

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 (Text with EEA relevance)

CHAPTER III

OPERATING CONDITIONS FOR INVESTMENT FIRMS

SECTION 4

Reporting to clients

Article 59

Reporting obligations in respect of execution of orders other than for portfolio management^{F1} ...

- 1 Investment firms having carried out an order on [^{F2}behalf of a retail client or a professional client], other than for portfolio management, shall, in respect of that order:
- a promptly provide the [^{F3}retail client or professional client, as applicable,] in a durable medium, with the essential information concerning the execution of that order;
 - b send a notice to [^{F4}a retail client] in a durable medium confirming execution of the order as soon as possible and no later than the first business day following execution or, where the confirmation is received by the investment firm from a third party, no later than the first business day following receipt of the confirmation from the third party.

Point (b) shall not apply where the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the client by another person.

Points (a) and (b) shall not apply where orders executed on behalf of clients relate to bonds funding mortgage loan agreements with the said clients, in which case the report on the transaction shall be made at the same time as the terms of the mortgage loan are communicated, but no later than one month after the execution of the order.

- 2 In addition to the requirements under paragraph 1, investment firms shall supply the client, on request, with information about the status of his order.

- 3 In the case [^{F5}of retail client] orders relating to units or shares in a collective investment undertaking which are executed periodically, investment firms shall either take the action specified in point (b) of paragraph 1 or provide [^{F6}the retail client], at least once every six months, with the information listed in paragraph 4 in respect of those transactions.

- 4 The notice referred to in point (b) of paragraph 1 shall include such of the following information as is applicable and, where relevant, in accordance with the regulatory technical standards on reporting obligations adopted in accordance with Article 26 of Regulation (EU) No 600/2014:

- a the reporting firm identification;
- b the name or other designation of [^{F6}the retail client];

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- c the trading day;
- d the trading time;
- e the type of the order;
- f the venue identification;
- g the instrument identification;
- h the buy/sell indicator;
- i the nature of the order if other than buy/sell;
- j the quantity;
- k the unit price;
- l the total consideration;
- m a total sum of the commissions and expenses charged and, where [^{F6}the retail client] so requests, an itemised breakdown including, where relevant, the amount of any mark-up or mark-down imposed where the transaction was executed by an investment firm when dealing on own account, and the investment firm owes a duty of best execution to [^{F6}the retail client];
- n the rate of exchange obtained where the transaction involves a conversion of currency;
- o [^{F6}the retail client]'s responsibilities in relation to the settlement of the transaction, including the time limit for payment or delivery as well as the appropriate account details where these details and responsibilities have not previously been notified to [^{F6}the retail client];
- p where [^{F6}the retail client]'s counterparty was the investment firm itself or any person in the investment firm's group or another client of the investment firm, the fact that this was the case unless the order was executed through a trading system that facilitates anonymous trading.

For the purposes of point (k), where the order is executed in tranches, the investment firm may supply [^{F6}the retail client] with information about the price of each tranche or the average price. Where the average price is provided, the investment firm shall supply [^{F6}the retail client] with information about the price of each tranche upon request.

5 The investment firm may provide [^{F6}the retail client] with the information referred to in paragraph 4 using standard codes if it also provides an explanation of the codes used.

Textual Amendments

- F1** Words in Art. 59 heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **47(8)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 59(1) substituted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021 \(S.I. 2021/774\)](#), regs. 1(2), **3(7)(a)(i)**
- F3** Words in Art. 59(1)(a) substituted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021 \(S.I. 2021/774\)](#), regs. 1(2), **3(7)(a)(ii)**
- F4** Words in Art. 59(1)(b) substituted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021 \(S.I. 2021/774\)](#), regs. 1(2), **3(7)(a)(iii)**
- F5** Words in Art. 59(3) substituted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021 \(S.I. 2021/774\)](#), regs. 1(2), **3(7)(b)**
- F6** Words in Art. 59(3)-(5) substituted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021 \(S.I. 2021/774\)](#), regs. 1(2), **3(7)(c)**

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Article 60

Reporting obligations in respect of portfolio management ^{F7}...

1 Investments firms which provide the service of portfolio management to [^{F8}retail clients or professional] clients shall provide each such client with a periodic statement in a durable medium of the portfolio management activities carried out on behalf of that client unless such a statement is provided by another person.

2 The periodic statement required under paragraph 1 shall provide a fair and balanced review of the activities undertaken and of the performance of the portfolio during the reporting period and shall include, where relevant, the following information [^{F9}to retail clients]:

- a the name of the investment firm;
- b the name or other designation of the client's account;
- c a statement of the contents and the valuation of the portfolio, including details of each financial instrument held, its market value, or fair value if market value is unavailable and the cash balance at the beginning and at the end of the reporting period, and the performance of the portfolio during the reporting period;
- d the total amount of fees and charges incurred during the reporting period, itemising at least total management fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;
- e a comparison of performance during the period covered by the statement with the investment performance benchmark (if any) agreed between the investment firm and the client;
- f the total amount of dividends, interest and other payments received during the reporting period in relation to the client's portfolio;
- g information about other corporate actions giving rights in relation to financial instruments held in the portfolio;
- h for each transaction executed during the period, the information referred to in Article 59(4)(c) to (l) where relevant, unless the client elects to receive information about executed transactions on a transaction-by-transaction basis, in which case paragraph 4 of this Article shall apply.

