CNMV

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
FIAMM	Money market fund
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 Market survey (*)

(*) This article has been prepared by staff of the CNMV Research and Statistics Directorate.

1 Overview

International financial markets were in calmer mood over the second quarter of 2008. Among the factors in support were loss recognition by financial institutions hit by the U.S. sub-prime mortgage crisis, the recapitalisation of certain banks and the cash injections provided by the monetary authorities.

Against this more stable backdrop, short-term interest rates traced divergent courses in the euro area and the United States. In the euro area, three-month rates rose by around 30 basis points to just short of 5%. This presumably reflects changed expectations about the direction of ECB monetary policy, now that improved output readings and rising inflation have made an easing move increasingly unlikely. In the United States, three-month rates stayed more or less flat over the second three-month period (at around 2.7%-2.8%) after the sharp decline of the opening quarter accompanying the run-down in official rates.

Medium and long bond yields headed sizeably higher in the second quarter of the year. The increase was especially intense in the euro area due to the downward revision of growth forecasts. The outcome was a still widening spread between euro area and U.S. yields across all benchmark terms (of more than two percentage points in the three-year maturity).

The world's leading equity markets rallied in the second quarter accompanied by a dying down of share price volatility. The strongest gains were chalked up by the North American and Japanese exchanges. European markets performed more unevenly to close the quarter with moderate gains or losses. Year to date, U.S. markets are running losses of over 7%, while indices in Europe have tumbled between 15% and 20%. The recovery of the second quarter has, however, brought some small improvement in the price/earnings ratios (P/E) of most exchanges.

In Spain, falling share prices left the main benchmark index (Ibex 35) 2% lower at the second quarter close, coinciding with a notable easing of volatility. Although the Spanish market fared slightly worse in quarterly terms vs. European counterparts, year to date it has got off lightest of all (-14.4%), along with the UK market. The sector with the strongest relative performance was oil and energy, while losses bit deepest in financial and real estate services. The turnover of Spanish stock exchanges contracted once more in the second quarter as far as an average daily volume of 4,868 million euros; down 22.1% on the preceding quarter and 31.7% versus one year before. Listed companies reported an aggregate 15% growth in pre-tax profits in their 2007 income statements, though with large variations between sectors and companies.

Summary of financial indicators				TABLE 1
	Q3 07	Q4 07	Q1 08	Q2* 08
Short-term interest rates (%)[1]				
Official interest rate	4.00	4.00	4.00	4.00
Euribor 3 month	4.74	4.84	4.59	4.88
Euribor 12 month	4.73	4.79	4.59	5.13
Exchange rates[2]				
Dollar/euro	1.42	1.47	1.58	1.53
Yen/euro	163.55	164.93	157.37	166.05
Credit risk premiums: BBB-AAA spread (basis points)[3]				
Euro zone				
3 year	32	76	153	109
5 year	45	108	196	145
10 year	71	127	199	172
U.S.				
3 year	70	135	214	187
5 year	80	183	240	214
10 year	98	219	251	219
Equity markets				
Performance of main world stock indices (%)[4]				
Euro Stoxx 50	-2.4	0.4	-17.5	-1.8
Dow Jones	3.6	-4.5	-7.6	0.4
Nikkei	-7.5	-8.8	-18.2	11.6
Other indices (%)				
Merval (Argentina)	-0.1	-1.7	-2.2	-1.8
Bovespa (Brazil)	11.2	5.7	-4.6	10.2
Shanghai Comp (China)	45.3	-5.2	-34.0	-17.4
BSE (India)	17.9	24.4	-26.2	-2.6
Spanish stock market				
Ibex 35 (%)	-2.1	4.2	-12.6	-2.0
P/E of Ibex 35[5]	12.67	13.00	11.55	11.42
Volatility of Ibex 35 (%)[6]	19.0	16.8	26.7	23.3
SIBE trading volumes[7]	5,698.7	6,969.1	6,144.1	4,838.8

Source: CNMV, Thomson Datastream, Reuters, Banco de España, Bolsa de Madrid, MEFF and AIAF.
* Latest available data at the time of preparing this report.
na: not available.
1 Monthly average of daily data. Data for third quarter 2007 correspond to September, data for the first quarter of 2008 to March, and those for the second to the last month up to 13 June. The official interest rate corresponds to the marginal rate at weekly auctions at the period close.
2 Data at period end. Data for the second quarter of 2008 correspond to 13 June.
3 Monthly average of daily data. Data for the second quarter 2008 correspond to one month up to 13 June.
4 Cumulative quarterly change in each period; up to 13 June in the case of the second quarter.
5 Price-earnings ratio. Data for the second quarter 2008 correspond to 13 June.
6 Implied at-the-money (ATM) volatility on nearest expiry. Data for the second quarter 2008 correspond to 13 June.
7 Daily average in million euros. Data for the second quarter 2008 correspond to the period up to 13 June.

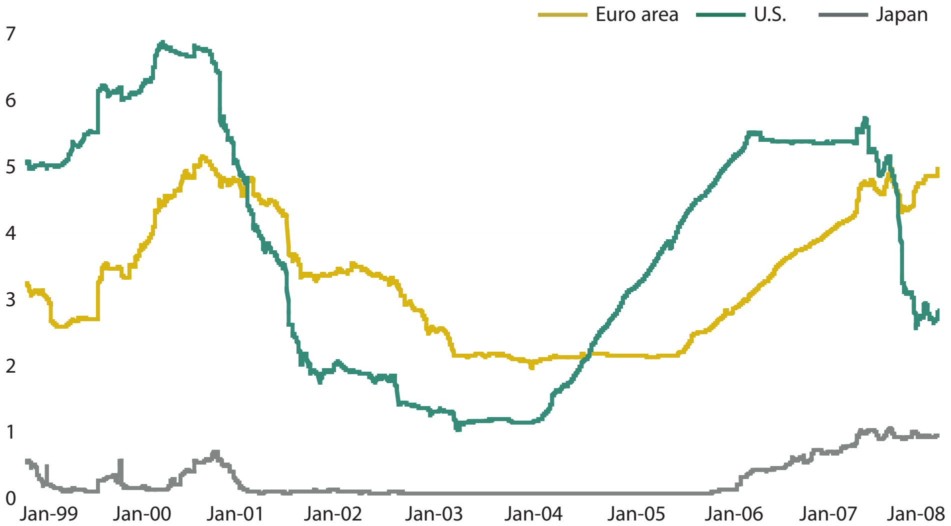
2 International financial background

2.1 Short-term interest rates

The fallout of the sub-prime lending crisis in North America is still being felt on international financial markets, with money markets most affected. But we can see clear differences between geographical areas. In the euro area, the shortest rates (three month) have kept up a steady ascent since the month of February and by mid-June were testing the 5% mark vs. an average 4.6% in the opening quarter. The three-month spread between non transferable deposits and repos (on medium- and long-term bonds) held within the 70-80 bp interval throughout the quarter, significantly above its historical average[1]. This performance, which stands in contrasts to the easing of financial sector credit risk, as inferred from CDS, could be reflecting a heightened perception of entities' liquidity risk[2].

The ECB, which left its main refinancing rate unchanged at 4%[3] in the second quarter, issued a number of signals that dispelled hopes of an interest rate cut, in view of the euro area's resurgent inflation and the greater economic vigour of the year's opening quarter.

Three-month interest rates[1] FIGURE 1



Source: Thomson Datastream.
1 Data to 13 June.

In the United States, short rates continued moving in the 2.7%-2.8% range for almost all of the second quarter after the run-down of the opening months (from an average 5.0% in fourth quarter 2007 to just 2.8% at end March 2008), coinciding with the rapid-fire rate cuts of the Federal Reserve. This year to date, the Fed has eased its funds rate on four occasions as far as 2% (from an opening 4.25% [4], in response to faltering economic growth readings and agents' difficulties in finding finance. Meantime, 1-year rates rose almost 70 basis points on average between the first and second quarter of 2008 (see table 2).

1 Seven basis points between January 1999 and July 2007.
2 In its latest GFSR (Global Financial Stability Report), published May 2008, the IMF expresses interbank market spreads in the U.S. and euro area in terms of "credit risk" and "non credit risk". This second factor refers primarily to institutions' liquidity risk.
3 Since 13 June 2007.
4 22 January (4.25% to 3.5%), 29 January (3.5% to 3%), 17 March (3% to 2.25%) and 30 April (2.25% to 2%).

Short-term interest rates[1]

TABLE 2

%

	Dec 04	Dec 05	Dec 06	Jun 07	Sep 07	Dec 07	Mar08	Jun 08[2]
Euro area								
Official[3]	2.00	2.25	3.50	4.00	4.00	4.00	4.00	4.00
3 month	2.17	2.47	3.69	4.15	4.74	4.84	4.59	4.88
6 month	2.21	2.60	3.79	4.28	4.75	4.81	4.59	4.97
12 month	2.30	2.79	3.93	4.51	4.73	4.79	4.59	5.13
U.S.								
Official[4]	2.25	4.25	5.25	5.25	5.25	4.25	2.25	2.00
3 month	2.50	4.49	5.36	5.36	5.50	4.97	2.78	2.69
6 month	2.72	4.67	5.35	5.39	5.36	4.82	2.68	2.93
12 month	3.02	4.84	5.24	5.45	5.07	4.42	2.51	3.17
Japan								
Official[5]	0.15	0.15	0.25	0.50	0.50	0.50	0.50	0.50
3 month	0.05	0.07	0.56	0.74	0.99	0.98	0.96	0.92
6 month	0.07	0.08	0.63	0.84	1.08	1.03	1.02	0.99
12 month	0.09	0.12	0.74	0.98	1.15	1.10	1.11	1.12

Source: Thomson Datastream.
1 Average daily data except official rates, which correspond to the last day of the period.
2 Average data from 13 May to 13 June.
3 Marginal rate at weekly auctions.
4 Federal funds rate.
5 Monetary policy rate.

As regards rate expectations, three-month forwards (FRAs) are signalling a substantial increase in the months ahead in both the euro area and the U.S.; in the latter case, discounting a rise of one percentage point rise in the next three months and one and a half points on a six-month horizon (see table 3).

Three-month forward rates (FRAs)[1]

TABLE 3

%

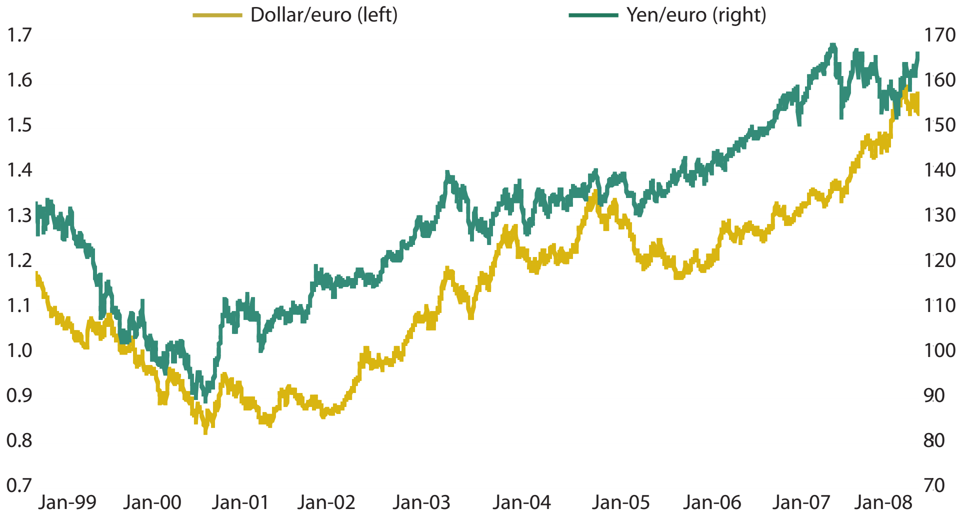
	Dec 04	Dec 05	Dec 06	Jun 07	Sep 07	Dec 07	Feb 08	Jun 08[2]
Euro area								
Spot	2.16	2.49	3.73	4.18	4.79	4.68	4.73	4.96
FRA 3x6	2.23	2.74	3.94	4.40	4.52	4.52	4.43	5.13
FRA 6x9	2.36	2.91	4.07	4.59	4.34	4.42	4.14	5.32
FRA 9x12	2.49	3.00	4.13	4.69	4.28	4.33	3.96	5.34
FRA 12x15	2.64	3.07	4.13	4.76	4.28	4.30	3.80	5.34
U.S.								
Spot	2.56	4.54	5.36	5.36	5.23	4.70	2.69	2.81
FRA 3x6	2.95	4.81	5.31	5.33	4.75	4.15	2.24	3.20
FRA 6x9	3.22	4.84	5.21	5.30	4.42	3.69	2.12	3.55
FRA 9x12	3.41	4.81	5.06	5.25	4.29	3.45	2.18	3.75
FRA 12x15	3.57	4.76	4.94	5.23	4.24	3.36	2.23	3.95

Source: Thomson Datastream.
1 Data at period end.
2 Data corresponding to 13 June.

2.2 Exchange rates

After depreciating sharply against the euro in the first-quarter period (from 1.47 to 1.58 dollars/euro or 7.4%) in response to rapidly falling U.S. rates, the dollar settled at around 1.55 dollars/euro, equivalent to a -4.2% difference year to date. The yen, meantime, lost the ground gained from the European currency in the year's first quarter (+4.6%), retreating to 166 yens/euro.

Euro/dollar and euro/yen exchange rates[1] FIGURE 2



Source: Thomson Datastream.
1 Data to 13 June.

2.3 Long-term interest rates

Second-quarter highlights in international medium- and long-term debt markets were the upsurge in yields and the first sizeable decline in credit risk premiums since the onset of the crisis.

The increase in government bond yields was especially marked in the euro area, ranging from 121 basis points in the three-year maturity to 69 basis points at the ten-year end. In the United States, the equivalent increases were a more subdued 109 and 31 basis points respectively.

The result was further widening of the spread between euro and U.S. yields, to more than 2 percentage points in the three-year tenor (compared to 1.89 points the quarter before), and from 1.14 to 1.45 points and 0.38 to 0.76 points in five- and ten-year maturities.

Japanese long yields also moved higher in the second quarter of 2008. The uptrend was less pronounced than in the U.S. or euro area, and with shorter dated instruments (three and five years) recording the biggest increases.

