

Subsidiary Legislation made under ss.6(1), 63(3), 150(1), 620(1) and 627.

**Financial Services (Alternative Investment Fund
Managers: European Long-Term Investment Funds)
Regulations 2020**

LN.2020/006

Commencement

15.1.2020

ARRANGEMENT OF REGULATIONS

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In exercise of the powers conferred upon the Minister under section 6(1), 63(3), 150(1), 620(1) and 627 to the Financial Services Act 2019, as read with section 23(g)(i) of the Interpretation and General Clauses Act, and on the Government by section 23(g)(ii) of that Act, the Minister and the Government have made the following Regulations.

Title and commencement.

1.(1) These Regulations may be cited as the Financial Services (Alternative Investment Fund Managers: European Long-Term Investment Funds) Regulations 2020.

(2) These Regulations come into operation on the day of publication.

Overview.

2. These Regulations—

- (a) make provision in connection with the ELTIF Regulation on European long-term investment funds which lays down uniform rules on the authorisation, investment policies and operating conditions of EU AIFs or compartments of EU AIFs that are marketed in the European Union as European long-term investment funds; and
- (b) make provision about appeals in respect of a decision of the GFSC taken under or by virtue of the AIFM Regulations or the ELTIF Regulation.

Interpretation.

3.(1) In these Regulations—

“the Act” means the Financial Services Act 2019; and

“the AIFM Regulations” means the Financial Services (Alternative Investment Fund Managers) Regulations 2020.

(2) Expressions used in these Regulations which are also used in the ELTIF Regulation have the same meaning as in that Regulation.

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Enforcement.

4.(1) For the purposes of applying the ELTIF Regulation–

- (a) the supervision and enforcement obligations imposed on competent authorities by that Regulation are obligations of the GFSC;
- (b) the GFSC has the powers and obligations specified in Articles 31, 32 and 33 of the ELTIF Regulation; and
- (c) the powers conferred on the GFSC by–
 - (i) Part 7, 10 and 18 of the Act apply in relation to compliance with the ELTIF Regulation;
 - (ii) regulation 69 of the AIFM Regulations apply in relation to compliance with the ELTIF Regulation as they apply in relation to compliance with the AIFM Regulations and the AIFM Directive; and
 - (iii) any supplemental regulations conferring powers on the GFSC for the purpose of monitoring and enforcing compliance with the AIFM Regulations and the AIFM Directive apply in relation to compliance with the ELTIF Regulation with any necessary modifications.

(2) Any administrative penalty imposed under section 152 of the Act for contravention of a regulatory requirement, including any requirement contained in these Regulations and the ELTIF Regulation, must be of an amount as provided under regulation 74 of the AIFM Regulations.

Appeals against decisions of the GFSC.

5.(1) A person aggrieved by–

- (a) a decision of the GFSC taken in its capacity as the competent authority for the purposes of the ELTIF Regulation; or
- (b) a decision of the GFSC taken under or by virtue of these Regulations,

may appeal to the Supreme Court in accordance with section 615 of the Act.

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(2) In the case of an appeal in relation to the failure of the GFSC to deal with an application for authorisation—

- (a) under regulation 13 of the AIFM Regulations and Part 7 of the Act, within the time prescribed by section 77(2) of the Act; or
- (b) under Article 5 of the ELTIF Regulation, within the time prescribed by that Article,

an appeal must be brought within 28 days of the expiration of the time period referred to in paragraph (a) or (b), whichever one is applicable.

(3) Subject to sub-regulation (4), where a person appeals under sub-regulation (1) against a decision of the GFSC, the decision must not operate so as to—

- (a) require the appellant to do anything which the appellant would not otherwise have been required to do; or
- (b) prohibit the appellant from doing anything which the appellant could otherwise have done,

unless and until the decision is confirmed by the Court or the appeal is concluded or withdrawn.

(4) The Court may, on the application of the GFSC, direct that the provisions of sub-regulation (3) do not have effect in any particular case; and a direction under this sub-regulation may be given in such terms as the Court thinks just.

Revocation of 2015 Regulations.

6. The Financial Services (Alternative Investment Fund Managers) (European Long-Term Investment Funds) Regulations 2015 are revoked.