3 The periodic statement referred to in paragraph 1 shall be provided [^{F10}to retail clients] once every three months, except in the following cases:

- a where the investment firm provides its [^{F11}retail] clients with access to an online system, which qualifies as a durable medium, where up-to-date valuations of the client's portfolio can be accessed and where the client can easily access the information required by Article 63(2) and the firm has evidence that the client has accessed a valuation of their portfolio at least once during the relevant quarter;
- b in cases where paragraph 4 applies, the periodic statement must be provided at least once every 12 months;
- c where the agreement between an investment firm and a [^{F12}retail] client for a portfolio management service authorises a leveraged portfolio, the periodic statement must be provided at least once a month.

The exception provided for in point (b) shall not apply in the case of transactions in financial instruments covered by [^{F13}Article 2(1)(24)(c) of Regulation (EU) No 600/2014 or paragraphs 4 to 11 of Part 1 of Schedule 2 to the Regulated Activities Order].

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4 Investment firms, in cases where the ^{F14}retail client elects to receive information about executed transactions on a transaction-by-transaction basis, shall provide promptly to the ^{F14}retail client, on the execution of a transaction by the portfolio manager, the essential information concerning that transaction in a durable medium.

The investment firm shall send the ^{F14}retail client a notice confirming the transaction and containing the information referred to in Article 59(4) no later than the first business day following that execution or, where the confirmation is received by the investment firm from a third party, no later than the first business day following receipt of the confirmation from the third party.

The second subparagraph shall not apply where the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the ^{F14}retail client by another person.

Textual Amendments

- F7** Words in Art. 60 heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **47(9)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 60(1) inserted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(8)(a)**
- F9** Words in Art. 60(2) inserted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(8)(b)**
- F10** Words in Art. 60(3) inserted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(8)(c)(i)**
- F11** Word in Art. 60(3)(a) inserted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(8)(c)(ii)**
- F12** Word in Art. 60(3)(c) inserted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(8)(c)(iii)**
- F13** Words in Art. 60(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **47(9)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Word in Art. 60(4) inserted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(8)(d)**

Article 61

Reporting obligations in respect of eligible counterparties ^{F15}...

The requirements ^{F16}in Articles 46 to 51 and 59 do not apply to services provided to eligible counterparties.]

Textual Amendments

- F15** Words in Art. 61 heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **47(10)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in Art. 61 substituted (26.7.2021) by [The Markets in Financial Instruments \(Capital Markets\) \(Amendment\) Regulations 2021](#) (S.I. 2021/774), regs. 1(2), **3(9)**

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^{F18}Article 62

Additional reporting obligations for portfolio management or contingent liability transactions ^{F17} ...

Textual Amendments

- F17** Words in Art. 62 heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **47(11)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Art. 62 omitted (18.1.2023) by virtue of [The Markets in Financial Instruments \(Investor Reporting\) \(Amendment\) Regulations 2022 \(S.I. 2022/1297\)](#), regs. 1(3), **2(4)**

Article 63

Statements of client financial instruments or client funds ^{F19}...

1 Investment firms that hold client financial instruments or client funds shall send at least on a quarterly basis, to each client for whom they hold financial instruments or funds, a statement in a durable medium of those financial instruments or funds unless such a statement has been provided in any other periodic statement. Upon client request, firms shall provide such statement more frequently at a commercial cost.

The first subparagraph shall not apply to a credit institution [^{F20}that is a CRR firm as defined in Article 4(1)(2A) of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms] in respect of deposits within the meaning [^{F21}of Article 2(1)(23A) of Regulation (EU) No 600/2014] held by that institution.

2 The statement of client assets referred to in paragraph 1 shall include the following information:

- a details of all the financial instruments or funds held by the investment firm for the client at the end of the period covered by the statement;
- b the extent to which any client financial instruments or client funds have been the subject of securities financing transactions;
- c the extent of any benefit that has accrued to the client by virtue of participation in any securities financing transactions, and the basis on which that benefit has accrued;
- d a clear indication of the assets or funds which are subject to the rules of [^{F22}the UK law on markets in financial instruments] and those that are not, such as those that are subject to Title Transfer Collateral Agreement;
- e a clear indication of which assets are affected by some peculiarities in their ownership status, for instance due to a security interest;
- f the market or estimated value, when the market value is not available, of the financial instruments included in the statement with a clear indication of the fact that the absence of a market price is likely to be indicative of a lack of liquidity. The evaluation of the estimated value shall be performed by the firm on a best effort basis.

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In cases where the portfolio of a client includes the proceeds of one or more unsettled transactions, the information referred to in point (a) may be based either on the trade date or the settlement date, provided that the same basis is applied consistently to all such information in the statement.

The periodic statement of client assets referred to in paragraph 1 shall not be provided where the investment firm provides its clients with access to an online system, which qualifies as a durable medium, where up-to-date statements of client's financial instruments or funds can be easily accessed by the client and the firm has evidence that the client has accessed this statement at least once during the relevant quarter.

3 Investment firms which hold financial instruments or funds and which carry out the service of portfolio management for a client may include the statement of client assets referred to in paragraph 1 in the periodic statement it provides to that client pursuant to Article 60(1).

Textual Amendments

- F19** Words in Art. 63 heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **47(12)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in Art. 63(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **47(12)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 63(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **47(12)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in Art. 63(2)(d) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **47(12)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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