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Comisión Nacional del Mercado de Valores

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Acronyms

ACGR	Annual Corporate Governance Reports
AIAF	Asociación de Intermediarios de Activos Financieros/Spanish Brokers' Association
ASCRI	Asociación Española de Entidades de Capital-riesgo/Spanish association of venture capital firms
BME	Bolsas y Mercados Españoles
CEBS	Committee of European Banking Supervisors
CESR	Committee of European Securities Regulators
CNMV	Comisión Nacional del Mercado de Valores
DAC	Directive on Capital Requirements
DSI	Directive on Investment Services
EBITDA	Earnings Before Interests, Tax, Depreciation and Amortization
EC	European Commission
EFAMA	European Fund and Asset Management Association
ESI	Investment services company
ETF	Exchange Traded Funds
EU	European Union
EVCA	European Private Equity & Venture Capital Association
FIM	Securities investment fund
FRA	Forward Rate Agreement
GDP	Gross Domestic Product
IGBM	Índice General de la Bolsa de Madrid/Madrid Stock Exchange General Index
IIC	Collective Investment Schemes
IOSCO	International Organization of Securities Commissions
IPO	Initial Public Offerings
LMV	Ley del Mercado de Valores/ Securities Markets Law
MAB	Mercado Alternativo Bursátil/Alternative Stock Market
MEFF	Mercado Español de Futuros y Opciones Financieros/Spanish market in financial futures and options
MFAO	Mercado de Futuros del Aceite de Oliva/Olive oil futures market
MiFID	Markets in Financial Instruments Directive
OECD	Organization for Economic Co-operation and Development
PER	Price Earnings Ratio
RD	Royal Decree
RDL	Royal Decree Law
ROE	Return On Equity
SENAF	Sistema Electrónico de Negociación de Activos Financieros/An electronic trading platform for Spanish public debt
SGIIC	Collective investment scheme management company
SIBE	Sistema de Interconexión Bursátil Español/Spanish electronic market
SICAV	Open-end investment company
UCITS	Undertakings for Collective Investment in Transferable Securities

I Securities markets and their agents: situation and outlook

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1 Executive summary

- Since the last edition of "Securities markets and their agents: situation and outlook", published in the CNMV Bulletin for the third quarter of 2008, the financial and macroeconomic outlook has turned dramatically worse both nationally and internationally, due mainly to the mounting difficulties confronting the financial sector. These have caused a severe crisis of confidence, aggravated by the Madoff fraud, which has choked off the flow of credit and pushed most industrial countries into recession.

- Leading international forecasters expect world GDP to grow minimally or shrink in 2009, accompanied by rapidly rising unemployment and tumbling inflation rates. Monetary stances have been kept notably expansive with official interest rates down to record lows. The authorities have also launched fiscal stimulus packages in view of the faltering pace of economic growth and the reduced room for manoeuvre of monetary policy. Further, the governments of the main economic powers have taken steps to shore up the liquidity and solvency of their banking sectors in order to mitigate systemic risk and halt the credit slowdown.

- Financial markets have lived through a series of traumatic episodes, including the crises of leading banks and the fraud perpetrated by investment fund manager Madoff, which have heightened the distrust felt in the worldwide financial system. Against this backdrop, a majority of stock indices recorded falls exceeding 20% in the fourth quarter of 2008, lifting their full-year losses to record levels. In this bear setting, the financial sector was by far the most heavily chastised. Stock exchange implied volatilities have shown some signs of normalisation but are still at highly stressful levels (above 40% in many cases). And 2008 turnover was sharply down on all leading markets with the exception of the United States.

- Most European and North American supervisors have relaxed the short selling restrictions imposed last September, in view of real doubts about their effectiveness in curbing share price fluctuations and the evidence of their adverse effects on market liquidity.

- Private fixed-income credit spreads have climbed to new highs. However issuance appears to be making a timid comeback. Also, interbank tensions, as reflected in the spread between collateralised (repo) and uncollateralised (depo) transactions, have eased a little along with the downward trend in interest rates levels.

- The Spanish economy is now in recession after two quarters of negative growth, with domestic demand contracting fast and inflation at historic lows. The economic downturn is taking a heavy toll in terms of jobless numbers with construction and services worst affected. Leading forecasters augur a sharp GDP contraction in 2009 accompanied by rising unemployment, and a widening public deficit and public debt ratio in 2009 and 2010.

- Spanish deposit-taking entities continue to confront the complex international landscape from a position of relative soundness vs. foreign competitors. However, their lending activity tailed off notably in 2008, while non-performing loan ratios began showing the strain – at savings banks more than banks and especially in developer financing and home purchase loans. Liquidity conditions remained reasonably easy thanks to loans from the Eurosystem and, more recently, the funds raised at the four auctions of the Financial Asset Acquisition Fund (FAAF) and the issuance of state-backed debt. Deposit-taking entities reported earnings to September 2008 14% lower in annual terms due to asset impairment losses. Their capital adequacy ratios were a little higher than in 2007.

- The aggregate profits of non financial companies dropped 38% in the full-year period in line with the general slowdown in activity. Gross debt also levelled off appreciably among the largest borrowers, in construction and real estate. Despite this, all industries increased their leverage as a consequence of the lower equity, accompanied by a deterioration of their debt coverage ratios. Households, meantime, steered clear of all but the most conservative investments in view of the worsening economic climate. The result was that household indebtedness stabilised at 83.5% of GDP (data to September) in a break with the rising trend of the past few years.

- Leading forecasters concur that the world's top economies will experience a fall in output and employment in 2009. Some recovery should follow in 2010 though here the picture is hazier, as it is hard to predict when the financial sector will recoup some sort of normality or how effective the fiscal stimulus will prove to be in the medium to long run. Forecasts for Spain suggest GDP correction may be sharper than in the euro area, given the heavy toll the crisis is taking on the national labour market.

- Spanish share prices have continued to tumble in line with those of other world markets, in a climate of mounting uncertainty about the economy in general and financial sector income statements. Hardest hit have been small and medium cap stocks, construction and construction-related sectors, real estate companies, financial institutions and some of the more cyclical industries. Meantime, market turnover has been thinning fast in 2009 on top of the 25% decline of 2008 with falling prices as the main culprit. However, volatility and liquidity conditions have shown some signs of normalisation.

- Short-term rates have reflected the expansive stance of ECB monetary policy. The yields of long-term sovereign and corporate bonds have come down significantly since September 2008, though credit market tensions have not gone away, as is clear from the CDS spreads being offered on Spanish issuers, especially those in the financial sector.

- Fixed income issuance dried up considerably in 2008. The most popular instruments were again commercial paper and asset-backed securities, almost invariably acquired by the originating entity. The news, however, is that some kinds of issues are starting to pick up in 2009, primarily financial institution preference shares and subordinated debt. Such paper has mainly been placed among issuers' own retail client base, and the CNMV has decided to tighten its vigilance on the information being given out to prospective buyers. In particular, these issues should come with valuation reports from independent experts which are subject to regulator scrutiny in order to verify their technical quality.

- Assets under management in investment funds dropped by 30% in 2008 to a year-end total of around 180 billion euros, as investors rushed to redeem their holdings. Most to suffer were fixed income, international equity and global funds. The scale of withdrawals is proving a litmus test for funds' liquidity, though here some improvement was apparent in the closing quarter on account of lower investment volumes and the greater relative weight in sector assets of instruments quoted on less active markets. One positive note for the Spanish collective investment industry was its muted exposure to Madoff funds.

- Real estate collective investment schemes suffered the biggest problems of liquidity. Managers, in effect, have had to cope with a surge in redemption orders, motivated by the shrinkage of fund returns, at a time of sluggish activity and sharply adjusting real estate market prices. One result was that the two biggest real estate funds had to suspend withdrawals for a two-year period. Hedge funds, meantime, have been trying to work round the obstacles impeding a part of their strategies, leading some managers to amend their prospectuses (notice periods, proration, partial redemptions, etc.).

- The financial crisis has borne down heavily on the business of investment firms. The aggregate profits of broker-dealers and brokers dropped by 53% and 77% respectively in the first eleven months of 2008 due to the thinning out of their main fee income streams (order processing and execution and CIS subscription and redemption orders). The result was to push down returns on equity and take numerous firms into annual losses. On a brighter note, the sector managed some improvement in its solvency margins thanks to the reserves accumulated in prior years. The main concern now is that a prolonged slowdown could lead to excess capacity in the investment industry, in which case firms will need to take a hard look at their cost structures and, where advised, make the opportune strategic decisions.

- Before the crisis hit, securities regulators were already scrutinising the transparency conditions of non equity financial markets – fixed income and derivatives. In 2006, a CESR report, prepared at the request of the European Commission, found no evidence of market failure associated to a lack of transparency in these markets, so considered there was no case for regulatory intervention along the lines of the MiFID in equity markets. However the financial crisis brought to light a series of information deficiencies in bond and, especially, structured product markets, which may not have caused the turmoil but probably aggravated its effects, and subsequent recommendations stressed the need to improve post-trade transparency in secondary markets. The CESR accordingly reopened its study in May 2008 (a discussion document is now out for consultation), and will publish its conclusions in summer 2009. The CNMV's opinion is that the shortcomings identified as a result of the crisis are sufficient to warrant a Europe-wide review of the existing regulations.

2 Macro-financial setting

2.1 International economic and financial developments

The deepening financial sector crisis has left its mark on the national and international financial and macro setting.

Since the last edition of the "Securities markets and their agents: situation and outlook", published in the CNMV Bulletin for the third quarter of 2008, the financial and macroeconomic outlook has turned dramatically worse both nationally and internationally, due mainly to the mounting difficulties confronting the financial sector. These have caused a severe crisis of confidence among consumers and investors which has choked off the flow of credit and tipped most industrial countries into recession.

World GDP will scrape only minimal growth in 2009 according to international organisations...

On IMF estimates, world GDP growth slowed from 5.2% in 2007 to 3.4% in 2008 with the developed economies exerting a clear drag effect (growth of a bare 1%). For 2009, the same organisation predicts worldwide growth of just 0.5%, sustained only by the output of emerging economies, especially in Asia.

Gross Domestic Product (% annual change) TABLE 1

					IMF(*)		OECD(*)	
	2005	2006	2007	2008	2009F	2010F	2009F	2010F
World	4.4	5.0	5.2	3.4	0.5 (-1.7)	3.0 (-0.8)	-	-
United States	3.1	2.9	2.0	1.1	-1.6 (-0.9)	1.6 (0.1)	-0.9 (-2.0)	1.6
Euro area	1.6	2.8	2.6	1.0	-2.0 (-1.5)	0.2 (-0.7)	-0.6 (-2.0)	1.2
Germany	0.8	2.9	2.5	1.3	-2.5 (-1.7)	0.1 (-0.4)	-0.8 (-1.9)	1.2
France	1.7	2.0	2.2	0.8	-1.9 (-1.4)	0.7 (-0.8)	-0.4 (-1.9)	1.5
Italy	0.6	1.8	1.5	-0.6	-2.1 (-1.5)	-0.1 (-0.1)	-1.0 (-1.9)	0.8
Spain	3.6	3.9	3.7	1.2	-1.7 (-1.0)	-0.1 (-0.9)	-0.9 (-2.0)	0.8
United Kingdom	1.8	2.9	3.0	0.7	-2.8 (-1.5)	0.2 (-0.9)	-1.1 (-2.5)	0.9
Japan	1.9	2.4	2.4	-0.3	-2.6 (-2.4)	0.6 (-0.5)	-0.1 (-1.6)	0.6
Emerging	7.1	7.8	8.3	6.3	3.3 (-1.8)	5.0 (-1.2)	-	-

Source: IMF and OECD.

(*) In brackets, percentage change versus the last published forecast. IMF, forecasts published January 2009 vs. November 2008. OECD, forecasts published December 2008 vs. June 2008.

...in a framework of intense employment destruction and tumbling inflation rates.

The economic downturn, characterised by sharply contracting domestic demand and a substantial reduction in world trade flows, has pushed up jobless totals the world over (though with different intensities depending on the economy). The demand stall and the decline in commodity prices, oil especially, have taken inflation rates down to the lowest levels of the past decade in some of the world's leading economies[1].

Monetary policy follows a strongly expansive course with official interest rates down to historic lows...

The authorities in main world regions have stuck to their expansive monetary and fiscal policies. Central banks have been cutting their interest rates aggressively, at times in coordinated fashion, since the date of our last quarterly report, as far as the minimum levels now prevailing. The Federal Reserve set its target band at 0-0.25% on 16 December 2008, while the latest ECB and Bank of England policy rates at the time of writing stand at 1.5% (6 March) and 0.5% (5 March) respectively.

...fiscal policy too turns laxer in response to growth weakness and the scant leeway available to monetary policy.

Fiscal policy has also turned notably laxer in response to the deterioration in economic growth and the inability of monetary policy alone to reactivate spending when its transmission mechanisms have been dynamited by the distrustful attitudes of financial market agents. National fiscal plans are in most cases a mixture of increased infrastructure spending, selected tax cuts and support to the sectors worst hit

1 In the U.S., Germany, France and Spain, for instance, though not in the United Kingdom or Japan.

by the crisis. The two approved by the U.S. government are the costliest to date (a combined 7% of GDP[2]), though some of the European countries suffering most due to the importance of their real estate sectors or the degree of leverage in their economy are also spending on a major scale. Fiscal stimulus packages are in any case a key ingredient of reactivation policies. Their success, nonetheless, will depend on how far they can stimulate private consumption, which will depend, in turn, on the concrete measures deployed and whether they are seen to square with the upkeep of fiscal stability.

The governments of leading economies have launched financial system rescue plans to bail out troubled institutions.

Another line of support is the aid dispensed by various governments to financial institutions facing problems of solvency. Popular measures in this group include boosting deposit insurance, agreements for the public sector to purchase assets of diverse quality from finance sector entities, the recapitalization under certain conditions of struggling institutions, and government guarantees for long-term bank debt[3].

Exhibit 1: Financial sector losses and capitalisation since the onset of the crisis

Estimates of the losses taken by financial institutions in the course of the mortgage and financial crisis erupting in mid-2007 have been revised upwards on numerous occasions. In November 2008, the IMF[1] hiked its own estimates from USD 945 billion (in April 2008) to USD 1.4 trillion, factoring higher expected losses from better-quality mortgages and consumer loans and a jump in the spreads of related financial instruments. Around half of these losses would correspond to the banks and the rest would be split in roughly equal measure among insurance undertakings, pension funds, GSE (Government Sponsored Enterprises) and governments and other investors (including hedge funds, for instance).

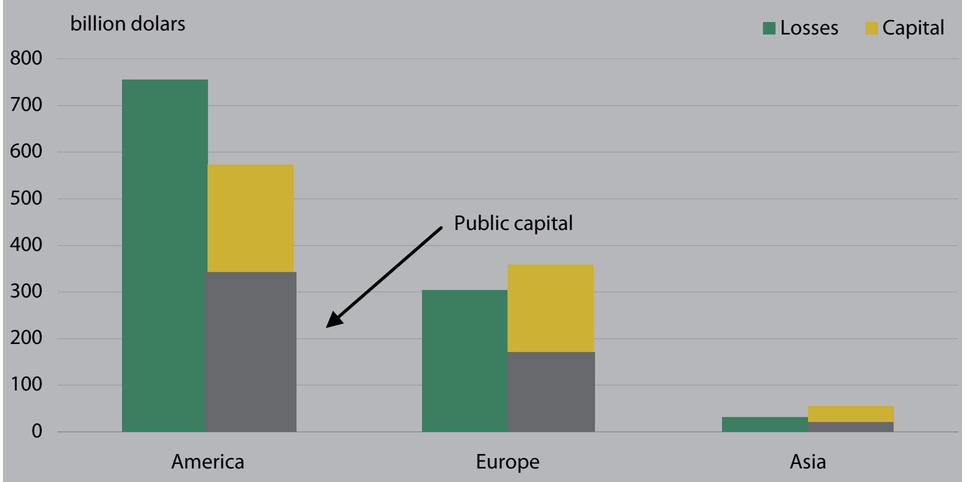
The aggregate losses posted by financial institutions (to the fourth quarter of 2008) come to USD 1.09 trillion, breaking down 69% from entities in the American continent, 28% from Europe and a bare 3% from Asia. Losses were heavily concentrated in a small number of entities, with the top eight loss-making institutions accounting for 40% of the total volume disclosed.

Over the same period, institutions have raised around USD 987 billion in capital; rather less than their reported losses. Initially most of this capital came from the private sector (basically sovereign investment funds), but the public sector has more or less taken over since end-2008 via the industry rescue packages approved by various governments. The contribution of both sectors (public and private) are fairly similar in cumulative terms, though again with notable differences from one region to another. In the U.S., financial institutions raised USD 572 billion (55% from the private sector), a sum insufficient to cover their reported losses, whereas the USD 359 billion raised by banks in Europe (46% from the public sector) was greater than their losses (see figure below). We can also observe inter-regional differences in the funding instruments of choice. In the United States, hybrid instruments predominated, primarily preference shares, while European institutions opted more for subscription warrants.

2 The public deficit is expected to reach 12.3% of GDP in 2009, the highest level since 1945.

3 In a later exhibit, we look more closely at the financial system support measures approved by the Spanish government.

Financial sector losses since the crisis and capitalisation



Source: Bloomberg. Cumulative data from 3Q07 to 4Q08.

1 IMF Global Financial Stability Report, November 2008.

The troubles of leading banks and the Madoff-managed funds scandal have dictated the market mood in recent months.

Since our last report, the financial market landscape has been marked by the crisis of leading financial institutions[4] and the shock waves of the Madoff investment fraud. These developments have simultaneously extended and sharpened agent distrust in the world financial system. Most leading stock indices shed over 20% of their value in the fourth quarter of 2008, taking full-year losses to record levels (see table 2). The banking sector suffered the worst punishment, with losses touching 72% since the crisis broke in August 2007, compared to a worldwide fall in equity prices of something over 50%. Implied volatilities on main exchanges have shown some signs of normalisation compared to the peak levels of October last (in excess of 80%), but are still at highly stressful levels (above 40% in many cases). And almost all leading markets, with the exception of the United States, saw turnover recede by more than 20%.

Performance of main stock indices (%)

TABLE 2

	2004	2005	2006	2007	2008	IV 08	1Q09 %/prior qt	(To 13 March) %/Dec	% y/y[1]
World									
MSCI World	12.8	7.6	18.0	7.1	-42.1	-22.2	-17.8	-17.8	-47.1
Euro area									
Euro Stoxx 50	6.9	21.3	15.1	6.8	-44.4	-19.4	-19.5	-19.5	-45.3
Euronext 100	8.0	23.2	18.8	3.4	-45.2	-21.1	-15.1	-15.1	-44.0
Dax 30	7.3	27.1	22.0	22.3	-40.4	-17.5	-17.8	-17.8	-39.2
Cac 40	7.4	23.4	17.5	1.3	-42.7	-20.2	-15.9	-15.9	-41.6
Mib 30	16.9	13.3	17.5	-6.5	-48.4	-22.9	-26.2	-26.2	-54.4
Ibex 35	*17.4*	*18.2*	*31.8*	*7.3*	*-39.4*	*-16.3*	*-19.2*	*-19.2*	*-43.2*
United Kingdom									
FT 100	7.5	16.7	10.7	3.8	-31.3	-9.6	-15.3	-15.3	-34.1
United States									
Dow Jones	3.1	-0.6	16.3	6.4	-33.8	-19.1	-17.7	-17.7	-40.5
S&P 500	9.0	3.0	13.6	3.5	-38.5	-22.6	-16.2	-16.2	-42.5
Nasdaq-Cpte	8.6	1.4	9.5	9.8	-40.5	-24.6	-9.2	-9.2	-36.8
Japan									
Nikkei 225	7.6	40.2	6.9	-11.1	-42.1	-21.3	-14.6	-14.6	-39.1
Topix	10.2	43.5	1.9	-12.2	-41.8	-21.0	-15.7	-15.7	-40.4

Source: Datastream.

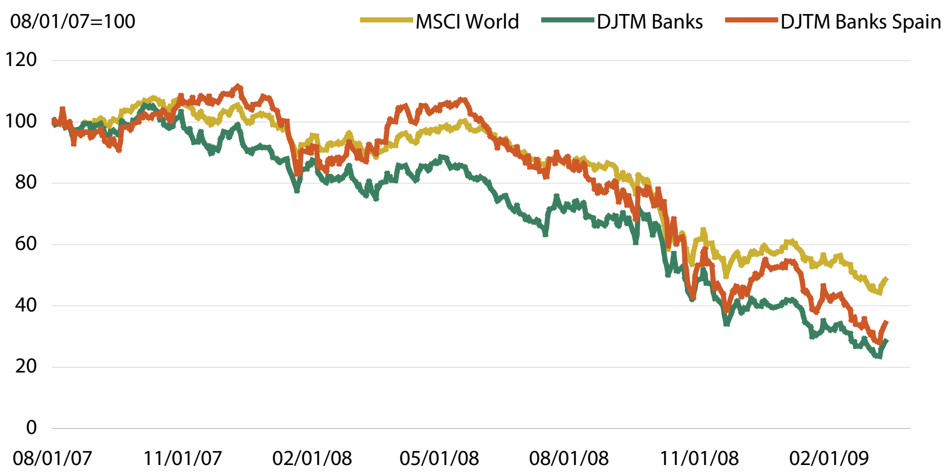
1 Year-on-year change to the reference date.

4 Prominently Washington Mutual, Fortis, B&B, Hypo Real State, Unicredit or Dexia.

In September 2008, major economies imposed a series of constraints on the practice of short selling in order to combat market instability. In the last few weeks, however, a number of European and North American securities regulators have been reviewing this decision. None have added further restrictions and some, like the SEC and FSA, have lifted them completely. As we write, only the Italian supervisor CONSOB retains its ban on both covered and naked short sales of financial instruments. Other countries like France, Germany and Spain continue to prohibit naked short sales, but allow the sale of loaned securities[5]. Also, the United Kingdom, Spain and France have retained their disclosure requirements regarding net short positions on financial instruments when these come to more than 0.25% of the issuer's outstanding capital. This relaxation of last September's measures follows a series of analyses by national supervisors and other experts which conclude that restrictions on short selling have little effect on prices even in the short term.

European and North American supervisors have eased the restrictions on short selling imposed in September 2008.

Performance of bank sector shares FIGURE 1



Source: Thomson Financial Datastream. Data to 13 March.

In private fixed-income markets, risk premiums continued at highs in both the United States and Europe, with lower rated issuers bearing the brunt. With respect to the last report published, the risk premiums of top-rated entities continued their ascent to a mid December peak of around 300 bp in the U.S. and just over 200 bp in Europe, then softened slightly to mid-February before returning to highs in the weeks that followed. Among cross-over entities, risk premiums refused to budge by more than the smallest margin. In primary markets, especially in Europe, the opening weeks of 2009 brought a mild upswing in sales of senior corporate debt.

Corporate bond spreads reach new highs, but the issuance market begins to stir.

In interbank markets, leading interest rates came down sharply across the full range of maturities, in line with (or even surpassing) the official rate run-down on both sides of the Atlantic. The spreads between collateralised (repo) and uncollateralised (depo) transactions have eased significantly to under 100 bp after marking new highs in October last year (topping 350 bp in the United States).

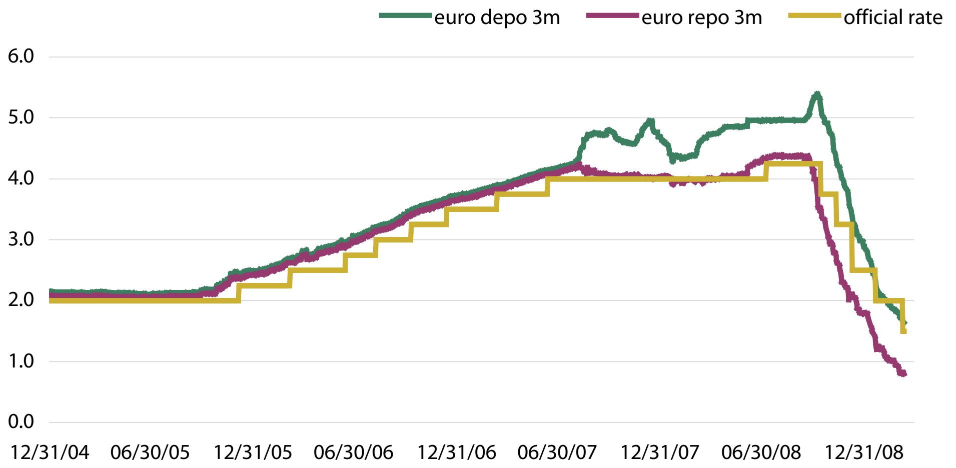
Interbank tensions abate thanks to lower interbank-interest rates and a narrowing of the depo-repo spread.

5 Spanish regulations also forbid naked short sales of non financial securities.

Currency markets experience intense volatility. The dollar gains ground against main rival currencies.

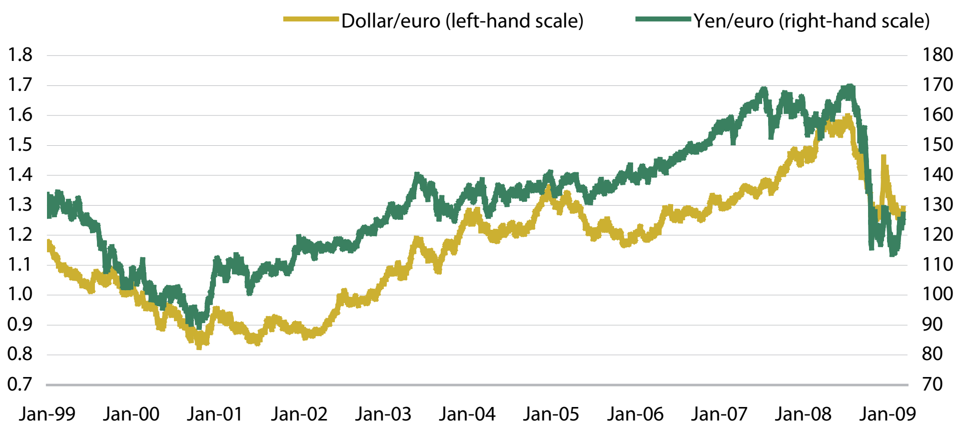
Currency markets have experienced heightened volatility in the last few months reflecting investor concerns about the length and severity of the crisis. The dollar gained ground against almost all leading currencies, while the euro depreciated sharply at times in tune with the ECB's rate-cutting cycle. But the most dramatic development has been the punishment taken by the pound sterling vs. the euro since November 2008.

Interbank market in euros and official ECB rates (%) FIGURE 2



Source: Thomson Financial Datastream. Data to 13 March.

Euro exchange rates vs. the dollar and yen FIGURE 3



Source: Thomson Financial Datastream. Data to 13 de March.

2.2 National economic and financial developments

The Spanish economy officially enters recession after two quarters of negative growth, as domestic demand shrinks.

Since our last report the Spanish economy has suffered a considerable correction. Quarterly GDP growth was in negative territory for two consecutive quarters (the third and fourth of 2008), meaning the Spanish economy has officially entered recession. The growth stall owes to the rapid contraction of domestic demand, which detracted three percentage points from fourth-quarter growth, with all components, except government consumption, contributing on the downside. Household consumption has sagged in response to the prevailing climate of distrust, the intense destruction of employment and tougher financing conditions, which are countering the positive income effects of wage increases, lower inflation and the fiscal stimulus provided by personal income tax cuts. Rather, these last two factors are contributing to a sizeable increase in the savings rate.

All domestic demand components have fallen sharply, with the exception of public spending,...

Another highlight on the domestic demand side was the slump in housing investment (-10.9% year on year in the fourth quarter). Demand weakness and the decline in prices are driving a profound restructuring in Spanish real estate after the enormous expansion of the past few years. The prevailing uncertainties and constraints on credit also explain the decline in business investment over the closing months of 2008 (-9.7% in equipment investment in the last quarter alone).

...contrasting with the positive growth contribution from the net exports side.

Net exports, meantime, input positively to growth (for the first time since 1997), with imports falling faster than exports despite the deceleration of external markets.

The economic downturn is exacting a heavy cost in terms of employment...

The deterioration of the Spanish economy has pushed jobless totals to well above the three million mark. The unemployment rate, which by mid 2007 had achieved an unprecedented low of 8%, ended the year 2008 closer to 14%. This labour-market downturn, which started in construction, is now spreading to other industrial sectors and some branches of services.

...while inflation is down to historic lows.

Inflation entered a downward course in the year's second half, which took it from mid-year rates of over 5% to 1.4% at the December close. The decline in energy prices was the main force at work. One outcome was that Spain's inflation differential vs. the euro area turned negative (-0.1 p.p.) for the first time ever.

Leading forecasters expect Spanish GDP to contract sharply in 2009 and augur higher unemployment, deficits and debt for 2009 and 2010.

Leading institutional forecasters predict that the Spanish economy will contract further in 2009, with GDP dropping by some 2.0% and unemployment rates exceeding 16% of the labour force. Public-sector accounts will also feel the effect of the activation of automatic stabilisers (manifest basically in rising unemployment benefit costs and declining tax receipts) and the reactivation measures approved by the Government, whose economic impact is reckoned at around 2% of GDP. Specifically, European Commission forecasts put the 2009 public deficit at over 6% of GDP. Public debt will work up from around 40% of GDP in 2008 to 47% in 2009 and 51.6% in 2010[6]. The step-up in debt issuance will go to cover the increased public deficit and financial system support measures (the Financial Asset Acquisition Fund, FAAF, the increased allocation to the Official Credit Institute [ICO], and a special loan to this last entity earmarked for SME financing).

6 Tesoro Público. Treasury Securities Issuance Strategy.

Spain: main macroeconomic variables (% annual change) TABLE 3

	2005	2006	2007	2008	European Commission* 2009F	European Commission* 2010F
GDP	**3.6**	**3.9**	**3.7**	**1.2**	**-2.0 (-1.8)**	**-0.2 (-0.7)**
Private consumption	4.2	3.9	3.5	0.1	-2.6 (-2.2)	0.0 (-0.5)
Government consumption	5.5	4.6	4.9	5.3	2.3 (+1.0)	0.2 (-0.5)
Gross Fixed Capital Formation, of which:	7.0	7.1	5.3	-3.0	-6.0 (-0.2)	-3.7 (-2.0)
Equipment	9.2	10.2	10.0	-1.1	-12.7 (-7.5)	-4.5 (-3.6)
Exports	2.5	6.7	4.9	0.7	-2.7 (-5.0)	0.6 (-2.2)
Imports	7.7	10.3	6.2	-2.5	-4.6 (-2.1)	-2.1 (-2.9)
Net exports (growth contribution, pp)	-1.6	-1.5	-0.8	1.1	0.8 (-0.7)	0.8 (+0.3)
Employment	3.2	3.2	3.0	-0.7	-3.9 (-1.9)	-2.0 (-1.1)
Unemployment rate[1]	9.2	8.5	8.3	11.3	16.1 (+2.3)	18.7 (+3.2)
HICP	3.4	3.6	2.8	4.1	0.6 (-1.5)	2.4 (-0.4)
Current account (% GDP)	-7.5	-9.0	-10.1	-9.4	-7.1 (+1.5)	-6.6 (+1.6)
General government (% GDP)	1.0	2.0	2.2	-3.4	-6.2 (-3.3)	-5.7 (-2.5)

Source: Ministry of Economy and Finance, National Statistics Office (INE) and European Commission.

1 Eurostat definition.

* Forecasts published in January 2009 (with respect to November 2008).

Spanish deposit-taking entities struggle with funding difficulties and the impact of the economic downturn. New lending tailed off considerably in 2008, while NPL ratios began to creep up steadily, at savings banks particularly...

Spanish deposit-taking entities are having to operate in an increasingly complex landscape dominated by the funding difficulties brought on by the financial crisis and now the downturn in national output. Their lending to households and businesses[7] exhibits a clear procyclical pattern, in that it expanded steadily over the prolonged upcycle (at rates from 10% to 30%), then began slowing gradually from the opening months of 2007 as far as a year-on-year rate of 5.4% in January 2009 on a combination of tougher borrowing conditions and lower credit demand. Meantime, the non-performance ratio of loans to other resident sectors[8] had been shrinking steadily up to the start of the subprime crisis. From this point on, and most notably since the early months of 2008, the gathering deterioration of economic activity, the persistence of high interest rates for most of the year and a series of regulatory changes[9] have sent NPL ratios moving sharply higher, as far as an aggregate 3.87% according to the latest data, for January 2009. Compare this to the 0.76% of June 2007, one month before the rebound started. As we can see from figure 4, the bad debt problem has affected the savings banks more than the banks (4.45% and 3.17% respectively), though both groups started from near identical levels in June 2007 (0.68% and 0.65% respectively).

...and with special incidence in real estate financing and home purchase loans to households.

The segment contributing most to the bad debt upswing has been real estate financing, followed by home purchase and refurbishment loans to household borrowers and, to a lesser extent, loans to companies engaging primarily in construction activities. A look at the other resident loan mix of banks and savings banks reveals that the latter's NPL exposure is more heavily concentrated in household mortgage loans.

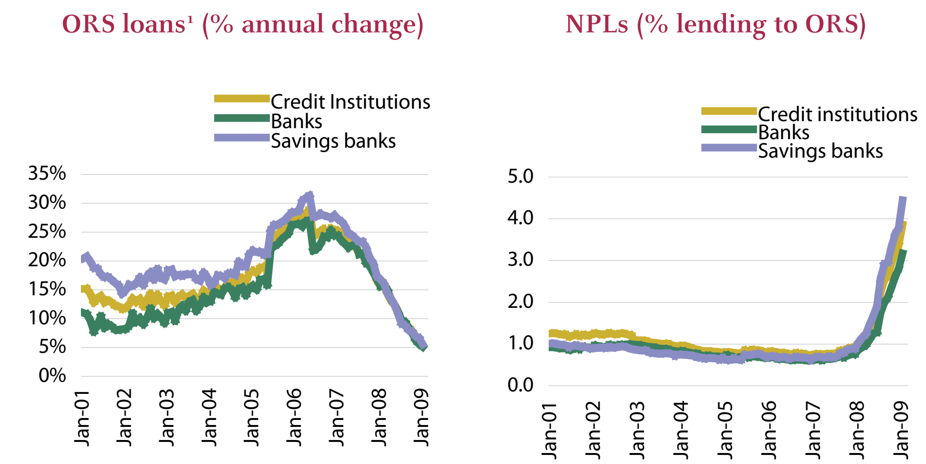
7 In official statistics, loans to other resident sectors.

8 Measured as the ratio of doubtful loans according to the new Banco de España Circular 4/2004 to total gross loans.

9 This change has a dual origin. Circular 4/2004 of the Banco de España requires the prompter and fuller recording of doubtful loans than the previous circular 4/1991 in the interests of maximum prudence. Likewise, new bankruptcy legislation encourages company managers to apply earlier for insolvency proceedings, so the impact of their arrears is also recorded earlier in bank sector income statements. See Banco de España Financial Stability Reports for November 2008 and May 2007.

Banks, in turn, are registering more arrears in consumer loans and among retail and catering industry borrowers, who occupy a larger proportion of their total loan books.

Deposit-taking entities: loans and NPLs FIGURE 4



Source: Banco de España. Data to January 2009.

1 ORS: Other resident sectors.

Deposit-taking entities enjoy reasonably sound liquidity thanks to loans obtained from the Eurosystem and, more recently, funds raised at the four FAAF auctions.

The liquidity conditions of deposit-taking entities are relatively sound, despite their recent funding problems in wholesale and interbank markets. In this respect, entities have had various resources to draw on, including Eurosystem loans to financial institutions[10] (see figure 5), FAAF auctions (instrumented through both repo and outright purchases) and, in recent weeks, government-guaranteed debt financing[11]. The volume of Eurosystem loans has been moving steadily higher from around 20 billion euros when the mortgage crisis broke in summer 2008 to almost 60 billion in January 2009, while the four FAAF auctions held have provided finance entities with a further 20 billion in funds. Since October 2008, moreover, we can talk about a change in sector practices, with banks parking about half their borrowings from the ECB in the same institution's deposit facility (see figure 5). This decision not to touch a large part of the liquidity drawn from the Eurosystem may be motivated by caution. However this could temper with the ECB's new rules on eligible collateral, introduced on 1 February 2009[12]. Also, in the last few weeks, Spanish institutions have issued government-guaranteed debt securities for a global value of over 11 billion euros.

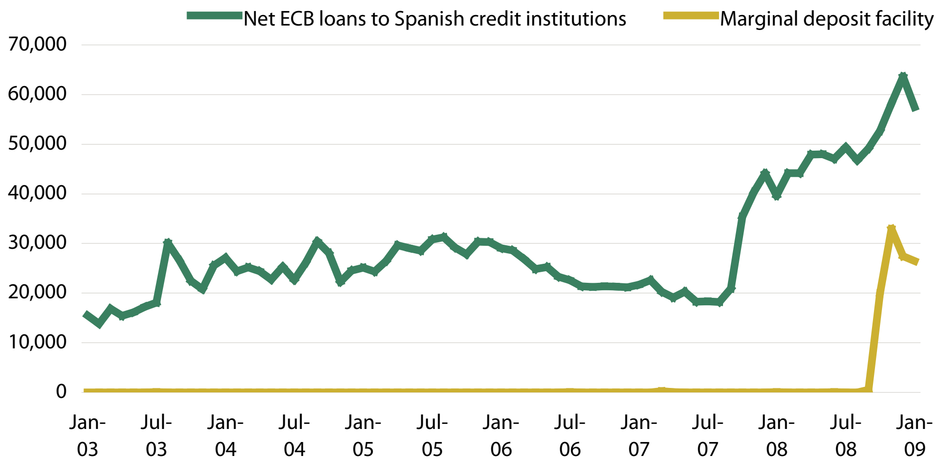
10 Since 15 October 2008, the ECB has been meeting entities' liquidity demands at auction at the corresponding fixed rate.

11 See exhibit on "Support measures for the Spanish financial system".

12 The measure with most bearing on Spanish institutions is the reclassing of asset-backed securities (ABS) to category 5, such that the haircut jumps from 2% to 12% regardless of the issue format and maturity (this means that if an institution puts up collateral worth 100 million euros, the ECB will deliver 88 million in cash). This discount is set 5% higher when the ABS have no market price, lifting the global haircut to 16.4%. This category includes the multiseller bonds so popular in Spain (bonds issued by a group of savings banks, with each one providing collateral).

Net ECB lending to Spanish credit entities and balance of the deposit facility (million euros)

FIGURE 5



Source: Banco de España. Data to January 2009.

Exhibit 2: Support measures for the Spanish financial sector

Starting in August 2007, a series of events originating in the United States plunged leading world economies into a severe and lasting financial crisis. One of its consequences has been to impair the ability of financial institutions to raise funds on capital markets, causing a dearth of liquidity whose ultimate consequences are paid by business and household borrowers.

In these extraordinary circumstances, the Spanish government launched a battery of measures to restore confidence in the financial system and get loans flowing once more towards companies and families.

The amount guaranteed by the Deposit Guarantee Fund was raised from 20,000 to 100,000 euros, followed by two measures aimed at boosting the liquidity in the financial system and preserving its stability.

The first of these was Royal Decree-Law 6/2008 creating the Financial Asset Acquisition Fund (FAAF), and allocating it 30 billion euros from the National Budget, extendable to a ceiling amount of 50 billion euros. Asset acquisitions – in the form of repos or outright purchases – are instrumented through a system of auctions. Four of these have been held to date, with results as shown in the following table. In all, the FAAF has acquired assets summing 19.34 billion from 54 institutions for terms of 2 or 3 years.

	1st auction 11/20/08	2nd auction 12/11/08	3rd auction 01/20/09		4th auction 01/30/09	
			Competitive tranche	Non competitive tranche	Competitive tranche	Non competitive tranche
Amount bid (mill. euros)	4,562	9,479	4,399	3,373	7,127	4,865
Amount allotted (mill. euros)	2,115	7,224	3,024	976	4,732	1,270
No. of bids	70	96	117	44	100	36
No. of bidding entities	28	37	49	44	40	36
No. of bids covered	51	62	88	42	60	36
No. of awardees	23	31	45	42	32	36
Stop-out rate	3.150%	3.750%	2.450%		3.330%	
Weighted average rate	3.339%	3.934%	2.697%		3.492%	

The second measure was enacted through Royal Decree-Law 7/2008 on extending state guarantees to new financing transactions undertaken by credit institutions resident in Spain, up to a maximum amount of 100 billion euros. To date[1], eight institutions have conducted eight issues of guaranteed debt for a global amount of 11.105 billion euros.

