

COMMISSION DELEGATED REGULATION (EU) 2021/1254**of 21 April 2021****correcting Delegated Regulation (EU) 2017/565 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****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ⁽¹⁾, and in particular Article 16(12) and Article 27(9) thereof,

Whereas:

- (1) Errors appeared in Article 1(1) of Commission Delegated Regulation (EU) 2017/565 ⁽²⁾ as it was requiring the application of Article 59(4), Article 60 and Chapter IV of that Regulation, instead of Article 64(4), Article 65 and Chapter VIII.
- (2) Errors appeared in several cross-references in Annex I to Delegated Regulation (EU) 2017/565, more precisely under 'Client assessment', 'Order handling', 'Client order and transactions', 'Reporting to clients', 'Communication with clients' and 'Organisational requirements'.
- (3) Delegated Regulation (EU) 2017/565 should therefore be corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/565 is corrected as follows:

- (1) in Article 1, paragraph 1 is replaced by the following:

'1. Chapter II, and Sections 1 to 4, Article 64(4), Article 65 and Sections 6 to 8 of Chapter III and, to the extent they relate to those provisions, Chapter I and Chapter VIII of this Regulation shall apply to management companies when providing services in accordance with Article 6(4) of Directive 2009/65/EC and Article 6(6) of Directive 2011/61/EU of the European Parliament and of the Council ^(*).

^(*) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).';

- (2) Annex I is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 173, 12.6.2014, p. 349.

⁽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 (OJ L 87, 31.3.2017, p. 1).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

ANNEX I

Record-keeping**Minimum list of records to be kept by investment firms depending upon the nature of their activities**

Nature of obligation	Type of record	Summary of content	Legislative reference
Client assessment			
	Information to clients	Content as provided for under Article 24(4) of Directive 2014/65/EU and Articles 44 to 51 of this Regulation	Article 24(4) of Directive 2014/65/EU Articles 44 to 51 of this Regulation
	Client agreements	Records as provided for under Article 25(5) of Directive 2014/65/EU	Article 25(5) Directive 2014/65/EU Article 58 of this Regulation
	Assessment of suitability and appropriateness	Content as provided for under paragraphs 2 and 3 of Article 25 of Directive 2014/65/EU and Articles 54, 55 and 60 of this Regulation	Article 25(2) and (3) of Directive 2014/65/EU Articles 54, 55 and 56 of this Regulation
Order handling			
	Client order-handling – Aggregated transactions	Records as provided for under Articles 67 to 70 of this Regulation	Articles 24(1) and 28(1) of Directive 2014/65/EU Articles 67 to 70 of this Regulation
	Aggregation and allocation of transactions for own account	Records as provided for under Article 69 of this Regulation	Articles 24(1) and 28(1) of Directive 2014/65/EU Article 69 of this Regulation
Client Orders and transactions			
	Record keeping of client orders or decision to deal	Records as provided for under Article 74 of this Regulation	Article 16(6) of Directive 2014/65/EU Article 74 of this Regulation
	Record keeping of transactions and order processing	Records as provided for under Article 75 of this Regulation	Article 16(6) of Directive 2014/65/EU Article 75 of this Regulation

Reporting to clients

	Obligation in respect of services provided to clients	Contents as provided for under Articles 59 to 63 of this Regulation	Paragraphs 1 and 6 of Article 24 and paragraphs 1 and 6 of Article 25 of Directive 2014/65/EU Articles 59 to 63 of this Regulation
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Safeguarding of client assets

	Client financial instruments held by an investment firm	Records as provided for under Article 16(8) of Directive 2014/65/EU and under Article 2 of Commission Delegated Directive (EU) 2017/593	Article 16(8) of Directive 2014/65/EU Article 2 of Delegated Directive (EU) 2017/593
	Client funds held by an investment firm	Records as provided for under Article 16(9) of Directive 2014/65/EU and under Article 2 of Delegated Directive (EU) 2017/593	Article 16(9) of Directive 2014/65/EU Article 2 of Delegated Directive (EU) 2017/593
	Use of client financial instruments	Records provided for under Article 5 of Delegated Directive (EU) 2017/593	Paragraphs 8, 9 and 10 of Article 16 of Directive 2014/65/EU Article 5 of Delegated Directive (EU) 2017/593

Communication with clients

	Information about Costs and associated charges	Contents as provided for under Article 50 of this Regulation	Article 24(4), point (c) of Directive 2014/65/EU Article 50 of this Regulation
	Information about the investment firm and its services, financial instruments and safeguarding of client assets	Content as provided for under Articles 47, 48 and 49 of this Regulation	Article 24(4) of Directive 2014/65/EU Articles 47, 48 and 49 of this Regulation
	Information to clients	Records of communication	Article 24(3) of Directive 2014/65/EU Article 46 of this Regulation
	Marketing communications (except in oral form)	Each marketing communication issued by the investment firm (except in oral form) as provided under Articles 44 and 46 of this Regulation	Article 24(3) of Directive 2014/65/EU Articles 44 and 46 of this Regulation

	Investment advice to retail clients	(i) The fact, time and date that investment advice was rendered and (ii) the financial instrument that was recommended (iii) the suitability report provided to the client	Article 25(6) of Directive 2014/65/EU Article 54 of this Regulation
	Investment research	Each item of investment research issued by the investment firm in a durable medium	Article 24(3) of Directive 2014/65/EU Articles 36 and 37 of this Regulation
Organisational requirements			
	The firm's business and internal organisation	Records as provided for under Article 21(1), point (f) of this Regulation	Paragraphs 2 to 10 of Article 16 of Directive 2014/65/EU Article 21(1), point (f) of this Regulation
	Compliance reports	Each compliance report to management body	Article 16(2) of Directive 2014/65/EU Article 22(2), point (c) and Article 25(2) of this Regulation
	Conflict of Interest record	Records as provided for under Article 35 of this Regulation	Article 16(3) of Directive 2014/65/EU Article 35 of this Regulation
	Inducements	The information disclosed to clients under Article 24(9) of Directive 2014/65/EU	Article 24(9) of Directive 2014/65/EU Article 11, 12 and 13 of Delegated Directive (EU) 2017/593
	Risk management reports	Each risk management report to senior management	Article 16(5) of Directive 2014/65/EU Article 23(1), point (b) and Article 25(2) of this Regulation
	Internal audit reports	Each internal audit report to senior management	Article 16(5) of Directive 2014/65/EU Article 24 and Article 25(2) of this Regulation
	Complaints-handling records	Each complaint and the complaint handling measures taken to address the complaint	Article 16(2) of Directive 2014/65/EU Article 26 of this Regulation
	Records of personal transactions	Records as provided for under Article 29(5), point (c) of this Regulation	Article 16(2) of Directive 2014/65/EU Article 29(5), point (c) of this Regulation'