



EUROPEAN
COMMISSION

Brussels, XXX
[...] (2025) XXX draft

COMMISSION DELEGATED DIRECTIVE (EU) .../...

of XXX

amending Delegated Directive (EU) 2017/593 as regards the conditions for the provision of third-party execution and research services to investment firms that provide portfolio management or other investment or ancillary services

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Directive (EU) 2021/338 of the European Parliament and of the Council¹ (part of “the Capital Market Recovery package”) amended Directive 2014/65/EU of the European Parliament and of the Council² (“MiFID II”), to facilitate the development of research on small and middle-capitalisation issuers seeking of better access to capital markets and investors. The amendment allowed for investment firms to pay jointly for the provision of research and execution services if certain conditions were met. One of the conditions was that the research must relate to issuers with a market capitalisation not exceeding EUR 1 billion, as expressed by the year-end quotes, for the 36 months preceding the provision of the research. For companies with a higher market capitalisation, the obligation to pay separately for research and execution services continued to apply.

However, as the decline in investment research did not slow down following this amendment, Directive (EU) 2024/2811 of the European Parliament and of the Council³ (part of the “Listing Act” package) further amended MiFID II to offer investment firms more flexibility in the way they choose to organise payment for execution services and research. Specifically, it:

- Remove the too restrictive option for firms to bundle payment for research and execution services only when research concerns companies with a market capitalisation not exceeding Euro 1 billion,
- Introduce more flexible rules allowing investment firms to choose the most suitable payment method for execution services and research.
- Lifted the requirement to separate payments where this is deemed too cumbersome for firms, while still allowing them to maintain separate payments if they prefer.
- Introduced transparency requirements obliging investment firms to disclose to their clients whether they use joint or separate payments.

To ensure these latest amendments are applied consistently across the EU and to promote research on companies, the Commission should amend Delegated Directive (EU) 2017/593⁴. In particular, it should revise the rules governing payment methods for research supplied by

¹ Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (OJ L 68, 26.2.2021, p. 14. ELI: <http://data.europa.eu/eli/dir/2021/338/oj>).

² 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 (recast) (OJ L 173, 12.6.2014, p. 349. ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

³ Directive (EU) 2024/2811 of the European Parliament and of the Council of 23 October 2024 amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC (OJ L, 2024/2811, 14.11.2024, ELI: <http://data.europa.eu/eli/dir/2024/2811/oj>).

⁴ Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500. ELI: http://data.europa.eu/eli/dir_del/2017/593/oj).

third parties to investment firms providing portfolio management, investment or other ancillary services. In this context, the Commission has requested technical advice from the European Securities and Markets Authority (ESMA).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

ESMA has held a public consultation on the technical advice it received. A consultation paper was published on 28 October 2024 on the ESMA website, with the consultation remaining open until 28 January 2025. ESMA has also sought the views of the Securities and Markets Stakeholders Group (SMSG) established under Article 37 of Regulation (EU) No 1095/2010.

Some of ESMA's initial proposals, such as requiring firms to compare research from their providers with that from other research providers, were seen as overly burdensome and likely to create unnecessary regulatory complexity. In response to the feedback received, ESMA has removed this requirement.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

THIS DELEGATED DIRECTIVE CONTAINS FOUR ARTICLES.

- Article 1 amends Article 13 of Delegated Directive (EU) 2017/593, setting out new rules allowing for joint or separate payments for investment research and execution services.
- Article 2 sets out the timeline for Member States to adopt laws, regulations and administrative provisions necessary to transpose the new rules laid down in this Delegated Directive, and their date of application.
- Article 3 sets out the timeline for the entry into force of the new rules laid down in this Delegated Directive.
- Article 4 specifies that this Delegated Directive is addressed to all Member States.

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amending Delegated Directive (EU) 2017/593 as regards the conditions for the provision of third-party execution and research services to investment firms that provide portfolio management or other investment or ancillary services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,

Having regard to Directive 2014/65/EU of the European Parliament and of the Council⁵, and in particular Article 24(13) thereof,

Whereas:

- (1) Directive (EU) 2024/2811 of the European Parliament and of the Council⁶ amended Directive 2014/65/EU of the European Parliament and of the Council⁷ to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises, notably by fostering more investment research on those companies, bringing them more visibility and more prospects of attracting potential investors.
- (2) Directive (EU) 2024/2811 amended the way investment firms may pay for third party execution and research services by giving those firms the option to choose between paying separately or jointly for those services. Such flexibility recognises the administrative burden that paying separately for execution and research services may represent for certain firms, which then choose to no longer provide research services to investment firms, in particular on small and mid-cap companies.
- (3) Delegated Directive (EU) 2017/593⁸ only details requirements associated to a joint payment for execution and research services. It is necessary to reflect the fact that investment firms are now allowed to choose to pay jointly or separately for those

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⁵ OJ L 173, 12.6.2014, p 349.

⁶ Directive (EU) 2024/2811 of the European Parliament and of the Council of 23 October 2024 amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC (OJ L, 2024/2811, 14.11.2024, ELI: <http://data.europa.eu/eli/dir/2024/2811/oj>).

⁷ 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 (recast) (OJ L 173, 12.6.2014, p. 349. ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

⁸ Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits (OJ L 87, 31.3.2017, p. 500. ELI: http://data.europa.eu/eli/dir_del/2017/593/oj).

services and that in both cases, requirements in terms of quality assessment of the research should apply.