Medium and long government bond yields[1]

TABLE 4

%	Dec 05	Dec 06	Dec 07	Jun 07	Sep 07	Dec 07	Mar 08	Jun 08[2]
Euro area								
3 year	na	3.83	3.82	4.51	4.07	3.82	3.63	4.84
5 year	na	3.84	3.87	4.55	4.14	3.87	3.63	4.74
10 year	na	3.88	4.21	4.62	4.36	4.21	4.07	4.76
U.S.								
3 year	4,39	4.57	3.11	4.99	4.08	3.11	1.74	2.82
5 year	4,41	4.51	3.51	5.00	4.19	3.51	2.49	3.29
10 year	4,47	4.57	4.19	5.14	4.59	4.19	3.69	4.00
Japan								
3 year	0,47	0.94	0.82	1.22	0.94	0.82	0.59	1.04
5 year	0,87	1.21	1.07	1.50	1.15	1.07	0.78	1.36
10 year	1,56	1.65	1.54	1.87	1.59	1.54	1.31	1.68

Source: Bloomberg.
na: not available.
1 Monthly average of daily data.
2 Average data from 13 May to 13 June.

Credit risk premiums recorded their first solid decrease since the onset of the mortgage crisis, more so in the euro area than the United States. In the euro area, BBB-AAA spreads narrowed by almost 30 basis points on average in the ten-year term and around 50 bp at both three and five years. In the United States, spreads narrowed by a similar margin in all maturities to close at around 30 basis points. Even so, we are still talking about across-the-board historic highs, with differences versus average values (since 2003) ranging from 120-140 basis points in the U.S. and 65-95 basis points in the euro area, depending on the term.

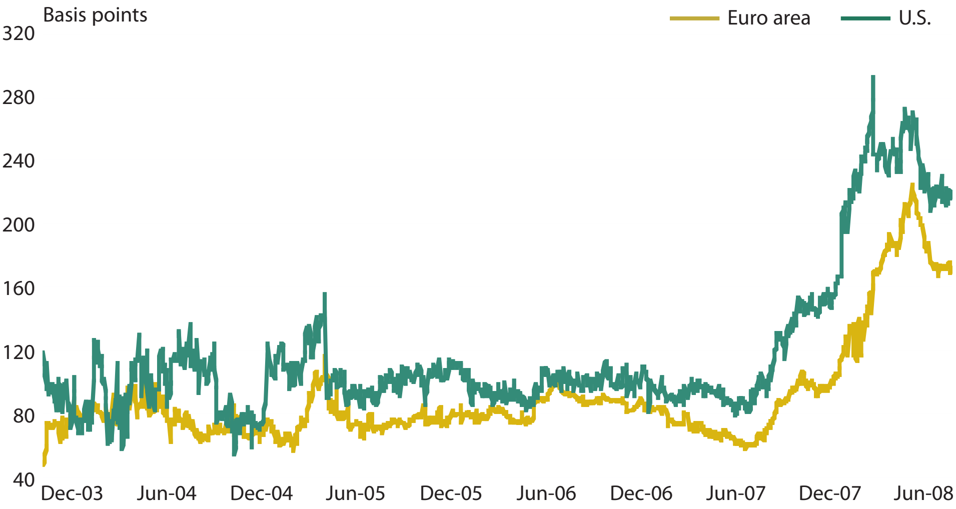
Credit risk premiums: BBB-AAA spread[1]

TABLE 5

basis points	Dec 05	Dec 06	Dec 07	Jun 07	Sep 07	Dec 07	Mar 08	Jun 08[2]
Euro area								
3 year	43	37	76	28	50	76	153	109
5 year	53	53	108	43	75	108	196	145
10 year	77	84	127	62	100	127	199	172
U.S.								
3 year	37	54	135	65	95	135	214	187
5 year	63	68	183	70	103	183	240	214
10 year	108	96	219	90	147	219	251	219

Source: Reuters.
1 Monthly average of daily data.
2 Average data from 13 May to 13 June.

Credit risk premiums: 10-year BBB-AAA spread[1] FIGURE 3



Source: Reuters.
1 Data to 13 June.

2.4 International stock markets

Stock markets entered a calmer, more stable phase after the price tumbles of the opening quarter. Among the factors in support were bank recognition of sub-prime losses, the recapitalisation of certain institutions and the cash injected by the monetary authorities. Targeted interventions at some U.S. financial institutions also served to assure the markets the authorities would act to prevent even the slightest hint of a systemic crisis.

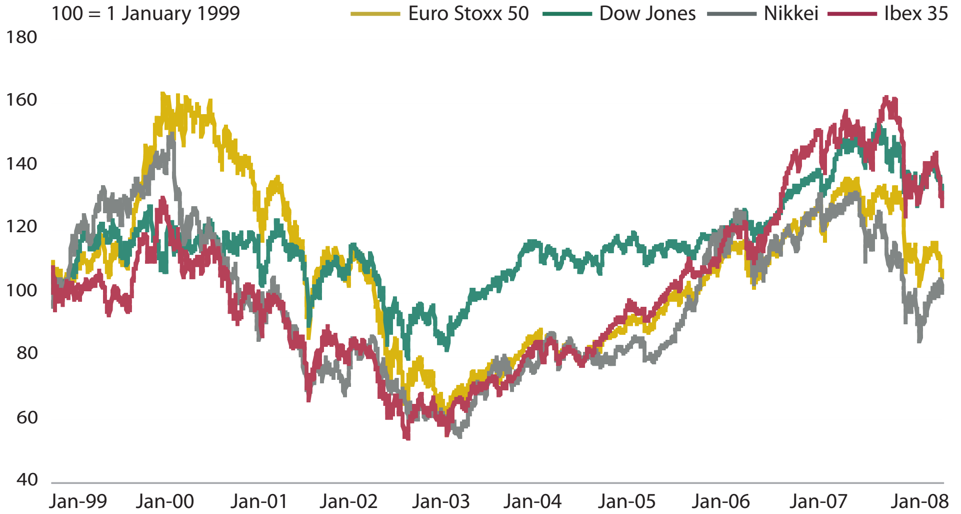
In the United States, second-quarter gains ranged from the 0.4% of the Dow Jones to 7.7% for the Nasdaq composite, while over in Japan the two main exchanges chalked up quarterly rises of over 10%. This performance left year-to-date losses in both zones standing between 7% and 9% (see table 6).

European markets performed rather more unevenly. The general story was one of modest falls in equity prices on top of the losses of the opening quarter, leaving indexes down by 14% to 19% year to date, depending on the exchange. Only German stocks managed to buck the trend (3.5% gain) on the strength of the economy's brighter growth prospects.

The Spanish market was among those faring worst in the second-quarter (-2.0% on the Ibex 35), though its outperformance in the opening months left year-to-date losses at just over 14%, the lowest of any major European centre.

Main stock market indices[1]

FIGURE 4



Source: Thomson Datastream.
1 Data to 13 June.

Performance of main stock market indices

TABLE 6

	Index	2007	Q4 07	Q1 08	2008 – Jun[1] % Q	2008 – Jun[1] % on Dec 07	2008 – Jun[1] % annual
World							
	MSCI World	7.1	-2.7	-9.5	1.6	-8.1	-8.9
Euro zone							
	Euro Stoxx 50	6.8	0.4	-17.5	-1.8	-19.0	-20.6
	Euronext 100	3.4	-2.0	-16.2	0.3	-15.9	-21.0
Germany	Dax 30	22.3	2.6	-19.0	3.5	-16.1	-13.8
France	Cac 40	1.3	-1.8	-16.2	-0.5	-16.6	-22.6
Italy	Mib 30	-6.5	-3.7	-17.3	-0.6	-17.8	-25.2
Spain	Ibex 35	7.3	4.2	-12.6	-2.0	-14.4	-13.8
United Kingdom							
	FTSE 100	3.8	-0.2	-11.7	1.8	-10.1	-12.7
United States							
	Dow Jones	6.4	-4.5	-7.6	0.4	-7.2	-9.2
	S&P 500	3.5	-3.8	-9.9	2.8	-7.4	-10.7
	Nasdaq-Cpte	9.8	-1.8	-14.1	7.7	-7.5	-5.6
Japan							
	Nikkei 225	-11.1	-8.8	-18.2	11.6	-8.7	-21.7
	Topix	-12.2	-8.7	-17.8	13.1	-7.1	-21.9

Source: Thomson Datastream.
1 Data to 13 June. Quarterly change (% Q) corresponds to the period between 13 June and 31 March.

Volatility died down considerably on international financial markets from the high levels of the first quarter, as market agents regained some of their tranquillity. This was reflected in a quarterly decrease in the main volatility indicators; from an average 26.1% to 20.3% in the case of the VIX[5] and from 27.5% to 20.9% in the case of the VDAX[6]. The Japanese market also experienced a second-quarter downturn in volatility though to levels still exceeding those of other bourses (24.5%).

5 Tracking the implied volatility of the S&P 500.
6 Tracking the implied volatility of the DAX.

Historical volatility of main stock indices[1]

TABLE 7

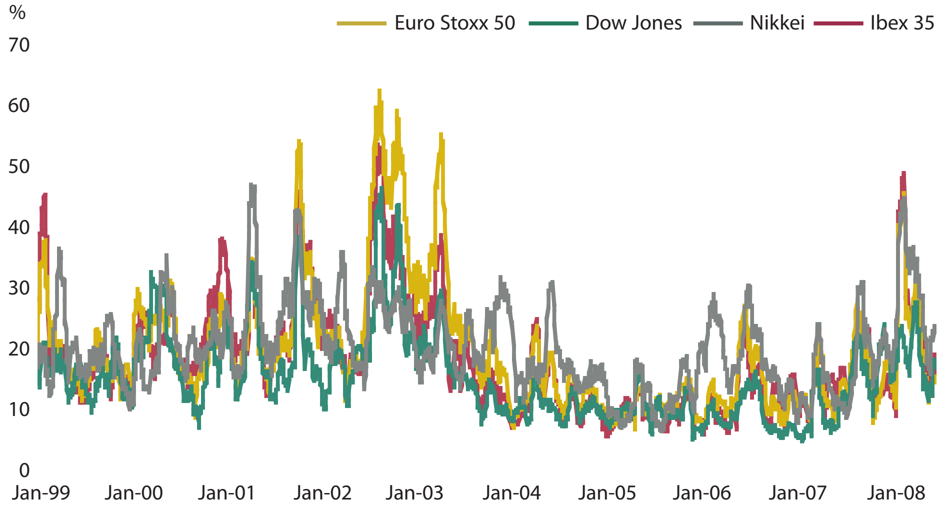
%

	1999-2003	2004-2007	2005	2006	2007	Q4 07	Q1 08	Q2 08[2]
Euro Stoxx 50	25.08	13.17	10.73	13.63	14.94	14.15	28.39	18.12
Dow Jones	18.83	10.75	9.95	9.41	13.11	17.07	20.50	17.17
Nikkei	22.95	16.29	12.14	19.08	16.65	19.53	33.75	24.45
Ibex 35	23.09	12.44	9.86	12.45	15.32	14.51	29.56	19.60

Source: Thomson Datastream.
1 Average daily data.
2 Last available data for 13 June.

Historical volatility of main stock indices[1]

FIGURE 5



Source: Thomson Datastream.
1 Data to 13 June.

Generally speaking, emerging country markets performed rather worse than main world indices (see tables 6 and 8), though with sharp divergences both between and within geographical zones. Specifically, emerging market indices slipped back 1.2% in the second-quarter period against the latter's 2.9% gain.

China continued in the grip of intense selling and dropped a further 17% in the second quarter taking year-to-date losses to 45.5%. This stands in contrast to the spectacular bull run of 2007, when the market rose by 97%. Indian share prices also fell, though less dramatically than in the opening quarter, leaving the index down by 28% approximately since the year's outset.

Latin American markets had mixed fortunes but, in general, did best out of all the emerging market group. The top Q2 performers were Brazil (10.2%), Chile (8.6%) and Venezuela (5.2%) with Peru (-5.2%) bringing up the rear. In year-to-date terms, Peru again comes out worst with losses bordering on 6%, while Brazil leads the field with over +5% (see table 8).

In East Europe too we can talk about an uneven performance, with strong price gains in Russia (14.7%) and Romania (6.5%) contrasting with the declines registered in Poland (-9.1%) or Bulgaria (-4.8%). In any case, the sharp run-down of the first quarter has left year-to-date losses exceeding 20% in almost all markets (30% in some cases). The exception is Russia with a year-to-date gain of around 3%.

Performance of other international stock indices

TABLE 8

	Index	2007	Q4 07	Q1 08	2008 –Jun[1] % Q	% change on Dec 07	% annual
Latin America							
Argentina	Merval	2.9	-1.7	-2.2	-1.8	-4.0	-4.7
Brazil	Bovespa	43.7	5.7	-4.6	10.2	5.2	26.8
Chile	IGPA	13.8	-3.6	-4.7	8.6	3.6	0.5
Mexico	IPC	11.7	-2.5	4.7	-1.6	3.0	-4.6
Peru	IGRA	36.0	-19.7	-0.8	-5.2	-5.9	-23.3
Venezuela	IBC	-27.4	1.7	-7.5	5.2	-2.7	-3.6
Asia							
China	Shanghai Comp	96.7	-5.2	-34.0	-17.4	-45.5	-31.3
India	BSE	59.7	24.4	-26.2	-2.6	-28.1	11.5
South Korea	Korea Cmp Ex	32.3	-2.5	-10.2	2.5	-7.9	1.5
Philippines	Manila Comp	21.4	1.4	-17.6	-14.4	-29.5	-27.9
Hong Kong	Hang Seng	39.3	2.5	-17.8	-1.1	-18.8	9.8
Indonesia	Yakarta Comp	52.1	16.4	-10.9	-2.0	-12.7	14.8
Malaysia	Kuala Lumpur Comp	31.8	8.1	-13.7	-1.5	-14.9	-9.1
Singapore	SES All-S'Pore	18.7	-4.9	-13.2	-0.9	-14.0	-14.2
Thailand	Bangkok SET	26.2	1.5	-4.8	-4.2	-8.8	7.7
Taiwan	Taiwan Weighted Pr.	8.7	-9.6	0.8	-5.4	-4.7	-2.9
Eastern Europe							
Russia	Russian RTS Index	19.2	10.6	-10.3	14.7	2.9	30.4
Poland	Warsaw G. Index	10.4	-7.8	-13.7	-9.1	-21.6	-31.6
Rumania	Romania BET	22.1	2.0	-29.6	6.5	-25.0	-14.7
Bulgaria	Sofix	44.4	-4.4	-29.0	-4.8	-32.4	-11.5
Hungary	BUX	5.6	-7.7	-17.2	0.5	-16.9	-17.7
Croatia	CROBEX	63.2	4.0	-26.6	-1.8	-27.9	-20.6

Source: Thomson Datastream.
1 Data to 13 June. Quarterly change (% Q) corresponds to the period between 13 June and 31 March.

