

STAND & DELIVER

Whilst RDR now seems long gone, there remain certain issues which still seem to be hanging about. One of these interestingly is the focus of a recent piece of revision activity by the regulator. This is in the area of Retail and professional clients where those customers are being failed by firms that don't properly apply the rules on best execution when trading on their behalf, according to a review by the FCA.

This retrospective look by the regulator found that many firms do not understand key elements of the rules and are not adequately controlling client costs when executing orders. These failings were compounded by insufficient managerial oversight or engagement from front office staff for delivering best execution.

David Lawton, FCA Director of Markets, said: "Firms told us that best execution is a simple commercial imperative – yet our review shows many firms unacceptably fail to put their clients' interests first, undermining market integrity and inhibiting competition. The FCA expects to see firms act as good agents, placing equal focus on controlling client costs as delivering returns, and will take action where firms fall short of our standards."

Firms must take a range of factors into account (such as price, speed and order size) to ensure they consistently deliver the best result when executing client orders. However the FCA found:

- The rules were often poorly understood or incorrectly applied with frequent attempts by firms to limit their obligations to clients;
- Four firms attempted to evade FCA rules by changing the description of services they offered to clients so they could continue to receive payment for order flow, despite clear guidance on this in 2012. The firms reviewed have ceased this practice and the FCA will take action against any firm where it continues;
- Most firms lacked the capability to effectively monitor order execution or identify poor client outcomes;
- Firms were often unable to demonstrate how they managed conflicts of interest when using connected parties or internal systems to deliver best execution for their clients.

It was often unclear who was responsible for best execution. Reviews often focused on process rather than client outcomes, with insufficient front office engagement.

The FCA expects all firms to review their best execution arrangements in light of these findings and take immediate action to ensure that they comply with the rules.

This review comes ahead of the introduction of enhanced EU-wide rules on best execution and is linked to the FCA's work on firms' use of client dealing commission and how they discharge their duty to act as good agents.

The full findings of the Thematic Review can be found at <http://fca.org.uk/your-fca/documents/thematic-reviews/tr14-13>.

It would be worth firms rechecking their current process to ensure they comply.

Peter Smith, Head of Distribution Engagement