- (4) The flexibility given to investment firms as regards the method of payment should not interfere with the obligation of those firms to act honestly, fairly and professionally in accordance with the best interest of their clients. Therefore, those investment firms should be required to assess the quality of research that they consume or provide to ensure that the research provided by a third party to them is of quality and can be used to contribute to a better investment decision, thus bringing an added-value for the end-investor.
- (5) The investment firms provided with the research should assess the quality of that research annually. To ensure that the research effectively contributes to a better investment decision, in line with the investment strategy applicable to the clients' portfolio, investment firms should do so on the basis of robust quality criteria. Where the annual assessment reveals a lack of quality of the research, or a lack of its usability or contribution to a better investment decision, the investment firms concerned should consider actions to remedy the situation, including requesting the third party research provider to enhance the quality of the research, stopping the use or distribution of the research of insufficient quality or choosing an alternative provider of the research.
- (6) The European Securities and Market Authority, established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁹, has been consulted for technical advice on the rules laid down in this Delegated Directive.
- (7) To enable competent authorities and investment firms to adapt to the new requirements so that they can be applied in an efficient and effective manner, the date of transposition and the date of application of this Delegated Directive should be aligned with the date of transposition and the date of application, respectively, of Directive (EU) 2024/2811.
- (8) Delegated Directive (EU) 2017/593 should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Delegated directive (EU) 2017/593

Delegated directive (EU) 2017/593 is amended as follows:

- (1) Article 13 is amended as follows:
 - (a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that investment firms that operate a separate research payment account as referred to in Article 24(9a), point (d)(ii), of Directive 2014/65/EU, meet the following conditions relating to the operation of the account:

 - (a) the research payment account is funded by a specific research charge to the client;

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⁹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84. ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

- (b) as part of establishing a research payment account and agreeing the research charge with their clients, investment firms set and regularly assess a research budget as an internal administrative measure;
 - (c) the investment firm is held responsible for the research payment account.
- (b) the following paragraph 1a is inserted:
- ‘1a. Member States shall ensure that investment firms that make use of a research payment account as referred to in paragraph 1 provide the following information to their clients:
- (a) before providing investment services to their clients, information about the budgeted amount for research and the amount of the estimated research charge for each client;
 - (b) annual information on the total costs that investment firms have incurred for third party research.
- (c) paragraphs 2 to 7 are replaced by the following:
- ‘2. Member States shall ensure that investment firms that choose to pay separately for execution services and research and that operate a research payment account as referred to in paragraph 1, shall provide, upon request of their clients or of competent authorities all of the following:
- (a) a summary of the providers paid from that research payment account;
 - (b) the total amount those providers were paid over a specified period;
 - (c) the benefits and services those providers received by the investment firm;
 - (d) how the total amount spent from the research payment account compares to the budget set by the investment firm for that period, noting any rebate or carry-over if residual funds remain in the account.
- For the purposes of paragraph 1, point (a), Member States shall ensure that the estimated research charge is:
- (a) only based on a research budget set by the investment firm for the third-party research necessary for the provision of investment services to the clients of that investment firm;
 - (b) not linked to the volume or value of transactions executed on behalf of the clients.
3. Member States shall ensure that investment firms that choose to pay separately for execution and research services and that operate a research payment account as referred to in paragraph 1:
- (a) indicate for every operational arrangement for the collection of the client research charge separately identifiable research charge;
 - (b) fully comply with the conditions set out in paragraphs 1 and 1a.
4. Member States shall ensure that investment firms that choose to pay separately for execution services and research and that operate a research

payment account as referred to in paragraph 1 do not receive a total amount of research charges that exceeds their research budget.

5. Member States shall ensure that investment firms that choose to pay separately for execution services and research and operate a separate research payment account as referred to in paragraph 1 agree with their clients, in their management agreement or general terms of business, the research charge as budgeted by the investment firm and the frequency with which the specific research charge will be deducted from the resources of the client over the year.

Member States shall ensure that investment firms only increase their research budget after they have provided their clients with clear information about such intended increases.

Member States shall ensure that investment firms have a process to refund any surplus in the research payment account at the end of a period to their clients or to offset it against the research budget and charge calculated for the following period.

6. Member States shall ensure that investment firms that choose to pay separately for execution and research services and that operate a research payment account as referred to in paragraph 1, are solely responsible for the management of the research budget referred to in paragraph 1, point (b).

Member States shall ensure that the research budget referred to in paragraph 1, point (b) is based on a reasonable assessment of the need for third party research.

Member States shall ensure that the allocation of the research budget to purchase third party research is subject to the investment firm's controls and senior management oversight that are deemed objectively appropriate to ensure that the research budget is managed and used in the best interests of the investment firm's clients. Member States shall ensure that those controls include a clear audit trail of payments made to research providers and of how the amounts paid were determined with reference to the quality criteria referred to in paragraph 10, first subparagraph. Member States shall ensure that investment firms do not use the research budget and research payment account to fund internal research.

7. For the purposes of paragraph 1, point (c), Member States shall ensure that investment firms may delegate the administration of the research payment account to a third party, provided that such arrangement facilitates the purchase of third-party research and the payment to research providers in the name of the investment firm without any undue delay in accordance with the investment firm's instruction.

(d) paragraph 8 is deleted.

(e) the following paragraph 10 is added:

‘10. Member States shall ensure that, irrespective of how investment firms pay for execution and research services, they base their annual assessment of the research, required under Article 24(9a), point (c), of Directive 2014/65/EU, on robust quality criteria enabling firms to objectively assess

the quality, usability, value of the research and the ability of the research to contribute to better investment decisions.

Member States shall ensure that investment firms take the necessary remedial actions where assessments reveal a lack of quality, usability, value of the research or a lack of contribution of the research to a better investment decision.

Article 2 **Transposition**

Member States shall adopt and publish, by 5 June 2026 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 6 June 2026.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3 **Entry into force**

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

Article 4 **Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

For the Commission
The President
Ursula von der Leyen