



## THE CNMV REVIEWS THE APPLICATION OF THE “BEST EXECUTION” OBLIGATIONS BY INVESTMENT FIRMS IN CLIENT TRANSACTIONS

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- The general state of compliance is correct. During the review, it was noticed that some firms do not always perform proven previous comparison of the different alternatives available, particularly when it comes to costs, when selecting the execution venues and the financial intermediaries.
- In some cases, they fail to document the work carried out to assess the execution quality obtained and to compare their execution prices with market prices.
- Regarding portfolio management, firms do not always take into account that they must perform a best execution analysis that is specific and independent from those made for other services.
- There are firms that fail to prove the performance of periodic reviews of their order execution policy.
- Firms have been informed about the incidents identified for correction.

The Spanish National Securities Market Commission (CNMV) has carried out supervisory actions on compliance with the **best execution** obligations, regarding a sample of firms providing execution services to clients onequity instruments.

MiFID II states that firms must take all sufficient steps to obtain the **best possible results** for their clients when executing their orders, taking into account execution price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. Nevertheless, where there is a specific instruction from the client the firm shall execute the order following the specific instruction.

While performing the review, CNMV has found several incidents regarding compliance with the aforementioned regulation, which have been informed to firms for their correction. The main ones were as follows:

- Firms do not always perform a comparison of the intermediaries and execution venues selected to execute client orders, particularly regarding costs, or cannot demonstrate it.
- Some firms fail to perform an appropriate execution quality assessment in terms of price.
- Regarding portfolio management services, some firms have not always taken into account that they must perform a best execution analysis that is specific and

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independent from that carried out for the services of execution or reception and transmission of orders. This analysis must include a comparison of all the execution and transmission costs of the selected intermediary, particularly when it also provides portfolio management services. Firms must be able to demonstrate the result of this comparison.

- It was also found that some firms could not prove the performance of an assessment, on a regular basis, of their order execution policy.

### Regulation

MiFID II states that, when an investment firm executes an order on behalf of a retail client, the best possible result shall be determined in terms of **total consideration**, representing the price of the financial instrument and the costs related to execution, which shall include all expenses incurred by the client which are directly relating to the execution of the order, including execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.

For the purposes of delivering the best possible result, all **fees and costs** deriving from the execution of the order in each execution venue suitable for it, must be taken into account.

Even though the regulation do not forbid firms to select a single execution venue or financial intermediary, in such cases, firms must justify that this selection allows them to obtain the best possible result for their clients on a consistent basis.

Finally, firms must monitor the effectiveness of their order execution arrangements and execution policy in order to identify and, where appropriate, correct any deficiencies. In particular, they shall assess, on a regular basis, whether the execution venues and financial intermediaries included in the order execution policy provide the best possible result for the client or whether they need to make changes to their execution arrangements.

The CNMV review has been carried out to assess the procedures applied by:

- a representative sample of firms that provided reception and transmission or execution of orders from clients services in 2022 (26 firms); and
- a representative sample of firms that provided portfolio management services in 2022 (10 firms).