The additional yield earned from dividend payments held up reasonably strongly, the more so Europe. On figures to 13 June, main world markets were yielding 3.9% on average by the dividend route, but with the United States and Japan in the rearguard at 2.4% and 1.7% respectively (see table 9).

Dividend yield of main stock indices

TABLE 9

%	2005	2006	2007	Jun 07	Sep 07	Dec 07	Mar08	Jun 08[1]
S&P 500	1.94	1.91	2.20	2.04	2.11	2.20	2.42	2.38
Topix	0.95	1.11	1.46	1.20	1.37	1.46	1.79	1.66
Euro Stoxx 50	3.28	3.52	3.73	3.61	3.79	3.73	4.68	4.63
Euronext 100	3.23	3.32	3.81	3.52	3.73	3.81	4.75	4.39
FTSE 100	3.59	3.77	3.88	3.82	3.94	3.88	4.58	4.60
Dax 30	2.17	2.29	2.52	2.48	2.50	2.52	3.64	3.51
Cac 40	3.43	3.79	4.34	4.09	4.41	4.34	5.22	4.90
Mib 30	3.53	3.67	3.81	3.47	3.66	3.81	4.76	5.06
Ibex 35	3.08	3.02	3.08	2.99	3.16	3.08	3.75	3.81

Source: Thomson Datastream.
1 Data to 13 June.

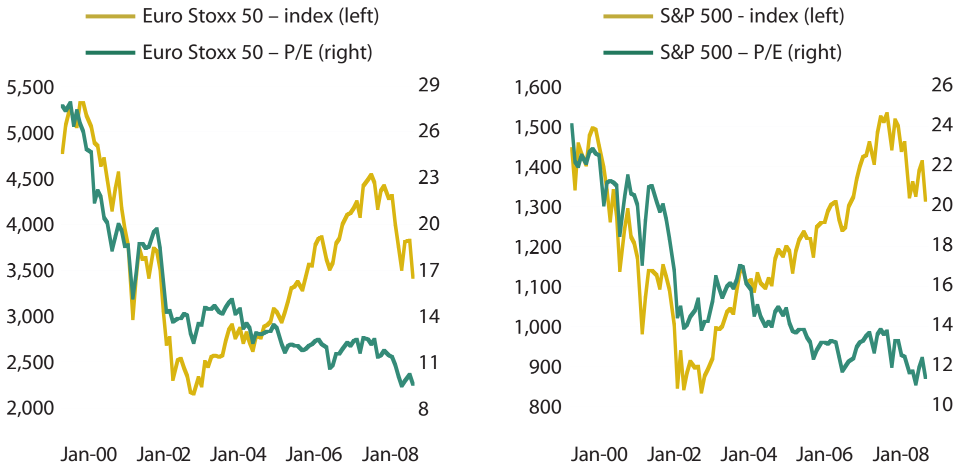
The modest second-quarter rally of U.S. and Japanese shares lifted their respective price-earnings ratios (P/E) substantially above the levels of Europe (see table 10). European markets too grew their P/Es in the reference period, though with a smaller rate of increase, in line with prices, that kept them within the 10 (Euro Stoxx 50) to 11.3 (Ibex 35) interval.

P/E of main stock indices TABLE 10

%	2005	2006	2007	Jun 07	Sep 07	Dec 07	Mar 08	Jun 08[1]
S&P 500	14.85	15.07	14.67	15.08	14.69	14.67	13.49	13.70
Topix	19.52	17.80	15.06	18.04	15.59	15.06	12.92	15.71
Euro Stoxx 50	12.03	12.15	11.56	12.35	11.55	11.56	9.68	9.96
Euronext 100	12.46	12.93	12.30	13.68	12.64	12.30	10.47	11.09
FTSE 100	12.45	12.41	12.07	12.65	11.95	12.07	10.62	10.72
Dax 30	12.62	12.78	12.33	13.25	12.35	12.33	10.22	10.66
Cac 40	12.14	12.68	11.80	13.22	12.08	11.80	10.06	10.54
Mib 30	13.38	13.07	11.50	12.87	12.09	11.50	9.52	10.13
Ibex 35	12.88	14.29	13.00	13.91	12.67	13.00	11.55	11.33

Source: Thomson Datastream.
1 Data to 13 June.

Stock indices and P/E: Euro Stoxx 50 vs. S&P 500 FIGURE 6



Source: Thomson Datastream.

Turnover figures for main world markets run only to the fourth quarter of 2007. The general picture to this point was one of sharply rising year-on-year volumes, exceeding 30% in most cases, though with a notable tail-off in quarterly terms reflecting the disruption caused by the sub-prime lending crisis. Particularly hard hit was the London exchange, with trading down 42% in the closing quarter and 24% in annual terms.

Trading volumes of main international stock markets TABLE 11

Billion euros

Exchange	2005	2006	2007	Q4 06	Q1 07	Q2 07	Q3 07	Q4 07
U.S.[1]	20,042	27,044	32,758	6,646	7,439	7,740	8,776	8,803
New York	11,410	17,222	21,177	4,232	4,814	5,012	5,807	5,545
Tokyo	3,603	4,617	4,713	1,049	1,272	1,169	1,192	1,081
London	4,583	5,991	7,545	1,626	2,035	2,128	2,142	1,240
Euronext	2,345	3,006	4,102	736	948	1,075	1,113	966
Deutsche Börse	1,546	2,165	3,144	545	801	791	827	725
Borsa Italiana	1,051	1,258	1,681	357	388	509	395	389
BME[2]	859	1,154	1,668	354	419	442	372	435

Source: World Federation of Exchanges and CNMV.
1 The sum of New York Stock Exchange (NYSE), Nasdaq and American Stock Exchange.
2 Bolsas y Mercados Españoles. Not including Latibex.

3 Spanish fixed-income markets

After a first-quarter dip, the short-term rates on domestic commercial paper resumed an upward course, in line with other European references, under the spur of changed expectation regarding ECB monetary policy. The increase was common to all maturities, but was at its most intense in the one-year term. As a result, rates closed the three-month period substantially above the 5% mark.

Corporate bond credit spreads continued to trend higher, recouping short-term levels of over 20 basis points vs. interbank deposits in the case of commercial paper.

Short-term interest rates[1] TABLE 12

%

	Dec 05	Dec 06	Dec 07	Jun 07	Sep 07	Dec 07	Mar 08	Jun 08
Commercial paper[2]								
3 month	2.58	3.78	4.97	4.25	4.87	4.97	4.74	5.11
6 month	2.74	3.91	4.91	4.39	4.91	4.91	4.74	5.20
12 month	2.93	4.00	4.85	4.61	4.91	4.85	4.73	5.37
Spread vs. interbank deposits								
3 month	12	11	14	12	17	14	17	24
6 month	15	14	12	13	20	12	17	25
12 month	16	9	9	13	20	9	15	23

Source: AIAF and AFI.
1 Average daily data. June 2008 data correspond to the average between 13 June and 13 May.
2 Trading on private fixed-income market AIAF.

Medium- and long-term corporate bond rates moved sizeably higher in the second quarter of 2008, with three and five-year maturities in particular gaining over one percentage point. Higher rising long vs. short rates in the reference period caused a steepening of the corporate yield curve from 10 to 60 basis points (ten years minus three months). Remember this same curve was inverted at the 2007 close.

The yields of long-term Spanish government bonds rose ahead of their German equivalents, widening the spread between 10-year benchmarks from 23 basis points in the opening quarter to 30 basis points in the second; significantly above the recent-year average[7]. This trend was more or less mirrored among all major European sovereign borrowers.

Average spreads between medium- and long-term corporate and government yields stood upwards of 110 basis points across all main maturities (see table 13), a full 100 bp higher than the premiums of one year back.

7 The average spread between the Spanish and German 10-year bond from 1 January 2003 to 31 July 2007 stood at 0.01 percentage points.

Yields of medium- and long-term government bonds and private fixed-income[1]

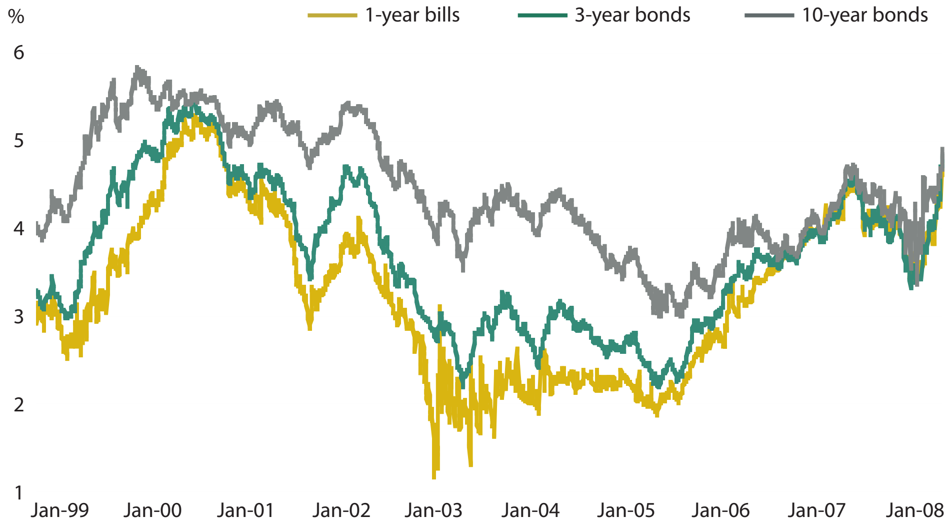
TABLE 13

%	Dec 05	Dec 06	Dec 07	Jun 07	Sep 07	Dec 07	Mar 08	Jun 08
Private fixed-income[2]								
3 year	3.15	4.04	4.59	4.75	4.35	4.59	4.21	5.49
5 year	3.48	4.14	4.65	4.84	4.42	4.65	4.41	5.68
10 year	3.89	4.26	4.94	5.02	4.68	4.94	4.82	5.73
Government bonds								
3 year	2.91	3.74	4.07	4.51	4.09	4.07	3.50	4.37
5 year	3.06	3.77	4.14	4.56	4.20	4.14	3.62	4.35
10 year	3.36	3.81	4.27	4.63	4.37	4.27	3.87	4.57
Spread[3]								
3 year	25	30	52	25	26	52	71	112
5 year	42	37	51	28	22	51	79	134
10 year	54	45	67	39	31	67	94	115

Source: Thomson Datastream and AIAF.
1 Average daily data. June 2008 data correspond to the average between 13 June and 13 May.
2 Bonds and debentures in outright trades on the AIAF market.
3 In basis points.

Spanish government bond yields[1]

FIGURE 7



Source: Thomson Datastream.
1 Data to 13 June.

The credit risk ratings of CNMV-registered issues trading on private fixed-income market AIAF underwent no changes potentially attributable to the confidence slump on the interbank market. In effect, over 90% of covered bond issues conserved their AAA ratings (see table 14). Plain bonds and debentures were again mainly rated in the AA and A categories, while the lowest ratings, as in previous quarters, corresponded to preference shares, with 49% in receipt of BBB or under.

Credit ratings of CNMV-registered issues trading on AIAF[1]

TABLE 14

% total unless otherwise indicated

	Mortgage-backed securities	Non mortgage asset-backed securities	Mortgage bonds	Territorial bonds	Matador bonds	Plain bonds	Plain debentures	Preference shares	Total
Rated									
Amount (million euros)	23,889.6	344,906.8	152,633.0	15,905.0	1,178.1	81,094.9	41,043.2	21,877.1	**682,527.7**
Percentage	100.0	100.0	99.0	96.4	100.0	95.8	84.1	94.5	**97.9**
Investment grade									
AAA	93.6	94.4	89.2	96.4	83.9	4.5	3.6	0.0	**72.9**
AA	0.8	1.0	9.8	0.0	13.5	53.4	26.4	4.3	**11.2**
A	4.0	2.0	0.0	0.0	0.0	37.8	50.1	41.2	**10.6**
BBB	0.9	1.6	0.0	0.0	0.0	0.0	4.0	35.5	**2.3**
Speculative grade									
<BBB	0.8	1.0	0.0	0.0	2.6	0.0	0.0	13.4	**0.9**
Unrated									
Amount (million euros)	0.0	0.0	1,617.5	600.0	0.0	3,590.2	7,751.1	1,281.5	**14,840.3**
Percentage	0.0	0.0	1.0	3.6	0.0	4.2	15.9	5.5	**2.1**

Source: CNMV.
1 Outstanding balances at 31 May 2008.

Securitisation issues contracted sharply in both quarterly and year-on-year terms (see table 15), closing with an outstanding volume of 21,800 million euros, against the 28,000 million of the preceding quarter and over 31,500 million in the second quarter of 2007. Their rating distribution barely varied in the three-month period, except for a slight increase in issues rated A and a decline in those rated BBB or under.

Issues of asset-backed securities[1] registered with the CNMV: Distribution by credit rating

TABLE 15

% total unless otherwise indicated

	2006	2007				2008	
	Q4	Q1	Q2	Q3	Q4	Q1	Q2[2]
Amount (million euros)	39,766	39,392	31,518	17,898	52,819	28,657	21,782
Percentage	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Investment grade							
AAA	94.2	96.7	94.6	92.9	93.7	93.7	93.7
AA	1.1	1.2	1.2	0.7	1.0	1.3	0.2
A	2.3	0.5	1.9	2.9	1.8	1.6	3.3
BBB	1.4	1.1	1.6	2.0	2.0	1.5	1.4
Speculative grade							
<BBB	1.0	0.5	0.8	1.4	1.5	1.9	1.3

Source: CNMV.
1 Including mortgage bonds and non mortgage asset-backed securities.
2 Data to 15 June.