Institution	Amount (million euros)	Term
Caja de Ahorros y Pensiones de Barcelona	2,000	3 years
Caja de Ahorros y Monte de Piedad de Madrid	2,000	3 years
Banco Popular Español, S.A.	1,500	3 years
Bankinter, S.A.	1,500	3 years
Banco Pastor, S.A.	1,000	3 years
Caja de Ahorros y Monte de Piedad de Navarra	105	2 years
Caixa d´Estalvis de Cataluña	1,500	3 years
Caja de Ahorros y Monte de Piedad de Valencia, Castellón y Alicante (Bancaja)	1,500	3 years

Finally, Royal Decree-Law 7/2008 authorises the Ministry of Economy and Finance, exceptionally and up to 31 December 2009, to acquire securities on request from credit institution issuers resident in Spain, including preference shares and *cuotas participativas* (savings bank marketable securities), for the purpose of reinforcing their equity. To date no institutions have taken up this facility.

The CNMV is assigned a dual role in the implementation of these measures. On the one hand, it will advise the Directorate-General of the Treasury and Financial Policy and issuing institutions in order to secure the rapid verification of issues – in which the FAAF will act as purchaser or guarantor – and their subsequent admission to trading. Further, the Ministerial Order implementing Royal Decree-Law 6/2008, creating the Financial Asset Acquisition Fund, regulates the composition of the Technical Committee advising the Fund's Executive Committee, which will comprise nine members, two of them representatives of the CNMV.

(1) On information to 12 March 2009.

Deposit entity profits fall an annual 14% to September 2008 with impairment losses doing most of the damage...

Credit institutions reported aggregate net profits of over 16.40 billion euros in their third-quarter income statements, a decrease of 14% versus the equivalent period in 2007. The three key income captions (net interest income and gross and net operating income) all increased their balance in year-on-year terms so the earnings dip is basically ascribable to asset impairment losses (9.85 billion euros between January and September 2008 compared to 4.87 billion in the year-before period). Return on equity (ROE) receded from 23.6% in September 2007 to 16.0% in September 2008.

... while their capital adequacy ratios improve on the previous year's.

In June 2008, Spanish deposit-taking entities disclosed their capital levels for the first time in accordance with the New Capital Framework (Basle II). The aggregate capital adequacy ratio was 11.3%, while the core capital ratio (tier 1) stood at 7.7%. These readings are not only higher than the previous year's (10.6% and 6.9% respectively), but also stand comfortably clear of the minimum requirement.

Exhibit 3: Financial institution issues marketed to retail customers

One effect of the international financial market crisis has been to waken banking institutions to the need to reinforce their equity. Hence injections of public money all over the world have been supplemented at times by capital increases (especially among the most international institutions with the largest balance sheets). In Spain, where there has so far been no call on public funds to recapitalise ailing banks, recent months have seen the return to favour of subordinated debt and preference share issues which, under certain conditions, can count towards minimum capital requirements.

Spanish institutions began turning to these instruments in the last quarter of 2008, with half a dozen issues conducted in November and December, mostly of 10-year subordinated debt. In some cases, these were small-scale issues (less then 150 million euros) placed with institutional investors, mainly funds and insurance undertakings. Others, however, were targeted exclusively on retail investors, with no institutional tranche, and marketed through the issuer's own branch network.

The CNMV verified the prospectuses of 10 such exclusively retail issues in 2008 and the opening months of 2009, for a combined face value of 6.72 billion euros.

Financial institution issues aimed exclusively at retail investors between January 2008 and 6 March 2009

INSTITUTION	TYPE	FACE VALUE (million euros)	DATE
Caja General de Ahorros de Granada	12th subordinated debt issue	120	12-23-2008
Caixa D´Estalvis de Catalunya	8th subordinated debt issue	500	10-23-2008
Caja de Ahorros de Salamanca y Soria	Caja Duero V mortgage bonds	150	10-28-2008
Caja España de Inversiones, Caja de Ahorros y Monte de Piedad	7th subordinated debt issue	200	7-17-2008
Caja de Ahorros y Pensiones de Barcelona	Subordinated debt issue	2,500	1-20-2009
Caja de Ahorros y Pensiones de Barcelona	Mortgage bonds	1,000	4-17-2008
Popular Capital, S.A.	Series D preference shares	600	2-3-2009
BBVA Capital Finance, S.A.	Series D preference shares	1,000	12-10-2008
Banco de Sabadell, S.A.	Series I/2009 preference shares	500	1-29-2009
Caixa Galicia Preferentes, S.A., Sociedad Unipersonal	Series D preference shares	150	3-5-2009

This kind of placement involves a conflict of interest in that the issuer is also the marketing agent. The supervisor has accordingly taken steps to ensure that clients are properly informed about and able to judge the risk and return of the financial instruments their bank is offering them. Specifically, the CNMV sent a letter last February to all credit institution associations setting out a series of basic rules that this kind of issue must comply with. Some of these rules refer to the valuation reports that must accompany the sale prospectus, and which should assess the reasonableness of the return offered against the conditions available on wholesale markets. The CNMV understands that this information is vital for investors to critically asses the attractiveness of these debt instruments, and will accordingly strive to ensure that valuation reports meet the relevant standards of independence and technical quality.

Non financial listed companies reported a large decline in 2008 earnings as a result of the economic slowdown, although not all sectors suffered to the same extent. Aggregate profits closed the year at over 22 billion euros, 38% less than in 2007 (see table 4). The worst performers were companies in the construction and real estate sectors, which saw their earnings plummet from over 7.50 billion profits in 2007 to around 6.60 billon losses in 2008. Remaining sectors managed to close the year in gains though by a smaller margin than in 2007. The sole exception were the energy companies, which grew their profits by 34% to more than 17.55 billion euros. Industrial companies' profits fell by 41% (from 2.33 to 1.37 billion) and those of service sector companies by 21% (from 14.50 to 11.43 billion euros).

Non financial companies see their profits drop by 38% as the economy slips deeper into slowdown...

Earnings by sector[1]: listed companies TABLE 4

	EBITDA[2]		EBIT[3]		Net profit	
Million euros	**2H07**	**2H08**	**2H07**	**2H08**	**2H07**	**2H08**
Energy	28,258	29,341	19,572	20,035	13,087	17,557
Industry	4,811	3,779	3,426	2,269	2,335	1,367
Retail and Services	31,290	30,861	19,415	19,216	14,498	11,430
Construction and Real estate	12,442	4,194	9,477	517	7,543	-6,595
Adjustments	-3,230	-3,431	-2,331	-2,467	-1,296	-1,415
AGGREGATE TOTAL	73,570	64,744	49,559	39,570	36,168	22,344

Source: CNMV.

1 Year-to-date earnings.

2 Gross operating income.

3 Earnings before interest and taxes.

The combined debt of non financial listed companies varied by a bare 1.0% in 2008 to just over 304 billion euros (see table 5), representing 1.65 times their equity compared to 1.48 times in 2007. Again inter-sectoral differences were striking. This levelling-off of aggregate debt traces almost entirely to the debt reduction of construction and real estate companies[13] (over 14%), despite which their leverage was pushed even higher[14] (from 3.1 in 2007 to 3.7 in 2008) by the drain in their equity over the same period.

... and debt levels tend to stabilise with construction and real estate leading the way.

In remaining sectors, debt volumes rose at a rate of over 11% en 2008, prompting a moderate rise in leverage aggravated by the decline in their aggregate equity (in all sectors but energy) following valuation adjustments.

But leverage still climbs due to the decline in companies' equity...

Debt coverage indicators have worsened across the board reflecting the more modest growth of corporate earnings. In construction and real estate, earnings before interest and taxes (EBIT) have fallen so far that they barely serve to cover interest expenses. Other sectors too have seen their coverage deteriorate, industry especially, though not to a worrying extent. Specifically, aggregate EBIT was double interest expense in the sample as a whole, compared to three times in 2007.

...while coverage ratios deteriorate.

13 The most heavily indebted sector despite the decline in the relative weight of its borrowings from 46% of the total in 2007 to 39% in 2008.

14 Defined as debt to equity.

Gross debt by sector: listed companies

TABLE 5

Million euros		2003	2004	2005	2006	2007	2008
Energy	Debt	54,159	54,776	58,586	59,191	69,172	82,613
	Debt/ Equity	0.98	1.06	0.93	0.89	0.78	0.89
	Debt/ EBITDA[1]	2.92	2.78	2.41	2.17	2.48	2.82
	EBIT[2]/ Interest expenses	2.06	3.52	4.02	4.65	4.10	3.67
Industry	Debt	10,507	10,397	12,760	15,684	13,312	14,826
	Debt/ Equity	0.61	0.69	0.75	0.78	0.61	0.86
	Debt/ EBITDA	1.98	1.91	2.07	2.07	1.82	3.92
	EBIT/ Interest expenses	4.00	6.65	6.50	5.71	5.93	2.26
Construction and real estate	Debt	24,552	32,293	48,324	111,000	138,933	119,174
	Debt/ Equity	1.59	1.93	2.16	3.10	3.08	3.72
	Debt/ EBITDA	5.91	5.71	6.52	11.52	10.83	28.42
	EBIT/ Interest expenses	3.38	2.83	2.79	2.04	1.17	0.06
Retail and Services	Debt	34,956	44,505	55,710	91,522	96,941	108,187
	Debt/ Equity	0.89	1.61	1.70	2.52	1.70	2.12
	Debt/ EBITDA	2.08	2.58	2.68	3.58	3.01	3.51
	EBIT/ Interest expenses	3.18	2.67	3.37	2.44	3.23	3.23
Adjustments[3]	Debt	-208	-5,566	-7,942	-11,199	-17,391	-20,685
AGGREGATE TOTAL[4]	Debt	123,966	136,405	167,438	266,198	300,967	304,116
	Debt/ Equity	1.01	1.26	1.27	1.71	1.48	1.65
	Debt/ EBITDA	2.80	2.90	2.90	3.86	3.96	4.70
	EBIT/ Interest expenses	2.63	3.33	3.82	3.29	3.03	1.99

Source: CNMV.

1 Earnings before interest, taxes, depreciation and amortisation.

2 Earnings before interest and taxes.

3 In drawing up this table, we eliminated the debt of issuers consolidating accounts with some other Spanish listed group. The figures in the adjustments row correspond to eliminations from subsidiary companies with their parent in another sector.

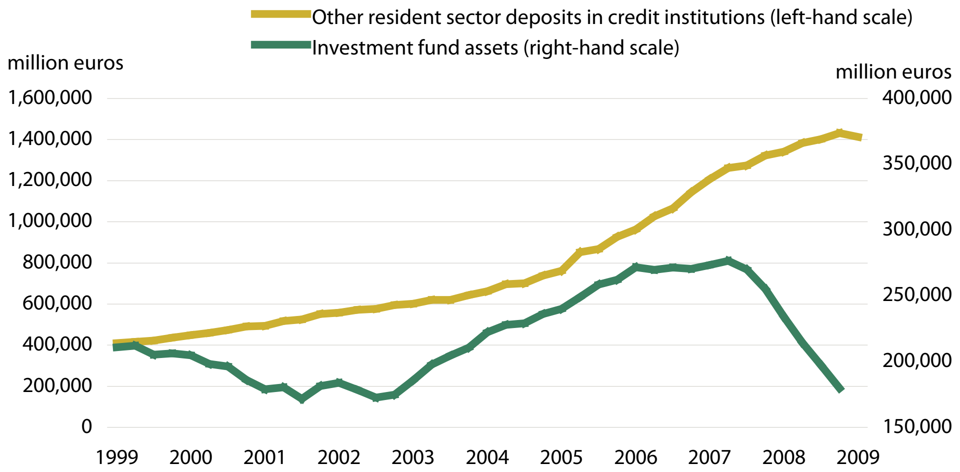
4 This table did not previously include any financial entities, comprising credit institutions, insurance companies and portfolio companies. However as IPP (Periodic Public Information) forms are the same for portfolio companies as for non-financial companies starting in 2008, it has been decided to include them in the aggregate figure. Data for the 2007 close have been restated to factor the impact of Criteria Caixacorp.

Households retain their preference for conservative investments in today's increasingly unsettled economic and financial climate.

The conduct of retail investors was again dictated by the prevailing climate of market uncertainty and the sharp downturn in the economy. Though their savings have increased, households have less chance of borrowing so also have less income to spend on acquiring financial and non financial assets[15]. Their choice of financial assets once more tended to the conservative side, with bank deposits and retirement products winning out clearly over equity and, above, all, mutual fund investment. Between January and September 2008, Spanish households withdrew around 30 billion euros from mutual funds, while their purchases of (non transferable) deposits summed over 63 billion euros.

15 Financial Accounts of the Spanish Economy, Banco de España. Data to 3Q08.

Deposits vs. mutual funds FIGURE 6



Source: CNMV and Banco de España. Deposit data to January 20089 and investment fund data to November 2008.

Investment fund subscriptions and redemptions (million euros) TABLE 6

Category	Subscriptions				Redemptions			
	1Q08	2Q08	3Q08	4Q08[6]	1Q08	2Q08	3Q08	4Q08[6]
Fixed income[1]	37,511	22,581.5	17,343	31,631.3	35,049	32,357.6	24,503	38,626
Balanced fxd income[2]	620	315.9	239	484.1	2,862	1,891.3	1,437	1,473
Balanced equity[3]	279	606.0	250.9	111.4	1,676	1,245.2	883	640
Spanish equity	415	344.4	157.1	200.3	1,980	733.9	868	431
Intern. equity[4]	1,867	1,545.7	926	809.6	6,457	2,735.1	2,383	1,502
Fxd-income guaranteed	3,286	2,983.5	2,692	2,426.0	2,086	1,867.5	1,785	2,843
Equity guaranteed	1,089	3,120.4	1,550	882.9	3,648	5,929.2	3,924	3,996
Global funds	1,949	1,953.1	738	641.5	8,276	5,302.1	3,570	2,813
Hedge funds[5]	164.1	77.8	8.2	104.7	50.9	26.5	14.5	132
Funds of hedge funds[4]	200.1	447.3	165.9	n.a.	98.7	234.5	101.5	n.a.
TOTAL	47,016.2	33,450.6	23,896.0	37,186.9	62,032.7	52,061.9	39,354.3	52,324.0

Source: CNMV

1 Includes: Short-term, long-term and international fixed-income and money-market assets.
2 Includes: Balanced fixed income and balanced international fixed income.
3 Includes: Balanced equity and balanced international equity.
4 Includes: Euro, international Europe, international Japan, international US, international emerging market and other international equity.
5 Estimated, provisional data for funds of hedge funds and hedge funds.
6 Data for the months of October and November.

2.3 Outlook

The main international organisations all augur a bleak 2009. The first six months are projected to be the hardest going, with main developed areas experiencing different degrees of recession, and growth slackening in the emerging world, China especially. Only in the second half can we expect some faint signs of recovery on the spur of fiscal stimulus packages and support measures for the financial system.

Forecasters augur a tough 2009 with numerous economies in recession...

...followed by some improvement in 2010, although here the outlook is clouded by uncertainty given the continuing difficulties of the international financial sector and doubts about the medium- to long-term effectiveness of the fiscal stimulus.

GDP growth should revive slightly in 2010, though progress will be modest and, in some countries, not enough to restore positive rates. However these forecasts are subject to numerous uncertainties[16]. We can detect two main downside risks for the world macro-financial outlook. The first is a prolongation of the turmoil affecting the international financial industry. Major financial institutions are still reporting heavy losses and we cannot rule out new public-sector interventions to shore up their solvency and aid in the normalisation of the credit cycle. The other big risk concerns the medium- and long-term effectiveness of the fiscal stimulus, especially in economies carrying a high level of public debt. Moreover, the countries where fiscal deterioration is greatest face the real threat of seeing their debt issues penalised with the consequent increase in the cost burden.

Macroeconomic forecasts suggest the downturn will be steeper in Spain than in the euro area and both the deficit and public debt will expand in consequence.

Forecasts for the Spanish economy posit a downturn steeper than in the euro area, and possibly more prolonged. The European Commission, specifically, projects that GDP will fall 2.0% in 2009 and 0.2% in 2010, that unemployment rates will surpass 16% this year and approach 19% in 2010, and that the public deficit in both years will be in the region of 6%. The main risk perceived is that the construction and real estate correction may exert a deeper and more lasting impact on the rest of the economy, pushing jobless totals even higher and causing further headaches for the financial sector and, therefore, borrowers. The upside is represented by the relative strength of Spain's banking industry in comparison with neighbour economies, and the country's relatively moderate public indebtedness.

3 Performance of national markets

3.1 Equity markets

Spanish equity markets continue to fall, in line with main world bourses, as concerns grow about the health of the economy and financial sector earnings sheets.

Since the last edition of this report, prices on national financial markets have been driven lower by the climate of uncertainty surrounding financial sector earnings and the overall slowdown in the Spanish economy.

Small and medium cap stocks are among the hardest hit...

The Ibex 35 fell 16.3% in the fourth quarter of 2008 on the way to full-year losses of nearly 40% – on a par with North American indices and just a little less then elsewhere in Europe (see table 2). The trend has shown no signs of changing in the first few months of 2009, with prices down by a further 19.2% to the closing date for this report[17]. Small and medium cap indices underperformed the Ibex 35 to end 2008 with losses of 57% and 46% respectively. The FTSE Latibex Top and All Share share indices shed 45% and 52% of their value respectively in the full-year period, but have welcomed in 2009 with substantial advances.

...along with construction-related sectors, real estate, financial institutions and certain cyclical industries.

The crisis has so far hit hardest (see table 8) at construction-related sectors, real estate, financial institutions and sectors of a more cyclical nature, including representatives of industry (chemicals among them) and services (hotels, for instance).

16 In recent weeks uncertainties have been mounting, especially regarding Eastern Europe.

17 15 March.

Performance of Spanish stock indices (%)

TABLE 7

	2004	2005	2006	2007	2008	1Q09 (to 13 March) % prior quarter	% Dec	% y/y[1]
Ibex 35	17.4	18.2	31.8	7.3	-39.4	-19.2	-19.2	-43.2
Madrid	18.7	20.6	34.5	5.6	-40.6	-19.8	-19.8	-44.6
Ibex Medium Cap	25.1	37.1	42.1	-10.4	-46.5	-16.4	-16.4	-48.2
Ibex Small Cap	22.4	42.5	54.4	-5.4	-57.3	-9.9	-9.9	-54.1
FTSE Latibex All-Share	31.0	83.9	23.8	57.8	-51.8	15.3	15.3	-39.5
FTSE Latibex Top	28.1	77.9	18.2	33.7	-44.7	3.0	3.0	-40.7

Source: Thomson Datastream.

1 Year-on-year change to the reference date.

Performance by sector of the Spanish stock market (%)

TABLE 8

	2004	2005	2006	2007	2008	I-09[1]
Steel	25.3	20.7	81.2	-17.5	-40.9	-18.3
Water	31.2	18.1	55.6	-0.8	-47.0	-28.6
Auto	0.6	21.8	171.1	0.0	-51.7	-14.8
Beverages	1.3	10.4	14.6	10.8	-19.2	-16.3
Construction mat. and construction	28.5	50.4	61.6	-12.0	-51.0	-6.9
Basic consumption	40.0	19.0	12.9	6.9	-22.5	-10.5
Discretionary consumption	33.7	24.8	21.2	-7.7	-39.2	-9.4
Electricity	19.6	32.9	46.1	16.9	-27.9	-13.9
Financial companies	10.1	22.5	35.5	-10.5	-47.6	-28.5
Hotels	17.3	41.8	27.9	-25.0	-64.3	-34.4
Real estate	29.5	58.9	100.4	-42.6	-58.6	-36.0
Paper	30.2	13.7	36.6	-12.4	-57.7	-14.4
Chemicals	19.2	176.1	-20.4	-58.4	-67.8	14.2
Tobacco	49.8	13.7	5.0	21.5	0.1	0.0
Telecommunications and media	16.7	-0.7	29.4	26.3	-31.4	-8.1
Utilities	21.5	27.2	42.0	18.5	-31.0	-15.2

Source: Thomson Datastream.

1 Monthly data, change 28 February 2009 over 31 December 2008.

Spanish price-earnings ratios descend once more, to around the mid-point in the European range,...

The price-earnings ratio (P/E) of Spanish shares continued trending lower, albeit less intensely than in 2008 (7.5 times in mid-March). This ratio is around the mid-point in the range of values of main European bourses, which contrasts with the bullish conduct of the Japanese multiple since late January this year.

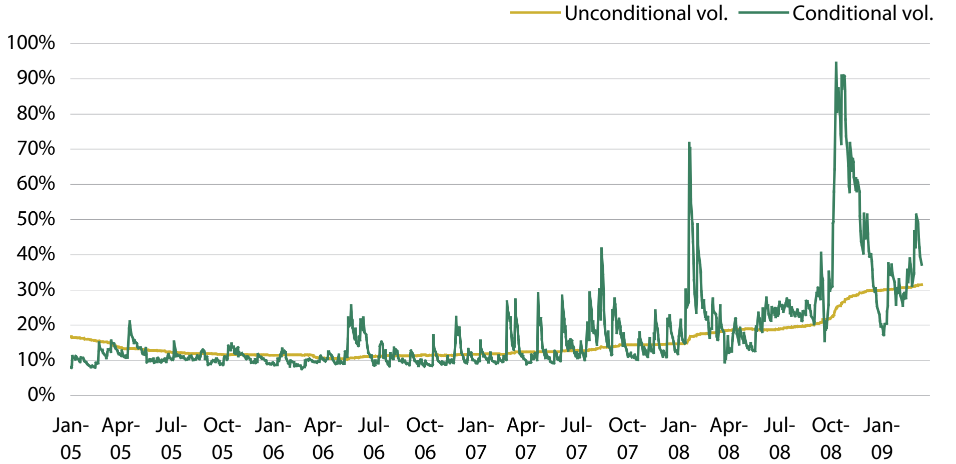
... the earnings yield gap settles at highs...

The earnings yield gap (reflecting the return premium required to be invested in equity versus long-term government bonds) has remained at highs, although with some correction of the strong uptrend begun halfway through 2008. The recent run-down in Spanish sovereign yields has kept the gap running at over 7.5% vs. the 4.4% average recorded since 2005.

...and market volatility and liquidity indicators give out tentative signs of normalisation.

Volatility on Spanish equity markets has died down slightly from the peak levels of last October, at the height of the turmoil, when it edged ahead of 90%. By mid-February, readings were down to a far more manageable 30%, though the last few weeks (see figure 7) have brought renewed signs of strain. The notable increase in the asymmetric distribution of Ibex 35 daily returns over the second half of 2008 implies that price variability is stronger on a falling than a rising index. Finally the liquidity conditions for Spanish equities (as measured via the bid-ask spread) have shown signs of improvement after the pressures felt up to October 2008.

Historical volatility. Ibex 35 FIGURE 7



Source: Thomson Datastream and CNMV. Data to 13 March.

Volatility asymmetry of the Ibex 35 FIGURE 8

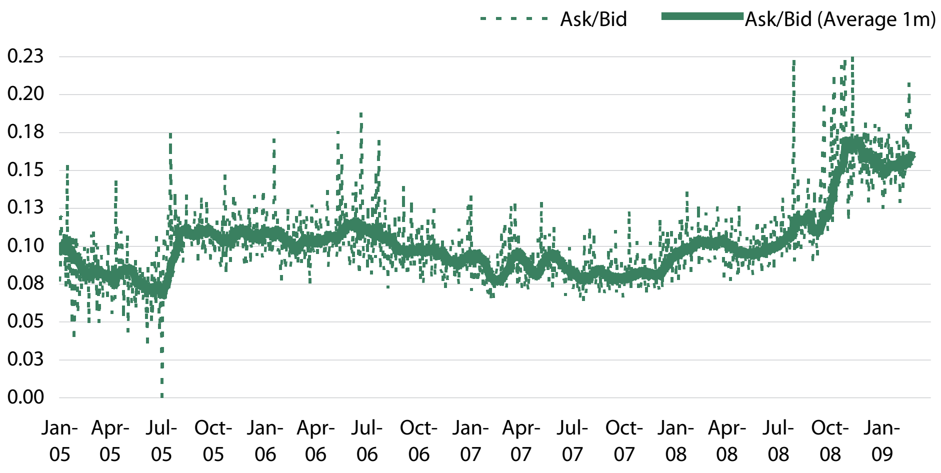
Source: Thomson Datastream and CNMV. Data to 13 March.
The parameter shown measures the sensitivity of conditional volatility to negative surprises in returns, in an asymmetric GARCH model(*).

(*) The specified equation is: $\ln(P_t / P_{t-1}) = \alpha + \varepsilon_t$

with variance: $\sigma^2_t = \omega + \theta \cdot \varepsilon^2_{t-1} + \beta \cdot \sigma^2_{t-1} + \eta \cdot \varepsilon^2_{t-1} \cdot [1 \Leftrightarrow \varepsilon_{t-1} < 0] + u_t$

Ibex 35 liquidity. Bid/ask spread (%)

FIGURE 9



Source: Thomson Datastream and CNMV. Data to 13 March.

Turnover in the Spanish market recedes 25% in 2008 with falling prices as the main culprit. But the decline in volumes quickens over the first months of 2009.

Spanish stock market turnover closed the year at something over 1.2 trillion euros, 25% less than in 2007. This was accompanied by a progressive reduction in average daily trading from 6.18 billion euros in the first quarter to 4.09 billion in the last (3.04 million over January and February 2009). However the comparison is somewhat misleading because 2007 was a year of exceptionally high turnover. It can also be argued that the cause of the decline was mainly the bear run in prices of 2008 (with the Ibex 35 falling almost 40%). Indeed turnover velocity, the ratio between trading and capitalisation (in the continuous market), rose considerably between August and November 2008. Conversely, data available for the opening months of 2009 point to a year-on-year trading decrease of 57%, which is steeper than the fall in prices.

Turnover on the Spanish stock market

TABLE 9

Million euros

	2005	2006	2007	2008	II-08	III-08	IV-08	I-09[1]
All exchanges	**854,145**	**1,154,294**	**1,667,219**	**1,243,387**	**318,939**	**287,680**	**253,514**	**123,961**
Electronic market	847,664	1,146,390	1,658,019	1,235,330	317,051	286,063	251,282	123,208
Open outcry	5,899	5,318	1,154	207	25	65	73	10
of which SICAVs[2]	4,864	3,980	362	25	3	7	10	7
MAB[3]	-	1,814	6,985	7,060	1,646	1,406	2,042	680
Second Market	26	49	193	32	18	10	1	0
Latibex	557	723	868	758	199	136	116	63
Pro memoria: non resident trading (% all exchanges)								
	57.4	58.4	61.6	na	65.5	na	na	

Source: CNMV and Directorate-General of Trade and Investment.

1 Cumulate data from 1 January to 28 February.

2 Open-end investment companies.

3 Alternative equity market. Data since the start of trading on 29 May 2006.

na: data not available at the closing date for this report.

Companies cut back on their equity issuance as borrowing conditions toughen.

The squeeze on borrowing that confronted firms through 2008 translated as a sharp decline in equity issuance (see table 10) to a bare 7.80 billion euros, contrasting with the 23.76 billion of 2007. Practically all of this sum was in capital increases (with public offerings contributing only a residual amount).

Equity issues and public offerings[1] TABLE 10

	2004	2005	2006	2007	2008	2008 II-08	2008 III-08	2008 IV-08	I-09[2]
CASH AMOUNTS[3] (million euros)	21,735.6	2,960.5	5,021.7	23,757.9	7,812.8	356.6	40.8	7.405.8	883.0
Capital increases	18,748.0	2,803.4	2,562.9	21,689.5	7,803.3	356.6	40.8	7.405.8	883.0
Of which, rights offerings	1,101.9	0.0	644.9	8,502.7	292.0	292.0	0.0	0.0	0.0
National tranche	537.9	0.0	303.0	4,821.4	292.0	292.0	0.0	0.0	0.0
International tranche	564.0	0.0	342.0	3,681.4	0.0	0.0	0.0	0.0	0.0
Public offerings	2,987.6	157.1	2,458.8	2,068.5	9.5	0.0	0.0	0.0	0.0
National tranche	1,664.4	54.7	1,568.1	1,517.1	9.5	0.0	0.0	0.0	0.0
International tranche	1,323.2	102.5	890.7	551.4	0.0	0.0	0.0	0.0	0.0
NUMBER OF FILINGS[4]	42	27	30	35	11	4	2	4	3
Capital increases	37	25	21	26	10	4	2	4	3
Of which, rights offerings	4	0	8	8	2	2	0	0	0
Of which, bonus issues	15	6	0	0	0	0	0	0	0
Public offerings	7	2	14	12	2	1	0	0	0

1 Issues filed with the CNMV. Initial and supplemental filings.

2 Data to 28 February 2009.

3 Excluding amounts recorded in respect of cancelled transactions.

4 Including all transactions registered, whether or not they eventually went ahead.

The variables driving stock market performance are still dominated by uncertainties.

The main drivers of stock market performance remained subject to numerous uncertainties. And agent concerns over the viability of the financial sector plus an economic downturn that is already leaving its mark on corporate income statements are powerful obstacles in the way of a recovery.

3.2 Fixed-income markets

Short rates respond to the expansionary stance of ECB monetary policy.

Short-term rates in public and private fixed-income markets have been increasingly influenced by the expansionary course of ECB monetary policy.

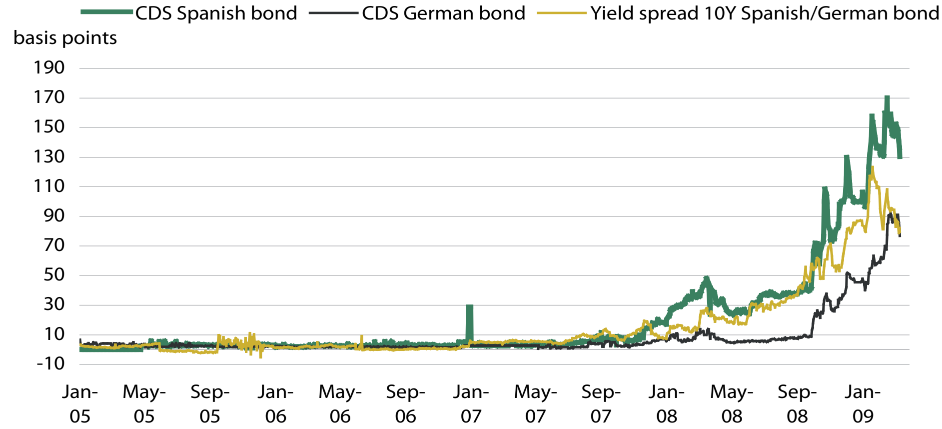
Long-term government yields head sharply lower in the second half of 2008; however...

...mounting perceptions of sovereign credit risk and increased debt issuance to fund government measures have since modified this trend.

Long-term sovereign yields fell substantially in the third and fourth quarter of 2008 on the evidence of faltering economic growth and the decrease in inflation rates. However in recent weeks new factors have emerged that have halted the yield downtrend at longer maturities. These are the mounting perception of credit risk hanging over the Spanish economy and the step-up in public debt issuance to fund government measures to ensure the liquidity of Spanish banks (see exhibit 2). The increase in the perceived credit risk of the Spanish economy, already apparent in widening spreads between the Spanish and German benchmark (which peaked at over 120 basis points at end-January and are currently hovering around 80 basis points) and the surge in the risk premium carried by CDS on Spanish government debt (see figure 10) was confirmed on 19 January, when rating agency Standard & Poor's downgraded Kingdom of Spain Debt from the top AAA slot to AA+.

Risk premium of Spanish government debt[1]

FIGURE 10



Source: Thomson Datastream.

1 Data to 13 March.

In private fixed income, interest rates on commercial paper have dropped over 3.5 percentage points since September last, outpacing the run-down in the ECB policy rate. Average 3, 6 and 12-month rates stood at 1.8%, 1.9% and 2.2% respectively in March 2009.

Long corporate yields also moved down notably in the same period due to the worsening macro picture and the downturn in inflation. The average rates on three, five and ten-year bonds dropped from over 5% at all maturities to 3.18%, 3.92% and 4.72% respectively. Note that rates fell more steeply at the short end of the curve (between 1.6 and 2.2 percentage points), while longer-dated instruments (10 years) actually managed a small spike in January-February before returning to December levels.

Long-term corporate bond yields begin falling in September in response to the worsening outlook and the downturn in inflation...

Interest rates on corporate debt[1]

TABLE 11

%	Dec 05	Dec 06	Dec 07	Dec 08	Mar 08	Jun 08	Sep 08	Dec 08	Mar 09
Short term: commercial paper[2]									
3 months	2.58	3.78	4.97	3.45	4.74	5.16	5.24	3.45	1.79
6 months	2.74	3.91	4.91	3.54	4.74	5.31	5.45	3.54	1.93
12 months	2.93	4.00	4.85	3.68	4.73	5.59	5.63	3.68	2.16
Medium and long-term[3]									
3 years	3.15	4.04	4.59	3.79	4.21	5.79	5.39	3.79	3.18
5 years	3.48	4.14	4.65	4.17	4.41	5.97	5.48	4.17	3.92
10 years	3.89	4.26	4.94	4.73	4.82	5.94	5.65	4.73	4.72

Source: AIAF.

1 Average daily data. Data for March correspond to the average level from 1/3 to 13/13.

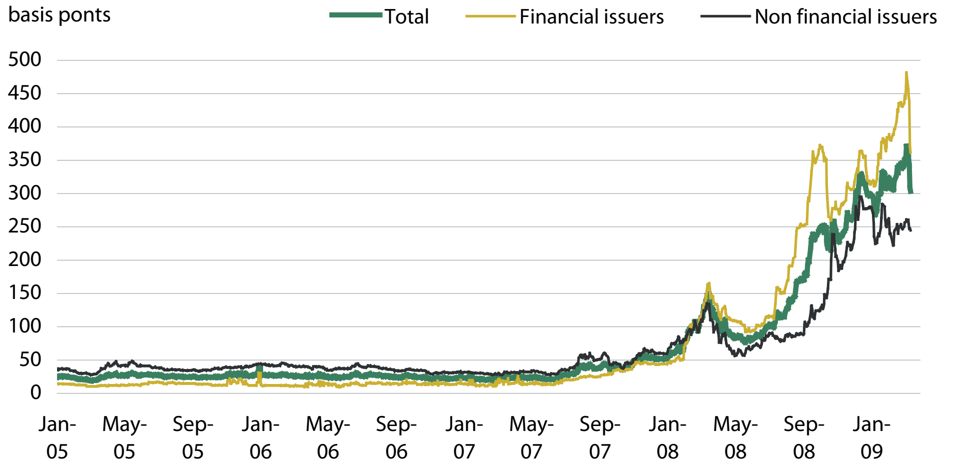
2 Traded on private fixed-income market AIAF.

3 Bond and debenture trades to maturity on AIAF.

...but credit market tensions have not gone away, to judge by the CDS spreads of Spanish issuers and financial institutions in particular.

Despite the fall in rates reported by private fixed-income market AIAF, the CDS spreads of Spanish issuers attest to the persistence of credit market tensions. As we can see from figure 11, the average risk premium carried by Spanish issuers has climbed steadily higher in recent months, from the region of 250 basis points to almost 300 basis points in March, with most of the blame presumably lying with the perceived credit risk of financial institutions. A string of rating downgrades in the sector over the second half of 2008, reflecting its high exposure to the real estate market and the downturn in the business cycle, put a visible seal on these worsening prospects.

Aggregate risk premium[1] based on the five-year CDS of Spanish issuers FIGURE 11



Source: Thomson Datastream and CNMV. Data to 13 March.

1 Simple average.

Corporate issues dwindle in comparison to 2007, and are mainly concentrated in commercial paper and asset-backed securities...

Fixed-income issues rallied from 90 billion to more than 133 billion euros between the third and fourth quarter of 2008 (see table 12). But the year still ended with a substantially lower issuance (476 billion euros compared to the 649 billion of 2007) in tune with the global deleveraging phenomenon. The decrease in issuance ran parallel with a change in the funding mix. Commercial paper was again the instrument of choice, representing between 64% and 68% of total issues in recent years, but asset-backed securities (especially popular in the year's closing months) raised their relative weight to 30% compared to the 22% of 2007 and the 17% of 2006, contrasting with the decline in recourse to non convertible bonds and debentures and mortgage bonds.

...acquired mainly by originators to stock up on eligible collateral for central bank and Treasury loans.

As remarked in earlier reports, these large quantities of asset-backed securities are mostly subscribed by the originating institution (97.8% of the total issued in 2008) in order to equip themselves with assets eligible as collateral in financing operations with the central bank and, more recently, the Treasury.

Data for the opening months of 2009 point to a resumption of issuance in certain segments though at relatively costly interest rates.

From the information we have on 2009 issuance (to date fairly scant), certain segments appear to be returning to fixed-income issuance with a preference for non convertible bonds and debentures and mortgage bonds. These sales, we can say, are going through at relatively high rates, at times in excess of CDS spreads. The difference between bond and CDS spreads may trace to a heightened perception of counterparty risk in the CDS market after the recent wave of investment bank failures (see exhibit 4 for a fuller discussion of the possible causes).

Gross fixed-income issues filed[1] with the CNMV

TABLE 12

	2005	2006	2007	2008	2008 II-08	III-08	IV-08	2009 I-09[3]
NUMBER OF ISSUES	**263**	**335**	**334**	**337**	**94**	**62**	**107**	**68**
Mortgage bonds	21	37	32	47	20	8	8	29
Territorial bonds	3	6	8	8	0	0	1	0
Non convertible bonds and debentures	93	115	79	76	22	18	29	9
Convertible/exchangeable bonds and debentures	4	1	0	1	0	0	1	0
Asset-backed securities	54	82	101	108	30	23	37	13
Commercial paper facilities	80	83	106	88	21	11	29	13
Securitised	3	3	3	2	1	0	1	0
Other commercial paper	77	80	103	86	20	11	28	13
Other fixed-income issues	1	0	3	0	0	0	0	0
Preference shares	7	11	5	9	1	2	2	4
FACE VALUE (million euros)	**414,254**	**523,131**	**648,757**	**476,276**	**134,468**	**90,554**	**133,727**	**76,611**
Mortgage bonds	35,560	44,250	24,696	14,300	10,120	1,685	1,245	9,819
Territorial bonds	1,775	5,150	5,060	1,820	0	0	800	0
Non convertible bonds and debentures	41,907	46,688	27,416	10,490	3,744	4,215	1,927	9,775
Convertible/exchangeable bonds and debentures	163	68	0	1,429	0	0	1,429	0
Asset-backed securities	69,044	91,608	141,627	135,253	34,386	11,736	60,473	14,158
Domestic tranche	28,746	30,886	94,049	132,730	32,993	10,607	60,473	14,158
International tranche	40,298	60,722	47,578	2,522	1,393	1,129	0	0
Commercial paper[2]	264,360	334,457	442,433	311,738	86,118	72,868	66,853	41,760
Securitised	2,768	1,993	465	2,843	48	94	2,568	1,292
Other commercial paper	261,592	332,464	441,969	308,895	86,070	72,774	64,285	40,468
Other fixed-income issues	89	0	7,300	0	0	0	0	0
Preference shares	1,356	911	225	1,246	100	50	1,000	1,100
Pro memoria:								
Subordinated issues	11,079	27,361	47,158	12,950	1,945	1,575	7,120	6,433
Covered issues	94,368	92,213	86,161	9,170	2,200	946	928	0

1 Incorporating issues admitted to trading without a prospectus being filed.

2 Figures for commercial paper issuance correspond to the amount placed.

3 Data to 28 February 2009.

Exhibit 4: Differences between CDS and bond spreads

The literature on credit risk valuation states that, duration being equal, bond spreads vs. risk-free assets and CDS spreads should move closely in tandem. This relationship assumes arbitrage-free conditions between bond and CDS markets as applied in intensity-based credit risk models. The corollary is that either spread should serve indistinctly to measure a given issuer's credit risk. Other studies conclude that the two spreads are cointegrated and should converge in the long term by a process of reversion to the mean[1].

