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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	21 April 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2021) 2618 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 21.4.2021 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

Delegations will find attached document C(2021) 2618 final.

Encl.: C(2021) 2618 final



EUROPEAN
COMMISSION

Brussels, 21.4.2021
C(2021) 2618 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 21.4.2021

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)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

To be fully compliant with Directive 2014/65/EU on markets in financial instruments (MiFID II), Article 1 paragraph 1 of Delegated Regulation (EU) 2017/565 should be corrected to clarify that it requires the application of Article 64(4), Article 65 and Chapter VIII of that Regulation instead of Article 59(4), Article 60 and Chapter IV.

Further, it shall correct errors that appeared in several cross-references in the 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'.

2. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 1 of this Delegated Regulation corrects the following provisions and Annexes to Delegated Regulation (EU) 2017/565:

- Article 1(1) and Annex I.

COMMISSION DELEGATED REGULATION (EU) .../...

of 21.4.2021

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/EU¹, and in particular Article 16(12) and Article 27(9) thereof,

Whereas:

- (1) Errors appeared in Article 1(1) of Delegated Regulation (EU) 2017/565 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 the 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).”;

¹ OJ L 173, 12.6.2014, p.349.

(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*.

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

Done at Brussels, 21.4.2021

For the Commission
The President
Ursula VON DER LEYEN