4 Spanish equity markets

4.1 Prices

The Spanish stock market held up reasonably well in the second quarter of 2008, which it closed only slightly down versus starting prices. The Ibex 35 dropped 2.0%, in line with the losses recorded on other European indices like the Euro Stoxx 50 (-1.8%), the Mib 30 (-0.6%) or the Cac 40 (-0.5%), but contrasting with the gains notched up by the German (3.5%) and U.S. markets (see table 6). Even so, the more robust showing of Spanish shares in the opening quarter confined the annual slide to 13.8%, outperforming all major European indices except the FTSE 100 (down 10.1%).

All other main Spanish stock market indices recorded quarterly losses of over 2%, resulting in a year-to-date performance ranging from the -13.2% of the Valencia exchange to -16% in Barcelona. Prices fell most steeply in the small and medium cap segments, which closed the quarter 7.5% down in both cases (see table 16).

FTSE Latibex indices kept up their run of strength over the second quarter after the losses of the opening months, thanks to the sturdy performance of listed firms. Of particular note was the 26.8% rise in the FTSE Latibex Brazil, taking it to +12.6% year to date on top of the +64% of 2007.

Performance of Spanish stock indices TABLE 16

annual % unless otherwise indicated

					2008 – Jun[1]			
	2006	2007	Q4 07	Q1 08	Index	% Q	% on Dec 07	% annual
Ibex 35	31.8	7.3	4.2	-12.6	12.999	-2.0	-14.4	-13.8
IGBM[2]	34.5	5.6	2.6	-12.4	1.398	-2.8	-14.8	-15.8
Barcelona	29.3	5.2	3.3	-13.8	1.003	-2.6	-16.0	-14.5
Bilbao	34.1	1.9	1.5	-12.8	2.234	-2.5	-14.9	-17.8
Valencia	35.3	7.0	2.4	-12.3	1.178	-1.1	-13.2	-13.0
Ibex with dividends	36.0	10.7	4.9	-12.0	22.352	4.3	-8.1	-0.8
Ibex Medium Cap[3]	42.1	-10.4	-10.4	-9.8	14.707	-7.5	-16.5	-34.8
Ibex Small Cap[4]	54.4	-5.4	-11.0	-13.6	11.668	-7.5	-20.1	-33.9
BCN-Mid 50[5]	51.0	-11.7	-13.0	-10.7	26.814	-7.9	-17.8	-35.4
FTSE Latibex All-share[6]	23.8	57.8	9.5	-10.5	3.854	17.8	5.4	28.0
FTSE Latibex Top[7]	18.2	33.7	2.0	-6.2	5.804	22.4	14.9	19.2
FTSE Latibex Brazil[8]	24.3*	64.0	7.3	-11.2	15.891	26.8	12.6	40.4

Source: Thomson Datastream, Reuters and Sociedad de Bolsas.

1 Data to 13 June except the Ibex with dividends, corresponding to 30 April. Quarterly change (% Q) refers to the period between 13 June (30 April in the case of Ibex with dividends) and 31 March.

2 Madrid Stock Exchange General Index.

3 Index of medium-cap shares made up of 20 companies.

4 Index of small-cap shares made up of 30 companies.

5 Index of the middle segment of the Spanish stock market drawn up by the Barcelona Exchange.

6 Index of all shares quoted on the Latin American market in euros (Latibex).

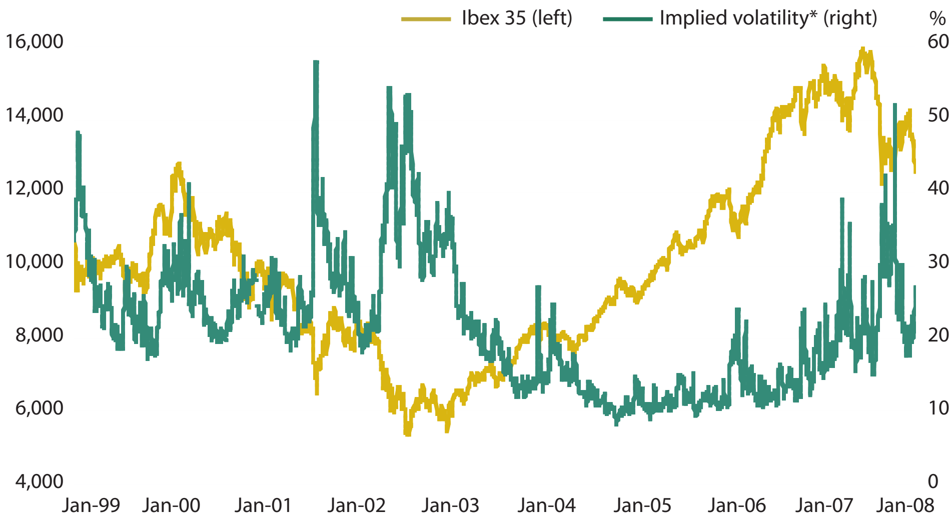
7 Index of main Latibex shares.

8 Index of main Brazilian shares quoted on Latibex.

* Since the index started, on 26 September.

Spanish equity prices fluctuated rather less in the second quarter, though volatility remained slightly higher than the average recorded between 2003 and the onset of the crisis unleashed by the U.S. sub-prime mortgage debacle[8] (16.0%). Implied at-the-money (ATM) volatility on the nearest expiry date of Ibex 35 options stood at 22.2% on average in the second quarter against 31.2% in the first, when it spiked at over 50% on 17 March; a level unmatched since late 2002 (see figure 8). This high was followed by a steep run-down in successive weeks to values nearer 25%.

Performance of the Ibex 35 and implied volatility FIGURE 8



Source: Thomson Datastream and MEFF.
* Implied at-the-money (ATM) volatility on nearest expiry. Data to 13 June 2008.

Losses were the order of the day in all market sectors except oil and energy, and extended to many of the major IGBM stocks (see table 17). In oil and energy, overall prices held more or less flat in the second quarter, since the strong run-up of the Repsol share, whose 24.0% gain added over 0.8 points to the Madrid index, was practically cancelled out by the heavily penalised Iberdrola, with a negative index impact of 0.67 points (see table 18).

Prices fell most steeply in the financial and real estate services sector (-4.1%), with the real estate and other subsector receding more than 19%. However, the low weight of real estate companies saved the index from the worst effect of their respective price tumbles (exceeding 40% in certain cases) (see table 19). The banks subsector also closed in losses (-3.3%), and though its largest cap players outperformed the sector as a whole, four banks alone contributed almost one percentage points to the index's second-quarter decline.

Other sectors recording losses in the quarter were technology and telecommunications, down 1.8% due to Telefónica (-1.7%), and cyclicals (consumer goods and services), hit by the slowdown in domestic consumption. Inditex, in particular, detracted significantly from the quarterly performance of the Madrid index.

8 Average implied volatility between 1 January 2003 and 31 July 2007 stood at 16.0%.

Performance of the Madrid Stock Exchange by sector and leading shares[1]

TABLE 17

annual % unless otherwise indicated	weighting[2]	2007	Q4 07	Q1 08	2008- Jun[3] % Q	2008- Jun[3] % on Dec 07	2008- Jun[3] % annual
Financial and real estate services	**40.22**	**-5.5**	**3.6**	**-13.8**	**-4.1**	**-17.3**	**-21.5**
Real estate and others	1.56	-40.6	-14.7	-12.2	-19.2	-29.0	-39.8
Banks	35.81	-3.6	4.8	-13.8	-3.3	-16.7	-20.1
BBVA	12.67	-8.1	1.9	-16.8	-1.8	-18.3	-25.2
Santander	16.20	4.6	8.5	-14.7	-0.9	-15.5	-10.4
Oil and energy	**20.68**	**13.0**	**0.0**	**-8.0**	**0.1**	**-7.9**	**-11.9**
Iberdrola	9.77	25.6	1.0	-5.6	-6.8	-12.0	-17.9
Basic materials, industry and construction	**9.50**	**-3.2**	**-2.5**	**-11.3**	**-0.3**	**-11.6**	**-24.6**
Construction	5.12	-10.1	1.1	-13.9	-2.9	-16.4	-31.5
Technology and telecommunications	**19.34**	**34.3**	**12.2**	**-17.7**	**-1.8**	**-19.2**	**6.3**
Telefónica	18.59	37.8	13.2	-18.1	-1.7	-19.4	8.1
Consumer goods	**6.10**	**6.1**	**-8.0**	**-4.9**	**-4.3**	**-9.0**	**-19.0**
Consumer services	**4.16**	**-8.0**	**-4.9**	**-8.9**	**-13.2**	**-20.9**	**-32.6**

Source: Thomson Datastream and Bolsa de Madrid.
1 Shares capitalising at more than 4% of the IGBM.
2 Relative weight (%) in the IGBM as of 2 January 2008.
3 Data to 13 June. Quarterly change (% Q) corresponds to the period between 13 June and 31 March 2008.

Companies in the basic materials, industry and construction sector ceded only 0.3% in the quarter despite the run-down of construction shares (-2.9%). Of the five top performers in the second quarter of 2008, three belonged to this sector, with gains ranging from 17% to 20%. Gamesa obtained a smaller advance, but nevertheless contributed 0.16 points to the general index, behind only Repsol.

Shares with greatest impact on IGBM change[1]

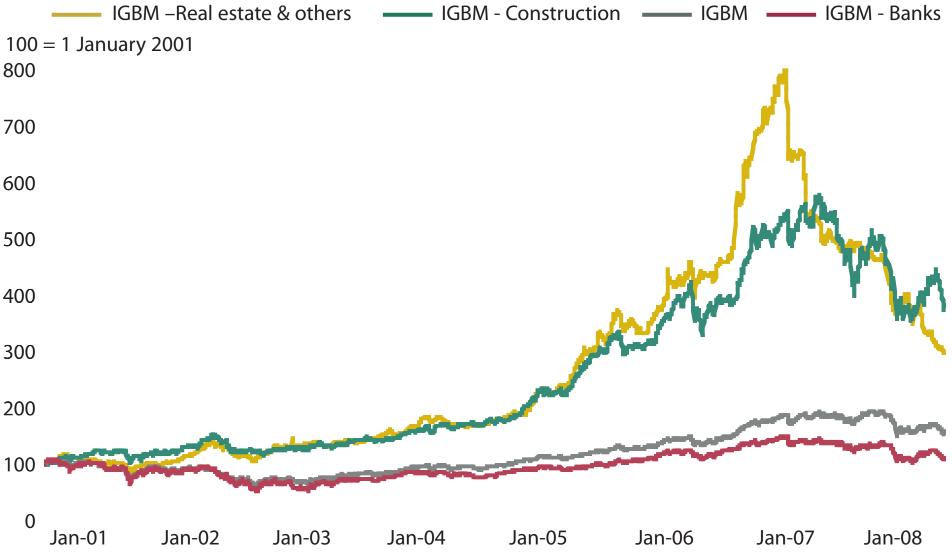
TABLE 18

Share	Sector	2008- Jun[2] % Q	2008- Jun[2] % on Dec 07	2008- Jun[2] % annual
Positive impact				
Repsol	Oil and energy	0.83	0.39	0.02
Gamesa	Basic materials, industry and construction	0.16	0.05	0.26
Negative impact				
Iberdrola	Oil and energy	-0.67	-1.17	-1.63
Telefónica	Technology and telecommunications	-0.31	-3.61	1.82
Banco Popular Español	Financial and real estate services	-0.28	-0.33	-0.78
Banco Sabadell	Financial and real estate services	-0.26	-0.35	-0.49
BBVA	Financial and real estate services	-0.23	-2.31	-2.88
Inditex	Consumer goods	-0.21	-0.42	-0.50
Banco Santander	Financial and real estate services	-0.15	-2.51	-1.42

Fuente: Thomson Datastream y Bolsa de Madrid.
1 Se recogen los valores que mayor impacto (igual o superior a 0,15 puntos) tuvieron en la variación del IGBM.
2 Datos hasta el 13 de junio.

Performance of Real estate and others, Construction and Banks[1]

FIGURE 9



Source: Bolsa de Madrid.
1 Data to 13 June.

IGBM shares with biggest quarterly change

TABLE 19

		2008- Jun[1]		
Share	**Sector**	**% Q**	**% on Dec 07**	**% annual**
Rise				
Codere	Consumer services	27.21	-24.23	-
Repsol	Oil and energy	24.02	11.20	0.52
Arcelor Mittal	Basic materials, industry and construction	20.87	18.13	31.55
Befesa Medio Ambiente	Basic materials, industry and construction	18.96	23.71	-15.35
Nicolás Correa	Basic materials, industry and construction	17.37	21.78	-1.91
Fall				
Afirma	Financial and real estate services	-64.88	-83.00	-92.34
Cleops	Basic materials, industry and construction	-56.57	-50.83	-45.03
Renta Corporación	Financial and real estate services	-54.26	-66.62	-83.11
Urbas Guardahermosa	Financial and real estate services	-42.86	-54.84	-83.23
Itinere Infraestructuras	Consumer services	-36.30	-34.85	-39.90

Source: Thomson Datastream and Bolsa de Madrid.
1 Data to 13 June. Quarterly change (% Q) refers to the period between 13 June and 31 March 2008.

IGBM shares with biggest annual change

TABLE 20

		2008- Jun[1]	
Share	**Sector**	**% on Dec 07**	**% Q**
Rise			
Arcelor Mittal	Basic materials, industry and construction	31.55	20.87
Grifols	Consumer goods	30.16	13.92
Red Eléctrica de España	Oil and energy	27.20	10.57
Gamesa	Basic materials, industry and construction	27.03	16.75
Construcciones y Auxiliar de Ferrocarriles	Basic materials, industry and construction	24.96	4.13
Fall			
Afirma	Financial and real estate services	-92.34	-64.88
Actuaciones Actividades e Inv. Inmobiliarias	Financial and real estate services	-92.32	-36.24
Urbas Guardahermosa	Financial and real estate services	-83.23	-42.86
Renta Corporación	Financial and real estate services	-83.11	-54.26
Inmobiliaria Colonial	Financial and real estate services	-82.73	-29.55

Source: Thomson Datastream and Bolsa de Madrid.
1 Data to 13 June. Quarterly change (% Q) refers to the period between 13 June and 31 March 2008.

Table 21 offers a snapshot of the quarterly performance of IGBM shares. We can see that the second quarter brought a general improvement on the first, with the percentage of issuers in losses down from 77% to almost 69%, and those recording gains of over 10% up from 3% to 9%.

