage of the number of issued participations.

If the number of voting rights differs from the number of participations, also state the number of votes as a percentage of the total number of voting rights.

Also, list owners that in any other way have significant influence over the target company. Also, indicate which undertakings are under the supervision of Finansinspektionen or an equivalent foreign authority.

For each undertaking that is part of such a group, state if it is

- a financial holding company,
- a mixed financial holding company,
- under the supervision of Finansinspektionen or an equivalent foreign authority,
- or
- not subject to such financial supervision.

4.1 Information when ownership involves control

An acquirer has control over the target company if the acquirer directly or indirectly receives the majority of the votes or shares. Furthermore, an acquirer has control over the target company if the acquirer is a shareholder, and

- has the right to appoint or dismiss more than half of the members of the its board of directors, or equivalent management body, or
- via agreements with other owners in the target company has access to more than half of the votes for all shares

Business plan

If the undertaking's ownership involves control, append a business plan that includes the following:

1. A *strategic development plan* that includes a description of
 - a) the purpose and objective of the acquisition and how these will be achieved,
 - b) planned changes to the business of the target company, e.g. products, customers and any reallocation of assets,
 - c) planned integration of the target company with the acquiring undertaking's group, and
 - d) information about the acquirer's intention and ability to contribute capital to the target company if needed.

2. A *capital adequacy calculation* at the time of the acquisition or at the time of the most recently adopted figures before the acquisition, if the acquisition will entail that the target company and the acquirer will become part of a consolidated situation in accordance with Article 18 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

3. A specified list of the large exposures held by the acquirer at the time of acquisition if the acquirer is a financial institution.

4. *Forecasts* for the target company for the coming three years. If the acquisition will entail that the target company and the acquirer will become part of a consolidated situation in accordance with Article 18 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, forecasts shall also be submitted for the group.

The following information shall be included in the forecasts:

a) balance sheet and profit and loss account,

b) important key ratios, and

c) capital adequacy calculation.

5. A description of how the acquisition will impact the governance and organisation of the target company. In particular, specify if the acquisition will affect:

a) the composition of the board of directors and management,

b) the organisation's operational structure (append an organisational diagram), and

c) outsourcing.

4.2 Information when ownership involves control, but totals 20 per cent or more

If the acquisition does not involve control of the target company, but the holding totals 20 per cent or more, the following information about the acquisition shall be appended:

1. information about whether the acquirer intends within the foreseeable future to increase or reduce its holding in the target company,

2. if the acquirer intends to actively attempt to exercise influence over the undertaking (and specify the circumstances related thereto),

3. A *capital adequacy calculation* at the time of the acquisition or at the time of the most recently adopted figures before the acquisition, if the acquisition will entail that the target company and the acquirer will become part of a consolidated situation in accordance with Article 18 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, and

4. a specified list of the large exposures held by the acquirer at the time of the acquisition, if the acquirer is a financial institution.