

ACTION OF THE CNMV SUPERVISING THE MARKETING OF FINANCIAL PRODUCTS AT BANK BRANCHES USING, FOR THE FIRST TIME, THE MYSTERY SHOPPING TOOL

Madrid, 22 February 2017

- The CNMV has engaged for the first time in a mystery shopping exercise.
- The action, limited to the initial or preliminary stage of the investment process and conducted in conjunction with an external firm, consisted of 450 simulated visits to bank branches in 20 different towns.
- The exercise has highlighted certain weaknesses in the practices in marketing investment products at the stage of initial customer contacts with the institution:
 - Implicit verbal recommendations not being recognised as advice.
 - Use of commercial datasheets with vague or invalid relevant information from the KII (Key Investor Information) of investment funds, which is the product offered in the majority of cases.
 - Certain deficiencies in the information regarding risks and costs.
- It should be emphasised that all the investment funds offered were funds managed by the institution's own group.
- The CNMV has contacted the institutions reviewed urging them to pay attention to their practices in marketing investment products at their branches. It will keep very much in mind the result of the exercise in its supervisory activities and intends to repeat it in the future.

In accordance with its 2016 Activity Plan, the Spanish National Securities Market Commission (CNMV) has conducted a pilot test using the mystery shopping tool. For this purpose, it received the assistance of an external firm, which, following its instructions, simulated the visits of customers or potential customers to various institutions in order to ascertain how a series of financial products were being marketed.

This experience has proven to be useful, in particular, due to the possibility of analysing the verbal information and instructions given by institutions to customers, which often plays a key role in the investment decision-making process.

This supervisory action was aimed at a representative sample of institutions accounting for around 50% of all bank branches. Between the months of September and November, a total of 450 visits were conducted, simulated by 179 “mystery shoppers” in 20 large towns nationwide. The purchase of the product was never completed in any of the simulations.

This exercise has led to the identification of certain weaknesses in the commercial practices in place at the institutions reviewed. The institutions concerned have been informed of the findings mentioned in this communication in order to convey to the sector some general guidelines that the CNMV considers relevant in order to ensure adequate observance of the business rules of conduct.

- It was detected that implicit recommendations are often verbally made and that they are perceived as advice by customers. In such recommendations, specific products are often highlighted and, in addition, reference is made to the customer’s personal circumstances. This confirms the impression obtained by the CNMV in its supervisory experience that sometimes a real advisory service is provided without the customer clearly noticing it and without the institutions themselves classifying or recognizing it as such and, consequently, applying the rules of such service.

In the December 2010 CNMV guide on providing investment advisory service, a detailed analysis was conducted on the aspects requiring that, in certain situations, the verbal messages conveyed to customers are considered implicit recommendations, which place the relationship with the customer within the area of investment advice.

The CNMV considers that institutions must implement procedures for training, transmission of information, and instructions to their commercial staff, including the appropriate controls to minimise the risk of the investment advisory service being provided inadvertently and without being recognised. In particular, they should give clear instructions to the commercial network staff in order for them to be particularly careful in their conversations with unadvised customers.

The CNMV is considering future activities targeting at remedying this weakness and will continue checking, in the course of its supervisory activities, that the business rules of conduct are adequately observed in this respect.

- This supervisory action revealed that the product offering was focused primarily on investment funds, which is understandable in the current market context. In approximately 90% of the visits, the initial product offering included investment funds. Based on this fact, the following should be underscored:
 - Institutions often supplied commercial datasheets instead of the Key Investor Information (KII). In some cases, these commercial datasheets did not correctly reflect all the fundamental information regarding the product contained in the KII or did so, but vaguely or inaccurately and, although they included the same warnings for the investor as are highlighted in the KII, the way in which they were presented (footnote, small print, etc.) somewhat downplayed their relevance.

- In some of the combined investment fund offerings and traditional bank deposits, the informative documents supplied to the mystery shoppers included the risk indicator provided in Order ECC/2316/2015 for the bank deposit (with a minimum level of risk) but without any explanation that said indicator referred solely to the bank deposit and that the investment fund had its own risk indicator, which could in fact be higher.

All the funds offered were funds managed by the relevant institution's own group. This, together with the above-mentioned risk of implicit verbal recommendations, requires a reminder of the duty to adequately handle conflicts of interest in the context of marketing products.

- The following are other aspects revealing deficiencies in the information offered verbally to customers during the marketing activity prior to the provisioning of investment services and which render it advisable for institutions to analyse and reinforce the procedures used for providing information to retail customers:
 - Insufficient verbal information in relation to fees, costs and expenses applicable to the instruments offered.
 - During the oral explanation of the nature of the financial instrument offerings, their advantages were quite frequently underscored, while insufficient emphasis was being placed on their risks, thus resulted in a rather unbalanced presentation of the product. Furthermore, sometimes when the commercial staff mentioned verbally to the mystery shopper that the product offering might not be suitable, this fact was somehow downplayed.

The business rules of conduct establish a general duty for institutions to inform their customers when providing investment services. Retail customers, in particular, must be adequately informed. The information supplied to them, including verbal information, must be impartial, clear and not misleading. The potential benefits of the instruments being offered cannot be emphasised without also describing, in a balanced manner, their risks.

In light of this experience and of the results obtained, which will be taken very much into account in the ordinary supervisory activities, the CNMV intends to continue using this mystery shopping tool in the future.