In practice, the difference in spreads between the two instruments is not always close to zero, and there are times when bond spreads are higher than those of CDS and vice versa. These differences, accentuated in the last year by the onset of crisis (see figure), imply that the two instruments cannot be equivalent as yardsticks of issuer credit risk. The factors at work are various:

- Liquidity differences between CDS and bond markets. The spreads of both instruments incorporate a liquidity premium. CDS tend to be more liquid, as they are unfunded instruments requiring only a small outlay. This liquidity advantage becomes especially important when credit markets seize up. At such times, demand for protection augments and is mainly satisfied through the CDS market, given the greater difficulty of opening short positions in bonds. Accordingly it is not rare to see CDS spreads moving above those of bonds.

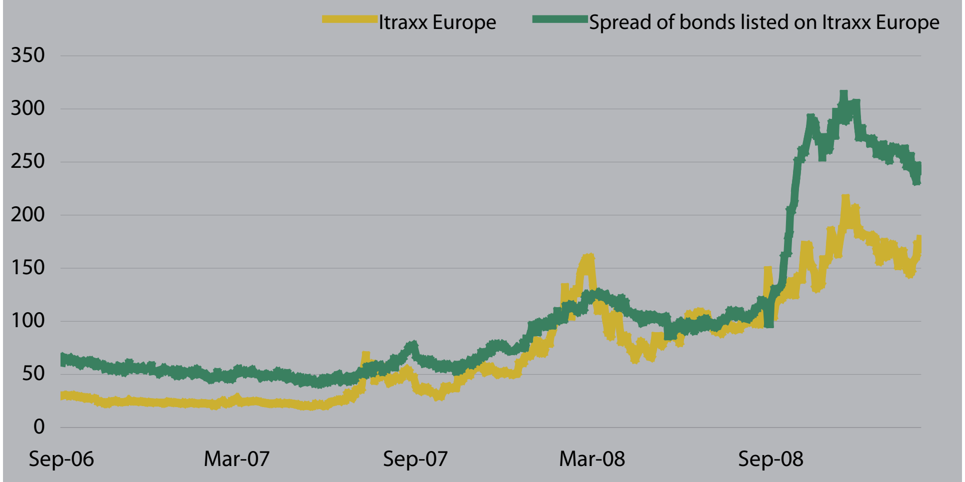
- CDS provides less than perfect coverage of issuer credit risk. Most of the CDS subscribed in Europe are of the type known as Modified Modified Restructuring (MM). The buyers of this variant are protected against any restructuring of the issuer's debt, up to and including bankruptcy. However in the case of CDS that are net settled, the recovery rate is normally set at 40% of the notional amount of the contract. Hence if some event occurs of those envisaged in the CDS contract, the buyer will receive an amount that may be more or less than would correspond to the real recovery rate on that issuer's debt.

- The counterparty risk present in CDS markets. CDS contracts stipulate that when some eligible event occurs, the protection seller should deliver a bond to the buyer or else pay him an agreed amount. As this could mean laying out a lot of cash in a short time, even to the extent of causing the seller's bankruptcy, it is normal for issuers' CDS spreads to be below those of bonds when the market perceives a clear counterparty risk.

- The CDS protection seller has an implicit option to deliver the bond of choice (cheapest to deliver) from a given basket in the event of issuer default. This implicit option tends to enlarge the spreads paid for CDS in comparison to bonds.

The last few months have seen alternating periods in the size of CDS vs. bond spreads (see figure), in which the above factors have dominated to varying degrees. For instance, CDS spreads stood well above bond spreads in the first two months of 2008, when it is reasonable to assume that the determining factor was credit market tensions (Bear Stearns failure, etc.). In these circumstances, investors would opt for the CDS market in order to shield themselves from negative credit events, meaning spread discrepancies were probably due to liquidity differences between the two instruments. Bond spreads, however, overtook CDS spreads from September onwards even though credit market tensions were unresolved. The reason, presumably, is that investors has less recourse to CDS (bringing down spreads) in view of the evident credit deterioration of the investment banks standing as counterparty in this market.

Itraxx Europe (CDS) and corporate bond spreads (basis points)



Source: Bloomberg, Markit and CNMV.

1 Haibin Zhu (2004), *An empirical comparison of credit spreads between the bond market and the credit default swap market*. BIS Working Papers no. 160.

4 Market agents

4.1 Investment vehicles

Financial collective investment schemes[18]

Financial collective investment schemes (CIS) closed the year[19] with 179.6 billion euros in assets, 30% down on the figure for one year before (see table 13). Mounting investor uncertainty, the negative returns of most risk-carrying financial instruments and intense competition from a banking sector hungry for funds were again the factors driving the shift out of investment funds into traditional bank deposits. On an aggregate basis, 85% of the decline in assets was ascribable to redemptions and the rest to portfolio depreciation, with equity instruments leading the downside.

Investment fund assets down by 30% to 180 billion euros, as investors rush to redeem their holdings.

The largest outflows in straight-number terms were in fixed income (around 19 billion euros), global funds (17.7 billion) and international equity (around 15 billion euros), although for reasons that varied with the investment objectives in each case. In fixed income and global funds, losses were due almost entirely to unitholder withdrawals. In fact fixed-income categories accounted for 63% of total redemptions (205.8 billion euros). In the case of international equity, redemptions and portfolio losses contributed to the decline in practically equal measure. All objectives pursuing a significant percentage of equity holdings performed negatively in the full-year period, with positive results confined to the fixed income and guaranteed fixed-income categories.

Fixed income, global and international equity funds register the largest outflows.

Many unitholders opted to withdraw completely, taking their numbers down by more than two million to a year-end total of just over 6 million. Fixed income funds lost over half a million members, international equity funds around 400,000 and global funds a further 350,000.

Unitholder numbers drop by over two million...

Despite this gloomy picture, the number of investment funds actually rose slightly from 2,926 in 2007 to 2,936 at the 2008 close. Increases were bunched in fixed income (30 more funds) and, to a lesser extent, guaranteed funds (13 more), while all other categories saw their numbers decline.

...though the number of funds actually rises slightly.

18 Although this term includes hedge funds and funds of hedge funds, we make no separate reference to them here, since they are the subject of their own sub-section further ahead.

19 Data to November 2008.

Main investment fund variables

TABLE 13

Number	2006	2007	2008 I	2008 II	2008 III	2008 IV[6]
Total investment funds	**2,822**	**2,926**	**2,942**	**2,950**	**2,932**	**2,936**
Fixed income [1]	606	600	609	614	616	630
Balanced fixed income [2]	212	204	203	197	195	196
Balanced equity [3]	222	207	206	205	204	204
Spanish equity	118	123	123	122	117	117
International equity [4]	467	481	477	482	469	463
Guaranteed fixed-income	220	251	256	251	255	261
Guaranteed equity	559	590	592	601	600	593
Global funds	418	470	476	478	476	472
Assets (million euros)						
Total investment funds	**270,406.3**	**255,040.9**	**234,043.9**	**214,251.8**	**197,305.6**	**179,604.6**
Fixed income [1]	116,511.9	113,234.1	116,544.0	107,349.4	100,931.9	94,278.1
Balanced fixed income [2]	15,314.5	13,011.9	10,551.0	8,488.5	7,175.8	5,996.7
Balanced equity [3]	10,149.2	8,848.0	6,811.6	5990.9	5,092.8	4,102.6
Spanish equity	10,416.4	7,839.4	5,369.9	4,584.1	3,612.5	2,749.0
International equity [4]	24,799.6	22,698.4	14,962.8	13,433.5	10,472.7	7,856.0
Guaranteed fixed-income	14,484.8	17,674.4	19,253.8	19,841.0	20,968.0	21,469.5
Guaranteed equity	44,796.6	42,042.1	38,521.4	36,633.2	33,782.8	31,176.7
Global funds	33,933.3	29,692.6	22,029.4	18,931.4	15,269.2	11,976.0
Shareholders						
Total investment funds	**8,637,781**	**8,053,049**	**7,420,379**	**7,023,292**	**6,520,089**	**6,026,860**
Fixed income [1]	2,960,879	2,763,442	2,620,712	2,498,451	2,389,795	2,228,281
Balanced fixed income [2]	524,827	493,786	434,935	359,904	319,445	279,989
Balanced equity [3]	357,013	331,214	289,184	263,926	236,645	216,285
Spanish equity	317,386	288,210	219,842	204,259	180,472	169,765
International equity [4]	1,258,426	1,089,868	942,733	907,345	758,463	691,529
Guaranteed fixed-income	497,540	549,108	552,116	542,500	552,515	546,583
Guaranteed equity	1,783,867	1,715,144	1,639,760	1,575,766	1,513,064	1,422,055
Global funds	937,843	822,277	721,097	671,141	569,690	472,373
Return[5] (%)						
Total investment funds	**5.59**	**2.73**	**-1.96**	**-0.56**	**-0.79**	**-1.82**
Fixed income [1]	1.95	2.71	0.54	0.57	0.48	0.47
Balanced fixed income [2]	4.18	1.93	-2.32	-1.29	-1.29	-3.93
Balanced equity [3]	10.34	2.69	-7.56	-2.91	-4.73	-13.22
Spanish equity	33.25	8.02	-12.01	-7.66	-9.73	-25.25
International equity [4]	14.98	2.13	-15.06	-2.73	-11.31	-26.17
Guaranteed fixed income	0.83	2.78	1.02	-0.01	0.80	1.51
Guaranteed equity	4.66	2.44	-2.56	-1.94	0.42	1.44
Global funds	4.01	1.47	-2.56	-0.29	-2.17	-5.86

1 Includes: Short and long fixed income, international fixed income and money market funds. Also FIAMM to December 2006.

2 Includes: Balanced fixed income and balanced international fixed income.

3 Includes: Balanced equity and balanced international equity.

4 Includes: Euro equity and international equity Europe, Japan, United States, emerging markets and others.

5 Annual return for 2006 and 2007 and non annualised quarterly return for each quarter of 2007 and 2008. Returns for fourth quarter 2008 (incomplete) are stated on a quarterly basis to facilitate comparison.

6 Data to November.

The Madoff fraud affects 224 Spanish schemes but extends to only 0.05% of industry assets.

After the Lehman Brothers failure, the financial world was rocked by another scandal in the month of December – the Madoff investment fraud – which nonetheless had little direct effect on Spanish collective investment schemes (see exhibit 5 for a detailed discussion of the regulatory and supervisory changes following the Madoff collapse). In a press release of 16 December, the CNMV disclosed the direct exposure of Spanish schemes to products affected by the Madoff fraud, based on the latest available information (corresponding to 31 October 2008). On that date, exposed assets summed 106.9 million euros, just 0.05% of the CIS total. Of this amount, 56.5 million corresponded to funds (0.03% of their assets) and 50.4 million to SICAVs (0.2%). Of the 224 CIS affected, 39 were investment funds (7 funds of hedge funds) and 185 SICAVs. Average exposure per positioned fund was 4.7% against 3.2% per positioned SICAV.

Exhibit 5: The impact of Madoff on Collective Investment Schemes from the standpoint of their regulation and supervision

The alleged pyramid-selling swindle or Ponzi scheme operated by Bernard Madoff through his firm Bernard L. Madoff Investment Securities has had a huge impact on the collective investment scheme management industry, as the investment funds exposed to Madoff strategies (basically UCITS and hedge funds acting as feeders) were the principal vehicle for defrauding investors.

Madoff's business was purportedly the management of portfolios on behalf of CIS managers and the provision of custody services to fund depositories.

Considering the Madoff scandal from the standpoint of European fund industry legislation, the UCITS Directive stipulates that manager and depository must be two separate entities acting independently in defence of investors' best interests. In addition, any fund manager or depository delegating management or custody functions is required to exercise strict controls over the conduct of the delegate entity.

The transposition of the UCITS Directive in Spain gave rise to a more explicit and detailed legal text. Not only does it expressly prohibit delegating management duties to sub-custodians, but depositories must prepare a written report on the latters' credit quality and potential risk factors, as well as retaining control of any cash accounts opened with an intermediary (through authorised signatures for example). Finally, the depository must replicate and track the progress of the fund's net asset value.

Regarding hedge funds, Spanish regulations governing the funds of funds segment establish a qualitative, quantitative and operational checklist for the selection of investments, subject to regular review (the set of controls known as due diligence).

In sum, the Madoff case provides food for thought regarding the supervision and regulation of collective investment schemes, but also the whole structure of asset custody. It has brought home the degree of complexity these systems have acquired in today's global, sophisticated markets and the need to pay them greater regulatory attention. To this end, the European Commission has announced that it will review the enforcement of UCITS Directive rules on securities depositories in different Member States.

Analysis reveals a decline in the volume of less-liquid assets held by CIS, which are mainly concentrated in securitisations and financial fixed-income assets rated below AA.

The liquidity of investment fund holdings is a supervisory priority for the CNMV in today's complex financial landscape. Recent analyses of the private fixed-income portfolio, which is where liquidity problems might in theory be greatest, put the volume of less-liquid assets[20] at around 14.46 billion euros in November 2008 (8.6% of total investment fund assets); a considerable 6.80 billion less than the previous estimate. Of the total volume of less-liquid assets, about two thirds are securitisation-related while the rest comprise financial fixed-income instruments rated below AA. Despite this moderation of less-liquid holdings, the CNMV will be keeping a permanent watch on the funds and managers where their weight is highest.

Estimated liquidity of investment fund assets TABLE 14

Type of asset	Less-liquid investments		Total
	Million euros	% total	Million euros
Financial fixed income rated AAA/AA	456.8	2.9	15,528.3
Financial fixed income rated below AA	4,520.6	35.1	12,874.1
Non financial fixed income	128.7	3.1	4,190.7
Securitisations	10,351.7	88.4	11,709.3
AAA-rated securitisations	8,183.7	86.7	9,434.4
Other securitisations	2,168.0	95.3	2,274.9
TOTAL	**15,457.8**	**34.89**	**44,302.3**
% of investment fund assets	8.6	-	24.7

Source: CNMV. Data to November 2008.

In today's adverse climate for the collective investment industry...

The short-term outlook for the collective investment industry remains weak, with various factors militating against a renewed inflow of resources. First we have the worsening national economic and financial situation which has not only reduced investors' available funds but has also undermined their confidence, inclining them more towards low-risk instruments like bank deposits or government bonds[21]. And recent shocks like the Lehman Brothers collapse or the Madoff fraud have only accentuated this trend.

...the CNMV will go on working to ensure fund managers apply suitable valuation policies and inform investors appropriately.

The CNMV will keep its sights trained on the liquidity of CIS investments as well as on the valuation policies being applied by their management companies and the information given to investors.

Real estate collective investment schemes

The surge in redemption orders puts a strain on the liquidity of real estate CIS, already struggling to cope with the slump in market activity.

The situation of Spanish real estate schemes is right now highly complex, especially in the case of real estate investment funds. The surge in redemption orders received from investors throughout 2008 has bitten deeply into their liquidity; already intrinsically less than that of other types of collective investment vehicle. And the scant activity of a real estate market immersed in an intense correction phase has only added to the problem.

The result has been a large decline in assets and unitholder numbers throughout 2008,...

The result has been a steady decline in the assets under management in real estate funds, which fell by 1.10 billion euros to a November total of some 7.50 billion eu-

20 Data for the private fixed-income portfolio (which excludes investments in commercial paper and financial instruments with a term to maturity of less than one year) have been taken from a key reporter, with less-liquid assets defined as all those where the difference between the average indicative prices of a range of contributors and the average of executed prices is at some point greater than 5%.

21 Provided the security is held to maturity.

ros (see table 15). Funds also lost a total of 50,000 unitholders between January and November to end this last month below the 100,000 mark.

Aggregate returns moved down steadily as the year progressed, but did not actually turn negative until the closing quarter.

......accompanied by a gathering run-down in returns.

Of the nine funds in existence at the closing date for this report, two had entered liquidation and a further two (the largest) had been forced to alter their redemption conditions. The manager of Santander Banif Inmobiliario, the sector's biggest fund by asset volume[22], approached the CNMV in February 2009 for authorisation to suspend redemptions for a two-year period due to its inability to meet current orders[23]. This measure, which the CNMV subsequently approved[24], will give the management company time to arrange the orderly sale of fund assets in order to reimburse its unitholders. Also, the manager has stated that the fund will be wound up in the following cases:

The scale of outflows has forced the two largest funds to suspend redemptions for two years. And one manager has said it will wind up the fund if it cannot meet all orders received in this period.

- Before the two years are up, if the fund's assets drop below the legal minimum of 9 million euros after the payment of redemptions.
- After the two years are up, if redemptions orders have not by then been fully met.

In the case of the next largest fund by assets, BBVA Propiedad FII[25], the manager opted to give investors the chance to sell their units at end 2008, prior to suspending redemptions for a period of two years. The financial institution BBVA decided to acquire holdings in the fund, allowing it to meet the orders presented in their entirety.

Main real estate fund variables TABLE 15

	2004	2005	2006	2007	2008 I	2008 II	2008 III	2008 IV
FUNDS								
Number	7	7	9	9	9	9	9	9
Shareholders	86,369	118,857	150,304	145,510	144,197	141,037	135,307	97,784
Assets (million euros)	4,377.9	6,476.9	8,595.9	8,608.5	8,563.8	8,394.0	8,166.7	7,489.5
Return (%)	6.65	5.35	6.12	5.30	1.16	0.87	0.35	-1.12
COMPANIES								
Number	2	6	8	9	8	8	8	8
Shareholders	121	256	749	843	839	839	938	938
Assets (million euros)	56.4	213.9	456.1	512.9	349	359.2	363.8	365.3

Source: CNMV. Data to November.

1 Fourth-quarter returns are those for October-November restated on a quarterly basis

The liquidity problems of real estate CIS will not go away while redemptions remain at current levels. It is foreseeable therefore that other funds may opt to modify or restrict their redemption conditions to facilitate to the orderly disposal of their assets.

Real estate CIS will continue facing difficulties if redemption orders persist at these levels.

22 With assets representing almost 46% of the real estate fund total.

23 Spanish regulations provide a series of mechanisms in the event of large-scale redemption orders which funds cannot meet, given the less liquid nature of the assets they invests in.

24 In March, the manager sent a new notice to the CNMV confirming the regulator's authorisation to suspend fund redemptions from 28 February 2009 to 28 February 2011 and adding that it would earmark an amount equal to 10% of the fund's assets for the prorated payment, in two instalments, of redemptions applied for up to 27 February 2009. It also advised that most asset sales would have to wait until at least the second half of 2010, in view of the current conditions of real estate markets.

25 With assets representing over 20% of the real estate fund total.

This movement may be accentuated by a deeper decline in fund returns due to sinking real estate prices and, in some cases, the impact of extraordinary appraisals.

Hedge funds

Hedge funds face a series of impediments to the implementation of their strategies...

The business landscape for hedge funds has also become trickier in the last few months. Difficulties finding finance have got in the way of some of their strategies, and they have had to confront short sale restrictions in many jurisdictions on top of the general turbulence sweeping financial markets.

...along with a wave of investor redemption orders which has intensified in recent weeks. Some managers have responded by amending their prospectuses (notice periods, proration, partial redemptions, etc...)

Moreover, hedge funds too have had to cope with a wave of investor withdrawals. In February, nine hedge fund managers notified the CNMV[26] that they had met redemption orders for an amount exceeding 20% of the fund's assets. Of these nine notifications, four concerned hedge funds as such while five concerned funds of hedge funds[27]. Certain funds of hedge funds had a harder time raising the cash required, as their underlying funds had restricted or suspended their own redemption regimes. In these circumstances, some managers opted to amend prospectuses, with the most common changes affecting notice periods, prorated allocation of redemptions beyond a certain percentage of the fund's assets and the introduction of partial redemptions or payments confined to the liquid portion of the portfolio.

For at least the first three quarters of the year, hedge funds numbers, ...

The number of funds of hedge funds in operation remained at around twenty throughout the year, and the number of hedge funds at around 25. However, five schemes (4 funds of hedge funds and 1 hedge fund) are now being wound up after their managers notified the CNMV of their intention to de-register.

...assets and unitholders pursued a stable or slightly upwards course.

The combined assets of these collective investment schemes climbed to over 2 billion euros in the third quarter of 2008, but by the end of the year were back down to 1.80 billion, as a result of the dent taken in fund returns (see table 16) and rising redemption volumes. The number of investors holding funds of hedge funds also receded slightly at the end of the year after a strong progression to the month of September. In November, concretely, unitholder numbers exceeded 11,100 compared to just over 5,000 at the 2007 close.

However, financial market conditions plus investors' heightened risk perceptions will continue to hold back sector development.

It seems likely that funds will have to go on contending with scarce financing, liquidity shortages on certain markets and the withdrawal of investor confidence, suggesting their assets and unitholder numbers will see more erosion in the months ahead.

26 In compliance with article 28 of Royal Decree 1309/2005, dated 4 November, implementing Law 35/2003 of 4 November on Collective Investment Undertakings.

27 Only three such notifications had been received previously (in January 2009, October 2008 and July 2008).

Main hedge fund variables							TABLE 16
		2007				**2008**	
	II	**III**	**IV**	**I**	**II**	**III**	**IV**
Funds of hedge funds							
Number	22	30	31	38	39	41	40
Shareholders	1,456	3,142	3,950	5,488	8,582	9,739	9,596
Assets (million euros)	600.2	829.2	1,000.0	1,129.6	1,389.6	1,427.5	1,252.1
Return[1] (%)	1.08	-2.14	1.22	-2.31	2.2	-7.56	-13.75
Hedge funds							
Number	9	17	21	25	23	25	25
Shareholders	183	251	1,127	1,335	1,429	1,583	1,576
Assets (million euros)	152.0	210.2	445.8	546.3	603.9	597.7	550.3
Return[1] (%)	3.18	-2.2	-1.31	-1.95	1.48	-0.29	-6.92

Source: CNMV. Data to November.

1 Fourth-quarter returns are those for October-November restated on a quarterly basis.

4.2 Investment firms

Investment firms have seen their activity increasingly impaired by the financial crisis and its manifold impacts on prices, confidence and market turnover. The slowdown affecting main business lines, namely order processing and execution, issue placement and underwriting and CIS subscriptions and redemptions, has cut deeply into sector earnings and pushed more and more companies into losses.

The financial crisis wears away at investment firm business lines.

Broker-dealers obtained aggregate pre-tax profits of 314.5 million euros between January and November 2008[28], representing a 53% decline versus the same period in 2007 (see table 17). Performance was, however, notably uneven, with the ten biggest earners (out of a total of 49) accounting for 80% of total profits.

Aggregate profits of broker-dealers fall by 53% in the first eleven months...

Aggregate income statement TABLE 17

Thousand euros	**Broker-dealers**			**Brokers**		
	Nov 08	**Nov 07**	**% change**	**Nov 08**	**Nov 07**	**% change**
I. NET INTEREST INCOME	146,741	116,110	26.4	8,758	13,853	-36.8
II. RESULT ON SECURITIES TRANSACTIONS	-46,807	115,337	ns	-3,348	443	ns
III. NET FEE INCOME	522,174	729,541	-28.4	137,843	212,041	-35.0
Fee income (=1 to 9)	758,915	992,177	-23.5	157,483	279,979	-43.8
1. Order processing and execution	539,234	648,148	-16.8	58,846	116,985	-49.7
2. Distribution and underwriting	36,179	54,464	-33.6	4,745	2,381	99.3
3. Securities custody and administration	18,929	23,090	-18.0	338	1,524	-77.8
4. Portfolio management	15,874	25,135	-36.8	19,093	24,200	-21.1
5. Design and advising	18,860	50,391	-62.6	2,680	1,965	36.4
6. Search and placement	12	9	33.3	0	0	-
7. Margin trading	12	21	-42.9	0	0	-
8. Fund subscriptions and redemptions	72,225	126,150	-42.7	27,133	67,862	-60.0
9. Others	57,590	64,769	-11.1	44,648	65,062	-31.4
Fee expense	236,741	262,636	-9.9	19,640	67,938	-71.1
IV. GROSS INCOME (=I+II+III)	622,108	960,988	-35.3	143,253	226,337	-36.7
10. Operating expenses	334,600	382,756	-12.6	124,429	135,300	-8.0
V. NET OPERATING INCOME (=IV-10)	287,508	578,232	-50.3	18,824	91,037	-79.3
11. Depreciation and other charges	74,273	68,197	8.9	5,518	7,280	-24.2
12. Other profit and loss	101,273	157,201	-35.6	12,231	29,869	-59.1
VI. PROFIT BEFORE TAXES (=V-11+12)	314,508	667,236	-52.9	25,537	113,626	-77.5
VII. NET PROFIT	314,508	667,236	-52.9	25,537	113,626	-77.5

Source: CNMV.

ns Not significant as the comparison is between positive and negative numbers.

28 Excluding the figures of one broker-dealer which books part of its proprietary trading under "Other profit and loss", with a grave distorting effect on aggregates such as "result on securities transactions" and thereby "gross income" and "net operating income".

...due to the thinning out of main fee income streams (order processing and execution and CIS subscriptions and redemptions).

Broker-dealers reported lower revenues from their brokerage activity, basically the provision of investment services to outside clients, as well as in certain dealer lines such as own-account trading. Overall, their fee income dropped by more than 23% in the reference period[29]. Fees from order processing and execution, accounting for over 70% of aggregate inflows at this income statement line, were down 17% on the prior-year period. This was accompanied by substantial declines in revenues from CIS subscription and redemptions (-43%), reflecting the overall weakness of the industry, issue distribution and underwriting (-34%), with primary market issuance shrinking to near zero, and transaction design and advisory services (-63%).

Gross income and net operating income come down sharply…

The combined result was a gross income figure of 622.1 million euros, 35% less than in 2007. The decline was even steeper at the net operating income line (50%), since operating expenses reduced at a slower rate then revenues, causing a degree of erosion in operator efficiency ratios. Extraordinary income too moved down in year-on-year terms.

Brokers aggregate pre-tax profits dropped by 77% to 25.5 million euros between January and November 2008, a sharper decline in percentage terms than their broker-dealer counterparts. Concentration is even greater in this market segment, with the seven biggest-earning firms (out of a total of 53) accounting for 85% of aggregate profits.

...on the reduced revenues flowing in from ordinary activities.

The fee income of these firms, which are legally confined to third-party rather than proprietary trades, decreased by 35% to 137.8 million euros. As with the broker-dealer group, the decline traced mainly to their two largest revenue streams: the processing of market orders (almost -50%) and CIS subscriptions and redemptions (-60%).

The gross income reported was 143.3 million, 37% less than in 2007, while net operating income fell by more than 79% due to the downside resistance of operating expenses. Here too the outcome was a loss of relative efficiency in comparison to prior years. Finally, extraordinary income dropped by almost 60% with respect to 2007.

The returns on equity of brokers and broker-dealers slump from over 60% in 2007 to below 30% in 2008...

These results took a heavy toll on the aggregate return on equity (ROE)[30] of the investment firm sector (see figure 12). Specifically, the aggregate ROE of broker-dealers slumped from 63% in 2007 to 27% in 2008, while that of brokerage firms plunged even deeper (from 62% to 21%). This is a far cry from the buoyant readings of the past few years and closer to the levels recorded at the start of the decade. An analysis of the components driving this reduction[31] lays the blame on two main factors: namely, lower asset productivity and the deterioration of sector efficiency[32]. Although extraordinary items also contributed on the downside, their influence was less intense (see figure 13).

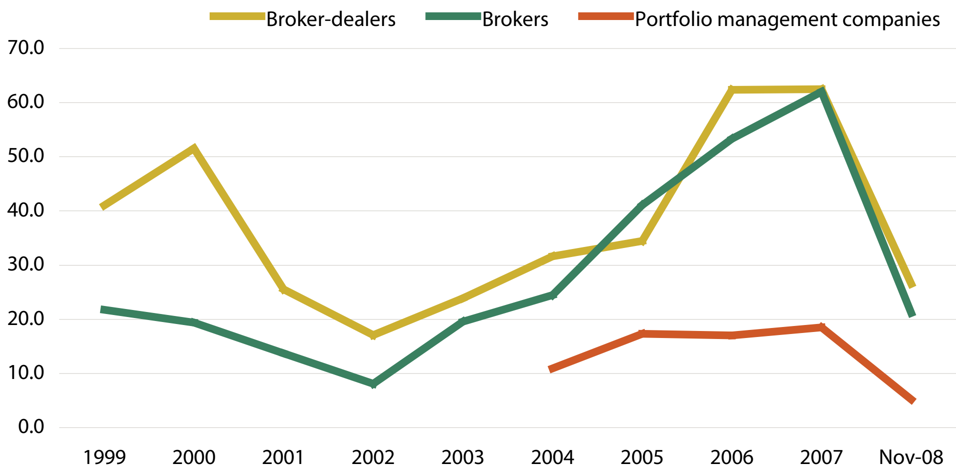
29 January-November 2008 vs. the same period in 2007.

30 Annualised pre-tax profits to November 2008.

31 For a fuller description of change factors for ROE see the exhibit in the first report on "Securities markets and their agents" published in CNMV Bulletin I 2008.

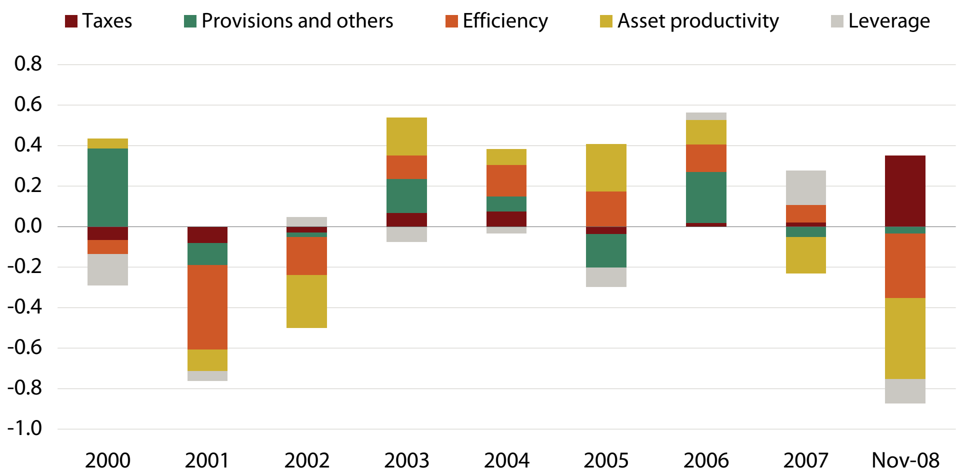
32 Traditional measurements of efficiency set company income flows against the expenses incurred in their generation. But in today's setting of sharply falling share prices, and remembering that stock market orders constitute investment firms' main revenue source, it could be argued that part of the downturn in efficiency is exclusively price driven (in fact the number of orders processed in national equity markets grew by almost 7% in 2008).

ROE before taxes — FIGURE 12
Broker-dealers, brokers and portfolio management companies



Source: CNMV and authors.

Breakdown of year-on-year change in ROE: — FIGURE 13
Broker-dealers and brokers



Source: CNMV and authors.

More firms enter losses (9 to 31), though their volume is heavily concentrated in a small number of operators.

The decline in sector profitability ratios has been paralleled by an increase in the number of firms reporting losses. Specifically, 31[33] firms were running pre-tax losses at 30 November 2008 (18 brokers, 10 broker-dealers, and 3 portfolio management companies), compared to just 9 firms at end-December 2007. Note however that five of this group accounted for almost 70% of the sector's total red numbers.

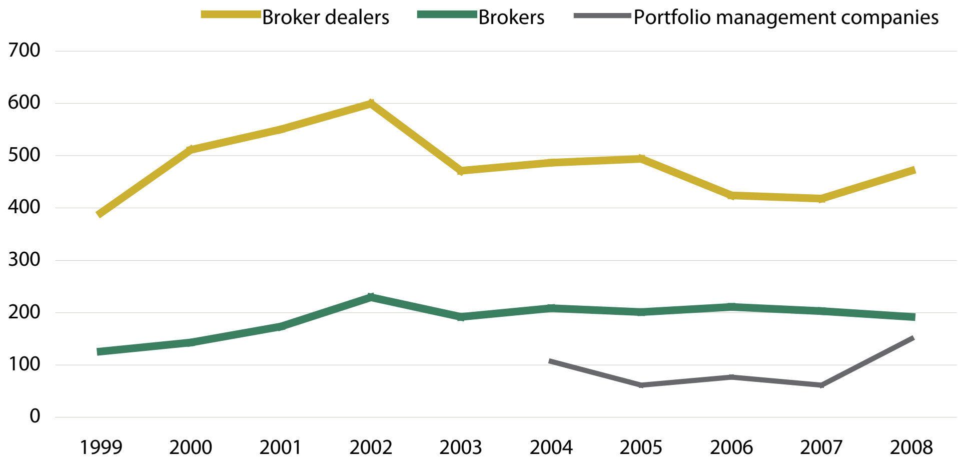
The sector has managed some improvement in its already solid equity position, thanks to the reserves built up in previous years.

Investment firms as a whole remain comfortably compliant with capital adequacy requirements. As figure 14 shows, the aggregate position of broker-dealers strengthened in the year (with equity almost six times above the minimum requirement) while that of brokers held at similar levels (equity three times higher than required). Most of this improvement stems directly from the reserves built up over previous years. The number of firms running a tighter margin (less than 50%) was also slightly down versus December 2007 (from 14 to 11).

33 Of a total 113.

Investment firm capital adequacy
(surplus of qualifying equity to the minimum requirement, %)

FIGURE 14



Source: CNMV and authors.

Today's testing situation may invite some degree of sector restructuring.

These intermediaries seem certain to have some tough months ahead in which their business will continue to suffer, especially areas dependent on financial market trading. The main concern now is that a prolonged slowdown could lead to excess capacity in the investment industry, in which case firms will need to take a hard look at their cost structures and make the opportune strategic decisions.

4.3 Other intermediaries: venture capital[34]

The number of venture capital entities continues to expand...

A total of 55 venture capital entities (VCEs) joined the CNMV register in 2008, breaking down 25 companies, 21 funds and 9 venture capital fund managers. This compares with the 61 new VCEs registering in 2007 (33 companies, 16 funds and 12 managers).

Movements in the VCE register in 2008

TABLE 18

	Situation at 12/31/2007	Entries	Retirals	Situation at 12/31/2008
Entities	**276**	**55**	**9**	**322**
Venture capital funds	76	21	2	95
Venture capital companies	134	25	5	154
Venture capital fund managers	66	9	2	73

Source: CNMV.

...though with both investments and transactions closing lower than in 2007.

According to data provided by the Spanish industry association (ASCRI) the investment of venture capital companies operating in Spain amounted to 2.95 billion euros. This was 32.3% less than one year before but just 5.2% down versus 2006, and stands more or less in line with the decline reported in remaining European countries. The number of industry transactions also reduced by a more moderate

34 Due to changes in CIS manager accounting rules (CNMV Circular 7/2008 of 26 November), the data available at the closing date for this report did not allow for an accurate review of the industry's 2008 performance, which we will accordingly leave for our next issue.

5.7%[35] with respect to 2007. Divestments in the period summed 604 million euros across a total of 336 transactions, 62% and 16% down respectively on the equivalent figures for 2007.

The future of sector investment and transaction numbers is currently clouded by uncertainty. On the one hand, cash rich entities will find themselves able to buy in advantageous conditions and thus attain medium- and long-term returns ahead of the market average. On the other, entities needing leverage (LBOs) will have to negotiate their way through credit constraints and all that they entail in terms of financing conditions – higher costs, smaller amounts, and shorter repayment periods – potentially pushing up their recourse to syndicated loans. Only the VCEs with the best track records will find financial institutions eager to lend. In the meantime, financing difficulties have caused a shift in industry investment practices towards less leveraged transactions[36], the acquisition of minority stakes and an offering better geared to today's more selective investors, focused on sectors combining greater earnings predictability with a more favourable regulatory framework[37]. Some restructuring is also on the cards which should favour those intermediaries best primed to negotiate a less accommodating future.

Financing constraints will condition the volume, nature and destination of future investments.

5 Transparency in non equity financial markets

5.1 Introduction: transparency and the crisis

Properly functioning securities markets require the right measure of transparency to facilitate efficient price formation and maintain investor confidence. Disclosure is a key way to alleviate information asymmetry and, thereby, to prevent situations of inequality in which those "in the know" can profit at the expense of others. However, transparency also has its costs. On the one hand, we have the costs of setting up suitable mechanisms to gather and disseminate information and, on the other, companies must consent to be bound by market discipline, since one of the benefits of transparency is that investors can accurately judge the performance of market intermediaries.

Financial markets cannot function without proper transparency, though this requirement also has its costs.

Participants need to be informed about the characteristics of marketable securities and about the trading process in itself. This means having access to data on demand and supply conditions and on the outcome of exchange transactions. Specifically, the first things an investor must know are the number and scale of orders outstanding and at what price he can buy and sell. These disclosures relative to the conditions pertaining before a trade are known collectively as pre-transparency. A second set of variables, including prices fetched and volumes exchanged, are known after each transaction, so come within the category of post-transparency.

Participants need to be informed about the assets they can trade in and about the trading process itself.

The nature of trading and regulatory intervention have brought about differences in the transparency regime affecting equity markets and all others. The former are centralised markets in which retail investors participate in relevant numbers, and

Transparency is an enshrined principle of equities market regulations and trading practices, but this is not the case with bonds and structured products.

35 Provisional data.

36 Investment in leveraged transactions has already fallen 22 percentage points, from 54% of outlays in 2007 to 32% in 2008. In fact such transactions accounted for only 3% of the total closed in 2008.

37 Note, for instance, the volume of investment reaching firms in the energy and natural resources sector (34% of the 2008 total).

where transparency practices are thoroughly established. This is not the case of either fixed income or structured product markets, where tradings tend to be bilateral and, in the second case, OTC.

The financial crisis has laid bare transparency shortcomings in these instruments, which...

The financial crisis has brought to light certain transparency shortcomings in corporate debt markets, affecting especially structured products and CDS. And these are now thought to have contributed greatly to the generation and spread of distrust.

...have caused liquidity to contract sharply in certain debt market segments...

In private debt markets, one of the first consequences of the financial crisis was the seize-up of liquidity in various segments, accompanied by a widening of bid/ask spreads and, more recently, a significant divergence between CDS spreads and those of the corresponding bond markets. The result was to complicate the valuation of certain structured products. Hence the growing conviction that more fluid information (especially post-trade) could help rebuild market confidence, get trading volumes back to normal and restore the credibility of product valuations.

Analyses conducted on the crisis and its aggravants have led to a series of recommendations on financial market practices, including those put forward by the Financial Stability Forum (FSF) in its April 2008 report on "Enhancing Market and Institutional Resilience". Among its conclusions was the need to enlarge post-trade transparency in secondary markets as a means to improve financial product valuation and obtain reliable data on the transfer of risk.

FSF and G-20 recommendations and IOSCO study groups concur on the need for more rigorous post-trade transparency.

Among the initiatives launched since the start of the crisis we can cite the G-20 proposals at the Washington summit concerning the role of transparency in non equity markets, especially in structured products, and the work of the IOSCO Task Force on transparency in non regulated markets and products. Further, IOSCO's working group on markets has been scrutinising structured product markets and how stricter post-trade transparency requirements might impact on their operation.

5.2 The state of play

Private debt markets suffer a transparency deficit in both pre- and post-trade segments.

Private debt market suffer from a dearth of information at both the pre- and post-trade stages. Some price information can be had in the pre-trade segments but only through costly recourse to information aggregators whose services tend not to reach the retail investor. In bonds, post-trade information is provided by regulated markets for their own instruments, by dealer or client-access trading platforms and occasionally by associations such as the ICMA (International Capital Market Association). Data, basically, is controlled by wholesale participants giving rise to an asymmetry of power between the retail investors who trade through intermediaries and can call on them for information, and retail investors who trade direct, relying purely on the data they can find in newspapers, the Internet or regulated markets as the case may be. What we have then is a situation in which the near absence of post-trade reporting, confined to some exchange-traded instruments in a small group of countries, has caused leading institutional investors (banks, investment funds, hedge funds,...) major headaches with the valuation of their portfolios and hindered the generation of reliable statistics.

Structured markets too have a lack of disclosure mechanisms for post-trade information.