Performance range of IGBM companies TABLE 21

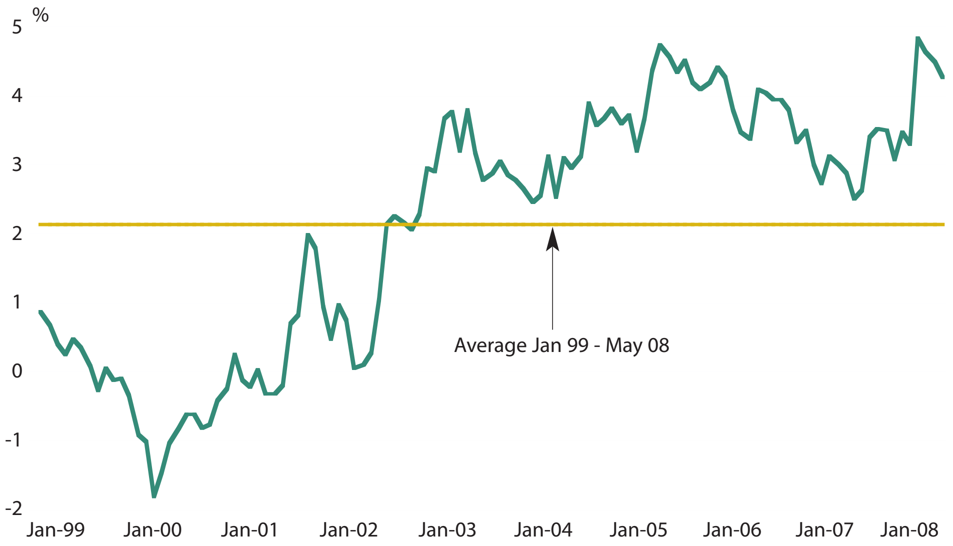
% total IGBM companies	Q2 07	Q3 07[1]	Q4 07	Q1 08	Q2 08[1]
≥ 25%	4.9	1.6	0.0	0.0	0.7
10% to 25%	10.7	4.7	7.9	3.0	8.2
0% to 10%	21.3	18.8	19.7	20.0	22.4
≤ 0%	63.1	75.0	72.4	77.0	68.7
Pro-memoria: total no. of companies					
	122	128	127	135	134

Source: Thomson Datastream.
1 Data to 13 June.

As we can see from figure 10, the fall in Ibex 35 prices dampened the price-earnings ratio (P/E) to 11.33 from the 11.55 of the opening quarter. This contrasts with the increase recorded in other European markets, but remember the Spanish bolsa runs the highest P/E in Europe, and the closest to those of North American markets.

The run-up in Spanish long-term rates amply offset the aforementioned decline in the earnings multiple, resulting in a sharp contraction in the earnings yield gap measuring the difference between the yield on equity investment and long-term bonds. Specifically, the yield gap narrowed to 4.2% at the end of May from the 4.5% of March, still well above the roughly 2% average recorded from January 1999.

Earnings yield gap[1] of the Ibex 35 FIGURE 10



Source: Thomson Datastream and authors.
1 Difference between stock market yield, taken as earnings/price, and ten-year bond yields. Data to June.

4.2 Activity: trading and liquidity

Turnover on the Spanish stock market dropped considerably in the second quarter of 2008, compared both to first-quarter volumes and those kept up through all of last year (see table 22). Average daily volumes stood at 4,868 million euros from April to mid-June, 21.2% less than in the opening quarter (6,181 million euros) and 31.7% less than the daily average of Q2 2007 (7,125 million euros).

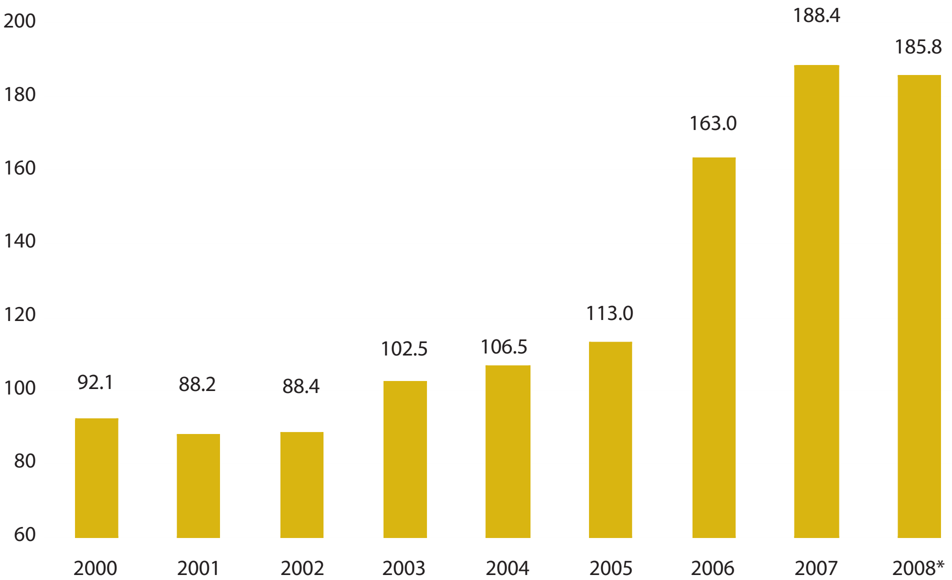
Trading on the electronic market to May 2008 (in cumulative twelve-month terms) contracted faster than market capitalisation. The result was that turnover velocity, the ratio between market trading and capitalisation, stalled for the first time since 2001; to 185.8 from the 188 of the 2007 close (see figure 11).

Trading on the Spanish stock market TABLE 22

Million euros	2005	2006	2007	Q2 07	Q3 07	Q4 07	Q1 08	Q2 08[1]
All exchanges	**854,145**	**1,154,294**	**1,667,219**	**441,725**	**372,131**	**434,823**	**383,254**	**258,023**
Electronic market	847,664	1,146,390	1,658,019	439,664	370,417	432,081	380,935	256,454
Open outcry	5,899	5,318	1,154	209	98	274	44	23
of which SICAV[2]	4,864	3,980	362	57	32	15	6	2
MAB[3]	-	1,814	6,985	1,605	1,369	2,240	1,966	1,376
Second market	26	49	193	22	38	12	3	18
Latibex	557	723	868	226	209	216	306	153
Pro-memoria: non resident trading volumes (% all exchanges)								
	57.1	58.2	61.6	61.7	63.4	62.3	na	na

Source: CNMV and Directorate-General of Trade and Investments.
1 Cumulative data to 13 June.
2 Open-ended investment companies.
3 Alternative investment market. Data since the start of trading on 29 May 2006.
na: data not available at the time of preparing this report.

Turnover velocity[1] of the Spanish stock market GRÁFICO 11



Source: CNMV and Sociedad de Bolsas.
1 Ratio of cumulative trading volume in the electronic market in the past twelve months and average monthly capitalisation in the same period.
* Data to May.

4.3 Listed company earnings

The 2007 earnings performance of the companies listed on the Spanish electronic market looks good on paper, with pre-tax profits up by 15% versus the previous year to around 73,000 million. However, these aggregate figures mask a strongly divergent performance by sector, due to the fallout from the financial turbulence and companies' degree of exposure to a slowdown in the Spanish economy.

Among the sectors reporting the strongest advance were transport and telecommunications, up by almost 50% in the slipstream of Telefónica, and the banks sector, which grew its pre-tax profits by more than 24%. Almost all the banks fared relatively well, with the two major groups[9] (Santander and BBVA) securing profits growth of 22.7%. Insurance firms too reported earnings figures improving significantly (67.1%) on 2006.

Pre-tax profits[1] of IGBM companies TABLE 23

Thousand euros unless otherwise indicated

	2006	2007	% annual change
Banks	20,386,612	25,345,317	24.3
Santander	8,995,386	11,175,241	24.2
BBVA	7,030,336	8,494,568	20.8
Transport and communications	7,986,253	11,974,536	49.9
Telefónica	6,763,829	10,684,153	58.0
Energy and water	9,884,333	11,367,317	15.0
Endesa	3,990,000	3,889,000	-2.5
Iberdrola	2,386,176	3,098,806	29.9
Oil	6,758,144	6,863,324	1.6
Repsol YPF	5,568,000	5,693,000	2.2
Construction	5,906,480	6,431,735	8.9
Holding companies	2,991,909	1,958,973	-34.5
Clothing and paper	1,353,060	1,780,910	31.6
Insurance	1,041,732	1,741,172	67.1
Real estate	2,387,604	1,099,546	-53.9
Mining and base metals	1,015,468	756,724	-25.5
Cement and construction materials	447,106	529,591	18.4
Food	392,686	312,558	-20.4
Metal and engineering	727,073	226,116	-68.9
Chemicals	125,544	87,601	-30.2
Others	1,919,869	2,426,100	26.4
Total IGBM	63,323,873	72,901,520	15.1

Source: CNMV and authors.

1 In the case of companies not belonging to a consolidated group, data are on an individual basis.

Listed companies engaging in energy, water and oil related activities performed rather more unevenly, with some (Iberdrola) achieving a large advance in pre-tax profits and others (Endesa or Cepsa) reporting a small decline.

The worst performers were the real estate players, whose aggregate pre-tax profits came to 1,099 million, a full 54% less than in 2006. Corporación Financiera Alba[10] recorded the largest fall in absolute terms, while a number of firms entered red numbers, most deeply Astroc, AISA and Martin Fadesa in that order.

9 The combined profits of these two institutions account for 78% of aggregate sector earnings.
10 From 918 million euro in 2006 to 525 million euro in 2007.

II Reports and Analyses

Trends in the profitability of listed companies in the period 2004 – 2007

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1 Introduction

The aim of this article is to analyze the trends in the profitability of companies listed on the Spanish stock exchanges along with the main components of profitability, in the years 2004 to 2007, on the basis of financial data prepared in accordance with the International Financial Reporting Standards (IFRS) adopted by the European Union, and which such companies are obliged to submit to the Spanish SEC (CNMV).

Our analysis groups listed companies by broad sectors of economic activity. Accordingly our elucidation of the data obtained is based on an overall, aggregate view. This is continued with a sectoral analysis, but we make no individualized or detailed study of listed companies.

Up to and including 2004 the regulatory framework of reference in Spain for financial reporting in the sphere of listed companies was the Standard Chart of Accounts (*Plan General de Contabilidad*) issued in 1990, and the consolidating regulations adopted in 1991.

However, since 2005, Regulation 1606/2002 of the European Parliament and Council provides the obligation for all companies listed on the European stock markets to prepare consolidated annual accounts in accordance with the IFRS, which has posed a major challenge to listed companies, their accounts auditors and the regulators that supervise regulatory compliance and oversee market transparency.

With its Circular 1/2005 the Spanish SEC began to adapt its periodic public reporting forms to the new accounting framework provided by the IFRS in the consolidated sphere of securities issuers, and since then financial information has been reported pursuant to the new regulation.

This paper takes as a sample the consolidated figures from the listed companies that have had to apply the IFRS since 2005, including comparative figures for 2004 and thus ensuring that the data do not lose homogeneity if the analysis is extended to apply to years subject to other accounting standards.

The rest of the paper is structured as follows: the second section describes the data and indicators used; the third section analyses the trend in return on equity in aggregate and by sector of activity; the fourth section remarks on the profitability indicator's main components; and finally the fifth section sums up our main conclusions.

2 Data and indicators

This analysis is intended to give an overview of the trends in the profitability of listed companies over the period comprising the years 2004-2007. The accounting data come from public information reported by listed companies, including issuers of shares and of other securities tradable on the stock markets.

Specifically, the sample consists of the financial statements of companies obliged to periodically report public information prepared according to the IFRS. It excludes foreign firms, public corporations and firms that consolidate their accounts in a controlling company belonging to the same sector. The resulting sample covers 82.2% of all listed companies at the end of 2007 and represents 97.3% of the total assets of listed companies.

We analyze profitability at both aggregate and sectoral level, distinguishing between the five economic sectors: energy, industry, construction and real estate, services, and credit institutions. Table 1 shows the number of companies considered for each sector:

Number of companies by sector TABLE 1

	2004	2005	2006	2007
Energy	14	14	15	15
Industry	43	43	49	50
Construction and real estate	27	27	28	28
Services	27	27	29	33
Credit institutions	22	22	22	22
Aggregate total	**133**	**133**	**143**	**148**

Source: compiled by author.

The key indicator under study is return on equity (ROE). We also identify and analyse its main components: return on investment, income margin, investment turnaround, financial leverage and the trend in the cost of debt.

3 Return on equity

Return on equity (ROE) is one of the most notable indicators in the taking of investment decisions. Table 2 shows the trend in ROE from 2004 to 2007 for the sample as a whole and for each sector:

ROE TABLE 2

	2004	2005	2006	2007
Energy	15.15%	20.63%	18.58%	15.92%
Industry	16.50%	16.01%	20.56%	17.14%
Construction and real estate	17.27%	19.42%	29.77%	18.32%
Services	19.96%	25.39%	27.57%	32.38%
Credit institutions	13.10%	17.23%	19.09%	19.11%
Aggregate total	**15.19%**	**19.40%**	**21.38%**	**19.65%**

Source: compiled by author.

As we see, in 2004-2006 there was a sustained rise in return on equity, exceeding 21% in 2006. In 2007, growth in ROE fell for the first time in the period in question, though it remained at 19.6%, a level above the average for the last three years.

Up to 2006 the positive trend was due to good performances in business results, for a significant parallel increase occurred in the net worth of listed companies as from 2004, reaching two digits in 2005 and 2006, as a result of the financing of some corporate expansion operations with own funds. The lower ROE growth in 2007 was due to less good results in the non-financial sector and growth in aggregate net worth.

By sector the most notable events were as follows:

- **Energy:** The trend was influenced by the high capital gains recorded in 2005 by two electrical utilities as a result of non-recurring transactions. This exceptional figure for 2005 caused ROE to decrease in 2006. The reduction continued in 2007, largely due to the financing of part of the major investments made abroad with shareholders' equity and the poor operating results obtained. In some companies in the oil industry ROE growth slowed in 2006 due to the drop in refinery margins relative to the high margins in 2005, and in 2007, due to the US dollar's loss of value against the euro along with the fall in hydrocarbon production.

- **Industry:** It is worth noting the increase of 4 percentage points in ROE between 2005 and 2006, up to 20%, due chiefly to the favourable trend in this variable in metal transformation and base metal companies due to the growth in the steel market. This offset the less expansive results from listed chemical companies. But earnings slowed rather in the second half of 2007 with the rise in the costs of raw materials and of the debt burden.

