

## SECOND SUPERVISORY EXERCISE OF THE CNMV USING MYSTERY SHOPPERS AT BANKING OFFICES

29 March 2021

- 800 visits<sup>1</sup> were made to the branches of various banks, distributed among large centres of population throughout the national territory.
- The reviews were focused on preliminary marketing activities, and in particular, on the verbal information provided to mystery shoppers. On this occasion, mystery shoppers actively requested advice for the acquisition of investment funds.
- In general, the results were better than those obtained from the previous review, as no significant cases were detected of possible implicit recommendations not considered to be advice.
- Likewise, a large number of cases were detected of the offering of third-party products and no significant cases were detected where the employee “imposed conditions” upon the mystery shopper when carrying out the corresponding assessment.
- However, the exercise has highlighted the existence of certain shortcomings in the verbal information provided during the preliminary marketing phase, which the CNMV has reported to the banks subjected to analysis.
- The most frequent weaknesses detected were related to the information of an advisory nature (whether independent or not) and to the information on costs associated with marketed products.

The Spanish National Securities Market Commission (CNMV) has carried out a new supervisory exercise on the marketing of financial products at bank branches through the use of mystery shoppers. The first mystery shopping exercise was conducted as early as 2016. An external firm has also collaborated in this exercise which, following the indications of the CNMV, has entailed conducting mystery shopping at various banks, in order to verify how investment funds are marketed in practice. This supervisory tool is useful, in particular, to assess the oral information provided to clients in the on-site sales networks.

The assessment was conducted on a representative sample of banks representing around 68% of the bank branches, which in Spain account for the vast majority of retail clients. The visits, to a total of 800 branches of these banks, distributed among large centres of population throughout the national territory, were made between September and November 2020. The product was not purchased in any of the visits.

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<sup>1</sup> The technique of “mystery shopping” was used in the visits.

On this occasion, mystery shoppers actively requested advice for the acquisition of investment funds. In the majority of cases, the banks offered these products in the sphere of advice or portfolio management. Thus, unlike the former exercise conducted of this type, no cases were detected of possible implicit recommendations not considered to be advice. Likewise, unlike the previous exercise carried out, on this occasion it was verified that, in a larger number of cases, the offer included both funds managed by the group itself and funds of other management companies. Furthermore, it is important to highlight that no significant cases were detected where the employee “imposed conditions” upon the mystery shoppers when carrying out the corresponding (appropriateness or suitability) assessment.

However, the exercise has enabled the identification of certain shortcomings in the marketing activities when informing verbally on the advisory service. The banks concerned have been requested to adjust their procedures in respect of such shortcomings, which are summarised in this public statement in order to convey to the sector certain guidelines deemed relevant by the CNMV for due compliance of the securities market rules of conduct<sup>2</sup>:

- Although information was frequently requested as to whether the investment funds recommended would be managed exclusively by the group itself or whether funds of other management companies would also be included, in some cases, this information was contradictory.
- Even though the mystery shopper was often informed that a subsequent follow-up of the recommendations would be carried out, there were also other cases where this information was either not provided or it was only provided when the mystery shopper asked about it.
- Only in slightly more than half of the cases was the mystery shopper informed automatically of the existence of costs. There were also cases

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<sup>2</sup> Article 77 of Spanish Royal Decree 217/2008, of 15 February, stipulates that the information to be provided, sufficiently in advance to clients, when providing investment advisory services, shall clearly state whether the advice is provided independently or not, whether the advice is provided on a general basis or is restricted to different types of financial instruments, and in particular, whether the range of the instruments is limited to financial instruments issued or provided by banks with close links with the investment firm or any other type of legal or financial relationship, such as contractual, which may undermine the independence of the advice provided; and whether the investment firm will provide the client with a periodic suitability assessment of the financial instruments recommended.

It also provides that the information on all associated costs and expenses shall include information related to investment and ancillary services, including consultancy costs, where appropriate, as well as the cost of the financial instrument recommended or marketed to the client.

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where the mystery shopper was, wrongly, informed of the non-existence of these (even when the mystery shopper specifically asked).

- There were only a few cases where an explanation was given as to whether the advice was independent or not. In some of these few cases, the explanations given were, often, incorrect.
- Despite being considered a good practice, some banks do not provide explanatory supporting documentation related to the advisory service in this preliminary phase.

During the exercise, shortcomings in the verbal information provided were also detected, mainly in relation to the costs of the service or products, when the funds were offered in the sphere of portfolio management or simply for marketing.

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The securities market rules of conduct stipulate the general duty of entities providing investment services to inform their clients. Clients must be duly informed, and the information provided to them, including verbal information, must be impartial, clear, and not misleading.

The information provided verbally by the sales staff to clients prior to the provision of an investment service is a very important aspect of the financial instrument marketing process, and it is essential that it is correct and complete, so that clients can make informed investment decisions. Accordingly, entities providing investment services must adopt the appropriate measures to reinforce the training of their sales networks and the procedures to provide verbal information to clients.

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