In most cases, structured product markets too fail to provide even the most basic post-trade disclosures, which should include the name of the issuer, the name of the tranche, plus the amount, price and date of the transaction. As we write, the following information is available by type of product:

- Asset-Backed Securities (ABS): The lack of information is attributable here to the absence of an established secondary market. Participants base their strategies on holding investments to maturity, and trading is typically bilateral between the investor and the dealer, who enjoys the better access of the two. In cases like this where the secondary market is underdeveloped, a standard post-trade disclosure regime could help considerably towards efficient price formation and product valuation.

In the case of ABS, the information deficit has its roots in the absence of an established secondary market,...

- Collateral Debt Obligations (CDOs): Information on these products is extremely hard to find. This is so even for intermediaries, who have to use indicative prices or a series of benchmarks to determine execution prices. These benchmarks may rest in turn on the price of a bond or class of bonds, valuation models, or else tools that generate proxies for different tranches, maturities, spreads, etc...

...with CDOs, even intermediaries have little direct information,

- Asset Backed Commercial Paper (ABCP): Here too we can talk about a transparency deficit both pre- and post-trading. These products are normally held to maturity so there is no active secondary market. The most common shortcomings identified are a certain opacity regarding underlying assets, frequently of a longer duration than the ABCP itself, and regarding the liquidity commitments made by the issuer. Many of these products are held by money-market investment funds operating daily redemption windows, and doubts about the valuation of portfolio assets could easily drive away investors.

... ABCPs are thin on transparency at both the pre- and post-trade phase,...

- Credit Default Swaps (CDS): Although more post-trade reporting (volume, price) would be welcome, this market is relatively rich in price information compared to other structured products.

...while CDS do rather better especially with regard to price.

5.3 Transparency in the MiFID and the United States

The transparency rules for European markets are set out in the Directive on Markets in Financial Instruments (MiFID). This Directive establishes a comprehensive regime of disclosure requirements in the equities trading sphere, to be applied to regulated markets, multilateral trading facilities (MTF) and financial intermediaries internalising orders (systematic internalisers).

In Europe, transparency requirements are laid down in the MiFID, which regulates extensively for equity markets...

However, this regime was not extended to markets in financial instruments other than shares. The argument most often cited for such unequal treatment is that these are essentially wholesale markets. Private debt markets tend to operate through bilateral rather than centralised trades, which entails searching for a counterparty and, frequently, the engagement of dealers. The participation of retail investors is limited, and tends to involve only "buy and hold" decisions rather than active trading.

...but not for markets in securities other than shares.

The MiFID texts specifies a review period for the exemption of non equity markets. Specifically, its article 65 calls on the European Commission to report to the Parliament and Council within two years from its entry to force on the possible extension of the scope of its provisions to transactions in financial instruments other than shares.

Its text, however, specifies a review period for the exemption of these markets.

In 2006, the European Commission asked the CESR to conduct a study...

Accordingly, the Commission asked the CESR to analyse the situation of corporate bond markets, following this at end-2006 by a request for technical assistance on a number of related points. The result was a report published in August 2007, just as financial markets were feeling the first impact of the crisis.

...which found no evidence of market failure.

In its conclusions, the CESR argued that there was no evidence of market failure and therefore no case for regulatory intervention to extend transparency requirements to markets in non equity instruments.

However the CESR re-opened its debate in view of the deepening financial crisis.

However, as the crisis deepened, the Committee decided to re-open its study, focusing on how the transparency conditions of non equity markets might have aggravated events. A new document has gone out to public consultation and a final draft should be ready for approval some time this summer. Although it does not identify market failures requiring regulatory action, the feeling to date, unlike in the previous study, is that greater transparency would be a good thing.

The situation in Europe contrasts with the TRACE system in place in the U.S. since 2002.

The situation in Europe stands in stark contrast to the United States, where the TRACE information system, in place since 2002, provides detailed post-trade information on a wide variety of fixed-income securities. Between 2002 and 2005, the system went through three stages in which the number of instruments covered was progressively enlarged just as the reporting time was shortened. System intermediaries transacting in any of these securities are obliged to provide information on OTC trades, part of which is made publicly available. For each transaction, the intermediary must state the bond, the date and time of the trade, the amount, the price, the fees applicable, the identity of the counterparty, etc.

5.4 The traditional case against more transparency

The first argument against refers to the wholesale nature of these markets …

Two objections are traditionally raised to increasing the transparency of financial markets. The first denies the existence of any market failure due to lack of transparency, alleging that information is privately available and that these are predominantly wholesale markets, whose participants report no difficulties in obtaining pre- and post-trade data from market news services.

…yet more and more retail investors are taking part, and institutions too need access to clearer, timelier information.

However this private information is often incomplete (in the case of transactions closed, for instance) and the fact it is available does not suffice of itself. And while admitting that these markets have traditionally been a wholesale domain, there are still three good reasons for improving their transparency. One is the growing presence of retail investors in bond but also in structured product markets. Another is the fact that behind many institutional investor trades are numerous retail investors who may be unable, for lack of information, to properly monitor and assess the decisions that wholesale intermediaries are making on their behalf. And yet another is that the complexity of certain instruments calls for tighter disclosure requirements, especially on past transactions, so investors can refine their buy and sell strategies.

The second equates excessive disclosure requirements with a loss of liquidity, but this is far from proven.

The second big argument against greater transparency equates overzealous transparency requirements with a reduction in market liquidity. To date, however, the empirical evidence is inconclusive on this score. In fact, analyses run on the introduction of the TRACE system in the United States have detected some decrease in secondary market bid/ask spreads.

There is no firm proof, then, that increased transparency may drive intermediaries out of the market with the subsequent pressure on liquidity. What does seem likely, however, is that they will increasingly draw their revenues from brokerage fees rather than transaction spreads.

Greater transparency could change the way intermediaries are compensated.

5.5 Conclusions

Europe's official position on the regulation of post-trade transparency in non equity markets is shifting only slowly, despite the evidence thrown up by the financial crisis.

In fact we can distinguish two currents of opinion. Some authorities say that the crisis should not undo the conclusions of the CESR's August 2007 report, and insist that the industry itself can deliver transparency objectives by means of self-regulation. Others, however, feel that while post-trade disclosures or the lack of them are neither the cause of the meltdown nor a quick-fix solution, it would be unwise simply to let things lie on bond, structured product and CDS markets, while all the lessons of the crisis and the recommendations of international organisations are urging action to improve transparency. At the same time, the argument that greater transparency means less liquidity has failed to find empirical support.

European authorities line up on two different sides.

The CNMV's view is that there is sufficient evidence to posit market failures with regard to transparency in markets in financial instruments other than shares. Specifically, it sees undeniable signs of information asymmetry between major participants and retail investors, which warrant the coordinated introduction of measures to enhance transparency on the terms of the transactions closed on the relevant bond and derivative markets.

The CNMV believes there is evidence enough to support the existence of market failures, and to justify the coordinated extension of transparency requirements to fixed-income and derivative markets.

II Reports and Analyses

Corporate governance in Spanish listed companies: main features and level of transparency

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1 Introduction

This article describes the main features and trends in the corporate governance of listed companies since the year when the Corporate Governance Annual Report (from now on known as IAGC, Informe Anual de Gobierno Corporativo) was issued for the first time until 2007, when the Unified Code for Good Governance was first applied.

The present article is divided into six sections. The first sections include a synthesis of the progress made by the Spanish legal framework, which is possibly the most demanding one we know in terms of transparency, as well as its main features regarding other European legislations.

Sections 4 to 6 describe the main conclusions drawn based on the study of IAGCs, which reveal the existence of corporate governance issues that listed companies have a high level of transparency on, as well as a close monitoring of the Unified Code. On the other hand, there are others requiring a greater effort to improve the level of transparency.

2 Evolution of the European legal framework

At the beginning of the 21st century, several financial scandals took place in the United States - the Enron (2001) and WorldCom (2002) cases - as well as in Europe - Parmalat (2003) - whose main common features were some major errors in corporate governance practices and risk control systems. The effect of these scandals was boosted by two processes developed throughout the 90s: the popularization of investment in the stock market and the globalization of economy.

As a result, and with the aim of recovering the lost trust in the markets, a major trend came up in order to promote good corporate governance practice in companies, especially in those that resort to capital markets in search for public savings. In Germany, the Cromme Report was approved in 2002, France and Italy reviewed their good governance codes and, at the beginning of 2003, the Higgs and Smith reports set forward a series of changes in the British code based on the 1992 Cadbury report.

The OECD reviewed its corporate governance principles in 2004, and IOSCO and the European Commission also issued recommendations. Lastly, Europe imposed listed companies the obligation to create and promote a corporate governance report on the principle of ‘comply or explain’ the level of monitoring of the recommendations stated in the reference code for each country[1].

1 Directive 2006/46/EC of the European Parliament and the Council, of 14 June 2006.

Spain did not ignore these trends, and so since 2002 it has come up with several initiatives leading to a deep change in legislation and the creation of a new good governance code.

3 From the Olivencia code to the Unified code. Transparency structure in Spain

In 1997, a special Commission was created, chaired by Manuel Olivencia, who made the first Good Governance Code in Spain. This Code featured 23 recommendations focusing on the suggestions from Administration to listed companies, their performance and the conduct of their members.

Four years later, a special Commission chaired by Enrique de Aldama was created to propose 'criteria and guidelines' in order to increase the level of transparency and safety in financial markets. In January 2003, this Special Commission completed its work with the approval of the 'Aldama Report'.

The conclusions of the aforementioned report stated that, in order to promote transparency, it was advisable to mention some recommendations in the regulations. Given their importance, compliance with these recommendations should not only depend on the willingness of companies.

The implementation of this idea was expressed in the Law on Transparency[2], which became the legal support for several recommendations on transparency requirements and the administrators' duty regime, especially in terms of conflicts of interest. It also states the obligation to set several mechanisms in terms of corporate governance, including a regulation from the Administration Council, a regulation from the General Board and an annual report on corporate governance.

Bearing in mind that as at the entry into force date of the Law on Transparency there were two Good Governance codes - Olivencia and Aldama - the CNMV created a single document on corporate governance. The result was a Unified Code for Good Governance, which was approved by the Council of the CNMV in May 2006.

The main features of the Spanish transparency system on corporate governance practice in listed companies can be summarized as follows:

a) The Unified Code includes binding definitions to be respected by listed companies when they report whether they are complying with the recommendations or not.

b) The Securities Market Law does not only require listed companies to annually publish an IAGC report, but it must also assign the CNMV certain competences regarding both the monitoring and promotion of the corporate governance practices and the reasonability of the IAGC contents, which are linked to a sanction regime[3].

2 Law 26/2003, of 17 July, which modifies Law 24/1988, of 28 July, on the Securities Market, and the revised text of the Law on Limited-Liability Companies, approved by the Legislative Royal Decree 15464/1989, of 22 December, in order to reinforce the transparency of listed limited-liability societies.

3 Sections 116 and 100.b (bis) of the Securities Market Law.

c) Listed companies must publish an annual report as a relevant fact, following the standard model set in the Circular of the CNMV. The format and contents of the Spanish IAGC model allow for a statistical analysis and help towards comparison. Based on this information, the CNMV makes two annual reports[4]: one on IBEX companies and another one on all the listed securities issuers in Spain.

d) An appropriate compliance with the principle of 'comply or explain' does not involve a comprehensive monitoring of each and every recommendation stated in the Unified Code, as the transparency principle it is based on complements its voluntary feature.

All the above aspects have meant a significant progress on the level of transparency regarding corporate governance practices in Spain, and consequently, a progressive improvement of these practices is expected.

4 Governance structure of Spanish limited-liability companies and corporate discipline

As we stated before, the level of transparency reached through the IAGCs on governance structure and practices in listed companies is something to be mentioned. This is reflected in the fact that most societies have included information in certain sections of the report that are not compulsory.

The following are some conclusions that can be drawn from the review of the IAGCs for the financial year 2007.

4.1 General level of monitoring of the recommendations

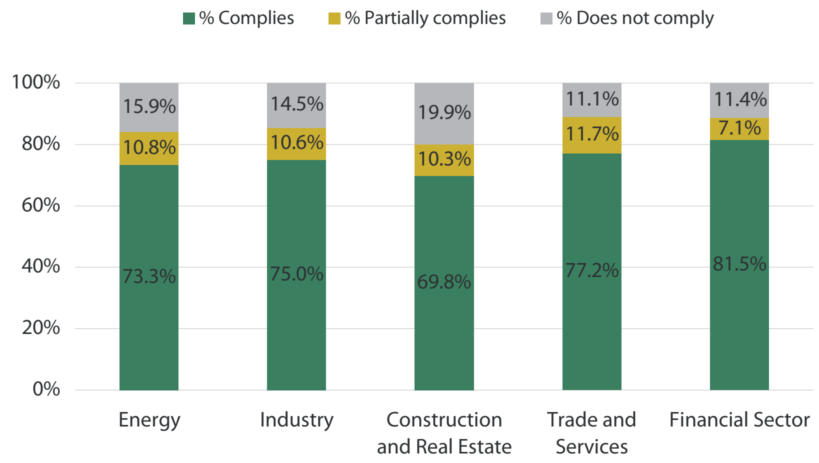
The level of monitoring of the recommendations of the Unified Code on behalf of Spanish listed companies can be considered as acceptable. In accordance with the declarations stated in the IAGCs, on an average it can be said that listed companies follow, at least, 85.3% of the 58 recommendations included in the Unified Code.

Graph 1 shows the level of monitoring of the Unified Code by grouping societies into major activity sectors. Financial entities show the highest level of compliance with the recommendations. On the other hand, companies in the construction and real estate sectors show the lowest levels of monitoring.

4 Reports may be read at http://cnmv.es/publications

Level of monitoring of the Unified Code per sector

FIGURE 1



Source: IAGC for the financial year 2007.

The level of monitoring of the Unified Code may also vary according to capitalization from companies. IBEX societies have, on an average, a percentage of defaults with the Code below half of the figure registered by societies whose capitalization does not surpass 1,000 million euros.

4.2 Features and trends in governance structures

Governance structures in listed companies are partly conditioned by their capital structure, especially by the proportion of working capital in comparison with the capital belonging to substantial shareholders and advisers[5]. In addition, the average working capital in Spanish listed companies reached 39% in 2004 and dropped to 34.9% in 2007 (44.2% in IBEX[6]).

Although a legislative modification in 2007 made stricter the definition of a substantial shareholder, as the minimum threshold of voting rights possession fell from 5% to 3%, the effect of this legislative change is irrelevant in aggregate terms. If we ignored this effect, the working capital would only increase by 1.3 percentage points in 2007.

The group of listed companies whose working capital goes above 35% declares a total monitoring average of the recommendations of the Unified Code close to 80%. The average monitoring of the remaining societies is 72%, but it shows a high level of dispersion.

5 A substantial shareholder is anyone who holds more than 3% of the voting rights of a listed company, in accordance with Royal Decree 1362/2007, of 19 October, in connection with the transparency requirements regarding the information on issuers whose shares have been admitted for negotiation in a secondary market or another regulated market belonging to the European Union.

6. The average working capital in Dow Jones EURO STOXX 50® reaches 82.95%, in accordance with data published on the web: http://www.stoxx.com/indices/components.html.

4.3 General meetings

Attendance to meetings on behalf of shareholders has been increasing, going from 71.7% of the capital in 2004, to 74.9% in 2007. This progress runs parallel to the increase in capital belonging to substantial shareholders.

One of the main advances - as well as one of the most appreciated ones - is the gradual elimination of limits to the voting rights in general meetings (there is a tendency towards the 'one share, one vote' principle). Setting limits is an uncommon practice in Spain. Fewer societies request a minimum number of shares to attend the meeting. On the other hand, there is an increasing number of societies that now offer the possibility to vote via the Internet.

Another important advance, which was used by 86% of listed companies in 2007, is the possibility of fractioning the vote at meetings. A significant number of companies have also modified their regulations in order to enable the voting rights of different shareholders who are represented by financial proxies. This practice allows the proxy to use the right of representation in a fractioned way in accordance with the instructions given by each of the clients.

4.4 The Council, its members and its commissions

The average dimension of councils has been stable since 2004 and is within the range recommended by the Unified Code. The importance of executives remains around 20%, without many changes since 2004. However, there has been a significant increase of the importance of directors representing substantial shareholders, who double the number of executives.

General supervision is the main task of the Council. In order to do so, administration must be able to study the managing team's work with objectivity and neutrality; otherwise its efficiency as a supervisor could be questioned.

The Code recommends that - in order to ensure this general supervision function - most of its members should be external advisers and that executives should represent the minimum required to attend to the information and coordination needs. Most listed companies comply with this recommendation of the Unified Code and have a vast majority of external advisers.

Nevertheless, the presence of external advisers has decreased slightly since 2004, and in 2007 the percentage was below 30%. This is also reflected in the fact that the percentage of listed companies with less than a third of independent members in their councils has increased from 50.5% in 2004 to 61.8% in 2007.

The presence of independent members in the executive Commission, the auditing Committee and the Commission for appointments and remuneration has also decreased.

Partly, this fall has come as a consequence of the implementation of a new binding definition of the Unified Code, which was applied in 2007 and led to the downgrading of some advisers considered as independent in previous years[7].

7 In accordance with the Corporate Governance Report of 2007 published by the CNMV, in 2007, 103 independent advisers were appointed, 94 resigned and 37 who had been entitled in 2006 lost their qualification.

On the other hand, even though the proportion of working capital affects the importance of the different types of advisers to a great extent, 28% of listed companies have admitted not to follow the recommendations on the proportion between the capital represented by directors representing substantial shareholders and the remaining capital.

4.5 The President of the Council

It is quite common in Spain to have the President and the first executive be the same person. This situation happens in over half of listed companies, 52.6% in 2007 against 47.2% in 2006. Nevertheless, most societies declare to have implemented mechanisms to soften any potential conflicts that this concentration of functions could create.

These mechanisms go from assigning special faculties to one of the independent advisers, as recommended by the Unified Code, to other alternatives such as the existence of a Managing Director, the formation of an executive Commission with a wide range of functions, or the chance to request the summons of the Council on behalf of several members.

Even though the Unified Code does not state anything specific on how convenient it may be to separate both figures, this represents a difference regarding the approach used in some Anglo-Saxon countries, where the president and the first executive are not the same person in most listed companies[8].

4.6 Gender diversity

The Unified Code defends that achieving a suitable level of gender diversity in Administration councils is a real acknowledgement in terms of ethics and corporate social responsibility.

The presence of women in Administration councils in Spanish listed companies is quite small, especially if compared with the most developed countries around us[9]. As at the end of the financial year 2007, the percentage of women in councils reached 7.5%, slightly above the 5.9% figure for 2004.

60.4% of listed companies admit that - at least to a certain extent - they comply with the Unified Code in terms of gender diversity. Therefore, these societies have implemented certain measures - to a greater or lesser extent - searching for possible candidates in order to cover vacancies in the Council and set the recruitment procedures suffering from implicit slants that reduce the number of female advisers hired.

8 The Spencer Stuart index for 2007 shows that in Great Britain only 2% of the listed companies analysed had executive presidents.

9 In accordance with the Spencer Stuart index for 2007, the listed companies studied in Great Britain have 11% female advisers and there is 16% in the US. In Great Britain, 73% of these listed companies have women amongst their advisers, and there is 91% in the US.

4.7 Advisers' remunerations

Since 2003, Spanish listed companies publish information on the Council's remunerations, which allows us to carry out an aggregate analysis per type of adviser and concept. It is important to highlight that in the information for the financial year 2007 we can see a moderate growth in remuneration.

Nevertheless, the recommendations from the Unified Code referring to the voting on remuneration policies at general meetings and the transparency of individual remunerations for advisers are within the set of recommendations that are not followed up as closely. Frequently, listed companies believe that it is enough with the aggregate remuneration transparency duties established in the binding regulations and do not require a higher level of unbundling.

Societies explain that the advisory vote from advisers on a report on remuneration policies has not been developed extensively enough in our legal system. Consequently, the Council approves this policy and reports to the General Board about the remuneration accrued, through the IAGC or the memorandum of annual accounts.

Nevertheless, it must be said that the recommendation from the Unified Code about the convenience of establishing technical preventions in order to ensure that variable remuneration concepts are linked to the professional development of the beneficiaries is one of the most closely followed (96%).

Remuneration policies are one of the aspects in corporate governance that most attention has raised at international levels. On the one hand, the focus of attention is on those financial entities with a greater importance in the current credit crunch. On the other hand, discussion has revolved around the systems to establish salaries, bonuses, incentives and the golden parachutes for advisers and managing directors in listed companies.

Particularly, the European Commission has revealed the problems created by the difference in assessment criteria regarding the profitability of societies, which are taken as a reference to calculate incentives, as well as the reduced transparency in remuneration policies. All this hinders the involvement of shareholders in the assessment of these policies.

In addition, some institutional investors have mentioned the need to improve transparency in this field, so that it is possible to assess the alignment between both the Council's and the investors' interests regarding the management of the listed company to be invested in[10].

10 *Hermes Corporate Governance Principles–Spain:* "We would encourage Spanish companies to obtain approval of their remuneration policy, the remuneration report, or similar compensation disclosure. The purpose of obtaining shareholder approval is to engage dialogue with investors on remuneration and to provide them with an opportunity formally to express their opinion regarding the design and implementation of a remuneration policy".
Fidelity International Principles of ownership 2008: "Setting appropriate remuneration levels is the responsibility of the remuneration committee of the board and will be a market-based judgement although all remuneration arrangements should be aligned with the interests of the shareholders…".

4.8 Internal regulations: Regulations from the Council and the Board

In many cases, societies have gone beyond the principle of 'comply or explain' and have added recommendations from the Unified Code to their internal regulations. Thus, during the year 2007, 55.5% of listed companies modified the Council regulations in order to do so. This way, recommendations are no longer voluntary and they become binding principles.

Nevertheless, it is not to be thought that it is necessary to add recommendations to the internal regulations in order to comply with them. Complying with the recommendations of the Unified Code involves following them, regardless of their addition into the society regulations.

5 Transparency of governance practices: aspects to be improved in the information included in the IAGC

Some of the most important aspects requiring a greater effort to improve the level of transparency of the information stated in the IAGCs are the following.

5.1 Transparency of the 'comply or explain' principle

In section 'F' of the IAGC model, societies must state whether they follow or not the recommendations of the Unified Code. Several problems have been found in the revision of the reports for financial year 2007.

Some of the problems come as a consequence of the recent implementation of the Unified Code, and because 2007 is the first year that societies are subjected to the new IAGC model. The lack of experience has generated some interpretation problems in the implementation of recommendations, and sometimes even a difference in criteria about the creation of IAGCs.

Sometimes, societies provide incoherent or contradictory information. Frequently, the contrasts in information from societies make us think that some recommendations that were classified as 'complied with' are not actually followed.

Although some of the recommendations are not followed, it is important to note a general effort to provide clear and precise information. A large number of societies accept the recommendations as valid but they also decide on alternative positions they deem adequate and sufficient to reach a similar objective, or they show their willingness to adapt in the mid-run.

For instance, in connection with the recommendation on the accumulation of power in the figure of a president when he is also a first executive, some societies have justified this by explaining that: 'all advisers, whether independent or representing substantial shareholders, can request summoning of the Council or the addition of new agenda items'.

An example reflecting the willingness to adapt can be seen in the following declaration: '...the person in charge of internal auditing is pending appointment, so that he/she can start adapting the control and risk management policies in the society to the recommendations...'.

In the case of declarations of partial monitoring regarding the recommendations on the transparency of the individual remunerations for advisers, many societies believe it is enough with the aggregate information provided in the memorandum.

This is also the case of the updated information on advisers that is to be included in the issuer's web page. Societies frequently believe it is enough with the annual information stated in the IAGCs and published in their web pages.

Lastly, it is to be said that some societies do not strictly follow the 'comply or explain' principle, as the explanations provided are clearly not enough and question the reasonability of the objective to be reached.

For instance: 'given the qualification, specialisation and knowledge of the Council president, we believe he does not need to be assessed' or 'we think that the fact that the adviser has stayed as an independent adviser for over 12 years does not affect his independence at all'.

5.2 Binding definition of an independent adviser

One of the main contributions of the Unified Code is the binding definition of the appointment as an independent adviser. The Code states that only those advisers complying with the minimum conditions to carry out their duties without being affected by their relationships with society, substantial shareholders or managers can be independent advisers.

The study of the level of compliance with the definition of an independent adviser in the IAGCs for 2007 has revealed some situations that could question the appointment of 34 advisers. This has made people send written requests for additional information, explanations and even the downgrading of the adviser in some cases.

Occasionally, these issues reflect a biased interpretation of the definition conditions, but most of them are caused because there are not enough control systems to make a correct assessment of independent advisers.

The most complicated aspects in the assessment of an adviser's independence lies in the business relationships with the listed company or any company in the group, whether it is done in his own name or as a substantial shareholder, an adviser or a top manager of the entity who is keeping or has kept that relationship.

5.3 Operations with related parties

In order to strengthen the level of transparency when working with related parties, listed companies are to report through intermediate financial statements, annual accounts and the IAGC about any operations carried out with substantial shareholders, administrators and managing directors, as well as about the intra-group transactions that are not eliminated in the consolidation process.

In the IAGC, this transparency requirement is limited to binding operations that are significant given the quantity, or relevant for a correct understanding of the financial statements.

The legislation does not mention quantitative limits to see if an operation is relevant or not. That is to say, societies themselves have to establish whether a binding operation is relevant and, therefore, gather the corresponding information in the IAGC.

Nevertheless, in order to present information about binding operations, societies follow very different criteria. Whereas some try to make the IAGC clearer and include comprehensive information about binding operations, in other cases the rule is interpreted in a very restricted way and few operations are indentified.

5.4 Risk control system

In the IAGCs, listed companies must describe their risk policy, assess the risks covered by the system, state whether any of the risks affecting the society have appeared, and identify the body in charge of establishing and supervising these devices.

Using as a reference the components established in the COSO Report[11], societies provide extensive information about the theoretical model on which their risk control is based. However, they do not identify the specific risks they are facing, not even the most likely ones or the ones that would have a greater impact.

Most societies do not provide enough information on the risks that appeared throughout the financial year either. Only 13.3% of societies indentify these risks.

5.5 Conflicts of interest

Advisers are to report to the Administration about any conflict they may have with the society's interests. The administrator in question must not take part in the operation causing the conflict.

The IAGC must report about situations of conflicts of interest involving the society's administrators. In the financial year 2007, only 20.2% of societies had made a precise identification of the conflicts of interest that arose with their advisers, analysed by the managing bodies.

Therefore, listed companies should make a greater effort to publish through the IAGC the conflicts of interest involving the society's administrators.

6 Conclusions

Spain has made important progress in terms of regulation in a short period of time. Although the average percentage of working capital has been reduced since 2004 and the capital structure in listed companies conditions its corporate governance practices, during the first year the Unified Code was implemented the level of monitoring of the recommendations can be deemed acceptable, especially in those listed companies with a greater percentage of working capital.

11 Committee of Sponsoring Organizations of the Treadway Commission.

It is important to mention the progress made in the chapter on general meetings and the addition of a large number of recommendations from the Unified Code to the internal regulations, as well as an increase in the importance of external advisers in the Council and their commissions, or the implementation of control systems regarding the president.

However, societies must improve the quality of the information stated in their IAGCs. More specifically, it is essential to make an improvement in the description of the risks they are facing, their potential or materialised impact and their control systems, binding operations and conflicts of interest.

In connection with the implementation of the binding definitions, a deeper study is required on behalf of the Appointment Commission, prior to the appointment of independent advisers.

Alike the rest of the countries around us, the Unified Code can be implemented voluntarily, but societies have to publicly declare their level of monitoring and, if appropriate, the reasons behind the lack of monitoring.

Actually, the Unified Code is universal, but the 'comply or explain' willingness principle is there for societies to adapt their practices and structures as much as necessary each time, and have the freedom to communicate the reasons to justify the way they act in certain fields.

Therefore, it is important both to follow the recommendations in the Code and to offer clear and concise information about the reasons or measures causing a lack of monitoring. Societies should give better explanations about the causes beneath the lack of monitoring of the recommendations in their IAGC.

7 Bibliography

Special Commission for the study of an Ethical Code in Administration Councils for Societies (1998): 'Código Olivencia'.

Special Commission for the promotion of transparency and safety in financial markets and listed companies (2003): 'Informe Aldama'

OECD (2004): *OECD principles for the Governance of Societies.*

IOSCO (2005): *Strengthening Capital Markets Against Financial Fraud.*

Institute of Advisers and Administrators (IC-A) (2005): *Principles for Good Corporate Governance and a Guide to join an Administration Council: non-executive/external adviser.*

CNMV (2006): *Unified Code for good governance in listed companies.*

CNMV (2004-2007): Corporate Governance Reports for issuing entities on securities admitted for negotiation in secondary official markets.

CNMV (2005-2007): Annual Reports of Corporate Governance in IBEX companies.

International Corporate Governance Network (2006): *Executive Remunerations Guidelines.*

European Commission (2007): *Report on the application by Member States of the EU of the Commission Recommendation of director's remuneration.*

Fundación de Estudios Financieros (2007): *Observatory for Corporate Governance and Information Transparency of Listed companies in the Spanish Continuous Trade.*

International Corporate Governance Network (2007): *Statement on Principles on Institutional Shareholder Responsibilities.*

IOSCO in consultation with the OECD (2007): *Board Independence of listed companies.*

IOSCO (2008): *An overview of the Work of the IOSCO Technical Committee.*

European Corporate Governance Forum (2007): *Statement on Proportionality.*

International Corporate Governance Network (2008): *Statement on the Global Financial Crisis.*

Spencer Stuart (2008): *Índice Spencer Stuart de Consejos de Administración (12ª edición).*

Fidelity International (2008): *Principles of Ownership.*

Hermes (2008): *Hermes Corporate Governance Principles – Spain.*

Wathtell, Lipton, Rosen & Katz (2008): *Risk Management and the Board of Directors.*

Kevin Campbell and Antonio Minués-Vera (2008): 'Appointment of female advisers and market reactions: an empirical analysis for Spanish listed companies'. Four-monthly financial analysis journal, no.106.

Instituto de Consejeros y Administradores (IC-A) (2008): *Practical Guide for the Administration Council.*

The IVSC: the challenge of developing global valuation standards

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1 Introduction

Observation of last year's events gives rise to the following question: If there had been robust valuation standards and if they had been applied globally in recent years, would the crisis have been so intense?

It could in fact be argued that in such circumstances the events of recent months would have been less extreme. This does not mean that the existence of internationally accepted and uniformly applied valuation standards can be an antidote to economic crises. Crises are inherent to economic evolution: the existence of economic cycles of varying length and severity is well known. However, the extent and seriousness of the latest crisis, whose origin should be traced to malfunction in the financial system, poses many questions related to financial stability and how it should be maintained. It is in this context that the urgent need arises to make up for the lack of quality in the valuation process of a whole range of assets and liabilities.

There are various reasons justifying the need to put into place quality valuation standards that are rigorously and universally applied.

In a global world with increasingly open markets for goods, services and capital, financial information must be rigorous, understandable and universal if markets are to function properly and the economy is to be given the conditions in which to grow. If the contrary is true, i.e. if the information is scarce, inexact or asymmetrical, the participating agents take decisions that may result contrary to their own interests. As a result, the markets become less efficient and economic resources - whether physical, human or financial - are badly allocated. In the best of cases this affects economic growth by reducing its potential; in general, it undermines the confidence of economic agents: this is in fact what happened at the start of this century with scandals such as Enron, Worldcom and Parmalat. But in the worst case scenario, defective financial information may combine with other factors to lead to periods of financial instability and economic recession. The current economic crisis is, unfortunately, a good example of this.

The need to use a common financial language in a global world has led to a wide variety of initiatives in recent years. Among the most notable are the development of international accounting standards (IAS) in the accounting field and bank solvency standards, known as Basel II, in prudential supervision. Nevertheless, the market and regulatory flaws that have surfaced in the recent financial and economic crisis demonstrate that there are still aspects on which reforms should be undertaken. In particular, there is the area of valuation.

There are numerous examples of the lack of a solid framework for valuation: problems and debates relating to the concept and application of fair value; the discussion on how to value multiple financial assets when the markets collapse; problems that have arisen in various countries relating to granting mortgage loans; conflicts concerning the valuations of companies that are initially admitted to trading, etc. In this context, globally applied IAS will be of little use if there is no clear and universally applied set of valuation rules on which to rely. Accounting standards and valuation standards are two different (though in many ways similar) sets that interconnect in various aspects.

Valuations also have multiple applications in the economy. The following are just some of these: financial reporting of all kinds of companies and mutual funds; real estate transactions; investment in a wide variety of financial assets; company transactions; securitization operations; payment of taxes and duties; financial regulation and supervision; settlement of inheritance or other disputes covering a variety of goods; and measurement of the level of collateral in public and private loan transactions. Valuations are the basis of important economic decisions taken in developed countries, where more weight is given to the concept of value than cost when making investment decisions or when measuring risk or determining solvency requirements.

This article deals with the importance of valuation and is divided into two sections. The first explains the benefits of having international valuations standards; the second deals with the role of the International Valuation Standards Council (IVSC) and its organization. Finally, by way of conclusion, it sets out the future challenges faced by the IVSC.

2 The benefits of international valuation standards

The existence of a basic set of globally accepted valuation standards would provide multiple benefits for all the world's economies. Among them are the following.

First, investment risks would be reduced. Currently, investors are obliged to take decisions in a world with many different sets of regulations. Sometimes these are inconsistent or overlap, which can generate significant costs in terms of time and effort. Applying international valuation standards would reduce this uncertainty and minimize the risks incurred by investors.

Second, it would increase the reliability and trustworthiness of financial information. Standards can help increase confidence in financial information to the extent that they increase confidence in the estimated value of assets and liabilities. Fair–value estimates are critical in many aspects of market transactions, such as the acquisition of companies or the lending used to finance it. They even have effects on financial stability. The application of independent valuations based on a set of common and internationally accepted standards is essential for constructing a reliable body of financial information that reflects corporate reality.

Another of the benefits of applying common standards is that they would improve the trustworthiness and straightforwardness of audits carried out under the International Accounting Standards (IAS). The IAS provide globally accepted standards under which valuations may be easily measured and audited. A valuation that has not been carried out in accordance with reliable standards and procedures may complicate the work of auditing or end up being rejected. This increases auditing costs and may even mean that the financial report is insufficiently precise.

Fourth, the standards would provide a more consistent analysis of portfolios and of asset valuations. In our globalized economy, there are an increasing number of actors who are active in different markets. Multinational companies need international valuation standards that provide them with an ordered process for valuing their portfolios and assets. In addition, the increasing use of complex financial instruments backed by real-estate assets (shares and securitizations) increases the need for uniform and transparent valuation standards.

Fifth, the application of common international standards would help minimize risk to the banking system. Efficient supervision of banking activity and its capital needs calls for robust valuation standards. The banking system is a basic provider of finance for economic activity around the world, particularly to large financial institutions. Thus its capacity to measure risk is critical and should be based on valuations which may be applied consistently at an international level. Basel II needs international valuation standards if it is to avoid regulatory inconsistencies that could eliminate or reduce the advantages of harmonized global banking legislation.

Sixth, the quality of valuation services provided by valuation, auditing and consultancy firms would improve. This would reduce costs by minimizing duplication, conversion and reconciliation. It would also allow more comprehensive services to be provided for clients.

Finally, the standards would enable markets and supervisors to operate properly. Securities markets need issuers of securities to provide clear and comparable financial information if they are to act efficiently. Thus the standards would contribute to achieving the basic objectives of any financial market supervisor: market transparency, correct price formation and investor protection. Obviously, the tasks of prudential supervision and solvency would also be enhanced.

In short, international valuation standards are a desirable goal for all the agents participating in economic activity and an essential part of a solid financial system that is capable of tackling the challenges presented by our global economy.

Now, the next question is: who will develop these standards? Will they be compulsory, and what degree of international harmonization can be achieved? The answer to the first question is the IVSC; in answer to the second, it would be desirable for them to be compulsory, but there is some way to go to achieve this, and the IVSC (although not alone) will also have to play a key role here.

3 The IVSC project

The International Valuation Standards Council (IVSC) was founded in 1981 as The International Assets Valuation Standards Committee (TIAVSC). It is now incorporated as a not-for-profit organization in Chicago, Illinois, although its operating headquarters are in London. Until 2007, it was called the International Valuation Standards Committee.

The IVSC defines itself as a non-profit non-governmental organization with Roster Status at the UN since 1985. Its main objective is to work in the general interest by creating and publishing valuation standards and procedural guides for asset valuation to be used in preparing financial statements, as well as promoting their acceptance and use throughout the world. A second objective is the harmonization of standards within the field of valuation at a global level.

To achieve these objectives, the IVSC works with its member states and with international organizations such as the World Bank, The International Monetary Fund, the OECD, the International Federation of Accountants, the International Organization of Securities Commissions, the International Accounting Standards Board (IASB) and other private institutions.

Membership of the IVSC is through national valuation associations and institutions representing their respective countries. These professional bodies must recognize the IVSC objectives in terms of asset valuation and have a sufficient number of members capable of carrying out professional valuations. In Spain this role is carried out by the Asociación Profesional de Sociedades de Valoración (ATASA).

3.1 The International Valuation Standards (IVS)

Since its foundation in 1981, the IVSC has published eight editions of its International Valuation Standards (IVS). The continuing development of the IVS reflects the commitment of the IVSC to ensure that the basic definitions and approach in the valuation field are always up-to-date in our changing world.

The IVS aim to provide best valuation practices, or generally accepted valuation practices, also called Generally Accepted Valuation Principles. The idea is that the non-enforceable IVS should complement the national standards of the respective member states, which are mostly enforceable.

How are the IVS structured at present?

The latest publication, IVS 2007, retains the basic structure of earlier editions. It is divided into seven sections, with a glossary and analytical index. The IVS are prepared in English[1]. The seven sections are as follows:

1 General introduction on the background to the IVSC and the IVS
2 General Valuation Principles
3 Code of Conduct for the sector
4 The bases for valuation of the different kinds of assets, i.e.:
    - real property
    - personal property
    - businesses
    - financial assets
5 Standards
6 Applications
7 Guidance notes

The standards are considered a basic and fixed part of the publication, and serve as a basis for the applications, whereas the guidance notes offer suggestions on specific matters of valuation and on how the standards should be applied in specific sectors. The guidance notes complement and extend the standards and applications.

1 There are clear advantages to having a single official version. The problem is that it has to be translated into other languages and this is not easy. We should be extremely grateful for the work carried out by ATASA and some professional Spanish-speaking professionals in the sector who have translated the IVS.

Currently there are three standards and an introduction to each. They deal with: 1) the market value basis of valuation; ii) valuation bases other than market value; and iii) valuation reporting.

The applications are also divided into three. They deal with valuation for financial reporting, valuation for lending, and valuation of public-sector assets for financial reporting.

Finally, the fifteen guidance notes are divided into four groups. The first group (with four notes) deals with the valuation of different types of property (real property, leasing, plant and equipment and personal property). The second group (a further three) includes those dealing with property or assets that are valued according to cash flow (intangible assets, businesses and specialized trading property). The third group offers guidance on the application of valuation approaches (a cost approach for financial reporting and discounted cash flow analysis). Finally, there are six more guidance notes that deal with a variety of questions (hazardous and toxic substances, reviewing valuations, mass appraisal for property taxation and historic property).

3.2 The current organization of the IVSC

The IVSC has led the development of valuation standards at a global level for more than 25 years. Its origins lie in the attempt to converge the valuation standards of the United Kingdom and the United States.

Currently, the IVSC has 61 members representing 54 countries. This figure will increase after the new IVSC is established, as described below.

Given the increasing, or even critical, importance of the valuation of goods and assets in extremely varied fields and the growing need to harmonize valuation standards, in 2005 the IVSC proposed to reform its structure in order to increase the relevance and sustainability over time of both the standards and the organization itself. Thus in September 2006 a working group was set up to identify the challenges to be tackled by the IVSC.

Specifically, it pointed out that the IVS do not have the force of law: they are only adopted on a voluntary basis, and harmonization between countries is limited; the IVSC has been operating using volunteers on loan from their respective member associations; the standards should be issued by an independent organization; the valuation profession was not properly represented at an international level; there is a growing demand for consistent definitions, standards and methodologies; and finally, that training is a basic aspect in valuation.