- C**onstruction and real estate:** A sustained rise in demand allowed profitability to increase over almost all of the period in question. But the high debt acquired in recent years to finance investment diversification, its greater cost and the exhaustion of construction growth explain the sharp slowdown observed in 2007 and give rise to some uncertainty as to how the industry's results are likely to develop in the next few years.

  Moreover, real estate companies' results for 2006 benefited from the change in accounting treatment permitted by the IFRS consisting of the valuation of real estate investments at fair value. These are accounting entries that do not generate cash flow but that affect a company's results. The stock market performance of some listed securities and the change of trend in the real estate sector are now causing negative adjustments in accounting valuations.

- **Services:** This sector was the only one to show a positive trend in the second half of 2007, achieving very high returns on equity that grew over the years in question, up to 32.4% in 2007. This was contributed to by the upward trend in results in mobile telephony and good results in recent acquisitions.

- **Credit institutions:** The growing profitability in this sector corresponded to sharp growth in results, over 20% in 2005, 2006 and 2007. This was based in part on the steady improvement in the efficiency ratios of banks and savings banks, which in 2007 were 40% and 38% respectively. The rise in the European Central Bank's official interest rate over the period in question led to increases in the intermediation margin.

Finally the expansion of international investment, especially by the main banks, and the increased credit activity of credit institutions in Spain also contributed to ROE growth. But a certain sluggishness is observable, albeit at a high level, namely 19%.

4 Main components of profitability

Having analyzed the trend in return on equity we may now turn to the contributions of its main components. In other words, the profitability of investments made and the effect of leverage on the differential between return on investment and the cost of debt.

As a reference, it is worth bearing in mind the following accounting equation (for more detail, see appendix):

$ROE = ROI + D/NW (ROI - I (1 - T))$, where

ROE is return on equity, ROI is return on investment, D is debt, NW is net worth, I is the cost of debt and T is the actual tax rate.

4.1 Return on investment

ROI enables us to ascertain the yield generated by investments that have been financed with own or third-party funds and that involve some kind of capital cost. When ROI exceeds the cost of debt, it has a favourable effect on ROE, according to the company's degree of leverage.

Table 3 shows the trend in ROI in the sampled companies:

ROI TABLE 3

	2004	2005	2006	2007
Energy	7.67%	10.22%	9.57%	9.08%
Industry	9.22%	9.01%	11.62%	11.49%
Construction and real estate	7.58%	8.33%	10.12%	7.78%
Services	9.12%	10.53%	10.80%	12.10%
Credit institutions	1.94%	2.83%	2.96%	3.77%
Aggregate total	**2.95%**	**3.95%**	**4.24%**	**4.84%**

Source: compiled by author.

As we see in table 3, ROI underwent steady and sustained growth, prompted by good business results in a context of expanding investments. However, the trend was uneven across the various sectors:

- **Energy:** After reaching two digits in 2005, return on investment tended to fall in 2006 and 2007, due in the latter year to strong corporate investment by one electrical utility and the fall in the sale price of exploration and production products in oil companies, due to the US dollar's loss of value against the euro.

- **Industry:** This sector showed a favourable trend in period in question, with ROI reaching 11.5% in 2007. Buoyant demand allowed companies in the sector to transfer to sale prices the rising costs of raw materials (such as nickel), mitigating adverse impact on results, though in the second half of the year demand showed signs of weakness given the persistent price rises.

- **Construction and real estate:** The rise in earnings since 2004, remarked upon in the previous section, caused ROI to increase despite the investment growth prompted by various business amalgamations in 2006, especially in the real estate sector. But 2007 saw a slowdown in the indicator, due to the fall-off remarked on earlier in fair valuations of real estate investments, but also to the maintenance of great investment buoyancy.

- **Services:** ROI in services stood above 10% from 2005 on but was unable to break the 12% barrier until the second half of 2007, when the communications sector's large investments began to offer better returns. The maturity period of acquisitions will mark the trend in ROI in the coming years.

- **Credit institutions:** As a whole, the listed credit institutions experienced a sustained rise. As remarked on above, the improvement in the intermediation margin (with the upturn in rates) and the ordinary margin (through the basic margin and the result of financial transactions) helped to keep the trend in results more buoyant than in investment, despite the latter's strong expansion.

In order to further investigate the key factors in ROI we should break it down into its two main factors: income margin (results / income) and investment turnaround (income / investment):

4.1.1 Income margin

This indicator reflects the profit margin obtained from sales as entered in each company's consolidated results account.

Table 4 shows the trend in this indicator for four of the sectors under study. Credit institutions are excluded because of the different nature of their results accounts.

Income margin

TABLE 4

	2004	2005	2006	2007
Energy	11.30%	12.40%	11.49%	12.37%
Industry	7.48%	6.63%	8.28%	8.83%
Construction and real estate	10.62%	12.06%	21.24%	19.37%
Services	13.79%	14.19%	15.30%	17.70%
Aggregate total	**11.24%**	**11.96%**	**13.67%**	**14.64%**

Source: compiled by author.

Margins in the various non-financial sectors being considered here showed highly positive progress over the study period, thereby contributing to growth in results. In particular the moderation in certain costs (procurement, staff costs, amortization, etc.), which grew at a slower rate than income, explains a large part of the profit generated. By sector we may note the following points:

- **Energy:** The sales margin remained above 11% in the period in question thanks to moderate procurement costs in the energy sector and despite the poorer performance by the oil industry, due to the difficulties in passing on rising oil prices over the last two years. In 2006 sales grew notably in the water and gas sector thanks to combined cycle electricity generation.

- **Industry:** This is the sector that traditionally has the lowest margins in relative terms, though they remained positive and showed a slightly upward trend. An increase in foreign sales, especially to the rest of the euro zone and reaching 55.2% of the total at the end of 2007, was a catalyst for profit.

- **Construction and real estate:** This is the sector with the highest margins in the period in question, achieving a cumulative annual growth rate of 22.2%, largely explained, like the other indicators analyzed, by fair-value accounting for real estate. Given that sales of real estate investments must moreover be entered into results accounts with the result obtained, the price rise had a favourable effect on margins in 2006 and in the early months of 2007. But in the second half of 2007 margins were seen to contract, reducing growth in the indicator. Moreover, the interests of some construction companies in the electrical industry permitted the inclusion of larger book profits as from 2005 and a diversification of the risk inherent in the construction and real estate business.

- **Services:** The companies in this sector experienced a steady rise in business margins. Contributions to results from companies acquired in the euro zone in the communications sector in 2006 and non-recurring capital gains from the sale of a few subsidiaries in 2007 help explain the margins in excess of 15% in the periods in question.

4.1.2 Investment turnaround

This indicator reflects the number of times that corporate investments have been recovered in each period through turnover as shown in a consolidated group's accounts. It therefore allows us to evaluate the rates and periods at which investments are recovered through corporate turnover.

Table 5 shows the trend in this indicator in the period under study. As in the case of income margins, credit institutions are excluded because of the different nature of their results accounts and the different make-up of their balance sheets.

Investment turnaround TABLE 5

	2004	2005	2006	2007
Energy	0.68	0.82	0.83	0.73
Industry	1.23	1.36	1.40	1.30
Construction and real estate	0.71	0.69	0.48	0.40
Services	0.66	0.74	0.71	0.68
Aggregate total	**0.73**	**0.82**	**0.75**	**0.64**

Source: compiled by author.

As we see in table 5, investment turnaround as from 2005 declined in the non-financial sectors as a whole. This was contributed to by strong growth in investment, with increases of 32% in 2006 and 27% in 2007, largely prompted by corporate expansion operations chiefly within the European Union. By sector we may make the following remarks:

- **Energy:** The slight rise in income in 2007, of 2.8%, was due partly to the aforesaid rise in oil prices and the US dollar's 9.2% loss of value against the euro, resulting in lower turnaround at the end of that period in comparison with 2005 and 2006. It is also worth noting the growth in turnaround in 2005, owing to the 32% sales increase in electrical utilities due to low rainfall, a rise in demand and the economic recovery in Latin America.

- **Industry:** This sector showed a steady rise in the indicator up to a turnaround rate of 1.4 in June 2007. But in the second half of 2007 the economic situation began to adversely affect sales and the rate fell to 1.3. Despite the investments made in 2006, with growth of more than 30%, the base metal and metal transformation sectors managed to maintain or increase their turnaround rates due to the good performance of demand for their end products.

- **Construction and real estate:** Construction firms' strategy of diversifying risk by investing in new businesses, especially the electrical industry, along with the growing concentration in the sector, meant that investment multiplied threefold from 2005 to 2007, prompting a decline in turnaround through corporate turnover, whose growth stood at 23.4% in 2006 and 26.0% in 2007.

- **Services:** Owing to the expansion strategies of telephony companies, investment recovery through turnover took a slight drop in 2006 and the first half of 2007. In 2007 the rate of variation for new investments grew at 17%, while income went up 8.4%.

4.2 Financial leverage

Financial leverage is defined for the purposes of this paper as the ratio between a consolidated company's debt and its shareholders' equity. It enables us to evaluate the multiplier effect on ROE of the difference between ROI and the cost of debt when there is a positive differential, or the reducing effect on ROE when the differential is negative.

Table 6 shows the aggregate and sectoral trend in this indicator:

Financial leverage TABLE 6

	2004	2005	2006	2007
Energy	1.62	1.53	1.40	1.20
Industry	1.15	1.18	1.10	0.83
Construction and real estate	2.13	2.22	2.87	3.38
Services	2.28	2.27	2.68	2.75
Credit institutions	17.12	17.32	16.43	15.41
Aggregate total	**8.44**	**8.45**	**8.40**	**7.81**

Source: compiled by author.

During the period under study, leverage was stabilized on some eight occasions. Accordingly the increase in debt over that period was proportionally offset by an increase in net worth. However, this trend is dependent on the performance of the financial sector. Leaving out credit institutions, leverage rose moderately but steadily as from 2005, reaching a ratio of two to one at the end of 2007. In a sectoral analysis the following remarks may also be made:

- **Energy:** Leverage followed a downward trend in the study period, with a cumulative annual rate falling to 9.5%. The lever effect on electrical utilities was above average for the energy sector owing to large investments, funded chiefly with debt, and this became more notable as a result of corporate transactions in 2007.

- **Industry:** Industry had the highest leverage of the sectors under consideration. The trend in the period analyzed was moreover downward, dipping below unit level at the end of 2007. Good company results, especially in 2006, resulted in accumulated earnings, and along with a certain disinvestment in 2007 this allowed the proportion of debt over equity in the sector to fall.

- **Construction and real estate:** This is the industry with most leverage among non-financial sectors, with an increase in 2006 and 2007 to the point that debt exceeded equity by 3.4 times. This trend is largely explained by the financing of major investments by the construction sector in the energy sector and some international concentration operations. Corporate concentration processes in the real estate sector in 2006 also had a direct impact on the rise in outside financing, and accordingly on leverage.

- **Services:** Leverage increased in 2006 and 2007. It is worth noting the sector of concession companies, which had to resort to more financing for their latest corporate acquisitions. Also the communications sector showed leverage levels above average for the sector, though if we consider the usual debt coverage indicators (debt/EBITDA and EBIT/financial costs), the data are better.

- **Credit institutions:** This sector is by its very nature the one traditionally with most leverage. The accounting data obtained show less leverage if we compare liabilities in 2005, which amounted to 95% of total balance sheets, to those of 2007, with 94%, as the proportion of equity grew against other liabilities. The financing acquisitions of other credit institutions with shareholders' equity and the rise in interest rates influenced equity growth and the drop in leverage as from 2006, reaching 15.4 to 1 in 2007.

4.3 Cost of debt

This analysis ends with the cost of debt net of tax effect. Also provided is the differential between return on investment and the cost of debt net of tax effect. These two indicators appear in tables 7 and 8 respectively.

Cost of debt net of tax effect TABLE 7

	2004	2005	2006	2007
Energy	3.06%	3.42%	3.15%	3.40%
Industry	2.87%	3.10%	3.47%	4.00%
Construction and real estate	3.02%	3.34%	3.27%	4.66%
Services	4.37%	3.99%	4.54%	4.73%
Credit institutions	1.29%	2.00%	1.98%	2.78%
Aggregate total	**1.50%**	**2.12%**	**2.20%**	**2.95%**

Source: compiled by author.

Differential: ROI - Cost of debt net of tax effect TABLE 8

	2004	2005	2006	2007
Energy	4.61%	6.80%	6.42%	5.68%
Industry	6.35%	5.91%	8.15%	7.49%
Construction and real estate	4.55%	4.99%	6.85%	3.12%
Services	4.75%	6.54%	6.26%	7.38%
Credit institutions	0.65%	0.83%	0.98%	1.00%
Aggregate total	**1.45%**	**1.83%**	**2.04%**	**1.90%**

Source: compiled by author.

As we see in table 7, over the period in question there was a gradual rise in the cost of debt in line with the trend in interest rates. Consequently there was a rise in financial costs in consolidated results accounts. However, it is worth noting that ROI in all sectors was well above the cost of debt. By sector we may note the following:

- **Energy:** In the period 2004-2006 the cost of debt remained above 3%, with no great variation. In 2007 the sector's debt went up due to the financing of a notable corporate acquisition, which might in future lead to a small rise in the cost of debt for the sector.

- **Industry:** In this sector the cost of debt grew in 2005 and 2006 much more moderately than ROI. But the trend in ROI in the second half of 2007 was not positive enough to neutralize the cost of debt, which stood at 4.0% at the end of the year. The direct increase in industrial companies' financial costs partially offset the positive effect on profitability of growth in demand.

- **Construction and real estate:** The differential between ROI and the cost of debt net of tax effect, which in 2006 grew by 1.8% compared to 2005, fell in 2007 by 3.8% compared to 2006, again confirming the signs of a loss of growth in the sector and the advent of a less buoyant period.

- **Services:** The trend in the cost of debt in the service sector was largely influenced in 2006 by the big increase in the debt of communications companies (some 64%) due to the financing of various acquisitions. But the differential between ROI and the cost of debt net of tax effect stayed above 6% in 2006 and exceeded 7% in 2007.

