

RIA Compliance Consultants



Best Execution – Breakout Group Session

Strategic Alliance Members



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2021 RIA Compliance Connection

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Why is Best Execution Important?

- Investment Advisers' Fiduciary Duty
 - Duty of Care
 - Duty to Provide Advice that is in the Best Interest of the Client
 - **Duty to Seek Best Execution**
 - Duty to Provide Advice and Monitoring over the Course of the Relationship
 - Duty of Loyalty

Commission Interpretation Regarding Standard of Conduct for Investment Advisers, July 12, 2019
(<https://www.sec.gov/rules/interp/2019/ia-5248.pdf>)

Why is Best Execution Important?

Duty to Seek Best Execution: An investment adviser’s duty of care includes a duty to seek best execution of a client’s transactions where the adviser has the responsibility to select broker-dealers to execute client trades (typically in the case of discretionary accounts). In meeting this obligation, an adviser must seek to obtain the execution of transactions for each of its clients such that the client’s total cost or proceeds in each transaction are the most favorable under the circumstances. An adviser fulfills this duty by seeking to obtain the execution of securities transactions on behalf of a client with the goal of maximizing value for the client under the particular circumstances occurring at the time of the transaction. Maximizing value encompasses more than just minimizing cost.

When seeking best execution, an adviser should consider “the full range and quality of a broker’s services in placing brokerage including, among other things, the value of research provided as well as execution capability, commission rate, financial responsibility, and responsiveness” to the adviser. In other words, the “determinative factor” is not the lowest possible commission cost, “but whether the transaction represents the best qualitative execution.” Further, an investment adviser should “periodically and systematically” evaluate the execution it is receiving for clients.

Page 19 – 20 of Commission Interpretation Regarding Standard of Conduct for Investment Advisers.

SEC Risk Alert

- Not Performing Best Execution Reviews
- Not Considering Materially Relevant Factors During Best Execution Reviews
- Not Seeking Comparisons from other Broker-Dealers
- Not Fully Disclosing Best Execution Practices
- Not Disclosing Soft Dollar Arrangements

Compliance Issues Related to Best Execution by Investment Advisers, July 11, 2018

<https://www.sec.gov/files/OCIE%20Risk%20Alert%20-%20IA%20Best%20Execution.pdf>

SEC Risk Alert

- Not Properly Administering Mixed Use Allocations
- Inadequate Policies and Procedures Relating to Best Execution
- Not Following Best Execution Policies and Procedures

Compliance Issues Related to Best Execution by Investment Advisers, July 11, 2018
(<https://www.sec.gov/files/OCIE%20Risk%20Alert%20-%20IA%20Best%20Execution.pdf>)

Questions

- How often are reviews completed?
- How many people are involved?
- Have you formed a “committee”?
- What specific action steps does your firm take when performing best execution reviews?
- What factors do you consider?
- Do you compare broker/dealers against others?
- How do you identify and then evaluate all benefits received from your broker/dealers?

Questions

- Do you use a checklist, report or other materials?
- Are the findings reported to anyone?
- Does anyone have examples of action steps implemented based on findings from a best execution review?
- Has anyone experienced a situation where the firm switched broker/dealers due to best execution review findings?
- Do you have written policies and procedures for Best Execution? Are they accurate? Do you follow them?
- Do you fully disclose best execution and broker/dealer benefits in Form ADV Part 2A, Item 12?

Resources

- *SEC Risk Alert: Compliance Issues Related to Best Execution by Investment Advisers, July 11, 2018* (<https://www.sec.gov/files/OCIE%20Risk%20Alert%20-%20IA%20Best%20Execution.pdf>)
- *SEC Risk Alert: Observations from Examinations of Investment Advisers Managing Client Accounts That Participate in Wrap Fee Programs* (https://www.sec.gov/files/wrap-fee-programs-risk-alert_0.pdf)
- *SEC Commission Interpretation Regarding Standard of Conduct for Investment Advisers* (<https://www.sec.gov/rules/interp/2019/ia-5248.pdf>)
- *RCC Sample Form – Best Execution – Broker/Dealer Evaluation (\$75)*

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