In April 2007 an ambitious restructuring plan was approved. This established the IVSC's mission as to contribute to the establishment and maintenance of high-quality international valuation standards and to the development of the valuation profession around the world.

The following strategic lines of action were approved in compliance with this mission.

First, it was agreed to develop and maintain an effective and comprehensive set of understandable and practical international valuation standards. This was to be done through an efficient process that balanced rigour with effectiveness, and was capable of serving the valuation profession worldwide as well as all the other interested parties. Second, it was decided to assist the development of the valuation profession worldwide; and it was also agreed that the IVSC should be the international spokesperson for the profession. Finally, it was established that the governance and operation of the IVSC had to continue to improve.

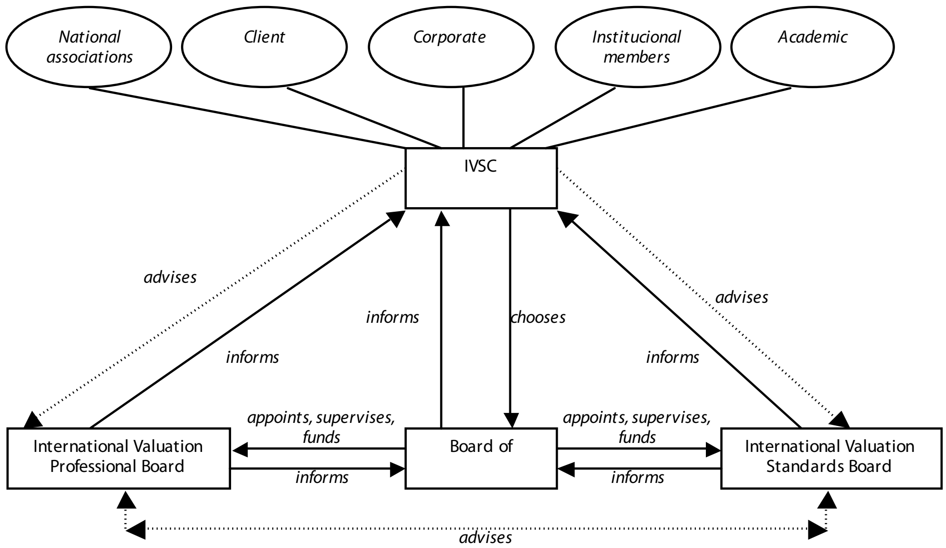
The structure of the IVSC was modified to achieve these aims. The basic changes introduced can be summed up as follows:

- The IVSC acronym was maintained, but instead of a Committee it became a Council.
- The criteria for membership were extended beyond the national valuation associations. It now includes valuation service clients, corporate members, institutional members (public bodies) and academic members (universities).
- A Board of Trustees was also created to oversee IVSC funding and strategic planning. However, it is not involved in the technical aspects of the standards.
- It was agreed that the Standards Board (IVSB) would be an independent decision-making body. The IVSB is responsible for preparing the IVS and associated details. All decision-making involves a broad process of professional and public consultation with all the interested parties (regulators, professional associations, companies, etc.).
- An International Valuation Professional Board (IVPB) was also created to develop guides for good practices. The role of the IVPB is crucial, not only as a way of ensuring compliance with the IVS but also to organize and develop the valuation profession in all countries, particularly those in which standards are still far from acceptable.
- It was decided that the funding of the IVSC should come from three different sources: membership fees; income from sales of the documentation related to the IVS; and, most importantly, sponsors.
- Finally, it was determined that transparency would be a priority for the institution. Thus the agendas and minutes of most of the meetings of the IVSC boards will be made public. The processes of public consultation will also be given more dissemination.

Figure 1 shows the current IVSC structure.

Structure of the IVSC

FIGURE 1



Source: IVSC.

A Provisional Board of Trustees was in place from February 2008 until the General Assembly held in Kuala Lumpur in October 2008. It was responsible for supervising the IVSC restructuring process and completed its work with the appointment of members of the Board of Trustees, of the IVSB and the IVPB[2].

The first intense and productive meetings of the new boards were held between 21 and 23 January this year in London. They were aimed at achieving solid and internationally accepted IVS, thanks to the reconstituted IVSC.

3.3 The challenges ahead for the IVSC

Finally, it is worth pointing to the main challenges ahead for the IVSC and to indicate the situation in Spain.

a) More precise definition of the standards

International standards of any kind suffer from the intrinsic difficulty of having to establish minimum but demanding levels to serve as a reference around the world. At present, in the field of valuation, the IVS are a set of very basic valuation principles that can be applied in any economic system. However, the world economic system urgently demands a more precise definition of many aspects of the standards: for example, the valuation of financial instruments in markets where there is little or no liquidity.

b) Harmonization

Although important steps have been taken to create a set of core global valuation standards, the goal of providing different countries with international standards of reference that can be reflected in their own legislation is still some way

2 The IVSC website (www.ivsc.org) provides information on the composition of the boards, as well as the current valuation standards, guidance notes and applications during the period of public consultation, etc.

away. In some countries, such as Spain, legislation in general complies with, complements and adapts the IVS to the idiosyncrasy of its economic system, and thus gives them a firm foundation. However, neighbouring countries such as France and Italy, or other markets with close links to ours, such as Argentina and Colombia (to cite just a few examples) only have a few unconnected laws in place and/or laws that are not yet sufficiently founded on the IVS. This gives rise to significant difficulties in terms of comparing valuation reports. The IVS should be firm and clear if national regulations are to achieve a high level of harmonization[3].

c) Professionalism

A key aspect in the effective application of a set of high-quality universally applicable valuation standards is the presence of valuation professionals and firms with a high level of technical and ethical preparation. Spain is not badly prepared in this respect thanks to its model of valuation firms. Under this model, the firms are obliged to invest in training, research and development and extend the scope of their work beyond the real-estate world. In addition, the Spanish legislation on valuation establishes requirements for harmonization, independence, incompatibility and secrecy that are applicable to both professionals and the firms responsible for the valuation work.

d) Regulation and supervision

As has been demonstrated by this crisis, self-regulation may be necessary, but it still does not ensure that the markets function properly. A reasonable level of regulation is required in the field of valuation. Supervisory bodies have to exist to ensure that the rules are complied with and to sanction behaviour that breaches these rules. In Spain, although the supervisory activity of the Bank of Spain, the CNMV and the General Directorate of Insurance and Pension Funds could be improved, it has laid foundations in the sector that are still lacking in other countries.

e) Relationship with multilateral bodies

If it is to tackle all the challenges outlined above, the IVSC will have to reinforce and expand its contacts with other international bodies. Among them are the OECD, the World Bank, the International Monetary Fund, the Financial Stability Fund, the Bank for International Settlements and the European Commission. In particular, the IVSC should work with the IASB, the IFAC (International Federation of Accountants) and the IOSCO. There is much work to be done on this front.

f) More active participation in public dissemination and the public consultations on the IVS

The IVSC should become increasingly involved in the public consultations organized by the bodies mentioned above as a way of making questions related to valuation better known. But it should also aim for greater participation in the consultations that it organizes itself, which will obviously become more numerous in the future.

3 I hope that the day is not far of when, for example, the European Union approves a Directive based on the IVS, such as that by which the EU implemented the IAS.

4 Conclusions

Throughout this article the aim has been to show the importance of valuations in the modern world and the urgent need to have a set of robust and internationally accepted valuation standards. At the same time, it has been a presentation of the IVSC, which it considers the best organization to carry out this task, having led the development of valuation standards around the world for more than 25 years.

There are a number of challenges faced by the IVSC if it is to meet its objectives. The IVSC has carried out an important restructuring plan to strengthen the institution and give it the infrastructure it needs to be able to contribute to the establishment and maintenance of quality international valuation standards and to the development of the valuation profession around the world.

For these objectives to be achieved, the IVSC now has to carry out the difficult and challenging task of extending its mission, vision and activities. Obviously, the way ahead for the IVSC is not easy. Financial and human resources are required. Above all, there is need for determined will and hard work on the part of professionals in the world of valuation, their clients and public bodies to bring the project to a successful conclusion. Nevertheless, the task of the IVSC appears clearer in the light of the lessons that are being learned from the economic crisis. The benefits to be gained by all from achieving these objectives are worth the effort. As we well know, regulators around the world have given the matter pride of place in their agendas.

5 Bibliography

International Valuation Standards (IVSC), 8th Edition, 2007 (ISBN. 978-0-922154-94-4)[4].

4 This is the official version in English. The Spanish version is available on www.atasa.com

The Spanish securitization model: an institutional-legal approximation

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1 Introduction

When Act 19/1992, of 7 July, was passed in the summer of 1992, on the Regime of Real Estate Investment Companies and Funds and Mortgage Securitization Funds, few people imagined the huge development of securitization which would take place in Spain. The regulation of Mortgage Securitization Funds (hereinafter MSF) was introduced into this Act with no publicity, via an amendment in the Senate and after overcoming considerable incomprehension within the Administration itself.

Its success is due to different reasons, in particular the prudent action of financial institutions, which principally saw in securitization a mechanism for refinancing which maintains the customer relationship and which contrasts with the opposing model, which has been called "origination/distribution"[1]. The supervisory practice and regulation of the Bank of Spain has also been very important, and clearly favoured prudent use of securitization, propitiating its primary use as a refinancing mechanism[2].

The thesis propounded in this work is that the success of the Spanish securitization model is also due, to no little extent, to the institutional-legal configuration of the model itself, meaning its structural architecture and particular legal regime. In this context, the role of the CNMV has been of key importance. Propounding it is perhaps particularly necessary in these times of financial crisis, when securitization has been labelled as one of the principal factors responsible for the crisis. We can also refer here to "bad", in a certain manner abusive, securitization, compared with prudent and well regulated "good" securitization.

It is important to emphasise that prudential-accounting standards and substantive legislation, although operating on different planes, should not provide for solutions which are objectively contradictory; fortunately, the conflict has not arisen in Spain. From a different perspective, the predominant use of securitization in this country as a refinancing mechanism should not mean that supervisory practice also prevents its "traditional" use as a mechanism for balance sheet management and for maximisation of use of own funds, complying of course with all applicable regulatory requirements.

Defence of the model should not prevent us from observing its deficiencies and possible improvements, which will be examined later on. From the jurist's perspective, not only the value but also the clear limitations should be recognised of recourse to regulation when trying to give form to any financial reality and particularly one so dynamic and global as securitization.

Furthermore, even though two different regulations are still maintained, one being Act 19/1992 on mortgage securitization, and the other being that under Royal

1 See Roldán (2007).

2 See Catarineu and Pérez (2008).

Decree 926/1998, of 14 May, on Asset Securitization Funds (hereinafter ASFs), the exposition in relation to them strives to be uniform for the two modes, except where it is essential to distinguish between them.

The intention of this work is to provide a general exposition of the securitization model from the viewpoint referred to, avoiding digressions into the legal nature of the different institutions, with few citations and in language as simple as possible.

After describing the general characteristics of the model in the first section, the second section deals with what could be called security factors, which evidence the prudent nature of the legislation adopted. The third section refers to the flexibility of the model, compatible with its security, and the fourth points out aspects which in the opinion of the author require improvement. Some brief conclusions are finally set out.

2 Characteristics of the model

2.1 A regulated model

The regulation of securitization in Spain began with Act 19/1992, relating solely to mortgage securitization, and then later, after Royal Decree 926/1998 regulating ASFs (hereinafter the RD) it was extended to the securitization of assets of all types.

The regulatory option is that followed by the majority of continental European countries, as we were recently reminded in this same publication by López Blanco (2008). The regulatory solution contrasts with that followed in the USA or UK, where securitization rests on areas of Common Law, and particularly the law applicable to trusts.

The regulation is a response to a need, but in turn in itself constitutes a virtue. The promulgation of specific legislation was a strict necessity since, due to the peculiarities of our legal system, the following key elements of any securitization must be regulated by legislation with the ranking of an Act, as was the case with Act 19/1992:

a) The unassailability of the legal operation of incorporating assets into the fund and its configuration as a genuinely separate net worth (bankruptcy remoteness), except for the application of general insolvency rules.

   This was achieved by adding a paragraph to Section 15 of Act 2/ 1981, of 25 March, on regulation of the Mortgage Market (hereinafter MMA) relating to the mortgage securities (hereinafter MSs) making up MSFs. I will return later to the technical solution for insolvency protection which was adopted.

   Furthermore, the configuration of funds by law (Section 5.1 of Act 19/1992) as a separate net worth also involves the necessary non-consolidation with the originating body.

b) The - actually essential - tax exemption of the returns on MSs which constituted income of MSFs, reforming the now repealed Act 14/1995, of 29 May, on the fiscal regime of certain financial assets. The exemption was then extended to other income and to ASFs.

Adopting a basic regulatory framework for securitization has a clear virtue moreover, since it reinforces legal certainty and investor protection, particularly necessary when dealing with a financial phenomenon which, although useful, is not free from risks.

2.2 Flexibility and prudence of the regulation. Its progressive nature

The regulation of securitization in this country, even after promulgation of the RD, is not very extensive but deals sufficiently with key aspects.

The legislation leaves a wide margin for operations to be designed as preferred, particularly in relation to credit enhancement (it suffices to read Section 5.7 of Act 19/1992). At the same time it is a prudent and secure regulation, in which the important fiduciary function of the manager and supervision attributed to the CNMV stand out. The prudent nature of the regulation is also evidenced by the abundance of authorisations (never used) contained in Act 19/1992 for the possible regulation of multiple matters, which even relate to the minimum size of MSFs, a manifestation of arbitrary action which involuntarily reveals the mixture of hope and mistrust with which securitization came about in our country. These features of security and flexibility are dealt with in following sections.

The regulation is also progressive in the sense that it evolves over time. Based on an initial point at which MSs could only be securitized by means of closed funds, with the RD securitization became allowed of all types of assets, with provision for open funds. After Ministerial Order 3536/2005 future credit rights can also be securitized. Also pursuant to Act 62/2003, of 30 December, the legal "hook" was also introduced for synthetic securitization. This progressive nature can also be seen as a further manifestation of the prudence of the regulation.

2.3 Securitization and economic policy

The regulation of securitization in this country has been considered not only as a pure financial instrument but also (and at times principally) as an expedient in the service of certain economic sector policies. This can be inferred from:

- The preamble of Act 19/1992 itself, according to which MSFs (which were regulated, it should not be forgotten, together with real estate funds) "will contribute to lowering the cost of housing acquisition loans".
- Royal Decree–Act 3 /1993, of 23 February, and then Additional Provision V of the Act transposing the II Banking Directive (Act 3/1994, of 14 April), authorised the Government to extend the securitization of MSs to the securitization of loans "related to the activities of small and medium sized enterprises".
- Additional Provision VIII of Act 40/1994, of 30 December, on Regulation of the National Electricity System, relating to the securitization of the so-called nuclear moratorium.
- Section 2 of the RD itself, which considers the rights of concessionaires to collect motorway tolls as future credit rights which can be securitized.
- At another level, the regulation should be mentioned of the State and of some

Autonomous Regions relating to guarantees of funds which securitize loans to SMEs.

2.4 Subjection of securitization to legislation on public offerings and issues

One clear success of the Spanish regulation is that it accorded primary consideration to securitizations as a mode of securities issue - as complex and sophisticated as they may be.

The legislator deliberately departed from other models in our environment, and particularly from the French model, in the belief —which has in general terms turned out to be correct— that integrating the new legislation on securitization into the general legislation on issues would facilitate greater agility and flexibility, both in its configuration and administrative verification (Section 5.2 of Act 19/1992 and Section 5.2 of Royal Decree 926/1998, amongst others).

Neither the expression "funds" nor the existence of specific managers, nor even extension of the model involved in ASFs and the fact of permitting open structures, can lead to considering securitization funds as a collective investment formula which converts bondholders into participants instead of creditors of the fund, not giving rise to genuine co-ownership of the assets.

3 Security factors

In this section we have referred to a series of aspects of the regulation which have notably contributed to the security and reliability of our institutional securitization model, in accordance with the idea of prudent regulation.

3.1 The concept of the fund manager

The existence and functions attributed to securitization managers constitute the key element in our model.

It was a good decision to create specialised securitization fund managers (a further manifestation of the few similarities with CIUs) and subject them to supervision by the CNMV. It was furthermore particularly correct to attribute to them, together with the obvious functions of design, constitution and administration-representation of funds, an explicit fiduciary function of representation and protection of bondholders, in the manner of the third party business manager (Section 6.1 of Act 19/1992 and Section 12 of the RD).

The fiduciary functions of the manager make the figure of the depository, inherent in CIUs, pointless, all the more so when the custody of securitized assets is retained by the originator.

The scant initial regulation was clearly enhanced and improved by Chapter II of the RD, devoted to managers of ASFs, with all managers subjected to the regime it contained.

The small number of managers, the highly qualified nature of their shareholders, the requirements for their authorisation and the effective supervision of the CNMV have likewise contributed to reinforcing their importance to our securitization model. Experience has further demonstrated that the initial fears regarding managers controlled by financial groups were unfounded.

3.2 Security of assets capable of securitization

The very secure nature of MSs in itself has without doubt contributed to giving solidity to securitization funds and specifically to MSFs. As is well known, only loans can participate which fulfil all of the strict requirements of Section II of the MMA (first mortgage, high loan to value, damage insurance, etc.). These loans are the antithesis of the so-called subprime mortgages.

With the appearance of Mortgage Transfer Certificates (MTC) and, above all, the regulation of ASFs, this characteristic became somewhat blurred, but the RD (Section 2) at least expressly requires that the transferor has audited accounts for the last three financial years, with a favourable opinion in the third, and that they are deposited with the CNMV, which will also publicise them.

The requirement that assets are of uniform nature (Section 2.1 of the RD) leads in the same direction, although it removes some flexibility when structuring funds. The CNMV has in any event interpreted the requirement with flexibility, but greater specification at a regulatory level would be desirable.

3.3 Retention of loan servicing

By mandate of law, in the case of MSs, and in any event in response to a specific banking model, in Spanish securitizations the originator retains administration of the loans assigned. This is a precaution of particular importance. Furthermore - in consistent manner - the regulation of the Bank of Spain does not in principle consider this retention as an impediment to effective transfer of risk (e.g. Rule 56.1 of Circular 3 /2008, on solvency).

Compared with an "origination/distribution" model, very common in the US mortgage market, in Spain the originator - as previously recalled - does not "wash its hands" of the securitised loan and strives to maintain and enhance its customer relationship. This involves particular diligence when granting loans (rigorous credit scoring, which is combined in the case of MSs with the requirements already laid down by the MMA) and then special care in their management, including in contentious situations.

The very widespread practice of the institution retaining the most subordinate tranches, and in recent times even all series since markets demand unacceptable prices, points in the same direction, even though it is a very different phenomenon, with the securities principally serving as collateral in order to obtain financing from the European Central Bank. The counterpart is found in that these securitizations are not always considered as true transfers of risk from the point of view of accounting and own funds standards of the Bank of Spain (see Catarineu and Pérez, 2008).

More recently, the Larosière Report on prudential supervision also advocates that the originator of securitizations should retain a meaningful amount of underlying risk (Recommendation 8). In any event, as already mentioned in the Introduction and as can apparently also be inferred from the Larosière Report, supervisory practice, if all regulatory precautions are complied with (amongst which the retention of servicing by the originator has particular importance), should not close the door to securitizations which do not have the sole or principal aim of obtaining financing.

3.4 Insolvency protection of securitization funds

One essential requirement of securitization is that the vehicle created is bankruptcy proof, or bankruptcy remote, and therefore that the hypothetical insolvency of the originator does not affect it in any way.

In Spain, Act 19/1992 added a final paragraph to Section 15 of the MMA, the wording of which is maintained today in virtually identical terms, having simply adapted the terminology to the new Bankruptcy Act (Act 22/2003, of 9 July).

The solution of the Spanish legislator treats the legal transaction of transfer of assets to the fund by the originator as unassailable in the event that the latter enters insolvency, attributing a right of separation to the fund. The insolvency privilege ceases in the event that the insolvency administrators demonstrate the existence of fraud in creation of the encumbrance. Furthermore, even in cases of fraud ("in any event" is the expression used), the Act leaves "the rights of third parties in good faith unaffected", amongst whom the first would clearly be the bondholders. Consequently, from a substantive point of view our securitization funds enjoy a degree of bankruptcy remoteness which is genuinely high and the regulation in this respect is also substantively certain.

On the other hand, the manner of formally articulating the privilege seems subject to considerable criticism. The privilege in the MMA is established for MSs via reference to the regulation of mortgage loans (Section 10) which can serve as collateral for the securities regulated by this Act. In the case of ASFs, the privilege is not contained directly in their own regulation but by new references to the regime of MSs and of mortgage securitization (Additional Provision V.4 of Act 3/1994 and Section 1.2 of Royal Decree 926/1998). This is an unnecessary complexity, perhaps explicable in 1992 but not almost 20 years later, and which affects what is perhaps the most important element of any securitization process.

At another level, it would be desirable that the privilege also operates as against any other entity in respect of which the securitization fund has a creditor position, although it should be recalled that Section 71.5 of the Bankruptcy Act already protects "ordinary acts of the business (...) activity of the debtor carried out under normal conditions". Finally, it would also be desirable, with a view to improving the security of future credit right securitizations, for some modulation of Section 61.2 of the Bankruptcy Act which limits the generic powers which it attributes to insolvency administrators to terminate contracts of the insolvent entity when it turns out that these contracts are precisely the originators of the future credit rights which were securitized.

3.5 Control by the CNMV over the asset transfer process

We saw previously that making the creation of funds subject to legislation on issues clearly constituted a good aspect of the regulation, with the role of the CNMV acquiring particular importance.

Within the verification process it is clearly positive that the legislation requires an audit of the assets which in some manner evidences "their existence, ownership and condition". This requirement was initially somewhat questioned, principally as a result of considering it unnecessary since the rating agencies are already involved, but practice has demonstrated its great utility and today it would be difficult for us to conceive of securitizations without audit reports. The RD has made the regulation more flexible, allowing other qualified experts or even the manager itself to issue the reports, and even providing that the CNMV can dispense with them (Sections 5.1.c and 8). In practice, however, reports prepared by auditors have continued to be used virtually universally, which seems most correct.

The RD furthermore expressly provides for the possibility that the CNMV may require both additional reports in order to compare those initially provided, and their updating in the case of new assets which are incorporated in open funds.

3.6 The deed of constitution of the fund

The legislation highlights the role of the deed of constitution of the fund, which also serves to formalise the transfer of assets.

Although the involvement of the CNMV and the concept of the prospectus in themselves already give considerable security to the securitization process, the involvement of a notary at the starting point of the fund and configuration of the deed as its authentic "fundamental law" (Section 5.2 of Act 19/1922 and Section 6 of the RD) continue to be positive aspects.

3.7 Information obligations

Managers must provide the CNMV with annual accounts and audit report of the funds which they administer (Section 5 of the RD). Nevertheless, there has been insufficient development of this provision, which will be rectified by a specific circular. By inclusion in the prospectus and with increasing rigour a duty is also imposed on managers to report on all contingencies of the funds which they administer.

3.8 Other factors

The requirement of a rating for issues, the necessary representation of securitization bonds by book entry and obligatory listing on regulated markets also serve to reinforce their security.

In relation to ratings it is particularly positive - in the light of what has been happening in recent months - that the CNMV has not allowed itself to be blinded by ratings with many As and drop its guard in its verifications.

4 The flexibility of the model

The fact that our securitization model has various features which also make it particularly secure from the institutional-legal perspective does not prevent its regulation at the same time being fairly flexible and open, as shown by the factors set out below:

- Subjection of the verification of securitization funds to legislation on the primary securities market means that the principle of freedom of issue also applies here, with everything inherent therein (Section 25 of the Securities Market Act).
- Act 19/1992, in Section 5 (paragraphs 6 and 7), expressly recognises the freedom of managers in the broadest terms to configure funds in the manner they consider most desirable and also to resort to credit enhancement mechanisms as they consider most appropriate (along the same lines, Section 6.1, letters b and c, of the RD).
- In accordance with what has been called the progressive nature of the model, after overcoming an initial phase when there could only be mortgage securitization, the following is now possible after promulgation of the RD:
  - To securitize any loan or credit right included in the assets of the transferor, which also need not be a credit institution. Neither is there any express prohibition on securitizing loans granted abroad.
  - To securitize future credit rights, with Ministerial Order 3536/2005 setting out a very broad range of cases.
  - To use open securitization structures, in their three modes of funds open by liabilities, by assets, or by both sides of the balance sheet. The successive incorporation of new assets is regulated with considerable flexibility.
  - To have recourse to synthetic securitization, introduced by Section 97 of Act 62/2003, with its prudential implications for credit institutions now dealt with in the new solvency regulations (Bank of Spain Circular 3/2008).
- Non-application of commercial legislation on the issue of debentures and no need for registration of funds in the commercial registry.
- With respect to ASFs, the possibility for the CNMV to give particular dispensation from many of the requirements for their constitution, especially when placement is restricted to institutional investments (see Section 10 of the RD for these purposes).
- Open nature of the grounds for extinction of funds (Section 11 of the RD and Section 5.3 of Act 19/1992, and the express reference to early repayment of the fund when less than 10% of the MSs remain does not imply a prohibition on including other grounds in the deed).
- Reduction of notary fees in relation to the constitution of funds and facilities for the transformation of MSF managers into “universal” managers (Additional Provision II and Sole Transitional Provision of the RD).

5 Necessary improvements

After the positive functioning of our institutional-legal securitization model, it would be mistaken to propose its replacement or radical changes to it. Nevertheless, there is room for many improvements, some of which have already been mentioned. Considerable suggestions for reform have been made by the industry, particularly those transmitted by the European Securitization Forum (ESF) to the Treasury and to the CNMV[3].

The following matters should at least be improved:

- The twin legal regime to which securitization is subject should be fundamentally eliminated and a single regulation created which covers mortgage and non-mortgage securitization.
- It should be possible to transfer mortgage loans to securitization funds, reflected in the Land Registry, but at minimum cost and by a highly simplified registry mechanism, without having to resort to concepts such as MSs (and also the MSC), very useful at their time but now dispensable due in particular to their complexity. Nevertheless, the new regulation should propitiate the retention of servicing by the transferor, as has happened up to now.
- There should be clearer regulation of the regime of actions open to bondholders, managers and transferors of assets in the event of default in payment or non-diligent action by some of the parties involved. The abuse in resorting to multiple legislative references, reaching a peak in the MMA Regulations (Royal Decree 685/1982, of 17 March, hereinafter MMR, although on the point of being replaced by a new regulation which will not make changes in this respect) in respect of MSs (Sections 65 and 66), gives rise to unnecessary complexity. The lack of legislative clarity at times gives rise to the inclusion in prospectuses of Common Law solutions which do not always fit in with the binding provisions of the MMR.
- As already mentioned, it would be desirable in future legislation on securitization to regulate the questions of insolvency and bondholder protection directly without the need to resort to legislative references. The substantive regulation would be similar to the existing (exclusion of rescission actions), but as already stated it should also include rules relating to the insolvency of the parties involved other than the transferor, and with a view to strengthening the security of future credit right securitizations, limiting the powers of insolvency administrators to alter the contracts originating these credit rights.
- Although it is something which managers have learnt to live with, there is no logic in securitization funds being taxed at the general Corporate Income Tax rate. A solution of fiscal neutrality (or quasi-neutrality) should be adopted such as that provided for CIUs.
- Regulation is lacking which introduces greater flexibility when modifying the deed of constitution of funds. The literal wording of Section 5.3 of Act 19/1992 ("after execution of the deed [...] no alteration may be made other than in exceptional cases and subject to the conditions established by regulations") constitutes a genuine obstacle for the purpose, in the absence of any regulatory

3 Letters of November 2005.

development. It would have been desirable when drawing up the RD to have included a specific section on the modification of funds, as included in Section 11 for their extinction. It appears that the problem will be resolved separately by incorporating an amendment to one of the financial acts which are currently being processed.

- In any event, the modification of funds should only be permitted on limited and defined grounds. In our securitization model there is no room for active, open and dynamic management of assets, which is rather more inherent in a CIU. Even in open ASFs incorporations are made in predetermined stages, with provision for initial establishment of their lifetime and maximum amount (Section 6.2b). This is compatible with the establishment of rules for substitution and rectification (Section 5.2.1 of Act 19/1992 and Section 3.2 of the RD) which permit a certain active but purely "defensive" management by the manager.
- The RD, in Section 1.1, introduces two concepts which do not appear to be totally correct, principally because they introduce confusion in the model.
  - Firstly, permitting securitization funds to include in their liabilities up to 50% of bank loans, treating them as a normal liability in the same way as securitization bonds, contradicts the primary nature of funds in our model as issues, which if called "securitization" this is not by chance. A different question is the flexible recourse which the legislation permits and the CNMV blesses to bank financing as an instrumental technique of credit enhancement and in order to facilitate the design and placement of issues. Having made this clear, it would not appear to be a bad thing for future legislation expressly to permit a broad use of bank bridging financing until market conditions permit placement of the issue. In this context, the requirement of "financial neutrality" could also be the subject of limited revision.
  - Secondly, contributions with entitlement to the surplus, conceived for institutional investors, have been shown to be unnecessary since the more subordinated bonds fulfil their function.
- The accounting treatment and periodic information of securitization funds is, as seen, also insufficient, although this will be resolved with the new CNMV circular.
- Furthermore, the penalty regime applicable to securitization managers could be criticised as insufficient, which provides no more than three specific definitions (Section 6.3 of Act 19/1992). Although the penalty regime of the Collective Investment Undertakings Act (now Act 35/2003, of 4 November) is declared to be of supplementary application, there is no doubt that the conduct defined by the Securities Market Act and relating to failure to comply with Title III, Primary Market (i.e. Section 99.n) also constitute infringing conduct. Possible future regulation should pay more attention to the matter.

There are other aspects of the current regime which have also received some criticism but whose reform does not appear to be necessary (or at least a priority). We could mention the following points:

- The confusing legal nature of securitization funds, which are difficult to fit into any known institutions (investment funds, communal property, etc.), should not be a concern insofar as they are legally regulated concepts which have functioned correctly.

- It does not seem desirable, as indicated, to eliminate the requirement of uniformity of assets, but to set it out in better legislative terms and continue to interpret it broadly. Neither are securitization funds with compartments necessary, since this is a solution inherent in investment funds which does not fit into our model, and furthermore does not give rise to large economies when creating specific funds. It is a different question that future regulation should specify and develop possible use of so-called mixed funds or compartmentalised funds, already allowed by the CNMV (in a legally irreproachable manner) and referred to in Bank of Spain Circular 3/2008. Indeed, one of the advantages of our model is that it consecrates a very broad freedom when designing securitization structures (with their characteristics obviously having to be necessarily reflected in the deed) and in this respect, whilst respecting the final unique asset nature of the fund, rules of imputation/priority can be articulated as desired.
- Finally, neither does it seem appropriate to tone down the requirements established by Sections 62 of the MMR and 2.2.b of the RD, respectively, in order for MSs and other assets to be incorporated into a securitization fund (full and unconditional assignment, no grant of guarantees, etc.). Independently of the fact that accounting and solvency standards of credit institutions promulgated by the Bank of Spain (now contained in Circulars 4/2004 and 3/2008) have for their part established very strict requirements for securitizations, from a substantive viewpoint (i.e. institutional-legal) securitization must be articulated on an unequivocal assignment of assets without the assignor being responsible for more than their servicing (since the latter is considered highly desirable). The solution adopted by our legislation is the most consistent with the nature of our securitization funds as a separate net worth, not subject to consolidation and bankruptcy proof.

6 Conclusions

The fact that securitization in Spain has functioned correctly is to a large extent due to the prudent conduct of financial institutions and consecration of a "originate and maintain" banking model. Accounting and solvency standards promulgated by the Bank of Spain and its efficient supervision have also been decisive factors.

The institutional-legal framework, on which this work focuses, must also be positively assessed since it has substantially contributed to the success of securitization. For its part, the CNMV has adequately carried out the important role attributed to it by legislation.

Within the existing strict regulatory framework, however, securitizations should not be prevented which do not solely or principally seek to obtain financing for the originator.

The Spanish regulation is characterised by combining the features of security and flexibility, and therefore the scope of securitization has progressively broadened.

From the institutional-legal perspective the positive assessment of the regulation does not prevent recognising its deficiencies and seeking its correction. The deficiencies affect the systematics and structure of the legislation more than the substantive quality of the basic elements of the model.

Certain improvement measures are proposed in the body of this work, which include adopting a common legislative framework for mortgage and non-mortgage securitization. A desirable future Act would serve to eliminate the confusing legislative references which now exist and update and improve the current regulation.

Other aspects capable of improvement relate to the assignment of mortgage loans, the tax and penalty regime and the regulation of grounds for modification of deeds of constitution of funds.

7 Bibliography

Catarineu, Eva and Pérez, Daniel: "La titulización de activos por parte de las entidades de crédito: el modelo español en el contexto internacional y su tratamiento desde el punto de vista de la regulación prudencial". Bank of Spain, *Estabilidad Financiera*, no. 14, May 2008.

Larosière, Jacques: "The high–level group on financial supervision in the EU: Report". European Commission, 25 February 2009.

López Blanco, Elías: "Overview of securitisation in Europe". CNMV, *Quarterly Bulletin*, no.3, 2008.

Losada López, Ramiro: Estructuras de titulización: características e implicaciones para el sistema financiero. CNMV, monograph no. 14, 2006.

Roldán Alegre, José María: "El papel del modelo originar para distribuir en la crisis financiera del 2007". Bank of Spain, *Estabilidad Financiera*, no. 15, November 2008.

III Regulatory Novelties

The new Circular on Collective Investment Undertaking categories based on their investment vocation

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1 Introduction

The Collective Investment Undertakings Act, 35/2003 of 4 November (hereinafter the CIUA) made provisions for strengthening investor protection as one of the basic principles of regulation of these undertakings. Reinforcing transparency obligations was considered an effective means of achieving greater investor protection.

In order to comply with this principle of transparency, the CIUA provides, in Section 30, that collective investment undertakings will have to define their investment vocation in such manner that investors are accurately aware of the category to which the undertaking belongs. In turn, the CNMV is authorised to establish categories of collective investment undertaking based on their investment vocation, taking into account the assets covered by Section 30 of the CIUA.

This article examines the contents of CNMV Circular 1/2009, of 4 February, on categories of CIU based on their investment vocation. This circular has the objective of improving the information provided to investors.

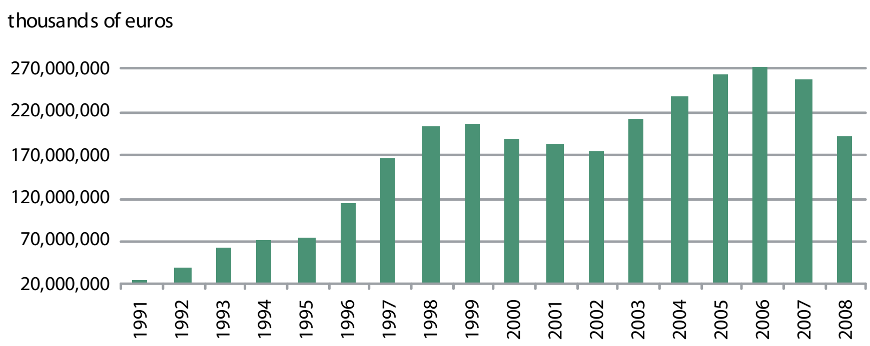
Over the course of this article CIUR means the Regulations in implementation of Act 35/2003, promulgated by Royal Decree 1309/2005, of 4 November, and CIU means collective investment undertaking.

The article is structured as follows: the second section deals with the evolution shown in the investment vocations of CIUs, section three sets out the objectives sought by the Circular, section four deals with each of the investment vocations set out in the new classification, and section five reviews the existing situation in other surrounding countries in relation to the category classification used. Finally, section six sets out the principal conclusions of the article.

2 Evolution of investment vocations of CIUs

The evolution recorded in the assets of investment funds has to a large extent determined the initiatives taken to modify the investment vocations into which funds can be classified. Figure 1 illustrates this generally increasing evolution, with two periods of reduction in assets, at the beginning of the century and at the present time.

Volume of assets of investment funds 1991–2008 FIGURE 1



Source: CNMV.

Different stages can be distinguished in the evolution of CIU vocations over time.

A first stage (1989–1999) in which there was no substantial volume of assets nor high number of holders. In this context, the number of vocations was reduced, distinguishing between fixed income, mixed fixed income, mixed equity and equity.

A second stage (1999–2001) in which the industry now showed greater development. In order to contribute to greater transparency of investor information, criteria were established to classify investment funds in accordance with their investment vocation. 15 categories were distinguished which could be divided into the following groups:

- "FIAMM" (money market fund): investing in fixed income and very short term monetary assets.
- Fixed Income: investing in fixed income with a different portfolio duration.
- Mixed: funds with a different percentage of their portfolio invested in fixed income and equities and different currency risk.
- Equity: investing a large majority of their portfolio in equities and which could have exposure to different markets: national, euro and international.
- Global: funds with no precise definition of their investment policy and which do not fit into any vocation.
- Guaranteed: which could be fixed income or equity depending on whether they guaranteed a fixed return or an amount linked to the evolution of equity or currency instruments.

Finally, there is a third stage (2002–2008) in which, amongst other aspects, the equity vocation was broken down in a more detailed manner based on the geographical area in which the CIU invests. In 2002 a classification was established comprising 19 vocations which aimed to achieve more uniform categories in terms of the level of risk assumed by the funds included in each vocation, and which to a certain extent enabled investors to make comparisons between the behaviour of funds grouped under the same investment vocation.

Furthermore, during this period (in November 2005) the CIUR came into force, introducing major changes in the collective investment field, such as disappearance of the "FIAMM" category. As a result of this there has been a change in the existing classification of vocations.

As can be seen in Figure 1, since 2002 there has been substantial growth in the asset volume of investment funds. This trend changed in 2007, when there was a fall which became sharper in 2008, due to a high percentage of repayments as a result of the degree of lack of confidence generated by the financial crisis. This situation has to a large extent given rise to the modification of existing investment vocations.

3 Objectives of the Circular on CIU categories

As indicated, the vocations which existed at the beginning of 2009 were established in January 2002, but since that date there have been major changes in the industry. The "FIAMM" vocation has thus disappeared and there have been changes in guaranteed funds with respect to their denomination and an increased breakdown. Since January 2006 a distinction has been made, within guaranteed equity funds, between funds which guarantee 100% of the initial investment on maturity (guaranteed on maturity, previously denominated guaranteed equity), and those which guarantee a percentage below 100% of the initial investment (partial guarantee) in order to bring about greater transparency.

In order to obtain a clear definition of each of the vocations and provide investors with rapid information in a simple manner regarding the investment policy of the CIU, the CNMV decided to revise the categories of investment vocations.

Consequently, making use of the powers expressly granted to it by Section 30 of the CIUA, the CNMV has published the Circular on CIU categories based on their investment vocation, which will come into force on 1 April 2009.

The Circular pursues several objectives:

- To define the category of a CIU as a combination of investment vocation and type. As well as ordinary investment funds and investment companies, subordinated CIUs, CIUs which have a majority investment in other CIUs, CIUs which replicate or reproduce a particular stock exchange or fixed income index and listed funds are defined as types of CIU.
- To lay down the criteria which enable each CIU to be classified within one or other investment vocation. The following aspects are highlighted: (1) classification based on the investment policy of the CIU defined in its explanatory prospectus and not by the composition of its portfolio, (2) consideration of both the cash portfolio and derivatives portfolio, (3) use of net worth of the CIU as calculation base in order to define vocations, (4) acceptance of an exceptional breach of the investment policy declared in the prospectus by investing in assets of lower risk for a maximum of three months, and (5) classification in the higher risk vocation when a CIU falls between two investment vocations or classification as global when it is located between three of them.
- To reduce the number of investment vocations, in order that investors can be accurately aware of the category of those established to which the undertaking

belongs.

- To modify Circular 2/1998, of 27 July, on statistical information requirements of CIUs of the European Monetary Union in relation to definition of monetary vocation.