- **Credit institutions:** Credit institutions saw their costs practically double relative to their liabilities, from 1.3% in 2004 to 2.8% at the end of 2007. The differential between ROI and those costs, however, grew slightly but steadily over the period under study as a result of continuing growth in demand for credit.

5 Conclusions

In the period from 2004 to 2007 the profitability of listed companies developed positively, though profitability growth slowed in 2007. All this in a context in which rising oil prices as from 2004 and rising interest rates as from 2005 prevented better results.

In particular, in listed companies taken as a whole, return on equity (ROE) rose as from 2004 to a figure of 21.4% in 2006. But in 2007 the indicator fell back to 19.7%. The various components of ROE (ROI, leverage and the differential between ROI and the cost of debt) maintained a positive trend in the whole period in question, except in 2007, in which a rise in the cost of debt greater than that in ROI led to lower growth in ROE.

Within the positive trend in profitability that affected all sectors over the period we may note the good performance in the service sector, with a gradual improvement in the various profitability indicators analyzed, and the drop in growth in the industrial sector in the second half of 2007.

On the negative side, we should note that the profitability of listed real estate companies in 2006 and especially in 2007 showed clear signs of slowdown and even sluggishness. In fact it recently emerged that some real estate companies encountered financial difficulties in meeting the maturities of their syndicated loans and were forced to negotiate new terms with the relevant credit institutions.

Appendix

To facilitate the interpretation of the results arrived at, below are the definitions applied in obtaining some of the data used in our study:

The period result used for ROE is that obtained by a group after tax, including the results of ongoing and suspended operations. The period result used for ROI is the same as above, but before interest net of tax effect.

The tax rate (t) used is that actually borne by a company and used to obtain book expenditure for corporate tax.

The cost of debt (i) is calculated with financial costs and borrowing. Subsequently and for comparison with ROI, its tax effect is taken into account.

Net worth or equity as used here includes minority interests and discounts own shares, as stipulated in the IFRS, adopted by the EU.

Balance sheet magnitudes (net worth, NW; investments, debt, D) included in indicators are calculated from the subtotal of balances at the start and the end of each period, except in 2004, as no data were available for the start of that period.

For companies in non-financial sectors, investments are equal to total assets minus current liabilities that have no explicit interest and the debt indicator does not include these liabilities.

For the credit institution sector the following criteria were applied: investments are equivalent to assets, debt is equivalent to liabilities, income is equivalent to interest and similar revenue and capital instrument revenue and financial costs are interest and similar charges that are part of the intermediation margin.

Analysis of the Alternative Equity Market for growth companies developed by Bolsas y Mercados Españoles

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1 Introduction

In the opening quarter of 2008, Spanish stock market operator Bolsas y Mercados Españoles (BME) set in train the third trading segment making up the Alternative Equity Market (Mercado Alternativo Bursátil, MAB), first approved by the Council of Ministers on 30 December 2005. This segment will specialise in securities issued by low-capitalisation or, to give them their commercial name, growth companies.

My purpose here is, firstly, to contextualise and explain the reasons for setting up an alternative trading forum outside official markets devised exclusively for small and medium-sized enterprises and, secondly, to describe both the proposed configuration of the MAB growth companies segment and the regulatory and supervisory model applicable to the same.

This article is organised into eight sections. The second, following this introduction, looks briefly at what it means for a company to float on the stock market, exploring some of the reasons that may warrant the emergence of new trading platforms. The third analyses the size of the companies currently admitted to trading in each official market segment, while the fourth discusses some of the implications of the MAB. The configuration envisaged for new MAB segments is explained in section five, while section six is devoted to regulatory and supervisory considerations. Section seven offers a review of the current status of the MAB growth companies segment, followed in section eight by a series of conclusions.

2 The European experience of alternative markets for SMEs

As they stand, the requirements for entering and remaining within a regulated exchange can exact an additional capital cost from small and medium-sized enterprises that outweighs the benefits they may obtain, which range from higher visibility and prestige and more diversified funding sources to the discovery of the price and therefore value being placed on the company's business. This being so, some European market operators have cast round for alternative trading mechanisms sensitive to the circumstances of the SME universe.

The first move in Europe came from the London Stock Exchange group, which as early as 1995 had seen the wisdom of creating a dedicated trading platform for the shares of low-capitalisation firms as an alternative to its official stock exchange. The solution they came up with was the Alternative Investment Market (henceforth AIM), offering smaller issuers more flexible and affordable access and operating conditions. That same year, forty firms listed on the official London exchange switched to trading on the AIM.

Other exchanges were slow to follow London's example. For a time, groups like Deutsche Börse and Euronext opted for the model known as New Markets[1], intended to monetise and put an exchange value on the countless technology players that had emerged in the slipstream of the late nineties dotcom boom.

These New Markets (henceforth NMs) drew in a diversity of companies; some of them large but a majority in the small to medium size bracket. They could have opted for the same role as the London AIM, but instead turned their back on this strategy, preferring to attract more or less sophisticated technology firms supposedly offering strong growth prospects.

By summer 2000, the tech bubble of the late 1990s was clearly deflating. This marked the start of the NMs' decline after their initial runaway success. None of them has survived to this day: the *Neuer Markt* of Deutsche Börse, set up in early 1997, closed its doors in June 2003, while Euronext's *Nouveau Marché*, created just after *Neuer Markt* with a similar approach but more conservative strategy, managed to hang on until 2005.

From AIM's 1995 set-up to the present day, official market access and maintenance conditions have become even costlier and more restrictive. This is due to the regulatory output of the Financial Services Action Plan, which has made a clear case for alternative platforms devised for expanding small and medium-sized firms.

The British AIM was joined in 2005 by a new organised trading system for small and medium-sized enterprises – the Alternext facility created by NYSE-Euronext in place of the latter's *Nouveau Marché*. More recently, in the first quarter of 2008, Spanish group BME put the finishing touches to the operating rules for its MAB growth companies segment.

3 The business case for the MAB growth companies segment

Spain's official stock market is currently represented by the companies listed on the four official exchanges. It encompasses two levels of market and also two trading systems, all of them sharing the status of official market (in Spanish legal terminology) or regulated market (in European legal terminology):

- We have the so-called *first market,* theoretically targeted on firms of a certain size, while each of the four exchanges operates a *second marke*t geared to smaller firms.

1 Spain too had a trading segment called "Nuevo Mercado", but it stood some way short of bring a genuine New Market like the cases stated. Rather, it was a special segment of the official exchange with practically the same admission requirements that never attained the status of an independent trading platform. For that reason, it is not considered here.

- The *first market* has two trading systems: an electronic market known as *SIBE*[2] or the *continuous marke*t and a floor auction or *open outcry* format.

It could be surmised that larger companies by the measure of net asset size, outstanding capital, ownership distribution, market capitalisation, trading volume and frequency, etc. would opt automatically for the continuous market. By the same token, medium-sized companies in the first market would be likelier to trade in the open outcry segment. This would leave the second market free for the smaller operators it was originally designed for. However, this distribution does not always obtain.

To get a clearer picture, the following tables offer a snapshot of the Spanish equity trading industry, along with statistical data on listed companies corresponding to the year 2006, i.e., before the recent financial turbulence (which has affected both turnover and capitalisation).

As we can see from table 1, the continuous market system, within the first market, has participants of every size, capitalisation and trading volume down to medium-size and even small firms. Table 2 below provides examples of the smallest, identified by letters in each case.

Continuous market: weight by sector and company. 2006 TABLE 1

Aggregate figures in € million

Continuous market	Cos.	Capitalisation	Turnover	Revenues
Mining, energy and water	10	153,330	270,751	125,551
Basic materials, industry and construction	31	93,960	79,083	74,609
Consumer goods	29	53,108	58,730	31,236
Consumer services	18	54,225	59,154	27,028
Telecommunications and technology	6	84,684	205,779	55,156
Real estate	14	44,117	40,733	7,544
TOTAL NON FINANCIAL SECTORS	**108**	**483,424**	**714,231**	**321,124**
Maximum value in the 108 companies		79,329	189,952	53,092
Average value in the 108 companies		4,476	6,613	2,973
Median value in the 108 companies		1,202	1,108	607
Highest value in lowest quartile of 108 companies		347	216	154
No. of companies in lowest quartile		27	27	27
Minimum value in the 108 companies		38	4	0,24
TOTAL FINANCIAL SECTOR	**19**	**224,805**	**405,132**	**79,108**
Total companies with Spanish parent	**127**	**708,228**	**1,119,363**	**400,232**

Source: BME, CNMV and other sources.

2 The SIBE electronic trading system has to pricing models: SIBE-continuous, with prices set continuously as the session progresses; and SIBE-fixing, which operates more along the lines of the open outcry market. The SIBE-fixing system admits two prices per session and the open outcry segment, one.

Data of selected continuous market companies. 2006

TABLE 2

billion euro

	Capitalisation	Turnover	Ordinary revenues	Total assets
AAA	139	176	91	82
BBB	134	308	8	37
CCC	133	94	44	34
DDD	92	29	145	158
EEE	84	66	78	112
FFF	81	137	37	165
GGG	72	89	69	70
HHH	59	65	63	90
I I I	50	11	17	55
JJJ	50	5	27	66
KKK	38	41	28	56

Source: BME, CNMV and other sources.

Table 3 sets out key 2006 data for the open outcry market, excluding the open-end investment companies (SICAVs) still included on those dates.

Open outcry market. 2006

TABLE 3

million euro

No. of companies ex. SICAVs	Aggregate turnover	Aggregate capitalisation	Average turnover	Average capitalisation
38	7,905	5,317	208	140

Issuers trading on this market in 2006 included everything from fair-size companies to holding and portfolio companies, a few manufacturers and a number of smallish real estate operators. The smallest, with a couple of exceptions, were no smaller than the lowest cap. issuers on the continuous market, though their trading volumes were obviously lower. Table 4 offers some examples of open outcry companies whose turnover can best be described as thin.

Data of selected companies in the open outcry market

TABLE 4

million euro

Company	Capitalisation	Turnover	Ordinary revenues	Total assets
AAA	400	0.03	3	52
BBB	270	6	188	156
CCC	102	13	3	106
DDD	66	2	496	1797
EEE	39	0.4	133	263
FFF	9	0.05	117	172
GGG	5	0.005	62	141
HHH	1	0.02	0.0007	6

Source: BME, CNMV and other sources.

Second markets are official or regulated markets, despite having somewhat more flexible conditions than *first markets* as regards minimum capital (only 25 million pesetas) and ownership distribution (20% of capital to be delivered to a counterparty company). Accordingly, trading volume and frequency requirements are also more flexible.

However, as official or regulated markets, they are subject to all the corresponding Directives (admission to trading, insider dealing and price manipulation, transparency, takeover bids, markets in financial instruments, etc.), that is, all those emanating from the European Commission's Financial Services Action Plan, and, in the domestic context, to Spanish regulations on the governing bodies of listed companies and the requisites of the good corporate governance code.

This is a hefty and, therefore, costly regulatory burden for such small companies and does much to explain the little success that these markets have enjoyed. In effect, they have been steadily dwindling in importance over the past ten years. Whereas in 1997 there were 31 companies participating in the *second market* (17 in Barcelona, 8 in Bilbao, 3 in Madrid and 3 in Valencia), by 2006 this was down to just 12 (8 in Barcelona, 2 in Madrid, 2 in Valencia and none in Bilbao), whose aggregate turnover and capitalisation figures are set out in table 5.

***Second market.* 2006** TABLE 5

	1997	2000	2004	2006
No. of companies as of 31 December	31	26	17	12
Aggregate capitalisation in € billion	121	259	293	393
Average capitalisation per company	4	10	17	33
Aggregate turnover in € billion	17.9	18.3	21.3	49.3
Average turnover per company	0.6	0.7	1.3	4.1
Turnover velocity in years: Annual turnover / capitalisation	7 years	14 years	14 years	8 years

It is early yet to hazard how companies trading on *second markets* and the smallest of those listed on the *first market* (continuous or open outcry) will react to the start-up of MAB growth companies; i.e., whether they will make the switch or stay where they are. Without doubt, the MAB growth companies segment has a clear cost advantage over the official or regulated market.

The organisers of the MAB commissioned a study to identify the number of companies whose size and activity made them likely candidates for a future low-capitalisation trading segment. This study came up with a potential target of just over 5,300 firms, which were then classified into three groups along the lines shown in table 6.

Potential market for the MAB growth companies segment. TABLE 6

Group	No. of companies	Turnover €	Total assets €	No. of employees	ROA %	% equity/debt
A	345	>10 m	<10 m	<50	6,3	43
B	3,152	>10 m <50 m	>10 m <43 m	>50 and <250	8,6	51
C	1,856	> 50 m	>43 m	>250	7,8	39

The study trawled the Iberian Balance Analysis Database (SABI), cross checking it for representativeness against the Central Companies Directory (DIRCE) kept by the National Statistics Office (INE). Of the total of 538,740 companies in the SABI, it selected those qualifying as SMEs under the European Union definition as at 1 January 2006 (see table 6 above), without being micro-enterprises.

By region, 24% of these companies belonged to Catalonia, 23% to Madrid, 10% to Valencia, 7% to the Basque Country and 6% each to Andalusia and the Canary

Islands, with the other 24% spread over Spain's remaining autonomous communities. By sector, 38% belonged to industry and basic, intermediate and advanced manufacturing, 36% to the service sector (excluding retail), 17% to the retail sector and the other 9% to construction, real estate and energy and water.

To compare this mix with the global map of listed companies, we now look at the sectoral distribution in 2006 of Spanish non financial companies admitted to trading on the continuous market (table 7).

Continuous market. Distribution by sector of non financial companies. 2006 TABLE 7

On the continuous market	No.	Capitalisation	Turnover	Revenues
Mining, energy and water	9%	32%	38%	39%
Basic materials and industry ex. construction	19%	6%	4%	6%
Construction (including construction materials)	9%	13%	7%	17%
Consumer goods	27%	11%	8%	10%
Consumer services	17%	11%	8%	8%
Telecommunications and technology	6%	18%	29%	17%
Real estate	13%	9%	6%	2%
TOTAL NON FINANCIAL SECTORS (million euro, ex. no.)	**108**	**483,424**	**714,231**	**321,124**

The basic materials, industry and construction and consumer goods and services sectors (this time with retail included) are underrepresented on Spanish stock exchanges compared to their weight among the 5,353 companies identified by the external consultants engaged by the MAB (see table 6). This is an understandable difference, given that these sectors sustain numerous SMEs whose size and circumstances bar them from recourse to the stock markets.