Funds may coexist within each investment vocation with different levels of risk, and the latter may in turn vary depending on market conditions. The investment policy of a fund and the risk profile are two variables which are interrelated and provide investors with useful information on the characteristics of the fund.

Despite its importance, the risk profile of a fund is established in a discretionary manner by the management company in accordance with its own criteria. There is no scale of risk profiles for placing investment funds, which makes comparison between funds more difficult, both of the same manager and funds with the same vocation but with different managers.

As a result, in the simplified prospectus and other documentation prepared by the CIU the risk profile as well as the vocation must be reported. In order to obtain more information regarding the two questions investors must nevertheless resort to other sources of information, such as the full prospectus or periodic reports.

At the present time the establishment is being considered in Europe of a synthetic indicator which provides information in the prospectus regarding return/risk of the fund, using a uniform scale in order to avoid this situation.

4 Classification of investment vocations

In this section the different vocations are described which are included in the new Circular.

4.1 Monetary (or money market)

One of the principal novelties contained in the classification of vocations is modification of the requirements laid down for monetary funds.

The disappearance of "FIAMMs" made it advisable to define the monetary category, which was dealt with in CNMV Circular 1/2007, of 11 July, on statistical information requirements of collective investment undertakings of the EU, which amended Circular 2/1998. The said Circular 1/2007 defined monetary funds as those CIUs which had an average portfolio duration of less than one year and whose assets had to fulfil the following conditions:

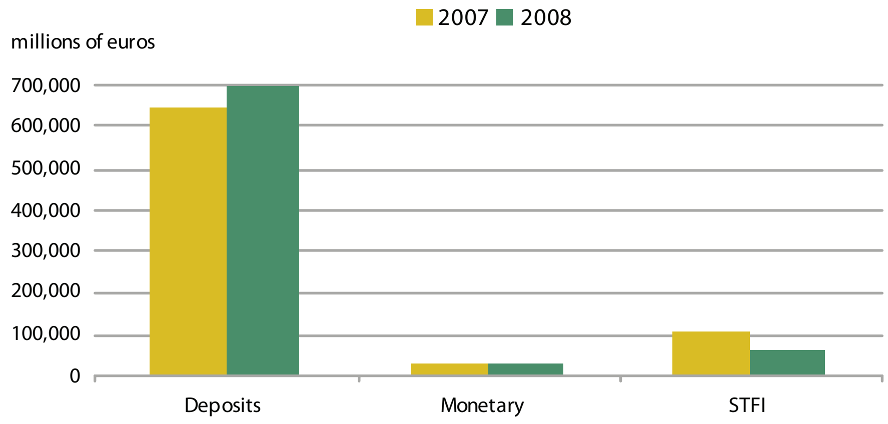
- Not exceeding 18 months until maturity, unless they were variable coupon referenced to monetary indices and with at least annual revision.
- A maximum of 40% of assets could have an outstanding redemption period exceeding one year.
- Non-inclusion of equity assets in their cash portfolio nor derivatives whose underlying was not fixed income.

The recent behaviour of monetary funds has, however, highlighted the unsuitable nature of this definition for setting out the characteristics which investors expected of this type of product, principally evolution of their return in parallel with that of short term interest rates, and therefore a certain stability in their liquidating value.

In principle, the investment policy of money market funds was becoming more aggressive, using the alternatives permitted in the definition. These investment decisions aimed to counteract the trend to lose assets as a result of competition from bank deposits and loss of their fiscal advantage when compared with the latter[1].

Volume of bank deposits, monetary funds and short term fixed income funds1

FIGURE 2



Source: Bank of Spain and CNMV.

1 Data at November 2008 except for deposits, which relate to the third quarter of 2008.

Furthermore, in the context of the current financial crisis it began to be seen that some monetary funds, despite being characterised in principle by having low volatility and investing in low risk assets, had higher than expected volatility levels and invested in assets of lower credit quality since there were no restrictions in this respect.

This all justified the change made, with the following established as requirements: (1) an average portfolio duration of less than six months, (2) absence of exposure to equities, currency risk and subordinated debt, (3) a minimum of 90% of net worth in assets with residual maturity of less than two years, (4) absence of assets with residual maturity exceeding five years, and (5) minimum short term credit rating of A2 from S&P or equivalent, and permitting investment in assets without a rating provided that the issuer has a short term credit rating of A2 or better.

In conjunction with this, for the purpose of greater transparency with investors, use of the denomination "monetary" or similar is only permitted in those funds which

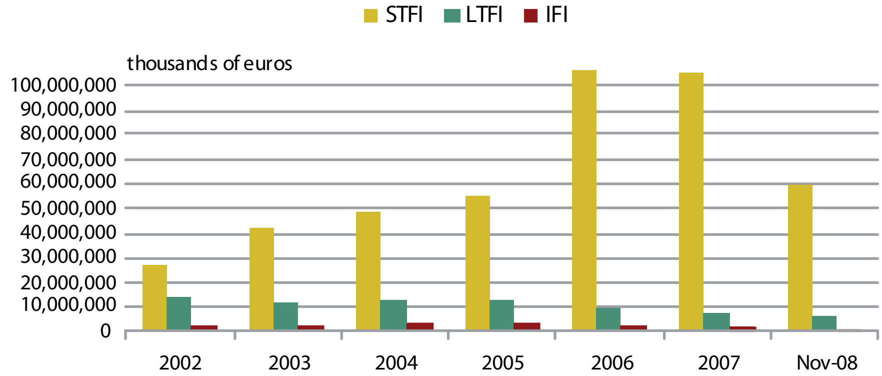
1 It should be recalled that the fiscal reforms introduced by the Individual Income Tax Act, 35/2006, modified the tax treatment of returns obtained on the repayment or transfer of holdings in funds and levelled the tax applied to the different income deriving from savings.
Circular 6/2008 on the determination of liquidating value of CIUs defines that a fund replicates or reproduces an index whenever the maximum deviation of the effective investment policy of the fund does not exceed 5% with respect to evolution of the index.

have a monetary vocation. In addition, all those which comply with the characteristics of this vocation must necessarily be classified as monetary, and the possibility ceased to exist that a fund can simultaneously fulfil the requirements of the monetary and fixed income vocations.

4.2 Fixed income (bond) categories: euro fixed income and international fixed income

The net worth of fixed income funds has undergone an evolution, with a trend towards decreasing in the case of long term fixed income and increasing in the case of short term. The growth of the latter in 2006 and 2007 is nevertheless distorted, with this vocation including the former "FIAMMs" which disappeared in 2005 and were not replaced by a monetary category until 2007.

Net worth of funds with short term fixed income, long term fixed income and international fixed income vocation FIGURE 3



Source: CNMV.

In the case of fixed income, with the classification of vocations in force until entry into force of the Circular a distinction was made between short term and long term based on whether the portfolio duration was less or more than two years. The possibility was also included of having a currency risk exceeding 5% in the international fixed income vocation, without taking into account either credit risk or liquidity. As a result, funds could be grouped under the same vocation which invested in assets with different levels of credit risk and more or less liquid.

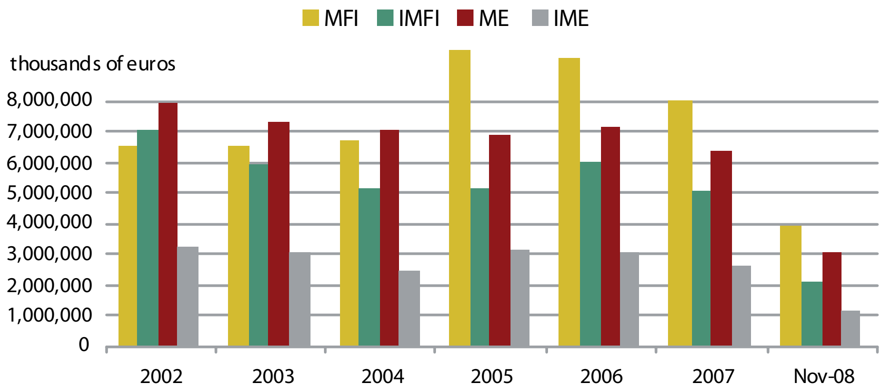
Since the basic objective of the new categories has been to simplify and provide investors with a classification which is as clear and concise as possible, the distinction has been eliminated between fixed income vocations based on portfolio duration, leaving currency risk as the sole distinguishing element, although with a new percentage of 10% of net worth in substitution for the previous 5%. Short term fixed income and long term fixed income vocations are therefore grouped in a single euro fixed income vocation.

4.3 Mixed categories: euro mixed fixed income, international mixed fixed income, euro mixed equity and international mixed equity

In the new classification a distinction is made between mixed funds in four categories based on the percentage invested in fixed income or equities and the geographical zone to which the issuer of the equity securities belongs, which enables CIUs to be classified as having a euro or international vocation.

Furthermore, the percentage is modified which is taken into account to distinguish the euro and international vocations in the mixed fixed income vocation, increasing from 5% to 30% of the net worth in the new classification.

Net worth of funds with mixed fixed income, international mixed fixed income, mixed equity and international mixed equity vocations FIGURE 4



Source: CNMV.

4.4 Equity categories: euro equity and international equity

Equity categories have also been reduced for the purpose referred to of facilitating investor comprehension. Only two vocations exist: euro equity and international equity.

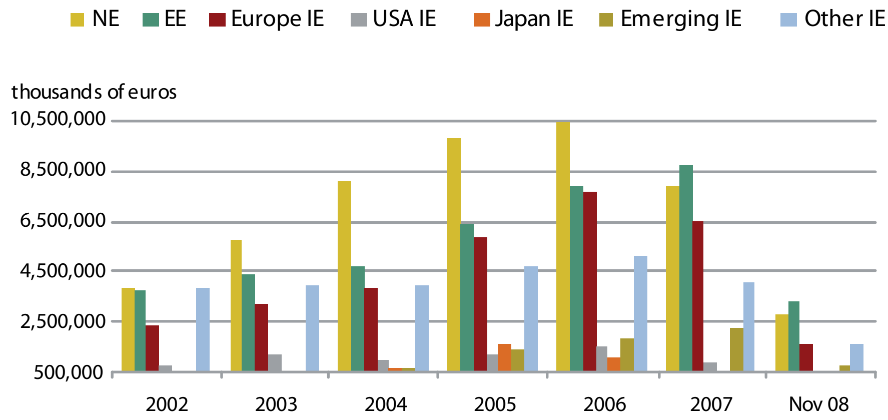
Thus, on the one hand the national equity category is eliminated, with this group of funds forming part of the euro equity category. On the other hand all previously existing vocations (Europe, USA, Japan, emerging and others) now constitute a single international equity vocation.

In conclusion, the euro equity category groups funds which invest more than 60% in equities of euro zone issuers and with an exposure to currency risk of up to 30% of net worth, whilst the international equity vocation takes in the remaining funds.

The characteristics of majority investment in a particular geographical area in international equity funds (Europe, USA, Japan, emerging countries) will only be identified in the denomination of the fund, as well as a majority investment in a specific economic sector.

Net worth of funds with national equity, euro equity and international equity vocations

FIGURE 5



Source: CNMV.

4.5 CIUs with passive management

One novelty of the classification is creation of the CIU category of passive management (not guaranteed) in order to distinguish them from those which engage in active management.

In the classification used up to the present time the possibility of passive management was only distinguished in the category of guaranteed funds. If passive management funds existed in the remaining funds, they were classified in the category corresponding to the investment policy implemented.

This new passive management category includes CIUs which replicate or reproduce an index , listed funds and CIUs with a specific non-guaranteed return objective.

4.6 Guaranteed CIUs

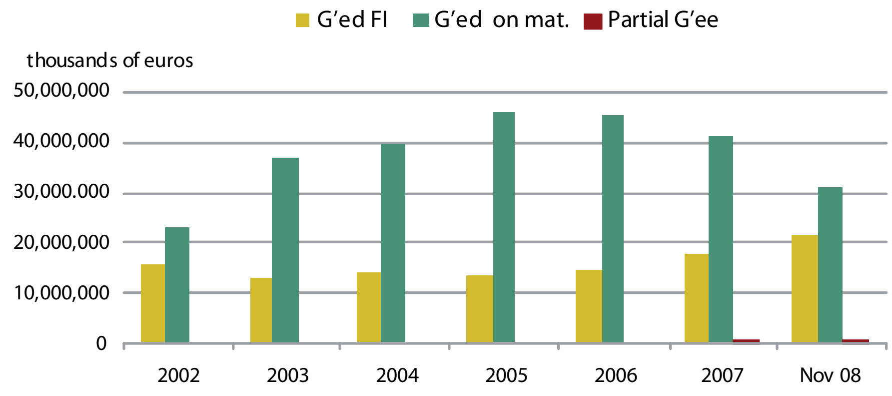
The classification includes three alternatives: guaranteed fixed income, guaranteed equity and partial guarantee.

Guaranteed fixed income will cover those CIUs which guarantee the investment plus a fixed yield.

With respect to guaranteed equity, despite not being set out as such in the previous classification, a distinction was made as from January 2006 between those guaranteed at maturity and partial guarantee funds, when a series of criteria were established to strengthen the transparency of CIUs and improve investor protection.

In the new classification, those guaranteed at maturity are those guaranteed equity which guarantee 100% of the initial investment, and partial guarantee funds are those which guarantee a percentage of less than 100% of the initial investment. These categories also include those CIUs which provide these guarantees and also engage in active management of part of their net worth.

Net worth of guaranteed fixed income funds, funds guaranteed on maturity and partial guarantee funds FIGURE 6



Source: CNMV.

4.7 Absolute and global return category

The new classification recognises a new category which was formerly included in global CIUs.

CIUs with a non-guaranteed management objective which try to achieve a certain level of periodic risk/return independently of the evolution of markets thus fall into an absolute return category.

As a result, the global vocation is left for those CIUs whose investment policy does not fit into any of the previous vocations.

Net worth of funds with global vocation FIGURE 7

Source: CNMV.

4.8 Hedge funds and funds of hedge funds vocations

No classification has been established within hedge fund vocations. These CIUs came into being with the CIUR in November 2005, and therefore there is no sufficiently broad historic profile. At the present time the number of funds in each of these types of CIU is fairly small: at the end of 2008, 24 hedge funds and 40 funds of hedge funds were registered with the CNMV.

5 Classifications used in other countries

The situation in other surrounding countries (UK, France, Germany, Italy) is fairly heterogeneous: each has a different classification which is adapted to the specific situation of their industry and in some cases the number of categories exceeds those which exist in Spain.

In France, the categories in terms of classification criteria and number are very similar to the Spanish. For example, the criterion of geographical area is taken into account within equity, fixed income and monetary funds.

In Germany, Italy and the UK, the classification used is very extensive, and as well as general criteria for distinguishing fixed income, equity, mixed or monetary, they use other additional criteria such as asset maturity, capitalisation of securities or the sectors in which they invest.

In Spain, categories are not distinguished on the basis of these parameters, and funds may fall within the same investment category which invest in equities in different sectors, with different levels of capitalisation, or in fixed income with different maturities. The manner of distinguishing a majority investment in a sector or specific geographical sector takes place by means of their name in international equity funds.

5.1 EFAMA Classification (European Fund and Asset Management Association)

The European Fund Categorisation Forum (EFCF) is a group of international managers and information providers which was formed in 2002 for the purpose of creating a classification of investment funds at European level. This objective was considered highly useful in the light of the increase in cross-border commercialisation of funds. The European Fund and Asset Management Association (EFAMA) subsequently joined into the project. The result of the combined work was a definitive classification of funds in June 2008, with the following principal objectives:

- Increasing transparency for investors and managers, enabling them to compare funds.
- Protecting investors, since establishing these fully defined categories helps them accurately to ascertain the characteristics of the fund which they subscribe for.
- Greater consistency between vocations and investment policy implemented.

The classification has four categories: equity, bonds (fixed income), money market and mixed. The categories are divided (as the case may be) on the basis of nine criteria: country/region, sector, market capitalisation, currency exposure, credit quality, interest rate exposure, emerging market exposure, asset allocation (only applicable to the mixed category) and structural characteristics (specifications which characterise each fund, such as, for example, being a fund of funds, ETF, closed ended, etc.).

As well as these four major categories, 11 types of fund have developed which are not associated with any specific type of asset, such as: absolute return, convertibles, guaranteed and funds which invest in commodities, amongst others.

The resulting classification is very extensive, and consequently may not be suitable for transposition to domestic markets. It furthermore has various differences with respect to the existing classification in Spain since guaranteed funds are not considered a separate category because they do not have such an important weight as in the Spanish market.

Nevertheless, despite each country maintaining its own categories, the fact of achieving a classification at European level based on the same parameters means that convergence between countries is closer.

6 Conclusions

The classification of CIUs into different investment categories, or vocations, based on their investment policy has been acquiring greater importance over time. In the first years in which the industry existed in Spain, both the volume of net worth and number of participants was not highly significant, but with development of the market investment devoted to this type of undertaking underwent a considerable increase, which made a somewhat more sophisticated classification necessary which more accurately represents the collective investment industry in Spain.

In recent years, the possibility of more complex investment within collective investment (introduced through the CIUA and the CIUR) and the search for greater transparency have made a classification of investment vocations which is more reduced and simpler to investors more preferable.

By defining the categories the aim is to provide a very concise idea of existing investment possibilities which facilitates an initial decision by potential investors. However, in order to ascertain the investment policy and level of risk of the CIU in more detail, investors must resort to documents such as the prospectus or periodic reports.

The Circular defining the categories to which CIUs belong constitutes an advance in the objective of improving market transparency, and by means thereof contributing to the ultimate objective of protection of retail investors.

MiFID Level 3 on financial intermediaries

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1 Introduction

This article examines the work carried out by the expert group on the Markets in Financial Instruments Directive (MiFID) created within the CESR to foster convergence in the supervision of activities of financial entities which provide investment services in Europe, through the Intermediaries Subgroup[1].

To this end, the article is structured into three sections. The first relates to the role of the CESR as level 3 committee. The second examines the catalogue of level 3 instruments which the MiFID expert group has used in reference to the activities of financial intermediaries. The third and final section sets out the conclusions.

2 The role of the CESR as level 3 committee

The CESR was created in 2001 within the so-called Lamfalussy scheme as one of the level 3 committees[2]. These committees have two tasks: advising the European Commission on level 2 regulation and procuring the convergence of supervisory practice, to which end they prepare recommendations and interpretative criteria.

After completion of the legislative timetable set out in the 1999 Financial Services Action Plan (FSAP), the European Commission recently examined the results of the Lamfalussy process and as a result has just reformed the statute[3] of the level 3 committees. Qualified majorities in decision-making have been introduced in order to improve the efficiency and efficacy of their work, amongst other measures. Although the committees will continue to issue non-binding recommendations, their members will have to comply with them or otherwise explain their reasons for not doing so.

This has been the first step in the process of giving greater supervisory capacity of European scope to these committees. This is the path which is also laid down by the Larosière report, published last February[4]. This report was requested by the Euro-

1 The author of the article has chaired this subgroup since July 2007.

2 The CESR (Committee of European Securities Regulators) brings together securities supervisors and was created by the European Commission Decision of 6 June 2001 (2001/1501/EC). The level 3 committees of the other sectors are the CEBS in the banking field and CEIOPS in the insurance field.

3 Commission Decision of 23 January 2009 establishing the Committee of European Securities Regulators. (2009/77/EC).

4 The High Level Group on Financial Regulation in the EU. Report. Chaired by Jacques de Larosière. Brussels, 25 February 2009.

pean Commission from a high level group, headed by Jacques de Larosière, for the purpose of evaluating and proposing a new organisation for financial supervision in the light of the failings which have come to light in the current financial crisis.

Its recommendations particularly include maintaining of the supervision of financial institutions in the national jurisdiction and the creation of two new pan-European institutions: the European Systemic Risk Council, responsible for macro-prudential supervision, and the European System of Financial Supervision, with responsibility in micro-prudential supervision, by transformation of the level 3 committees into authorities with extended functions.

The European Commission, which has already publicly stated its approval of the group's recommendations, proposes to undertake an ambitious reform of the European financial system, which it will publish at the end of May 2009 when it will also publish the timetable for its implementation.

At the present time the work carried out by the CESR is set in a time of transition. Its working groups and subgroups are providing experience of joint activity which is valuable for a future in which this committee broadens its powers and functions. Its recommendations and interpretative criteria also contribute to uniformity of supervisory policies. The work carried out by the MiFID expert group which is referred to below is one of the contributions to achieving supervisory convergence.

3 Level 3 work in the MiFID field

The MiFID, one of the fundamental cornerstones of the FSAP, was promulgated and published in 2004. Since then, and until 2006, the work of the CESR in this field focused on advising the European Commission for the purpose of promulgating level 2 regulations. After implementing the levels 1 and 2 MiFID legislation, the CESR focused its efforts on bringing about uniform application and gradual convergence of the supervisory practices and objectives of the different competent authorities.

To this end, the CESR created the MiFID expert group which operates through two subgroups, one in relation to markets and the other relating to financial intermediaries, to the work of which this section is devoted.

Since its constitution, the Intermediaries Subgroup has covered two work programmes. It is currently implementing the third.

- The first, carried out in 2007, had the principal objective of assisting the industry in defining its strategies in the new legislative environment and dealing with its technical and operational adaptation. To this end, the programme covered the publication of several documents on registration, incentives and best execution policies.

  It also prepared two protocols to facilitate transition between the Investment Services Directive (ISD) and the MiFID in the notification of passports and to facilitate the supervision of branches. Both protocols were ready before effective entry into force of the MiFID.

- The second programme, for 2008, with the MiFID already in force, focussed its work on the coordination and convergence of supervision, with an eminently practical approach. During this exercise the first guides were developed for supervisors, workshops held with the industry and the first CESR document aimed at investors was published.

- The third programme, recently approved for 2009, has very much taken into account the opinion of industry participants and practical experience of supervisors acquired in the first year in which the MiFID has been in force. Matters such as investment advice, the application of suitability and appropriateness regimes, complex and non-complex products, and incentives are dealt with in this programme. The objective is to bring about a uniform practical application of criteria and of the supervision carried out.

The results of the task force which the CESR created at the end of 2008 to study the impact of the Lehman Brothers failure will to some extent condition and determine new mandates and areas of work for the Intermediaries Subgroup during this year.

Amongst its recommendations, the report of this task force covers the need to guide supervision of the process of distribution to retail investors; it recommends the legislative harmonisation of financial instruments aimed at retail investors on the principle that products with the same risk profile and return must have equivalent regulation; it recommends the clarification of complex and non-complex products and of the regime of suitability and appropriateness (aspects which are already covered in the group's work programme); it indicates re-hypothecation, i.e. the use by financial institutions of financial instruments which their clients deposit with them as a matter which requires attention by supervisors in order adequately to preserve the processes of recovery by clients.

The following sections describe the objectives of these three programmes. Their presentation does not follow the chronological order of their creation but the type of level 3 tool or instrument used.

The level 3 instruments are basically of two types, policy documents, i.e. recommendations and guidance for uniform application of the legislation, and other documents which fall within what could be called "supervisory flow". These range from meetings or workshops to discuss and exchange opinions and practical experiences on key aspects of the MiFID, to guides in order that supervisors can apply the same criteria in their reviews.

The following table shows the different work carried out by the MiFID expert group through the Level 3 Intermediaries Subgroup and the matters dealt with in each area.

Level 3 instruments and objectives in the MiFID field

TABLE 1

Objective	Instrument	Matter
Uniform and consistent application of the MiFID	Recommendations and guides (policy documents)	Best execution
		Incentives
		Obligatory registration
		MiFID passport
		Complex and non-complex products
		Investment advice
	Questions and answers (Q&A)	Practical aspects of the MiFID
	Investor documents	MiFID retail guide
Supervisory cooperation and convergence	Protocols	Notification of passports
		Supervision of branches
	Guides for supervisors (supervisory briefings)	Conflicts of interest
		Best execution
		Incentives
		Client information
		Suitability and appropriateness
	Good and bad practice	Incentives
	Workshops with the industry	Wholesale industry
		Retail industry
	Workshops for supervisors	Tied agents
		Incentives

Source: CESR.

3.1 Uniform and consistent application of the MiFID

Questions and answers regarding the principle of best execution.

The principle of best execution establishes a new series of standards for the process which entities must carry out in order to obtain the best result in orders from their clients in a consistent manner.

Thus, by questions and answers, the intention is to provide an interpretation and uniform supervision of best execution requirements. To this end, the contents are examined of execution agreements, the possibility of using a single execution centre, assessment of the relative importance of the different best execution factors, information requirements, the concept of total costs, acceptance of the best execution policy, and the requirements for oversight and review of this policy.

3.1.1 Incentives

This document, published after seeking comments from the industry and consumer associations, both in normal consultation processes and in two open hearings, contains recommendations for the uniform and consistent application of the regulation of incentives contained in Article 26 of the level 2 Directive, and includes examples to assist in the evaluation of actual cases.

List of minimum records

In this case, recommendations are established on the contents of the list of minimum records which entities are obliged to maintain in accordance with Article 51.(3) of the level 2 Directive.

Complex and non-complex products

The distinction between the complex and non-complex nature of a product is relevant when establishing the obligations of the entity regarding its commercialisation. When an entity is to carry out a service or transaction which relates to a complex instrument, it is obliged to ensure the appropriateness of the product for the client at whom it is aimed, irrespective of whether the product has been offered by the entity to the client or whether the initiative to contract it has come from the client (execution only).

The rapid growth recorded in recent years in the distribution of structured products amongst small investors and the impact of the liquidity crisis and failure of banks, such as Lehman Brothers or the Icelandic banks, which is being felt by small investors, contributed to inclusion of this matter in the group's work programme. The difficulties involved in the classification of products and verification of the different practices followed in Member States and by different financial institutions were also determining factors.

The work, which is currently in progress and will shortly be submitted for public consultation, aims to define the criteria for classifying the financial instruments covered by application of the MiFID as complex or non-complex and will include a list of products typically aimed at retail investors.

3.1.2 Recommendations on investment advice

The group plans shortly to begin work on a recommendation document on financial advice in order to delineate the border from a practical perspective between investment advice, and commercialisation or sale without advice of financial instruments.

This work, which will be published at the end of this year, will be supplemented by a guide for supervisors on application of the regimes of suitability, appropriateness, and execution only.

Questions and answers on practical aspects of the MiFID

Following the model for questionnaires on the prospectus directive, this mechanism aims to offer a rapid answer to questions which may be raised by any interested party regarding practical application of the new legislation.

The CESR system of questions and answers was set in operation after the MiFID came into force and is complementary to that implemented by the European Commission, after approval of the level 2 directive. It is a useful tool both for industry participants and for investors and supervisors themselves.

The majority of the questions were resolved in the transitional period before effective entry into force of the directive. To this end the European Commission questionnaire contains more than 250 questions, compared to the 5 reflected in the questionnaire managed by the CESR.

MiFID investor guide

This is the first CESR document aimed at investors, being aware that ignorance on the part of small investors of the implications of the MiFID may hamper its efficacy.

In a simple and practical manner the guide explains to investors the novelties which they may find in day to day dealings with their financial entity at each stage of the investment process: before, during and after the investment and at all times.

This guide, which has been translated into 11 languages, enables CESR members to provide a coordinated and uniform message in their dissemination activities at national level. It is also useful for financial institutions themselves with an interest in promoting awareness among their clients.

The version published by the CNMV, "Sus derechos como inversor. Descubra la protección que le da la MiFID" ("Your rights as investor. Discover the protection given to you by the MiFID"), has exceeded the 122,000 copies distributed through financial institutions themselves, in Spanish and in Catalan.

3.2 Supervisory cooperation and convergence

Passport and notification protocol

With the objective of facilitating an orderly transition between the ISD and the MiFID and continuity in cross-border provision of investment services, two mechanisms were provided:

- The MiFID passport: recommendations for facilitating consistent application of requirements on notification of passports between authorities established in Articles 31 and 32 of the MiFID.
- Passport notification protocol: defining a framework of cooperation between authorities in the notification process, detailing aspect such as the information which must be provided, through which means and in which period, and identification of its recipients.

The late transposition of the MiFID in some Member States could have questioned the force and effect of the passports obtained under the ISD. The CESR found a practical solution which permitted the force and effect of passports and continuity in cross-border activity of entities authorised in the States which did not transpose on time. This solution was possible thanks to the existence of compatible legislation comparable with the MiFID in these States.

Protocol for the supervision of branches which operate under the MiFID

In order to facilitate their work with the new distribution of powers and functions amongst origin and host supervisors, before entry into force of the MiFID the CESR members immediately subscribed to this protocol prepared by the Intermediaries Subgroup.

The protocol offers practical solutions and instruments to facilitate the supervision of cross-border activities carried out through branches with a MiFID passport. Open to banking supervisors with MiFID powers and functions, it offers flexibility in order to reach bilateral agreements and adapt their content to the circumstances of each case, in such manner that cooperation takes place in compliance with the principles of efficiency, efficacy, complementarity and transparency, and at the same time avoiding unnecessary or excessive burdens on entities.

To this end, the protocol covers three collaboration mechanisms:

- Regular information exchange.
- Supervision through joint programmes agreed between the parties.
- Requests for assistance based on efficient allocation of supervisory tasks.

To date, 14 States have made use of this protocol, with 17 signing bilateral agreements, 14 agreements for permanent assistance and 3 joint programmes relating to 3 financial institutions.

At the present time, the group is carrying out a review of the efficacy of supervision protocols and passports in order to detect possible areas for improvement in cooperation between members.

Supervisory briefings, or guides

The Intermediaries Subgroup has prepared a series of guides for supervisors on key aspects of the MiFID, such as conflicts of interest, incentives and best execution. In the light of the success and widespread acceptance of this level 3 instrument, the group is currently working on new briefings on client information and practical application of the regimes of suitability, appropriateness and execution only.

These guides, or supervisory briefings, are intended to assist supervisors and facilitate their identification and understanding of the objectives of the legislation. It is not a question of interpreting the rules but of translating them into supervisory language. To this end, the technique is used of identifying the questions which a supervisor should ask in order to verify that the entity is adequately complying with the objectives of the legislation.

Although the questions are not exhaustive, and therefore do not intend to cover each and every one of the situations which a supervisor may encounter, they constitute a starting point for planning inspections and defining the areas for review required by each institution.

The acceptance which this level 3 instrument has had can be highlighted, not only amongst supervisors but also the industry itself as a result of its utility and adaptability, since it does not prejudge the methodology which each supervisory authority may utilise. This means that these briefings are valid independently of the supervisory practice or methodology which each authority applies in its functions (on-sight inspections, distance supervision, interviews, collaboration with external or internal auditors, compliance officers, etc.).

Although they are instruments aimed at supervisors, the CESR has published them through its website, and therefore as well as providing the industry with transparency regarding work in the supervisory convergence field, it provides good guidance when adapting its policies and systems, and also when verifying legislative compliance.

Good and bad industry practice regarding incentives

As part of the supervisory flow work, the Intermediaries Subgroup has engaged in substantial efforts in a matter as novel and complex as incentives (or inducements).

In its preparation the group has commenced an exercise in supervision at pan-European level, comprising over 200 financial institutions, ISFs and credit institutions, whose practices are being analysed by members with supervisory competence over them based on a work programme designed and prepared by the Subgroup.

After the different practices followed by the industry are compiled, they will be assessed by the CESR and the work will culminate in a report on good and bad practices of the industry which will be published at the end of 2009.

Workshops

As part of the work on supervisory convergence, the group has implemented two types of workshop, one with the industry and the other on single themes reserved to supervisors. They are described below:

Workshops with the industry

During 2008 two workshops of this type were held, at which representatives of invited financial entities presented their view of the effects of implementation of key aspects of the MiFID: best execution, incentives, conflicts of interest and investment advice, from a wholesale and retail perspective.

Of the most relevant conclusions we can highlight those which relate to those workshop sessions focused on the MiFID:

- The desirability of publishing documents on good and bad practice in matters of most interest. This type of eminently practical focus is very useful for guiding and adapting the policies of entities and permitting supervisors to tackle their control and review functions with common objectives without modifying their working methodology or supervision model.
- A document was subsequently included in the work programme on good and bad practices in compliance with the new legislation on incentives, which will be published at the end of this year.
- Entity representatives highlighted the existence of different focuses in Member States with respect to the determination of complex and non-complex products for the purpose of applying the appropriateness test and the delineation between advised, non-advised and execution only sales.

  The work programme in progress plans to tackle these matters by separate policy documents from a supervisory practice viewpoint.
- Another important matter raised by the industry is the need to tackle, from a practical perspective, the information which institutions must provide to their clients before, during and after contracting. Aspects such as incentives and the assessment of information which must be provided to clients to facilitate their investment decision are of crucial importance.

One criticism from the industry in this respect is that the MiFID obliges provision to clients of an exaggerated volume of information which is not essential for their protection. One example of this is the information on best execution policies. The lack of financial culture amongst investors aggravates the situation, because providing a lot of information to those who are not properly equipped to understand and use it adequately is of little use. It is therefore desirable to provide them with just the information necessary in a clear manner such that the client is provided with only the most significant information, whilst other information which is not so significant is made available to them, and at the same time promoting an enhanced financial culture amongst investors.

Supervisory workshops

These workshops will form a regular part of the Subgroup meeting agenda during 2009. The meetings are based on presentations and discussions led by a different member at each meeting, such that an exchange of viewpoints and practical experience is encouraged regarding matters of interest in order to promote a common supervisory culture amongst members.

The matters already dealt with or planned for this year include the supervision of tied agents, incentives, the compliance function, the outsourcing of functions and the safeguarding of assets.

4 Conclusions

This article reviews the work carried out by the Intermediaries Subgroup which, forming part of the CESR MiFID Expert Group, is set in level 3 of Lamfalussy.

In order to comply with its objectives, the Subgroup has used and defined a broad range of instruments. The recommendations, briefings and workshops for supervisors aim to promote convergence in supervisory practices and uniform application of the MiFID by members. Preparation of passport notification protocols and supervision of branches which operate in the MiFID area also aim to promote efficient cooperation between supervisors.

The period of almost a year and a half during which the MiFID has been in force has been conditioned by a global financial crisis which makes it difficult to evaluate achievement of its objectives. Nevertheless, the crisis has also served to identify aspects which require action by supervisors. The failure of Lehman highlighted the deficiencies and divergence in application of certain requirements of the MiFID, such as clarification of advised and non-advised sales, application of the regimes of suitability and appropriateness, and the identification of complex and non-complex products.

In forthcoming months the Subgroup will complete its third work programme with publication of level 3 documents which will cover the aspects referred to, of particular importance in completing the process of implementation of the MiFID and which will without doubt contribute to improving investor protection conditions in relation to the provision of investment services, and especially the distribution of financial products among retail investors.

The efficacy of the level 3 work will be reinforced if the reforms planned by the level 3 committees based on the Larosière report proposals are carried out. Their transformation into authorities will result in the current recommendations, guidance and briefings becoming binding on members and they will be approved by qualified majorities when it is not possible to reach consensus. A real step forward in achieving convergence of supervisory practices in Europe.

5 Bibliography

CESR (2007). *CESR's Level 3 Recommendations on the List of minimum records under Article 51(3) of the MiFID Implementing Directive*. Ref [07-552c].

CESR (2007). *Recommendations - Inducements under MiFID*. Ref [07-228b].

CESR (2007). *Q&A on best execution*. Ref [07-320].

CESR (2007). *Protocol on MiFID Passport Notifications - revised*. Ref [07-337b].

CESR (2007). *Passport under MiFID - Recommendations for the implementation of the Directive and Statement on practical arrangements regarding the late transposition of MiFID*. Ref [07-337b].

CESR (2007). *Protocol on the supervision of branches under MiFID*. Ref [07-672].

CESR (2008). *A Consumers' Guide to MiFID - Investing in Financial Products*. Ref [08-003].

CESR (2008). *Questions and answers on MiFID: Common positions agreed by CESR Members*. Ref [08-266].

CESR (2008). *Supervisory briefings – Best execution*. Ref [08-735].

CESR (2008). *Supervisory briefings - Inducements*. Ref [08-734].

CESR (2008). *Supervisory briefings - Conflicts of interest*. Ref [08-733].

CESR (2008). *Inducements – questionnaire. Fact finding exercise*. Ref [08-741].

CESR (2008). *Report on the mapping of supervisory powers, supervisory practices, administrative and criminal sanctioning regimes of Member States in relation to the Markets in Financial Instruments Directive (MiFID)*. Ref [08-220].

CESR (2009). *Report on the Lehman Brothers default: an assessment of the market impact*. Ref [09-255].

European Commission (2009). *Commission Decision of 23.1.2009 establishing the Committee of European Securities Regulators.*

European Commission (2009). *Proposal for a decision of the European Parliament and of the Council establishing a Community programme to support specific activities in the field of financial services, financial reporting and auditing.*

Larosière Group (2009). *Report of the High Level Group on financial supervision in the EU.*

IV Legislation Annex

New legislation of national scope promulgated since publication of the CNMV bulletin for the fourth quarter of 2008 was as follows, in chronological order:

- Resolution of 21 January 2009, of the Board of the Spanish Securities Market Commission (Comisión Nacional del Mercado de Valores) modifying the Internal Regulations of the CNMV.

  This Resolution modifies the CNMV Internal Regulations, splitting the Supervision Department into two departments specialising in type of entity to be supervised: the Investment Services Firm and Credit and Savings Institution Supervision Department, and the Collective Investment Undertaking and Risk Capital Entity Supervision Department. The reform aims to adapt the structure of supervision of entities by the CNMV to the type of entity supervised, anticipating the risks in their activities in a more effective manner and adapting the available supervisory resources to the growing number of entities.

  The Investment Services Firm and Credit and Savings Institution Supervision Department is given functions relating to: i) the supervision and inspection of investment services firms, their branches and agents or representatives, and ii) the supervision and inspection of credit institutions, their branches and agents or representatives, in their activities relating to the securities market.

  The Collective Investment Undertaking and Risk Capital Entity Supervision Department is given functions relating to: i) the supervision and inspection of collective investment undertakings, their management companies, agents or representatives, as well as their deposit bodies, and ii) the supervision and inspection of risk capital entities and their management companies.

- Commission Decisions 2009/77, 2009/78 and 2009/79, of 23 January, creating the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors.

  These European Commission decisions redefine the functions of the Committee of European Securities Regulators (CESR), the Committee of European Banking Supervisors (CEBS), and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), which were respectively created by three decisions of the European Commission which were repealed by the new provisions. The Commission decisions were taken on proposal by the European Council, which had invited the Commission to clarify the function of the European supervisor committees referred to and to study options for reinforcing their scope of action.

  Although these provisions for the most part set out powers and functions which the European supervisor committees have already been carrying out, various novel aspects can also be highlighted.

  - In this respect, the possibility is provided for national supervisors to submit specific questions to the European supervisor committees with a view to obtaining non-binding reports from them.
  - Likewise, the European supervisor committees must facilitate and coordinate the delegation of tasks of one national supervisor to another, and the day-to-day practical work of information exchange.
  - In addition, the existence is provided of a mixed committee on financial conglomerates in which the three committees will participate and mutual

collaboration enchanced between them in order that they can determine, at an early stage, possible micro-prudential trends and risks at cross-border and inter-sector level.

- There is also provision for the committees to report, when necessary, to the Commission, to the Council, to the European Parliament and to national authorities. In particular, it is provided that the committees will report to the European Commission twice a year on vulnerable sector points and risks. It is nevertheless clarified that the committees must not disclose information on specific entities supervised.

- Commission Regulation (EC) no. 69/2009 of 23 January 2009, amending Regulation (EC) no. 1126/2008, adopting certain international accounting standards in relation to International Financial Reporting Standard (IFRS) 1 and International Accounting Standards (IAS) 27.

  This legislation incorporates certain modifications into European Union Law adopted by the International Accounting Standards Board (IASB). In particular, IFRS 1 is modified in relation to adoption for the first time of international financial reporting standards, and IAS 27, in relation to separate and consolidated financial statements.

  The modifications of IFRS 1 enable an entity adopting the IFRS for the first time to use, as deemed cost of an investment in a subsidiary, jointly controlled entity or associate, either the fair value at the date of transition by the entity to IFRSs or the previous GAAP carrying amount of the investment at that date.

  The modifications of IAS 27 have a two-fold objective. The obligation is firstly established to recognise all dividends received from a subsidiary, jointly controlled entity or associate, as income in the separate financial statements. Secondly, it is clarified how the cost of an investment is determined in certain cases.

- Circular 1/2009 of the Spanish National Securities Market Commission, of 4 February, on categories of CIU based on their investment vocation.

  In implementation of Section 30.2 of Act 35/2003 on collective investment undertakings (hereinafter CIUs) the CNMV establishes categories of CIU in this Circular based on their investment vocation with a two-fold objective: statistical information and investor information regarding the risk profile of the CIU and the assets in which it invests.

  The category of a CIU is established in accordance with a twin classification: classification by type of CIU and classification by its investment vocation. The types of CIU are as follows: ordinary investment funds and companies, subordinated CIUs, CIUs which principally invest in other CIUs, CIUs which replicate or reproduce a particular stock exchange index or fixed income index, and finally listed funds. The different investment categories of CIUs are defined in the Annex to the Circular and are as follows: monetary, euro fixed income, international fixed income, euro mixed fixed income, international mixed fixed income, euro mixed equity, international mixed equity, euro equity, international equity, passive management CIU, guaranteed fixed return CIU, guaranteed equity CIU, CIU with partial guarantee, absolute return, and finally with global investment vocation, which is configured as a residual category in relation to the others. The investment vocation of the CIU is determined by the investment policy defined in its explanatory prospectus and not by the composition of its portfolio.

V Statistics Annex

1 Markets

1.1 Equity

Share issues and public offerings[1]

TABLE 1.1

				2008				2009
	2006	2007	2008	I	II	III	IV	I[2]
CASH VALUE[3] (Million euro)	5,021.7	23,757.9	7,812.8	9.5	356.6	40.8	7,405.8	883.0
Capital increases	2,562.9	21,689.5	7,803.3	0.0	356.6	40.8	7,405.8	883.0
Of which, primary offerings	644.9	8,502.7	292.0	0.0	292.0	0.0	0.0	0.0
With Spanish tranche	303.0	4,821.4	292.0	0.0	292.0	0.0	0.0	0.0
With international tranche	342.0	3,681.4	0.0	0.0	0.0	0.0	0.0	0.0
Secondary offerings	2,458.8	2,068.5	9.5	9.5	0.0	0.0	0.0	0.0
With Spanish tranche	1,568.1	1,517.1	9.5	9.5	0.0	0.0	0.0	0.0
With international tranche	890.7	551.4	0.0	0.0	0.0	0.0	0.0	0.0
NO. OF FILES[4]	30	35	11	1	4	2	4	3
Capital increases	21	26	10	0	4	2	4	3
Of which, primary offerings	8	8	2	0	2	0	0	0
Of which, bonus issues	0	0	0	0	0	0	0	0
Secondary offerings	14	12	2	1	1	0	0	0
NO. OF ISSUERS[4]	23	29	11	1	4	2	4	3
Capital increases	18	24	10	0	4	2	4	3
Of which, primary offerings	6	6	2	0	2	0	0	0
Secondary offerings	10	8	2	1	1	0	0	0

1 Total files registered with the CNMV (including supplements of initial files).
2 Available data: February 2009.
3 Does not include registered amounts that were not carried out.
4 Includes all registered offerings, including the issues that were not carried out.

Primary and secondary offerings. By type of subscriber

TABLE 1.2

				2008				2009
Million euro	2006	2007	2008	I	II	III	IV	I[1]
PRIMARY OFFERINGS	644.9	8,502.7	292.0	0.0	292.0	0.0	0.0	0.0
Spanish tranche	303.0	4,646.2	282.0	0.0	282.0	0.0	0.0	0.0
Private subscribers	8.7	2,841.0	191.5	0.0	191.5	0.0	0.0	0.0
Institutional subscribers	294.3	1,805.2	90.5	0.0	90.5	0.0	0.0	0.0
International tranche	342.0	3,681.4	0.0	0.0	0.0	0.0	0.0	0.0
Employees	0.0	175.2	10.0	0.0	10.0	0.0	0.0	0.0
Others	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SECONDARY OFFERINGS	2,458.8	2,068.5	9.5	9.5	0.0	0.0	0.0	0.0
Spanish tranche	1,565.0	1,505.7	9.5	9.5	0.0	0.0	0.0	0.0
Private subscribers	390.0	393.9	0.0	0.0	0.0	0.0	0.0	0.0
Institutional subscribers	1,175.0	1,111.8	9.5	9.5	0.0	0.0	0.0	0.0
International tranche	890.7	551.4	0.0	0.0	0.0	0.0	0.0	0.0
Employees	3.1	11.4	0.0	0.0	0.0	0.0	0.0	0.0
Others	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

1 Available data: February 2009.

Admission to listing. Files registered at the CNMV

TABLE 1.3

				2008				2009
	2006	2007	2008	I	II	III	IV	I[1]
NOMINAL VALUE (Million euro)								
With issuance prospectus	963.4	5,894.3	980.9	13.3	25.5	127.4	814.7	202.4
Capital increases	575.9	5,687.2	980.9	13.3	25.5	127.4	814.7	202.4
Of which, primary offerings	145.3	5,424.4	100.0	0.0	0.0	100.0	0.0	0.0
Secondary offerings	387.5	207.1	0.0	0.0	0.0	0.0	0.0	0.0
Without issuance prospectus	564.7	8,348.6	1,109.0	274.7	448.1	223.3	163.0	135.7
NO. OF FILES								
With issuance prospectus	18	22	10	2	1	4	3	2
Capital increases	13	18	10	2	1	4	3	2
Of which, primary offerings	5	6	1	0	0	1	0	0
Secondary offerings	9	7	0	0	0	0	0	0
Without issuance prospectus	61	72	43	9	12	7	15	3

1 Available data: February 2009.

Companies listed[1]

TABLE 1.4

	2006	2007	2008	2008 I	II	III	IV	2009 I[2]
Total electronic market[3]	135	143	136	141	139	140	136	136
Of which, without Nuevo Mercado	124	142	136	141	139	140	136	136
Of which, Nuevo Mercado	11	1	0	0	0	0	0	0
Of which, foreign companies	6	5	5	5	5	5	5	5
Second Market	12	11	8	10	9	8	8	8
Madrid	2	2	2	2	2	2	2	2
Barcelona	9	9	6	8	7	6	6	6
Bilbao	0	0	0	0	0	0	0	0
Valencia	1	0	0	0	0	0	0	0
Open outcry ex SICAV	38	31	29	29	29	29	29	29
Madrid	16	13	13	13	13	13	13	13
Barcelona	24	20	19	19	19	19	19	19
Bilbao	10	9	8	8	8	8	8	8
Valencia	13	9	7	7	7	7	7	7
Open outcry SICAV	744	8	3	5	4	4	3	3
MAB[4]	2,405	3,287	3,347	3,322	3,362	3,364	3,347	3,330
Latibex	34	34	35	34	35	35	35	33

1 Data at the end of period.
2 Available data: February 2009.
3 Without ETF (Exchange Traded Funds).
4 Alternative Stock Market.

Capitalisation[1]

TABLE 1.5

Million euro	2006	2007	2008	2008 I	II	III	IV	2009 I[2]
Total electronic market[3]	813,765.1	892,053.8	531,194.2	780,720.1	739,386.7	634,275.0	531,194.2	443,600.2
Of which, without Nuevo Mercado	800,148.0	891,875.7	531,194.2	780,720.1	739,386.7	634,275.0	531,194.2	443,600.2
Of which, Nuevo Mercado	13,617.1	178.1	0.0	0.0	0.0	0.0	0.0	0.0
Of which, foreign companies[4]	105,600.9	134,768.6	61,317.5	120,418.7	133,614.0	94,553.7	61,317.5	56,532.5
Ibex 35	512,828.0	524,651.0	322,806.6	455,694.3	412,258.4	374,922.1	322,806.6	267,917.8
Second Market	392.7	286.8	109.9	217.1	167.1	112.5	109.9	76.3
Madrid	18.9	27.8	22.8	23.2	25.9	24.1	22.8	21.1
Barcelona	184.2	259.0	87.1	193.9	141.1	88.3	87.1	55.2
Bilbao	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Valencia	189.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Open outcry ex SICAV	7,905.3	7,444.9	5,340.7	7,228.8	6,672.3	5,850.5	5,340.7	4,874.7
Madrid	2,698.1	1,840.6	1,454.7	1,810.9	1,562.0	1,475.4	1,454.7	1,281.4
Barcelona	4,966.3	4,627.8	3,580.2	4,963.8	4,698.4	3,966.4	3,580.2	3,240.6
Bilbao	59.5	108.2	45.9	107.3	27.0	27.0	45.9	45.9
Valencia	741.9	1,206.5	760.4	994.2	971.7	885.3	760.4	792.1
Open outcry SICAV	9,284.1	245.4	155.0	200.2	184.2	175.2	155.0	147.7
MAB[5]	29,866.3	41,659.8	35,520.2	39,298.0	39,001.1	37,788.9	35,520.2	34,856.1
Latibex	271,641.8	427,773.6	287,188.9	389,629.9	712,179.3	529,494.2	287,188.9	293,949.7

1 Data at the end of period.
2 Available data: February 2009.
3 Without ETF (Exchange Traded Funds).
4 Foreign companies capitalisation includes their entire shares, whether they are deposited in Spain or not.
5 Alternative Stock Market.

Trading

TABLE 1.6

Million euro	2006	2007	2008	2008 I	II	III	IV	2009 I[1]
Total electronic market[2]	1,144,562.9	1,653,354.8	1,228,392.4	377,897.7	315,693.7	285,162.3	249,638.7	122,774.9
Of which, without Nuevo Mercado	1,118,546.1	1,627,369.5	1,228,380.9	377,886.2	315,693.7	285,162.3	249,638.7	122,774.9
Of which, Nuevo Mercado	26,016.8	25,985.3	11.4	11.4	0.0	0.0	0.0	0.0
Of which, foreign companies	11,550.3	7,499.3	1,407.1	552.1	382.4	206.9	265.7	235.9
Second Market	49.3	192.9	31.7	3.2	17.5	9.7	1.2	0.1
Madrid	7.2	8.9	3.4	0.5	1.7	0.1	1.1	0.0
Barcelona	41.6	182.3	28.3	2.7	15.9	9.6	0.1	0.0
Bilbao	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Valencia	0.5	1.7	0.0	0.0	0.0	0.0	0.0	0.0
Open outcry ex SICAV	737.6	792.7	182.1	38.5	22.5	58.1	63.0	3.5
Madrid	257.9	236.1	73.9	17.5	7.2	45.6	3.7	0.7
Barcelona	297.8	402.8	103.6	17.6	14.7	12.2	59.1	2.5
Bilbao	159.9	0.1	0.1	0.0	0.0	0.0	0.1	0.0
Valencia	22.0	153.8	4.5	3.3	0.6	0.4	0.1	0.3
Open outcry SICAV	4,580.6	361.6	25.3	5.9	2.7	7.2	9.6	6.6
MAB[3]	1,814.2	6,985.2	7,060.3	1,966.1	1,646.1	1,406.3	2,041.8	679.8
Latibex	723.3	868.2	757.7	305.9	199.3	136.2	116.4	63.2

1 Available data: February 2009.
2 Without ETF (Exchange Traded Funds).
3 Alternative Stock Market.

Trading on the electronic market by type of transaction[1]

TABLE 1.7

				2008				2009
Million euro	2006	2007	2008	I	II	III	IV	I[2]
Regular trading	1,080,117.5	1,577,249.5	1,180,835.9	354,712.5	304,979.6	279,188.2	241,955.6	120,496.8
Orders	658,839.2	985,087.6	774,718.1	245,239.9	185,997.3	183,639.9	159,841.1	74,966.7
Put-throughs	105,910.7	155,085.1	105,673.9	34,574.7	29,644.2	22,654.9	18,800.1	7,459.1
Block trades	315,367.7	437,076.8	300,443.9	74,898.0	89,338.1	72,893.4	63,314.4	38,071.1
Off-hours	11,651.6	18,301.5	10,175.2	4,260.1	2,425.3	1,341.7	2,148.1	73.1
Authorised trades	4,052.0	4,189.6	3,183.2	374.6	533.1	974.9	1,300.5	286.9
Art. 36.1 SML trades	6,439.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Tender offers	18,094.6	26,284.3	17,461.2	14,049.1	3,412.1	0.0	0.0	0.0
Public offerings for sale	3,264.0	11,177.4	292.0	0.0	0.0	292.0	0.0	0.0
Declared trades	10,347.9	2,954.4	1,066.8	836.3	20.2	33.0	177.3	594.3
Options	8,279.8	10,240.4	9,661.9	2,450.3	2,579.7	1,693.1	2,938.7	286.7
Hedge transactions	2,315.7	2,957.8	5,716.3	1,214.7	1,743.7	1,639.5	1,118.5	1,037.1

1 Without ETF (Exchange Traded Funds).
2 Available data: February 2009.

Margin trading for sales and securities lending

TABLE 1.8

				2008				2009
Million euro	2006	2007	2008	I	II	III	IV	I[1]
TRADING								
Securities lending[2]	550,850.4	835,326.9	583,950.8	159,984.9	175,820.7	138,864.1	109,281.2	58,560.7
Margin trading for sales of securities[3]	379.9	555.4	624.9	189.5	135.2	149.4	150.8	101.6
Margin trading for securities purchases[3]	511.9	411.3	154.7	52.7	35.1	33.6	33.2	18.8
OUTSTANDING BALANCE								
Securities lending[2]	62,058.2	79,532.9	43,647.8	69,068.6	66,326.8	58,394.2	43,647.8	34,152.9
Margin trading for sales of securities[3]	73.6	112.4	20.7	97.8	57.8	62.3	20.7	15.7
Margin trading for securities purchases[3]	70.1	59.4	7.0	30.7	28.2	31.2	7.0	6.3

1 Available data: February 2009.
2 Regulated by Article 36.7 of the Securities Market Law and Order ECO/764/2004.
3 Transactions performed in accordance with Ministerial Order dated 25 March 1991 on the margin system in spot transactions.

1.2 Fixed income

Gross issues registered[1] at the CNMV

TABLE 1.9

				2008				2009
	2006	2007	2008	I	II	III	IV	I[2]
NO. OF ISSUERS	159	173	179	59	65	48	75	41
Mortgage covered bonds	11	10	19	7	13	5	5	14
Territorial covered bonds	5	4	7	7	0	0	1	0
Non-convertible bonds and debentures	46	41	30	5	13	16	9	7
Convertible bonds and debentures	1	0	1	0	0	0	1	0
Backed securities	61	77	88	16	26	18	34	13
Commercial paper	68	80	77	26	21	11	29	13
Of which, asset-backed	3	3	2	0	1	0	1	0
Of which, non-asset-backed	65	77	75	26	20	11	28	13
Other fixed-income issues	0	2	0	0	0	0	0	0
Preference shares	9	5	8	4	1	2	1	2
NO. OF ISSUES	335	334	337	74	94	62	107	68
Mortgage covered bonds	37	32	47	11	20	8	8	29
Territorial covered bonds	6	8	8	7	0	0	1	0
Non-convertible bonds and debentures	115	79	76	7	22	18	29	9
Convertible bonds and debentures	1	0	1	0	0	0	1	0
Backed securities	82	101	108	18	30	23	37	13
Commercial paper	83	106	88	27	21	11	29	13
Of which, asset-backed	3	3	2	0	1	0	1	0
Of which, non-asset-backed	80	103	86	27	20	11	28	13
Other fixed-income issues	0	3	0	0	0	0	0	0
Preference shares	11	5	9	4	1	2	2	4
NOMINAL AMOUNT (Million euro)	523,131.4	648,757.0	476,275.7	117,526.8	134,468.4	90,553.9	133,726.6	76,610.8
Mortgage covered bonds	44,250.0	24,695.5	14,300.0	1,250.0	10,120.0	1,685.0	1,245.0	9,818.6
Territorial covered bonds	5,150.0	5,060.0	1,820.0	1,020.0	0.0	0.0	800.0	0.0
Non-convertible bonds and debentures	46,687.5	27,416.0	10,489.6	604.1	3,743.6	4,215.1	1,926.9	9,774.5
Convertible bonds and debentures	68.1	0.0	1,429.1	0.0	0.0	0.0	1,429.1	0.0
Backed securities	91,607.7	141,627.0	135,252.5	28,657.0	34,386.4	11,736.1	60,473.0	14,157.6
Spanish tranche	30,885.7	94,049.0	132,730.1	28,657.0	32,993.2	10,606.9	60,473.0	14,157.6
International tranche	60,722.1	47,578.0	2,522.4	0.0	1,393.2	1,129.2	0.0	0.0
Commercial paper[3]	334,457.0	442,433.5	311,738.5	85,899.6	86,118.5	72,867.7	66,852.7	41,760.2
Of which, asset-backed	1,992.7	464.8	2,843.1	133.0	48.0	94.0	2,568.1	1,292.0
Of which, non-asset-backed	332,464.3	441,968.7	308,895.4	85,766.6	86,070.5	72,773.7	64,284.6	40,468.2
Other fixed-income issues	0.0	7,300.0	0.0	0.0	0.0	0.0	0.0	0.0
Preference shares	911.0	225.0	1,246.0	96.0	100.0	50.0	1,000.0	1,100.0
Pro memoria:								
Subordinated issues	27,361.5	47,158.3	12,949.5	2,310.5	1,944.9	1,574.5	7,119.6	6,433.3
Underwritten issues	92,213.5	86,161.1	9,169.5	5,095.3	2,200.0	946.1	928.1	0.0

1 This Includes the volume of issues admitted to trading without register issuance prospectuses.
2 Available data: February 2009.
3 The figures for commercial paper refer to the amount placed in the year.

Issues admitted to trading on AIAF

TABLE 1.10

				2008				2009
Nominal amount in million euro	2006	2007	2008	I	II	III	IV	I[1]
Total	507,525.3	640,096.2	476,710.4	121,675.6	131,470.5	102,755.3	120,809.0	80,006.8
Commercial paper	332,328.4	439,787.3	314,417.4	89,157.4	85,450.1	74,588.8	65,221.2	43,304.2
Bonds and debentures	45,155.4	30,006.9	10,040.3	507.0	3,164.6	4,878.2	1,490.6	7,610.9
Mortgage covered bonds	43,720.0	27,195.5	14,150.0	1,225.0	8,145.0	3,300.0	1,480.0	7,107.2
Territorial covered bonds	2,650.0	7,450.0	1,930.0	930.0	200.0	0.0	800.0	0.0
Backed securities	83,042.5	135,149.5	135,926.6	29,760.2	34,410.8	19,938.3	51,817.3	20,984.6
Preference shares	629.0	507.0	246.0	96.0	100.0	50.0	0.0	1,000.0
Matador bonds	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

1 Available data: February 2009.

AIAF. Issuers, issues and outstanding balance

TABLE 1.11

	2006	2007	2008	2008 I	II	III	IV	2009 I[1]
NO. OF ISSUERS	438	492	556	509	526	540	556	573
Commercial paper	69	73	72	75	73	72	72	72
Bonds and debentures	80	92	93	91	91	93	93	92
Mortgage covered bonds	14	14	22	17	22	22	22	24
Territorial covered bonds	5	7	11	11	11	11	11	11
Backed securities	257	316	383	333	352	366	383	401
Preference shares	46	50	52	52	52	52	52	52
Matador bonds	20	15	12	15	14	14	12	12
NO. OF ISSUES	3,681	4,314	4,639	4,410	4,694	4,767	4,639	4,529
Commercial paper	2,242	2,493	2,489	2,480	2,669	2,670	2,489	2,296
Bonds and debentures	398	445	450	442	452	457	450	453
Mortgage covered bonds	83	111	146	121	140	144	146	163
Territorial covered bonds	11	19	26	25	26	26	26	26
Backed securities	856	1157	1436	1249	1315	1376	1,436	1,498
Preference shares	65	71	78	75	76	78	78	79
Matador bonds	26	18	14	18	16	16	14	14
OUTSTANDING BALANCE[2] (Million euro)	588,942.3	758,559.8	819,637.7	772,385.6	809,241.1	812,631.3	819,637.7	836,913.3
Commercial paper	70,778.6	98,467.6	71,762.2	96,152.7	101,545.3	90,658.5	71,762.2	68,742.3
Bonds and debentures	131,107.8	139,586.3	122,001.9	132,397.1	131,568.3	132,099.8	122,001.9	120,782.8
Mortgage covered bonds	129,710.0	150,905.5	162,465.5	152,130.5	160,275.5	163,475.5	162,465.5	169,422.7
Territorial covered bonds	9,525.0	16,375.0	17,030.0	16,305.0	16,505.0	16,505.0	17,030.0	17,030.0
Backed securities	222,866.1	328,924.6	422,010.7	351,003.4	374,939.4	385,434.9	422,010.7	435,568.1
Preference shares	23,115.6	23,062.6	23,308.6	23,158.6	23,258.6	23,308.6	23,308.6	24,308.6
Matador bonds	1,839.2	1,238.2	1,058.8	1,238.2	1,148.9	1,148.9	1,058.8	1,058.8

1 Available data: February 2009.
2 Nominal amount.

AIAF. Trading

TABLE 1.12

Nominal amount in million euro	2006	2007	2008	2008 I	II	III	IV	2009 I[1]
BY TYPE OF ASSET	910,493.9	1,127,477.7	2,521,040.1	338,568.2	594,085.2	612,761.1	975,625.6	755,836.1
Commercial paper	489,069.5	568,009.6	591,943.8	130,792.9	134,918.8	158,910.1	167,322.0	107,027.2
Bonds and debentures	82,421.1	87,035.7	80,573.8	19,036.9	23,289.2	20,573.0	17,674.7	19,692.9
Mortgage covered bonds	70,113.5	80,811.2	129,995.3	17,036.8	42,302.2	47,216.7	23,439.6	27,943.9
Territorial covered bonds	3,659.1	7,749.8	10,142.3	4,669.9	1,276.3	711.3	3,484.9	3,010.5
Backed securities	257,628.9	378,005.2	1,704,341.8	166,049.8	391,436.8	384,574.7	762,280.4	597,140.1
Preference shares	4,647.8	4,492.4	4,030.0	976.0	860.0	774.5	1,419.6	989.2
Matador bonds	2,954.1	1,373.8	13.2	6.0	1.9	0.9	4.4	32.3
BY TYPE OF TRANSACTION	910,493.9	1,127,477.7	2,521,040.1	338,568.2	594,085.2	612,761.1	975,625.6	755,836.1
Outright	386,368.8	416,477.9	387,897.1	99,070.8	102,383.8	82,175.9	104,266.6	68,186.5
Repos	330,839.9	441,362.7	381,505.0	84,487.7	87,594.2	110,322.5	99,100.6	64,889.0
Sell-buybacks/Buy-sellbacks	193,285.1	269,637.1	1,751,638.0	155,009.7	404,107.3	420,262.6	772,258.4	622,760.7

1 Available data: February 2009.

AIAF. Third-party trading. By purchaser sector

TABLE 1.13

Nominal amount in million euro	2006	2007	2008	2008 I	II	III	IV	2009 I[1]
Total	702,608.8	837,308.5	744,652.5	178,672.7	182,988.0	188,252.8	194,739.0	121,200.2
Non-financial companies	260,108.1	364,490.6	285,044.4	73,182.6	74,341.5	73,146.1	64,374.3	45,828.7
Financial institutions	247,876.4	282,816.9	334,851.6	71,161.5	76,965.1	89,107.4	97,617.7	55,172.5
Credit institutions	83,999.1	99,492.0	130,056.0	25,715.4	31,458.1	31,066.3	41,816.2	22,539.0
IIC[2], insurance and pension funds	145,911.5	152,429.2	154,709.8	39,714.3	40,498.2	38,242.3	36,255.0	21,624.9
Other financial institutions	17,965.8	30,895.6	50,085.8	5,731.7	5,008.8	19,798.7	19,546.5	11,008.7
General government	7,058.9	7,762.4	6,331.2	1,224.6	1,965.7	907.8	2,233.1	665.6
Households and NPISHs[3]	23,675.9	28,534.8	13,344.0	3,656.6	3,609.7	2,951.3	3,126.5	3,217.6
Rest of the world	163,889.4	153,703.8	105,081.2	29,447.4	26,106.1	22,140.3	27,387.4	16,315.8

1 Available data: February 2009.
2 IIC: Instituciones de Inversión Colectiva / CIS: Collective Investment Schemes.
3 Non-profit institutions serving households.

Issues admitted to trading on equity markets. Files registered at the CNMV

TABLE 1.14

				2008				2009
	2006	2007	2008	I	II	III	IV	I[1]
NOMINAL AMOUNTS (Million euro)	68.1	7,000.0	0.0	0.0	0.0	0.0	0.0	0.0
Non-convertible bonds and debentures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Convertible bonds and debentures	68.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Others	0.0	7,000.0	0.0	0.0	0.0	0.0	0.0	0.0
NO. OF FILES	1	1	0	0	0	0	0	0
Non-convertible bonds and debentures	0	0	0	0	0	0	0	0
Convertible bonds and debentures	1	0	0	0	0	0	0	0
Others	0	1	0	0	0	0	0	0

1 Available data: February 2009.

Equity markets. Issuers, issues and outstanding balances

TABLE 1.15

				2008				2009
	2006	2007	2008	I	II	III	IV	I[1]
NO. OF ISSUERS	57	53	58	53	52	56	58	59
Private issuers	40	40	45	40	40	44	45	46
Non-financial companies	10	6	5	6	6	6	5	6
Financial institutions	30	34	40	34	34	38	40	40
General government[3]	17	13	13	13	12	12	13	13
Regional governments	3	3	3	3	3	3	3	3
NO. OF ISSUES	264	249	271	245	248	262	271	273
Private issuers	131	133	157	133	133	151	157	157
Non-financial companies	18	12	9	10	10	10	9	10
Financial institutions	113	121	148	123	123	141	148	147
General government[3]	133	116	114	112	115	111	114	116
Regional governments	89	83	82	81	84	80	82	84
OUTSTANDING BALANCES[2] (Million euro)	17,105.4	25,654.7	29,092.6	25,583.8	26,027.7	27,916.8	29,092.6	30,757.9
Private issuers	6,784.3	14,958.1	17,237.9	14,800.1	14,609.4	16,764.9	17,237.9	18,422.0
Non-financial companies	492.1	452.5	381.0	381.2	381.2	381.2	381.0	1,691.7
Financial institutions	6,292.2	14,505.6	16,856.9	14,418.9	14,228.2	16,383.7	16,856.9	16,730.3
General government[3]	10,321.1	10,696.6	11,854.7	10,783.7	11,418.3	11,151.9	11,854.7	12,335.9
Regional governments	8,319.8	8,862.6	9,972.5	9,100.3	9,535.4	9,269.6	9,972.5	10,403.7

1 Available data: February 2009.
2 Nominal amount.
3 Without public book-entry debt.

Trading on equity markets

TABLE 1.16

				2008				2009
Nominal amounts in million euro	2006	2007	2008	I	II	III	IV	I[1]
Electronic market	257.3	444.8	1,580.1	537.7	366.0	189.3	487.0	54.1
Open outcry	5,009.9	7,154.3	7,842.1	1,873.2	123.2	4,656.8	1,188.8	112.9
Madrid	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Barcelona	4,879.6	7,040.1	7,674.9	1,829.1	87.6	4,626.3	1,131.9	88.5
Bilbao	24.8	7.5	6.1	1.6	1.0	2.8	0.8	2.1
Valencia	105.5	106.7	161.1	42.6	34.7	27.6	56.1	22.3
Public book-entry debt	35.6	33.6	46.2	8.8	11.7	6.7	18.9	9.0
Regional governments debt	84,443.6	84,178.3	71,045.0	16,972.7	19,324.8	16,948.8	17,798.7	13,073.6

1 Available data: February 2009.

Organised trading systems: SENAF y MTS. Public debt trading by type

TABLE 1.17

				2008				2009
Nominal amounts in million euro	2006	2007	2008	I	II	III	IV	I[1]
Total	175.1	95.8	81.6	27.3	21.2	20.2	12.9	21.8
Outright	94.3	58.6	38.3	19.5	6.1	8.5	4.2	3.5
Sell-buybacks/Buy-sellbacks	80.2	37.2	43.3	7.8	15.1	11.7	8.7	18.3
Others	0.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0

1 Available data: February 2009.

1.3 Derivatives and other products

1.3.1 Financial derivatives markets: MEFF

Trading on MEFF TABLE 1.18

				2008				2009
Number of contracts	2006	2007	2008	I	II	III	IV	I[1]
Debt products	15	13	12	4	4	2	2	2
Debt futures[2]	15	13	12	4	4	2	2	2
Ibex 35 products[3, 4]	7,119,853	9,288,909	8,433,963	2,346,726	1,894,015	2,256,855	1,936,368	945,495
Ibex 35 plus futures	6,408,961	8,435,258	7,275,299	2,042,491	1,654,458	1,934,608	1,643,742	835,926
Ibex 35 mini futures	159,830	286,574	330,042	84,643	71,975	84,677	88,747	43,633
Call mini options	288,542	227,535	323,874	76,766	60,052	106,673	80,383	31,211
Put mini options	262,521	339,542	504,749	142,826	107,529	130,897	123,497	34,726
Stock products[5]	33,655,790	34,887,808	64,554,817	12,300,311	19,168,497	15,788,553	17,297,456	11,882,395
Futures	21,229,811	21,294,315	46,237,568	8,519,578	14,797,445	11,983,940	10,936,605	7,590,540
Call options	7,664,125	6,775,525	7,809,423	1,585,176	1,571,132	1,673,144	2,979,971	2,212,560
Put options	4,761,854	6,817,968	10,507,826	2,195,557	2,799,920	2,131,469	3,380,880	2,079,295
Pro-memoria: MEFF trading on Eurex								
Debt products[6]	1,117,956	1,059,113	869,105	342,976	220,077	132,608	173,444	96,261
Index products[7]	1,423,441	1,371,250	1,169,059	348,341	268,663	275,658	276,397	167,165

1 Available data: February 2009.
2 Contract size: 100 thousand euros.
3 The number of Ibex 35 mini futures (multiples of 1 euro) was standardised to the size of the Ibex 35 plus futures (multiples of 10 euro).
4 Contract size: Ibex 35 * 10 euros.
5 Contract size: 100 Stocks.
6 Bund, Bobl and Schatz futures.
7 Dax 30, DJ EuroStoxx 50 and DJ Stoxx 50 futures.

1.3.2 Warrants, option buying and selling contracts, and ETF (Exchange Traded Funds)

Issues registered at the CNMV TABLE 1.19

				2008				2009
	2006	2007	2008	I	II	III	IV	I[1]
WARRANTS[2]								
Premium amount (Million euro)	5,144.3	8,920.3	12,234.4	3,173.0	3,153.2	3,087.6	2,820.6	1,098.9
On stocks	3,697.6	6,215.1	6,914.1	2,257.1	1,663.2	1,576.8	1,417.0	657.8
On indexes	1,064.9	2,311.2	4,542.8	726.8	1,270.1	1,385.3	1,160.6	332.6
Other underlyings[3]	381.8	394.0	777.5	189.1	219.9	125.5	243.0	108.5
Number of issues	4,063	7,005	9,790	2,791	1,928	2,523	2,548	1,306
Number of issuers	8	7	8	7	7	6	6	5
OPTION BUYING AND SELLING CONTRACTS								
Nominal amounts (Million euro)	206.8	151.0	77.0	12.0	45.0	20.0	0.0	0.0
On stocks	196.2	145.0	77.0	12.0	45.0	20.0	0.0	0.0
On indexes	0.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other underlyings[3]	10.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0
Number of issues	12	9	4	1	2	1	0	0
Number of issuers	4	3	1	1	1	1	0	0

1 Available data: February 2009.
2 Includes issues not requiring a prospectus by application of the new regulations.
3 Includes the following underlying: baskets of stocks, exchange rates, interest rates and commodities.

Equity markets. Warrants and ETF trading

TABLE 1.20

				2008				2009
	2006	2007	2008	I	II	III	IV	I[1]
WARRANTS								
Trading (Million euro)	2,907.4	5,129.6	2,943.7	892.9	684.1	701.7	665.1	320.9
On Spanish stocks	1,805.3	3,200.7	1,581.9	521.5	362.8	333.5	364.1	142.7
On foreign stocks	293.3	474.2	145.7	47.0	50.4	30.9	17.5	16.6
On indexes	695.6	1,376.6	1,063.3	303.2	231.0	295.7	233.4	136.3
Other underlyings[2]	113.1	78.1	152.8	21.2	39.9	41.6	50.1	25.3
Number of issues[3]	4,284	7,837	9,770	4,144	4,214	4,219	4,151	2,959
Number of issuers[3]	9	9	10	9	8	8	9	9
CERTIFICATES								
Trading (Million euro)	58.8	49.8	16.8	5.1	5.0	2.8	3.9	5.1
Number of issues[3]	15	14	26	17	21	17	20	21
Number of issuers[3]	5	5	4	4	4	4	4	4
ETF								
Trading (Million euro)	-	4,664.5	6,938.1	3,037.1	1,357.4	900.6	1,643.0	432.8
Number of funds	-	21	30	27	32	29	30	30
Assets[4] (Million euro)	-	885.8	na	1,994.7	2,212.6	2,111.2	na	na

1 Available data: February 2009.
2 Includes the following underlying: baskets of stocks, exchange rates, interest rates and commodities.
3 Issues or issuers which were traded in each period.
4 Foreign collective investment schemes including the investment volume marketed in Spain.
na: No available data.

1.3.3 Non-financial derivatives

Trading on MFAO[1]

TABLE 1.21

				2008				2009
Number of contracts	2006	2007	2008	I	II	III	IV	I[2]
On olive oil								
Extra-virgin olive oil futures[3]	35,079	46,405	48,091	13,586	14,610	7,530	12,365	18,755

1 Olive oil futures market.
2 Available data: February 2009.
3 Nominal amount of the contract: 1,000 kg.

2 Investment services[a]

Investment services. Spanish firms, branches and agents

TABLE 2.1

				2008				2009
	2006	2007	2008	I	II	III	IV	I[1]
Broker-dealers								
Spanish firms	47	46	51	49	51	50	51	51
Branches	108	102	83	109	80	85	83	85
Agents	6,610	6,657	6,041	6,674	6,526	6,546	6,041	6,038
Brokers								
Spanish firms	57	53	50	50	52	53	50	49
Branches	11	12	9	7	10	10	9	8
Agents	589	625	638	624	625	631	638	690
Portfolio management companies								
Spanish firms	15	11	10	11	11	10	10	10
Branches	4	4	4	4	4	4	4	5
Agents	5	6	6	5	5	5	6	6
Credit institutions[2]								
Spanish firms	204	201	195	200	200	200	195	196

1 Available data: February 2009.
2 Source: Banco de España.

a November 2008 is the latest available data for most tables, due to the entry into force, on 31 December 2008, of the new Circular CNMV 7/2008, which modifies the accounting system of investment services companies.

Investment services. Foreign firms

TABLE 2.2

	2006	2007	2008	2008 I	2008 II	2008 III	2008 IV	2009 I[1]
Total	1,321	1,766	2,222	1,949	2,054	2,156	2,222	2,250
European Economic Area investment services firms	973	1,394	1,808	1,573	1,676	1,760	1,808	1,832
Branches	22	29	36	30	33	33	36	35
Free provision of services	951	1,365	1,772	1,543	1,643	1,727	1,772	1,797
Credit institutions[2]	348	372	414	376	378	396	414	418
From EU member states	339	363	405	367	369	387	405	409
Branches	44	52	56	55	56	56	56	55
Free provision of services	294	310	348	311	312	330	348	353
Subsidiaries of free provision of services institutions	1	1	1	1	1	1	1	1
From non-EU states	9	9	9	9	9	9	9	9
Branches	8	8	8	8	8	8	8	8
Free provision of services	1	1	1	1	1	1	1	1

1 Available data: February 2009.
2 Source: Banco de España.

Intermediation of spot transactions[1]

TABLE 2.3

Million euro	IV 2007 Spanish Stock Exchange	IV 2007 Other Spanish markets	IV 2007 Foreign markets	IV 2007 Total	IV[2] 2008 Spanish Stock Exchange	IV[2] 2008 Other Spanish markets	IV[2] 2008 Foreign markets	IV[2] 2008 Total
FIXED-INCOME								
Total	8,645	2,496,431	453,365	2,958,441	4,035	1,427,105	140,125	1,571,265
Broker-dealers	8,040	269,220	39,618	316,878	3,622	264,491	32,237	300,350
Brokers	605	2,227,211	413,747	2,641,563	413	1,162,614	107,888	1,270,915
EQUITY								
Total	595,346	1,927	34,824	632,097	225,294	914	15,236	241,444
Broker-dealers	558,712	960	30,762	590,434	208,522	771	14,120	223,413
Brokers	36,634	967	4,062	41,663	16,772	143	1,116	18,031

1 Period accumulated data.
2 Available data: November 2008.

Intermediation of derivative transactions[1,2]

TABLE 2.4

Million euro	IV2007 Spanish organised markets	IV2007 Foreign organised markets	IV2007 Non-organised markets	IV2007 Total	IV[3] 2008 Spanish organised markets	IV[3] 2008 Foreign organised markets	IV[3] 2008 Non-organised markets	IV[3] 2008 Total
Total	277,649	2,155,430	790,808	3,223,887	82,246	1,286,106	452,221	1,820,573
Broker-dealers	92,617	406,129	28,577	527,323	71,952	1,028,514	2,489	1,102,955
Brokers	185,032	1,749,301	762,231	2,696,564	10,294	257,592	449,732	717,618

1 The amount of the buy and sell transactions of financial assets, financial futures on values and interest rates, and other transactions on interest rates will be the securities nominal or notional value or the principal to which the contract reaches. The amount of the transactions on options will be the strike price of the underlying asset multiplied by the number of instruments committed.
2 Period accumulated data.
3 Available data: November 2008.

Portfolio management. Number of portfolios and assets under management[1]

TABLE 2.5

	IV 2007 Total	IV 2007 IIC[3]	IV 2007 Other[4]	IV[2] 2008 Total	IV[2] 2008 IIC[3]	IV[2] 2008 Other[4]
NUMBER OF PORTFOLIOS						
Total	19,084	105	18,979	13,693	121	13,572
Broker-dealers	10,839	30	10,809	6,664	25	6,639
Brokers	4,128	40	4,088	4,088	62	4,026
Portfolio management companies	4,117	35	4,082	2,941	34	2,907
ASSETS UNDER MANAGEMENT (Thousand euro)						
Total	14,486,231	1,840,994	12,645,237	9,209,477	637,010	8,572,467
Broker-dealers	6,193,570	929,707	5,263,863	3,530,979	127,265	3,403,714
Brokers	3,661,245	636,580	3,024,665	2,570,809	506,804	2,064,005
Portfolio management companies	4,631,416	274,707	4,356,709	3,107,689	2,941	3,104,748

1 Data at the end of period.
2 Available data: November 2008.
3 IIC: Instituciones de Inversión Colectiva / CIS: Collective Investment Schemes.
4 Includes the rest of clients, both covered and not covered by the Investment Guarantee Fund, an investor compensation scheme regulated by Royal Decree 948/2001.

Aggregated income statement. Broker-dealers

TABLE 2.6

Thousand euro[1]	2005	2006	2007	2007 IV	2008 I	II	III	IV[2]
I. FINANCIAL INCOME	57,653	17,325	-29,968	-29,968	-10,488	22,373	53,300	94,049
II. NET INCOME FROM SECURITIES TRADING	200,360	48,335	-224,173	-224,173	78,843	399,526	634,655	777,147
III. NET COMMISSION	653,273	775,377	893,803	893,803	195,164	368,472	502,553	610,470
Commission revenues	847,524	1,009,089	1,181,772	1,181,772	270,711	501,817	693,140	851,895
Brokering	526,241	629,952	775,418	775,418	186,711	343,910	484,674	605,241
Placement and underwriting	58,685	73,278	62,145	62,145	10,560	25,112	28,263	36,234
Securities deposit and recording	17,593	22,367	25,351	25,351	5,861	11,477	16,421	19,300
Portfolio management	20,599	23,883	29,649	29,649	5,946	9,893	13,886	16,144
Design and advising	52,180	55,918	65,083	65,083	7,729	12,781	17,039	21,552
Stocks search and placement	6	0	9	9	7	9	11	12
Market credit transactions	56	33	23	23	5	7	9	12
IIC subscription and redemption	118,871	141,312	138,481	138,481	30,202	55,621	74,113	85,026
Other	53,293	62,346	85,613	85,613	23,690	43,007	58,724	68,374
Commission expenses	194,251	233,712	287,969	287,969	75,547	133,345	190,587	241,425
IV. TOTAL NET REVENUES	911,286	841,037	639,662	639,662	263,519	790,371	1,190,508	1,481,666
V. OPERATING INCOME	498,362	395,105	180,892	180,892	144,447	553,546	864,482	1,088,639
VI. EARNINGS AFTER TAXES	266,734	430,651	540,390	540,390	151,025	301,711	361,479	479,172

1 Added amounts from the beginning of the year to the last day of every quarter. It includes companies removed through out the year.
2 Available data: November 2008.

Results of proprietary trading. Broker-dealers

TABLE 2.7

Thousand euro[1]	Total IV 2007	Total IV[2] 2008	Financial income IV 2007	Financial income IV[2] 2008	Securities portfolio IV 2007	Securities portfolio IV[2] 2008	Other charges IV 2007	Other charges IV[2] 2008
Total	-316,875	819,805	-29,968	94,049	-224,173	777,147	-62,734	-51,391
Money market assets and public debt	-22,720	658	4,441	7,953	-27,161	-7,295	-	-
Other fixed-income securities	83,172	69,368	60,809	84,610	22,363	-15,242	-	-
Domestic portfolio	68,579	66,124	56,076	82,672	12,503	-16,548	-	-
Foreign portfolio	14,593	3,244	4,733	1,938	9,860	1,306	-	-
Equities	293,609	-1,359,770	100,151	53,233	193,458	-1,413,003	-	-
Domestic portfolio	181,877	-305,379	46,633	17,990	135,244	-323,369	-	-
Foreign portfolio	111,732	-1,054,391	53,518	35,243	58,214	-1,089,634	-	-
Derivatives	-397,299	2,228,430	-	-	-397,299	2,228,430	-	-
Repurchase agreements	-8,345	-24,391	-8,345	-24,391	-	-	-	-
Market credit transactions	0	0	0	0	-	-	-	-
Deposits and other transactions with financial Intermediaries	-212,675	-65,854	-212,675	-65,854	-	-	-	-
Other transactions	-52,617	-28,636	25,651	38,498	-15,534	-15,743	-62,734	-51,391

1 Added amounts from the beginning of the year to the last day of every quarter. It includes companies removed through out the year.
2 Available data: November 2008.

Aggregated income statement. Brokers

TABLE 2.8

Thousand euro[1]	2005	2006	2007	2007 IV	2008 I	II	III	IV[2]
I. FINANCIAL INCOME	10,665	12,934	14,395	14,395	2,434	6,039	7,822	8,828
II. NET INCOME FROM SECURITIES TRADING	3,306	3,906	580	580	-939	-1,363	-2,026	-3,348
III. NET COMMISSION	184,113	233,447	237,403	237,403	41,507	82,530	115,919	138,351
Commission revenues	229,752	297,030	310,892	310,892	48,935	95,111	133,583	159,222
Brokering	97,948	114,111	131,976	131,976	19,349	33,728	47,825	58,929
Placement and underwriting	3,821	3,183	2,501	2,501	994	3,010	4,354	4,745
Securities deposit and recording	1,357	1,520	1,680	1,680	314	394	512	567
Portfolio management	14,868	28,672	27,457	27,457	5,847	11,966	16,783	18,958
Design and advising	2,664	2,360	2,224	2,224	252	1,550	2,181	2,689
Stocks search and placement	0	0	0	0	0	0	0	0
Market credit transactions	0	0	0	0	0	0	0	0
IIC subscription and redemption	46,171	68,513	74,918	74,918	9,679	17,156	24,309	28,680
Other	62,923	78,671	70,136	70,136	12,500	27,307	37,619	44,654
Commission expenses	45,639	63,583	73,489	73,489	7,428	12,581	17,664	20,871
IV. TOTAL NET REVENUES	198,084	250,287	252,378	252,378	43,002	87,206	121,715	143,831
V. OPERATING INCOME	66,420	95,026	98,596	98,596	9,302	14,001	19,259	18,718
VI. EARNINGS AFTER TAXES	38,264	62,449	86,017	86,017	9,427	15,919	25,623	25,104

1 Accumulated data from the beginning of the year to the last day of every quarter. It includes companies removed through out the year.
2 Available data: November 2008.

Aggregated income statement. Portfolio management companies

TABLE 2.9

Thousand euro[1]	2005	2006	2007	2007 IV	2008 I	II	III	IV[2]
I. FINANCIAL INCOME	575	895	1,442	1,442	376	789	1,210	1,412
II. NET INCOME FROM SECURITIES TRADING	65	6	21	21	-32	-158	-159	-218
III. NET COMMISSION	17,164	15,195	15,501	15,501	3,459	6,583	9,382	11,506
Commission revenues	25,508	27,625	27,340	27,340	6,308	12,392	18,138	22,240
Portfolio management	18,813	22,068	22,545	22,545	5,203	10,243	15,157	18,394
Design and advising	4,380	4,951	2,614	2,614	637	1,226	1,677	2,320
IIC subscription and redemption	592	261	1,728	1,728	368	675	936	1,079
Other	1,723	345	453	453	100	248	368	447
Commission expenses	8,344	12,430	11,839	11,839	2,849	5,809	8,756	10,734
IV. TOTAL NET REVENUES	17,804	16,096	16,964	16,964	3,803	7,214	10,433	12,700
V. OPERATING INCOME	6,051	6,352	7,226	7,226	1,041	1,543	2,150	2,453
VI. EARNINGS AFTER TAXES	3,465	4,112	4,837	4,837	730	1,009	1,428	1,514

1 Accumulated data from the beginning of the year to the last day of every quarter. It includes companies removed through out the year.
2 Available data: November 2008.

Surplus equity over capital adequacy requirements[1]

TABLE 2.10

Thousand euro	Surplus Total amount	Surplus %[2]	Number of companies according to its surplus percentage < 50	<100	<150	<200	<300	<400	<500	<750	<1000	>1000
Total	1,400,885	422.01	11	9	16	9	19	4	13	10	3	17
Broker-dealers	1,297,449	465.42	2	1	3	2	11	3	9	4	3	13
Brokers	81,700	211.03	8	7	9	7	6	1	3	6	0	3
Portfolio management companies	21,736	150.15	1	1	4	0	2	0	1	0	0	1

1 Available data: December 2008.
2 Average percentage is weighted by the required equity of each company. It is an indicator of the number of times, in percentage terms, that the surplus contains the required equity in an average company.

Return on equity (ROE) before taxes[1]

TABLE 2.11

	Average[2]	Number of companies according to its annualized return Losses	0-5%	6-15%	16-30%	31-45%	46-60%	61-75%	76-100%	>100%
Total	31.25	33	16	18	12	12	7	3	6	6
Broker-dealers	33.83	11	7	9	6	7	2	2	3	3
Brokers	14.73	19	7	6	6	4	4	1	3	3
Portfolio management companies	5.11	3	2	3	0	1	1	0	0	0

1 Available data: November 2008.
2 Average weighted by equity, %.

3 Collective investment schemes (IIC[a])[b,c]

Number, management companies and depositories of collective investment schemes registered at the CNMV

TABLE 3.1

	2006	2007	2008	2008 I	II	III	IV	2009 I[1]
Total financial IIC	6,006	6,296	6,354	6,347	6,395	6,389	6,354	6,315
Mutual funds	2,850	2,954	2,943	2,956	2,968	2,954	2,943	2,921
Investment companies	3,149	3,290	3,347	3,328	3,365	3,369	3,347	3,329
Funds of hedge funds	2	31	40	38	39	41	40	40
Hedge funds	5	21	24	25	23	25	24	25
Total real estate IIC	17	18	18	17	17	17	18	18
Real estate investment funds	9	9	9	9	9	9	9	9
Real estate investment companies	8	9	9	8	8	8	9	9
Total foreign IIC marketed in Spain	340	440	563	465	490	535	563	562
Foreign funds marketed in Spain	164	225	312	241	253	290	312	311
Foreign companies marketed in Spain	176	215	251	224	237	245	251	251
Management companies	114	120	120	121	120	120	120	120
IIC depositories	132	126	125	126	126	126	125	124

1 Available data: February 2009.

a IIC: Instituciones de Inversión Colectiva / CIS: Collective Investment Schemes.
b In this document, neither hedge funds nor funds of hedge funds are included in the figures referred to mutual funds.
c November 2008 is the latest available data for most tables (September for tables 3.9. and 3.10), due to the entry into force, on 31 December 2008, of new Circulars CR CNMV 3/2008 and CR CNMV 7/2008, which modify accounting information to be reported to CNMV.

Number of IIC investors and shareholders

TABLE 3.2

				2007	2008			
	2005	2006	2007	IV	I	II	III	IV[1]
Total financial IIC	8,869,084	9,048,207	8,492,282	8,492,282	7,861,369	7,466,954	6,970,806	-
Mutual funds	8,450,164	8,637,781	8,053,049	8,053,049	7,420,379	7,023,292	6,520,089	6,026,860
Investment companies	418,920	410,403	434,156	434,156	434,167	433,651	439,395	-
Funds of hedge funds[2]	-	2	3,950	3,950	5,488	8,582	9,739	9,506
Hedge funds[2]	-	21	1,127	1,127	1,335	1,429	1,583	1,576
Total real estate IIC	119,113	151,053	146,353	146,353	145,036	141,876	136,245	98,722
Real estate investment funds	118,857	150,304	145,510	145,510	144,197	141,037	135,307	97,784
Real estate investment companies	256	749	843	843	839	839	938	938
Total foreign IIC marketed in Spain	560,555	779,165	850,931	850,931	729,321	697,732	648,457	-
Foreign funds marketed in Spain	104,089	144,139	142,782	142,782	137,933	124,446	112,064	-
Foreign companies marketed in Spain	456,466	635,026	708,149	708,149	591,388	573,286	536,393	-

1 Available data: November 2008. Real estate investment companies and foreign IIC send this information quarterly.
2 Provisional data in case of funds of hedge funds and hedge funds.

IIC total net assets

TABLE 3.3

				2007	2008			
Million euro	2005	2006	2007	IV	I	II	III	IV[1]
Total financial IIC	289,810.7	300,584.0	287,968.7	287,968.7	264,775.7	244,660.6	226,473.9	206,307.5
Mutual funds[2]	262,200.9	270,406.3	255,040.9	255,040.9	234,043.9	214,251.8	197,305.6	179,604.6
Investment companies	27,609.8	30,152.7	31,481.5	31,481.5	29,055.9	28,415.3	27,143.2	24,942.6
Funds of hedge funds[3]	-	0.6	1,000.6	1,000.6	1,129.6	1,389.6	1,427.5	1,210.1
Hedge funds[3]	-	24.4	445.8	445.8	546.3	603.9	597.7	550.2
Total real estate IIC	6,690.8	9,052.0	9,121.4	9,121.4	8,912.8	8,753.1	8,530.6	7,854.8
Real estate investment funds	6,476.9	8,595.9	8,608.5	8,608.5	8,563.8	8,394.0	8,166.7	7,489.5
Real estate investment companies	213.9	456.1	512.9	512.9	349.0	359.2	363.8	365.3
Total foreign IIC marketed in Spain	33,668.1	44,102.9	37,092.7	37,092.7	30,184.5	28,581.0	22,046.4	-
Foreign funds marketed in Spain	8,267.3	12,099.3	7,010.3	7,010.3	5,004.9	4,313.5	3,064.6	-
Foreign companies marketed in Spain	25,400.8	32,003.5	30,082.4	30,082.4	25,179.6	24,267.5	18,981.8	-

1 Available data: November 2008. Real estate investment companies and foreign IIC send this information quarterly.
2 For November 2008, mutual funds investments in financial IIC reached 10.5 billion euro.
3 Provisional data in case of funds of hedge funds and hedge funds.

Mutual funds asset allocation[1,2]

TABLE 3.4

				2007	2008			
Million euro	2005	2006	2007	IV	I	II	III	IV[3]
Asset	262,200.9	270,406.9	256,040.2	256,040.2	235,173.5	215,618.2	198,730.5	180,862.4
Cash	8,207.5	10,462.9	15,485.2	15,485.2	15,768.9	17,710.9	20,685.9	19,600.3
Portfolio investment	255,273.6	260,002.9	240,110.5	240,110.5	219,010.7	197,728.4	177,568.5	160,194.1
Domestic securities	123,683.6	127,355.4	134,700.7	134,700.7	128,697.2	115,902.8	105,206.6	97,344.0
Shares	11,602.1	13,806.8	11,600.7	11,600.7	8,137.3	6,802.7	5,501.0	4,141.5
Mutual funds units	17,255.9	17,322.8	18,720.4	18,720.4	17,772.2	15,822.3	13,745.3	10,671.9
Public money market assets	4,149.4	2,887.7	2,206.6	2,206.6	3,493.5	4,618.6	4,488.8	6,581.7
Other public fixed-income	10,088.7	9,891.6	8,708.7	8,708.7	6,608.3	6,299.7	6,334.9	5,629.5
Private money market assets	26,850.7	28,483.2	37,486.9	37,486.9	35,309.7	35,514.6	30,277.3	25,521.7
Other private fixed-income	18,835.6	23,105.3	24,251.5	24,251.5	23,039.2	22,873.3	20,884.5	18,510.4
Spanish warrants and options	483.1	603.3	553.2	553.2	344.0	414.4	309.7	235.2
Repos	34,417.8	31,229.4	31,172.4	31,172.4	33,992.7	23,557.0	23,664.2	26,051.2
Unlisted securities	0.2	25.4	0.2	0.2	0.2	0.2	0.9	1.0
Foreign securities	131,590.0	132,647.4	105,409.8	105,409.8	90,313.5	81,825.6	72,361.9	62,850.0
Euros	118,871.5	118,664.1	94,205.2	94,205.2	82,742.5	74,569.0	66,564.8	58,613.1
Shares	8,925.1	11,418.0	10,772.1	10,772.1	6,970.4	5,859.8	4,589.8	3,429.3
Mutual fund units	15,986.0	23,414.2	13,149.1	13,149.1	8,659.6	7,036.7	5,161.5	3,357.2
Fixed-income	90,220.7	78,933.4	65,972.8	65,972.8	64,362.8	59,588.6	55,157.3	50,648.4
Foreign warrants and options	3,739.7	4,898.7	4,311.2	4,311.2	2,749.7	2,083.0	1,654.6	1,156.2
Unlisted securities	0.0	0.0	0.0	0.0	0.0	0.8	1.6	22.1
Other	12,718.5	13,983.3	11,204.6	11,204.6	7,571.0	7,256.6	5,797.1	4,236.9
Shares	7,019.5	7,343.0	5,964.0	5,964.0	3,972.9	3,823.9	3,104.1	2,122.8
Mutual fund units	4,395.6	5,491.5	4,477.8	4,477.8	3,097.6	3,018.0	2,325.3	1,728.1
Fixed-income	1,204.8	1,011.7	631.1	631.1	413.5	386.2	336.8	350.0
Foreign warrants and options	97.2	136.0	130.8	130.8	86.4	27.7	30.2	35.5
Unlisted securities	1.4	1.2	0.9	0.9	0.8	0.8	0.7	0.5
Net balance (Debtors - Creditors)	-1,280.3	-58.8	444.5	444.5	393.9	178.8	476.1	1,068.0

1 Hedge funds are not included in these figures. The information is not available because hedge funds have different accounting regulation.
2 Provisional data in case of funds of hedge funds and hedge funds.
3 Available data: November 2008.

Investment companies asset allocation

TABLE 3.5

Million euro	2005	2006	2007	2007 IV	2008 I	II	III	IV[1]
Asset	27,610.0	30,152.7	31,481.5	31,481.5	29,055.9	28,415.2	27,143.2	24,942.6
Cash	728.9	802.2	1,182.2	1,182.2	1,457.3	1,938.4	2,759.1	2,367.4
Portfolio investment	26,884.9	29,294.1	30,037.4	30,037.4	27,440.2	26,306.3	24,131.2	22,423.9
Domestic securities	13,851.1	15,553.8	17,075.3	17,075.3	17,080.2	16,012.2	15,391.9	14,879.2
Shares	5,906.5	6,727.3	6,173.6	6,173.6	5,073.8	4,372.0	3,756.4	3,292.9
Mutual funds units	941.2	1,095.0	1,362.3	1,362.3	1,370.6	1,311.4	1,216.1	1,219.8
Public money market assets	128.1	463.4	382.8	382.8	386.6	348.3	403.9	531.0
Other public fixed-income	897.0	678.2	710.2	710.2	536.7	523.1	559.9	493.9
Private money market assets	359.1	555.4	1,568.6	1,568.6	1,854.6	2,199.0	2,102.8	1,820.5
Other private fixed-income	397.3	554.8	620.8	620.8	702.0	930.2	943.7	949.1
Spanish warrants and options	15.3	19.7	22.1	22.1	19.5	12.9	23.0	38.7
Repos	5,206.2	5,459.1	6,234.1	6,234.1	7,132.6	6,311.6	6,382.2	6,528.8
Unlisted securities	0.3	0.8	0.8	0.8	3.7	3.6	4.1	4.7
Foreign securities	13,033.8	13,740.3	12,962.2	12,962.2	10,360.0	10,294.1	8,739.3	7,544.7
Euros	9,178.6	9,847.7	9,413.7	9,413.7	7,768.0	7,711.5	6,568.0	5,856.3
Shares	2,885.6	3,379.9	3,367.7	3,367.7	2,319.8	2,083.2	1,633.1	1,284.1
Mutual fund units	3,351.6	4,169.1	3,826.1	3,826.1	3,252.4	3,148.5	2,419.5	2,009.3
Fixed-income	2,755.8	2,041.5	2,006.7	2,006.7	2,017.6	2,308.5	2,369.1	2,420.3
Foreign warrants and options	185.7	257.2	213.1	213.1	178.3	171.2	146.2	135.1
Unlisted securities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	7.4
Other	3,855.2	3,892.6	3,548.5	3,548.5	2,592.0	2,582.6	2,171.3	1,688.4
Shares	2,173.9	2,104.7	1,752.2	1,752.2	1,304.0	1,298.7	1,101.1	839.5
Mutual fund units	1,403.7	1,517.7	1,600.6	1,600.6	1,139.2	1,148.1	945.6	727.4
Fixed-income	270.0	234.8	183.2	183.2	138.9	123.4	111.9	117.3
Foreign warrants and options	7.5	11.3	12.5	12.5	9.9	12.3	12.7	4.2
Unlisted securities	0.1	24.1	0.0	0.0	0.0	0.0	0.0	0.0
Net balance (Debtors - Creditors)	-3.8	56.4	261.8	261.8	158.5	170.6	252.9	151.3

1 Available data: November 2008.

Financial mutual funds: number, investors and total net assets by category[1]

TABLE 3.6

	2005	2006	2007	2007 IV	2008 I	II	III	IV[2]
NO. OF FUNDS								
Total financial mutual funds	2,705	2,822	2,926	2,926	2,942	2,950	2,932	2,936
Fixed-income[3]	624	606	600	600	609	614	616	630
Mixed fixed-income[4]	217	212	204	204	203	197	195	196
Mixed equity[5]	222	222	207	207	206	205	204	204
Spanish equity	116	118	123	123	123	122	117	117
Foreign equity[6]	454	467	481	481	477	482	469	463
Guaranteed fixed-income	211	220	251	251	256	251	255	261
Guaranteed equity	514	559	590	590	592	601	600	593
Global funds	347	418	470	470	476	478	476	472
Funds of hedge funds[7]	-	2	31	31	38	39	41	40
Hedge funds[7]	-	5	21	21	25	23	25	25
INVESTORS								
Total financial mutual funds	8,450,164	8,637,781	8,053,049	8,053,049	7,420,379	7,023,292	6,520,089	6,026,860
Fixed-income[3]	3,071,656	2,960,879	2,763,442	2,763,442	2,620,712	2,498,451	2,389,795	2,228,281
Mixed fixed-income[4]	492,988	524,827	493,786	493,786	434,935	359,904	319,445	279,989
Mixed equity[5]	408,757	357,013	331,214	331,214	289,184	263,926	236,645	216,285
Spanish equity	365,301	317,386	288,210	288,210	219,842	204,259	180,472	169,765
Foreign equity[6]	1,199,460	1,258,426	1,089,868	1,089,868	942,733	907,345	758,463	691,529
Guaranteed fixed-income	455,237	497,540	549,108	549,108	552,116	542,500	552,515	546,583
Guaranteed equity	1,849,626	1,783,867	1,715,144	1,715,144	1,639,760	1,575,766	1,513,064	1,422,055
Global funds	607,139	937,843	822,277	822,277	721,097	671,141	569,690	472,373
Funds of hedge funds[7]	-	2	3,950	3,950	5,488	8,582	9,739	9,596
Hedge funds[7]	-	21	1,127	1,127	1,335	1,429	1,583	1,576
TOTAL NET ASSETS (Million euro)								
Total financial mutual funds	262,200.9	270,406.3	255,040.9	255,040.9	234,043.9	214,251.8	197,305.6	179,604.6
Fixed-income[3]	123,890.7	116,511.9	113,234.1	113,234.1	116,544.0	107,349.4	100,931.9	94,278.1
Mixed fixed-income[4]	14,625.8	15,314.5	13,011.9	13,011.9	10,551.0	8,488.5	7,175.8	5,996.7
Mixed equity[5]	10,005.6	10,149.2	8,848.0	8,848.0	6,811.6	5,990.9	5,092.8	4,102.6
Spanish equity	9,741.7	10,416.4	7,839.4	7,839.4	5,369.9	4,584.1	3,612.5	2,749.0
Foreign equity[6]	20,925.1	24,799.6	22,698.4	22,698.4	14,962.8	13,433.5	10,472.7	7,856.0
Guaranteed fixed-income	13,442.0	14,484.8	17,674.4	17,674.4	19,253.8	19,841.0	20,968.0	21,469.5
Guaranteed equity	45,839.8	44,796.6	42,042.1	42,042.1	38,521.4	35,633.2	33,782.8	31,176.7
Global funds	23,730.1	33,933.3	29,692.6	29,692.6	22,029.4	18,931.4	15,269.2	11,976.0
Funds of hedge funds[7]	-	0.6	1,000.6	1,000.6	1,129.6	1,389.6	1,427.5	1,252.1
Hedge funds[7]	-	24.4	445.8	445.8	546.3	603.9	597.7	550.3

1 Mutual funds that have sent reports to the CNMV (therefore mutual funds in a process of dissolution or liquidation are not included).
2 Available data: November 2008.
3 This category includes: Short-term fixed income, Long-term fixed income, Foreign fixed-income and Monetary market funds.
4 This category includes: Mixed fixed-income and Foreign mixed fixed-income.
5 This category includes: Mixed equity and Foreign mixed equity .
6 This category includes: Euro equity, Foreign equity Europe, Foreign equity Japan, Foreign equity USA, Foreign equity emerging countries and Other foreign equity.
7 Provisional data in case of funds of hedge funds and hedge funds.

Financial mutual funds: Detail of investors and total net assets by type of investors

TABLE 3.7

	2005	2006	2007	2007 IV	2008 I	II	III	IV[1]
INVESTORS	8,450,164	8,637,804	8,058,126	8,058,126	7,427,202	7,033,303	6,531,411	6,037,942
Individuals	8,202,638	8,389,315	7,818,701	7,818,701	7,206,815	6,827,129	6,340,598	5,860,047
Residents	8,101,310	8,292,264	7,725,443	7,725,443	7,116,692	6,740,765	6,259,219	5,783,633
Non-residents	101,328	97,051	93,258	93,258	90,123	86,364	81,379	76,414
Legal entities	247,526	248,489	239,425	239,425	220,387	206,174	190,813	177,895
Credit Institutions	1,634	1,609	2,276	2,276	1,130	1,192	1,163	1,166
Other resident Institutions	244,223	244,980	235,298	235,298	217,441	203,254	187,999	174,870
Non-resident Institutions	1,669	1,900	1,851	1,851	1,816	1,728	1,651	1,859
TOTAL NET ASSETS (Million euro)	262,200.9	270,431.3	256,487.3	256,487.3	235,719.8	216,245.3	199,328.8	181,364.9
Individuals	193,948.6	201,411.0	190,980.6	190,980.6	175,579.4	162,024.9	150,882.4	139,613.1
Residents	190,753.2	198,330.5	188,210.0	188,210.0	173,073.0	159,705.6	148,777.6	137,689.1
Non-residents	3,195.4	3,080.5	2,770.6	2,770.6	2,506.4	2,319.3	2,104.8	1,924.0
Legal entities	68,252.3	69,020.3	65,506.7	65,506.7	60,140.4	54,220.5	48,446.4	41,751.8
Credit Institutions	4,253.2	5,318.0	5,920.9	5,920.9	3,700.6	3,552.0	3,608.6	2,726.3
Other resident Institutions	62,749.8	61,646.6	57,670.6	57,670.6	54,904.4	48,892.1	43,178.0	37,622.5
Non-resident Institutions	1,249.4	2,055.7	1,915.2	1,915.2	1,535.4	1,776.4	1,659.8	1,403.1

1 Available data: November 2008.

Subscriptions and redemptions of financial mutual funds by category[1]

TABLE 3.8

Million euro	2005	2006	2007	2007 IV	2008 I	II	III	IV[2]
SUBSCRIPTIONS								
Total financial mutual funds	169,807.0	194,787.4	180,943.6	41,508.2	47,016.2	33,450.6	23,895.9	37,186.9
Fixed-income	108,566.1	118,705.9	116,323.9	26,566.0	37,510.5	22,581.5	17,342.5	31,631.3
Mixed fixed-income	6,677.3	8,476.6	5,859.4	955.7	620.2	315.9	239.0	484.1
Mixed equity	2,065.2	2,783.6	2,749.8	452.2	278.9	606.0	250.9	111.4
Spanish equity	5,588.5	5,590.4	4,402.4	943.4	414.5	344.4	157.1	200.3
Foreign equity	14,006.2	17,662.3	16,631.5	2,971.3	1,867.3	1,545.7	926.3	809.6
Guaranteed fixed-income	6,923.9	6,126.2	9,161.3	2,981.1	3,286.2	2,983.5	2,692.4	2,426.0
Guaranteed equity	13,520.7	8,914.1	8,070.6	3,095.7	1,089.4	3,120.4	1,549.5	882.9
Global funds	12,459.2	26,528.3	17,744.2	3,542.7	1,949.1	1,953.1	738.3	641.5
Funds of hedge funds[3]	-	0.6	1,071.2	215.5	200.1	447.3	165.9	104.7
Hedge funds[3]	-	24.4	380.8	243.0	164.1	77.8	8.2	na
REDEMPTIONS								
Total financial mutual funds	155,304.2	198,600.1	202,827.4	56,448.9	62,032.7	52,061.9	39,354.3	52,324.0
Fixed-income	107,150.9	127,469.1	122,178.3	32,605.9	35,049.1	32,357.6	24,503.3	38,626.3
Mixed fixed-income	4,339.6	7,048.4	7,809.6	2,128.0	2,861.9	1,891.3	1,437.2	1,472.6
Mixed equity	2,602.5	3,644.7	4,023.0	1,106.9	1,675.7	1,245.2	882.7	640.1
Spanish equity	5,323.3	7,824.6	6,723.3	1,682.8	1,979.7	733.9	868.4	430.9
Foreign equity	11,390.2	16,490.9	20,073.1	5,833.8	6,456.5	2,735.1	2,383.1	1,502.2
Guaranteed fixed-income	7,014.0	5,029.3	6,430.6	1,712.0	2,085.8	1,867.5	1,785.4	2,842.8
Guaranteed equity	8,931.6	11,830.1	11,602.6	4,437.3	3,647.6	5,929.2	3,924.0	3,996.3
Global funds	8,552.1	19,263.1	23,986.6	6,942.2	8,276.4	5,302.1	3,570.2	2,812.8
Funds of hedge funds[3]	-	0.0	65.9	53.2	98.7	234.5	101.5	131.6
Hedge funds[3]	-	0.1	2.6	2.1	50.9	26.5	14.5	na

1 Estimated data.
2 Available data: November 2008.
3 Provisional data in case of funds of hedge funds and hedge funds.
na: No available data..

Financial mutual funds asset change by category: Net subscriptions/redemptions and return on assets

TABLE 3.9

Million euro	2005	2006	2007	2007 III	IV	2008 I	II	III
NET SUBSCRIPTIONS/REDEMPTIONS								
Total financial mutual funds	14,444.3	-4,524.5	-21,877.7	-5,995.1	-14,990.5	-14,950.1	-18,602.1	-15,158.3
Fixed-income	1,445.5	-9,423.4	-5,852.4	1,601.6	-6,029.3	2,480.0	-9,672.7	-7,021.1
Mixed fixed-income	2,349.6	1,539.2	-1,942.0	-909.6	-1,163.6	-2,238.2	-1,739.2	-1,221.8
Mixed equity	-546.5	-854.7	-1,277.0	-367.8	-655.8	-1,391.2	-648.4	-636.4
Spanish equity	276.0	-2,219.4	-2,314.4	-940.2	-745.6	-1,561.2	-412.4	-606.9
Foreign equity	2,652.4	1,133.8	-3,342.6	-2,007.2	-2,817.5	-4,553.7	-1,156.9	-1,462.7
Guaranteed fixed-income	-354.4	1,018.9	2,714.6	294.6	1,174.5	1,190.9	1,041.5	979.4
Guaranteed equity	4,693.6	-3,021.1	-3,604.9	-802.2	-1,340.2	-2,564.4	-2,830.0	-2,545.1
Global funds	3,928.2	7,302.1	-6,258.9	-2,864.3	-3,412.9	-6,312.3	-3,183.9	-2,643.7
Funds of hedge funds	-	0.6	1,005.5	221.7	162.6	107.9	215.5	66.1
Hedge funds	-	24.3	164.7	61.8	241.0	113.3	51.4	-5.9
RETURN ON ASSETS								
Total financial mutual funds	11,670.2	12,733.7	6,517.0	-696.7	125.6	-6,045.6	-1,188.8	-1,808.9
Fixed-income	1,837.6	2,260.2	3,073.5	723.6	771.5	599.0	618.0	483.4
Mixed fixed-income	620.3	606.6	271.8	-30.6	15.6	-287.1	-111.9	-98.4
Mixed equity	1,053.4	984.2	261.5	-120.3	-39.4	-645.2	-172.3	-265.3
Spanish equity	1,623.7	2,882.9	768.3	-229.8	215.1	-908.3	-373.4	-394.2
Foreign equity	3,507.1	2,736.1	251.5	-942.1	-905.3	-3,191.1	-372.4	-1,463.8
Guaranteed fixed-income	222.8	112.3	334.7	164.0	42.8	188.7	-11.8	156.2
Guaranteed equity	1,635.5	1,995.2	1,105.8	25.0	144.6	-1,075.9	-719.8	140.2
Global funds	1,169.8	1,156.2	450.2	-286.3	-119.4	-725.7	-45.1	-366.8
Funds of hedge funds	-	0.0	-9.6	-16.7	4.8	5.5	23.3	-29.6
Hedge funds	-	0.1	0.2	-3.9	-5.3	-12.4	7.0	-1.9

Financial mutual funds return on assets. Detail by category

TABLE 3.10

% of daily average total net assets[1]	2005	2006	2007	2007 III	IV	2008 I	II	III
MANAGEMENT YIELDS								
Total financial mutual funds	5.87	5.73	3.45	0.02	0.32	-2.24	-0.30	-0.66
Fixed-income	2.31	2.51	3.32	0.79	0.85	0.68	0.71	0.63
Mixed fixed-income	6.18	5.30	2.98	0.11	0.44	-2.17	-0.84	-0.94
Mixed equity	12.96	11.31	4.25	-0.78	-0.01	-8.18	-2.18	-4.36
Spanish equity	20.10	30.10	9.14	-2.13	3.01	-15.02	-6.58	-9.21
Foreign equity	22.82	13.82	2.78	-2.95	-3.19	-18.34	-2.00	-11.67
Guaranteed fixed-income	2.45	1.67	3.25	1.22	1.02	1.16	0.09	0.91
Guaranteed equity	5.26	5.86	3.65	0.44	0.47	-2.32	-1.71	0.78
Global funds	7.41	4.84	2.57	-0.52	-0.07	-2.64	0.09	-1.90
Funds of hedge funds	-	ns	-1.36	-1.83	1.04	0.38	2.86	-1.88
Hedge funds	-	ns	0.57	-1.64	-0.69	-2.38	2.58	-0.31
EXPENSES. MANAGEMENT FEE								
Total financial mutual funds	1.07	1.04	1.00	0.25	0.24	0.23	0.22	0.22
Fixed-income	0.73	0.63	0.61	0.15	0.15	0.15	0.14	0.15
Mixed fixed-income	1.24	1.21	1.13	0.29	0.29	0.29	0.29	0.30
Mixed equity	1.69	1.63	1.54	0.39	0.39	0.38	0.38	0.39
Spanish equity	1.77	1.83	1.59	0.41	0.42	0.42	0.41	0.39
Foreign equity	1.80	1.78	1.70	0.41	0.41	0.42	0.41	0.41
Guaranteed fixed-income	0.77	0.75	0.62	0.17	0.16	0.14	0.13	0.13
Guaranteed equity	1.38	1.34	1.30	0.34	0.34	0.34	0.33	0.33
Global funds	1.41	1.26	1.16	0.25	0.26	0.28	0.27	0.27
Funds of hedge funds	-	ns	1.15	0.42	0.43	0.47	0.42	0.36
Hedge funds	-	ns	1.39	0.09	0.67	0.56	0.61	0.57
EXPENSES. DEPOSITORY FEE[2]								
Total financial mutual funds	0.10	0.09	0.09	0.02	0.02	0.02	0.02	0.02
Fixed-income	0.09	0.08	0.08	0.02	0.02	0.02	0.02	0.02
Mixed fixed-income	0.11	0.10	0.09	0.02	0.02	0.02	0.02	0.02
Mixed equity	0.11	0.11	0.10	0.03	0.03	0.03	0.03	0.03
Spanish equity	0.11	0.11	0.11	0.03	0.03	0.03	0.03	0.03
Foreign equity	0.11	0.11	0.11	0.03	0.03	0.03	0.03	0.03
Guaranteed fixed-income	0.09	0.09	0.08	0.02	0.02	0.02	0.02	0.02
Guaranteed equity	0.11	0.11	0.10	0.03	0.03	0.03	0.03	0.03
Global funds	0.09	0.10	0.10	0.03	0.03	0.02	0.02	0.02
Funds of hedge funds	-	ns	0.06	0.02	0.02	0.02	0.03	0.02
Hedge funds	-	ns	0.33	0.05	0.05	0.04	0.05	0.05

1 The % refers to monthly average total net assets for the Hedge fund category.
2 Instead of the depository fee, the figures for the Hedge fund category refers to the financial expenses.
ns: Not significant.

Mutual fund quarterly returns. Detail by category

TABLE 3.11

In %	2005	2006	2007	2007 IV	2008 I	II	III	IV[1]
Total financial mutual funds	5.00	5.59	2.73	0.10	-1.96	-0.56	-0.79	-1.22
Fixed-income	1.53	1.95	2.71	0.68	0.54	0.57	0.48	0.32
Mixed fixed-income	5.00	4.18	1.93	0.18	-2.32	-1.29	-1.29	-2.64
Mixed equity	11.85	10.34	2.69	-0.40	-7.56	-2.91	-4.73	-9.02
Spanish equity	20.60	33.25	8.02	2.53	-12.01	-7.66	-9.73	-17.63
Foreign equity	24.18	14.98	2.13	-3.28	-15.06	-2.73	-11.31	-18.31
Guaranteed fixed-income	1.66	0.83	2.78	0.84	1.02	-0.01	0.80	1.00
Guaranteed equity	3.95	4.66	2.44	0.12	-2.56	-1.94	0.42	0.96
Global funds	6.16	4.01	1.47	-0.38	-2.56	-0.29	-2.17	-3.95
Funds of hedge funds	-	ns	-0.43	1.22	-2,31	2.20	-7.56	-9.39
Hedge funds	-	ns	0.84	-1.31	-1.95	1.48	-0.29	-4.67

1 Available data: November 2008. The return refers to September-November period.
ns: Not significant.

Management companies. Number of portfolios and assets under management

TABLE 3.12

	2005	2006	2007	2007 IV	2008 I	II	III	IV[1]
NUMBER OF PORTFOLIOS								
Mutual funds	2,723	2,850	2,954	2,954	2,956	2,968	2,954	2,946
Investment companies	2,989	3,049	3,181	3,181	3,217	3,256	3,261	3,253
Funds of hedge funds	-	2	31	31	38	39	41	40
Hedge funds	-	5	21	21	25	23	25	25
Real estate investment fund	7	9	9	9	9	9	9	9
Real estate investment companies	6	8	9	9	8	8	8	8
ASSETS UNDER MANAGEMENT (Million euro)								
Mutual funds	262,200.9	270,406.3	255,040.9	255,040.9	234,043.9	214,251.8	197,305.6	179,604.6
Investment companies	25,486.0	28,992.7	30,300.0	30,300.0	27,984.8	27,394.2	26,149.4	24,054.3
Funds of hedge funds	-	0.6	1,000.6	1,000.6	1,129.6	1,389.6	1,427.5	1,210.1
Hedge funds	-	24.4	445.8	445.8	546.3	603.9	597.7	550.2
Real estate investment fund	6,476.9	8,595.9	8,608.5	8,608.5	8,563.8	8,394.0	8,166.7	7,489.5
Real estate investment companies	213.9	456.1	512.9	512.9	349.0	359.2	363.8	365.3

1 Available data: November 2008.

Foreign Collective Investment schemes marketed in Spain

TABLE 3.13

	2006	2007	2008	2007 IV	2008 I	II	III	IV
INVESTMENT VOLUME[1] (Million euro)	44,102.9	37,092.7	18,181.4	37,092.7	30,184.5	28,581.0	22,046.4	18,181.4
Mutual funds	12,099.3	7,010.3	2,245.5	7,010.3	5,004.9	4,313.5	3,064.6	2,245.5
Investment companies	32,003.5	30,082.4	15,935.8	30,082.4	25,179.6	24,267.5	18,981.8	15,935.8
INVESTORS/SHAREHOLDERS	779,165	850,931	587,032	850,931	729,321	697,732	648,457	587,032
Mutual funds	144,139	142,782	99,873	142,782	137,933	124,446	112,064	99,873
Investment companies	635,026	708,149	487,159	708,149	591,388	573,286	536,393	487,159
NUMBER OF SCHEMES	340	440	563	440	465	490	535	563
Mutual funds	164	225	312	225	241	253	290	312
Investment companies	176	215	251	215	224	237	245	251
COUNTRY								
Luxembourg	189	229	274	229	241	253	265	274
France	83	122	161	122	127	138	148	161
Ireland	46	52	63	52	59	59	63	63
Germany	12	15	16	15	15	15	16	16
UK	6	12	14	12	13	13	14	14
The Netherlands	1	1	1	1	1	1	1	1
Austria	1	5	28	5	5	5	22	28
Belgium	1	3	5	3	3	5	5	5
Malta	1	1	1	1	1	1	1	1

1 Investment volume: participations or shares owned by the investors/shareholders at the end of the period valued at that moment of time.

Real estate investment schemes

TABLE 3.14

	2005	2006	2007	2007 IV	2008 I	II	III	IV[1]
REAL ESTATE MUTUAL FUNDS								
Number	7	9	9	9	9	9	9	9
Investors	118,857	150,304	145,510	145,510	144,197	141,037	135,307	97,784
Asset (Million euro)	6,476.9	8,595.9	8,608.5	8,608.5	8,563.8	8,394.0	8,166.7	7,489.5
Return on assets (%)	5.35	6.12	1.27	1.27	1.16	0.89	0.35	-0.82
REAL ESTATE INVESTMENT COMPANIES								
Number	6	8	9	9	8	8	8	8
Shareholders	256	749	843	843	839	839	938	938
Asset (Million euro)	213.9	456.1	512.9	512.9	349.0	359.2	363.8	365.3

1 Available data: November 2008. In this case, the return on assets is monthly.