Remaining sectors (secondary sectors construction and real estate and primary sectors energy, water and mining) are theoretically overrepresented on the Spanish stock exchange. But, in fact, this is no less logical, since companies in these sectors tend to have more economic and financial muscle, meaning they are likelier to tap the equity markets for the funds needed to finance their development.

4 The challenges posed by a low-capitalisation trading platform

The MAB growth companies segment specialises in services and retail, manufacturing and processing companies of smaller size than those normally listed on official markets. This immediately poses two questions:

1 To what extent is it true that the growth companies in the new MAB segment are smaller than the smallest companies in the *first market*? and

2 Aren't the *second markets* operating within Spanish stock exchanges already catering for this kind of smaller company?

The second question is easy enough to answer. *Second markets* are not a solution for low-capitalisation companies, given their cumbersome and costly requirements. As to the first question, we have already seen that the *first market* includes a number of companies in the medium to small bracket; the open outcry system particularly but the continuous market too. Specifically, around 10 to 20 *first market* companies (more if we are strict) fall within the parameters used to identify the aforementioned sample of 5,353 companies. But this does not mean that these 10 to 20 companies have switched or will switch to the new MAB segment. Being listed on the *first market* has a reputational value that the MAB has yet to acquire.

This leads us to a third question with some important implications. What is to be gained from participating in the MAB growth companies segment and what risks might it entail? The possible advantages of the MAB are listed in box 1.

MAB BOX 1

While not comparable to the first market, it can offer a **reputational plus in visibility and transparency** among customers, supplies and lenders.

Facilitates the exit of small shareholders from family firms when successive generational handovers have diluted ownership, without having to abide by takeover bid regulations that force or induce a sale.

Lower external exchange and clearing house fees: for example, lower admission, maintenance and securities registration fees.

Less paperwork or more flexible, cheaper alternatives that are basically internal.

- There is no Listing Prospectus and access conditions are user friendly.
- Takeover bid rules do not apply, nor those on vote pooling or concerted actions. In their stead, company bylaws must include certain protection clauses for minority shareholders.
- No annual prospectus or registration statement.
- No minimum annual requirement regarding trading frequency or volume.
- Corporate governance models do not apply, nor is there any obligation to set up board of directors sub-committees.

As to risks, the fact is that if companies meet the relevant disclosure requirements and take certain precautions in their trading practices, the risks are no different to those affecting any investment in low-capitalisation firms.

MAB risks BOX 2

Scant liquidity. The minimum free float (shares not belonging to those holding at least 5% of capital) of €2 million means companies must have a starting capitalisation of €40 million. With such small figures, finding a counterparty may be a difficult proposition and will rely on the efficacy of the specialist in question.	Real risk
Difficulty covering short sales and executing intraday transactions. If an investor is tempted to sell short to later repurchase or else sell on the margin, the scarcity of shares for the loan or buyback legs will mean trades stay unsettled for a protracted time.	Real risk
Reporting discipline is a crucial factor. These markets function largely by signals, and significant events are equally if not more important than periodic statements. This discipline will hinge on the effectiveness of the Registered Advisor and its influence on the company. The Adviser, however, is a new figure whose effectiveness is untried.	Potential risk

However, all or most of these risks also pertain to small companies traded on official markets, with the added danger that the investor may consider that their official status is a guarantee of liquidity.

Investors in the new MAB segment will have the relative advantage that *risks are more predictable*. This is especially true of low liquidity because this label will be attached from scratch to all participant shares.

5 Proposed organisation of the MAB growth companies segment

Box 3 sets out the admission and trading conditions established for the MAB. These are more flexible than the conditions prevailing in official markets, plus current legislation on takeover bids will not apply to MAB-listed firms. These rules will be replaced by a series of obligatory bylaw amendments as stated in point 7 below.

General conditions applying to companies eligible for the MAB growth companies segment BOX 3

1. Business development stage	- Developed and operative or growing, with products and services on the market, or with marketing campaigns well advanced and significant revenues coming in. - Seed capital or new-start firms will not be admitted. - Companies operative for under two years must provide itemised quantitative estimates (for the next two years), and shareholders and managers must undertake not to sell shares in the year following market entry.
2. Company size	- No specific provision beyond that figuring above.
3. Geographical area	- Unrestricted, though preference will go to Spain and Latin America.
4. Legal form	- Generally Spanish sociedades anónimas or the equivalent international form of public limited company.
5. Corporate form/ bylaws	- Company with its capital represented by book-entry shares. - No legal or bylaw restrictions affecting the transfer or trading of shares.
6. Financial reporting	- IFRS and Spanish National Chart of Accounts are both admitted, as are other national standards in the case of EU companies. - According to IFRS or US GAAP in the case of companies from non EU countries.
7. Bylaws amended to meet MAB requirements	- Disclosure of all types of shareholder agreements. - In the event of an agreement to delist, shareholders not voting in favour shall be entitled to have their shares bought back at a fair price, along the lines stipulated in takeover bid legislation, though remembering that takeover rules do not apply to the MAB. - Any offer directed at shareholders which gives the buyer more than 50% may not be accepted unless it is made extensive to remaining shareholders.

Specific conditions for admission to the MAB

BOX 4

1. MAB admission-ownership distribution	-	Direct admission (no public offering) by the MAB board of directors or a prior public offering subject to the terms of the Securities Market Law.
	-	The amount held by shareholders with under 5% of capital must have a market value of at least €2 million.
2. Investor and institutional relations based on the figure of Registered Advisor	-	All companies must have or appoint a Registered Advisor (a legal entity with financial advisory experience) to assist them in their market and investor relations and their compliance with MAB regulations subsequent to admission. This Advisor also assesses candidates' compliance with eligibility requirements.
	-	MAB operating rules set out the obligations of the Registered Advisor and associated liabilities.
3. Liquidity contract	-	A necessary though not mandatory condition. The MAB Board can exempt those companies which demonstrably enjoy sufficient liquidity, though it is thought that a majority will be convinced into taking this course. The terms of contracts will be specified in a future MAB circular, once the market has been running sufficient time.
4. Listing particulars	-	In the absence of a public offering prospectus, firms must submit listing particulars with minimum contents as indicated in a MAB-specific norm.

No listing or offering prospectus is required from firms seeking entry to the MAB, unless companies choose to broaden their ownership via an initial or public offering, in which case the issuer must meet all the relevant requirements of the Securities Market Law.

The MAB also introduces two special conditions; the appointment of a Registered Advisor and of a Specialist[3] or liquidity provider. The Registered Advisor is an untried novelty in the Spanish market, although a similar office was introduced some years back by the UK' s Alternative Investment Market, and is acknowledged to have done a lot towards the exchange's success. Unsurprisingly, the *Alternext* created by NYSE-Euronext in 2005 decided to follow suit.

The MAB growth companies segment also operates more flexible rules than official markets regarding informational transparency, though investors are assured certain minimum disclosures (see box 5).

3 The need to designate a Specialist may be waived in certain cases by the MAB board of directors.

Transparency requirements of companies admitted to trading

BOX 5

1. General rules		
a. Interim financial reporting: frequency and scope	-	Short-form half-yearly unaudited financial statements plus disclosure of shareholders owning more than 10%. Presentation deadline: six-month close plus 3 months. * See also 2 b.
b. Year-end financial reporting: frequency and scope	- -	Audited; under IFRS or national accounting standards in the case of EU companies and IFRS or US GAAP for non-EU countries. Presentation deadline: annual close plus 4 months.
c. Quality and content assurance	-	Annual financial statements audited by a professional auditor and authorised as per EU audit norms.
d. Annual auditors' reports	-	In cases of auditor qualifications or limitations of scope, the issuer must disclose the reasons, the steps to be taken and the timeframe.conducentes a su subsanación y el plazo previsto para ello.
e. Obligation to release significant events	-	Especially with regard to business conditions, activity, financial position and bylaw or organisational changes.
(i) Minimum disclosure guidelines	-	A non exhaustive list of disclosable events based on CESR guidelines.
(ii) Release deadlines	-	Significant event notices must be released immediately the fact occurs or comes to the issuer's knowledge.
f. Information on ownership structure	- -	Disclosure of any holding that reaches, exceeds or drops below 10% of capital and successive multiples. In the case of transactions involving board members or senior officers, this threshold is set at 1%. A list of shareholders owning over 10% of capital must be published on a half-yearly basis.
2. Specific rules		
a. Visibility of issuer information	-	Posted on the MAB web page, plus every listed company must operate its own website.tenga su propia web.
b. Business forecasts	-	To be included in listing particulars and updated or added to on each subsequent occasion that forecasts are issued, including details of degree of compliance with both interim and annual forecasts.

Trading rules are the same as in the SIBE-fixing system, and, as such, are sufficiently well known and detailed for low-capitalisation companies to be acquainted with the way they work (see box 6).

Trading rules for listed shares

BOX 6

1. Designated trading platform	-	SIBE-Fixing.
2. Volume and frequency support	-	As described: companies are obliged to contract with a liquidity provider unless they can accredit sufficient liquidity.
3. Recognised dealers	-	Members authorised to operate under the MAB Regulation approved by the Council of Ministers: in principle, all financial entities authorised to operate in Spanish securities markets can be members of the MAB.
4. Order execution and prevention of uncovered short sales	-	Two main precautionary measures are imposed, whose details will be given in a subsequent operating instruction: 1 A threshold above which express double confirmation will be sought from the operator before the order can be introduced. 2 A threshold above which the intermediary must seek authorisation from Market officials, who will require proof that sufficient securities are available for settlement.
5. Takeover bids	-	As stated, takeover bid legislation does not apply, though any offer directed at shareholders which gives the buyer more than 50% may not be accepted unless it is made extensive to remaining shareholders.
6. Clearing and settlement	-	Handled by Iberclear, as per the general system established in the MAB Regulation.
7. Registration	-	Iberclear and the registration services of the Barcelona, Bilbao and Valencia exchanges: a single service, depending on each company's area of activity, will handle all the securities issued by that company.
8. Sessions	-	Opening auction, closing auction and special transactions window. In certain cases, the Supervisory Committee may stipulate a period of open market trading.
9. Timetable	-	Trading days: Monday to Friday within the times set in the operating instruction.
10. Prices	-	The reference price will be the closing price of the previous session. - The static range will be as specified in an operating instruction. - Closing price: midpoint of the best bid and sale positions, in line with the recent change on the Latibex. - Tick: €0.10, or less if the unit value is below €2.
11. Block trading	-	Special conditions for offsetting orders and for closure of trades: - Fluctuation limit of 25% vs. the reference price. - Cash amount of transactions > €50,000.
12. Special transactions	-	Timetable: from close of session to 20.00 hours. - General conditions: - Fluctuation limit of 5% vs. the reference price. - Cash amount of transactions > €50,000. - Trades to be notified before 20.00 hours. - Special transactions requiring Market authorisation: - Amounts > €50,000. - Transfers related to mergers, de-mergers or corporate reorganisation. - Execution of complex or contingent contracts. - Others decided by the Supervisory Committee.

Box 7 sets out the rules for suspension from trading, which are clear and explicit enough to be easily understood by all MAB participants and to ensure that investors are adequately protected in the event of transparency or reporting failures.

Rules for suspension from trading

BOX 7

1. Suspension for non compliance with general rules		
a. Reporting quality and deadlines	-	Failure to report or incomplete reporting. - Where auditors' reports are qualified or of limited scope, failure to inform MAB of the reasons for this, the steps to be taken and the timeframe, or failure to respect the timeframe given. - Failure to provide additional information or insufficiency of the information given. - Sending information after deadline.
b. Takeover bids	-	Not applicable, as stated; replaced by bylaw provisions.
c. Other circumstances as defined in general trading regulations	-	Disrupting the normal course of market trading and activities. - Possible harm to the interests of investors or market operators. - Prevention of infractions. - Ensuring the orderly progress of market trading and activities. - Failure to supply periodic and annual statements.
2. Suspension for breach of MAB-specific rules (discontinuing relations with Registered Advisor or Specialist, breach of MAB-defined ownership distribution rules…)	-	Breach of mandatory norms. - Ensuring the orderly progress of trading and market activities. A case in point might be the removal of a Registered Advisor or Liquidity Provider.

Delisting rules

BOX 8

1. Insufficient trading frequency or volume	-	No express provision.
2. Insufficient ownership distribution	-	No express provision.
3. Reiterated breach of transparency and other admission rules	-	Delisting of securities for grave and reiterated breach of issuer obligations, particularly those relative to transparency and the engagement of a Registered Advisor or Liquidity Provider. - Such breach may give rise to an earlier written warning to the issuer requiring it to take remedial action.
4. Procedure to follow	-	Failing unanimous backing by shareholders, the issuer must offer to buy the shares of all those not voting in favour, as mandated by the bylaws.

One investor safeguard introduced for the MAB growth companies segment is that issuers must, in the event of exclusion, offer to buy the shares of all shareholders not lending their vote to the company's delisting. As we can see, however, no provision has been made for cases of sub-standard trading statistics or ownership distribution, in line with the policy of offering a more flexible environment than official markets.

The pre- and post-trade reporting rules of the new market draw on the MiFID requisites for Multilateral Trading Facilities (see box 9).

Pre- and post-trade reporting		BOX 9
1. Pre-trade reporting	-	According to the MAB Regulation, the market will release, at least, the significant events of listed companies on a daily basis.
2. Post-trade reporting	-	According to the MAB Regulation, the market will release, at least, the following information on a daily basis: - Prices of the day's session. - Prices of previous sessions. - Trading volumes.

Although today's MAB is classed as an organised trading system (OTS), the amended text of the Securities Market Law approved in December 2007 abolished this denomination, giving OTS six months to apply for transformation into Multilateral Trading Facilities (MTFs). Note that applying for this status within the six-month period does not automatically make them multilateral systems; all it does, for the moment, is prevent their Council of Ministers authorisations from lapsing. The MAB, as is logical, will request this transformation and has incorporated these pre- and post-trade rules preparatory to compliance with MiFID strictures for MTFs.

For companies, trading on the MAB is considerably cheaper than trading on the *first market*. The MAB board claims that maintenance costs are around half what they would be on the official equity market, while registration and admission fees are even lower. The current free structure is as shown in box 10.

Fees		BOX 10
1. Registration	-	A set fee of €6,000 plus 0.5/1000 of the face value admitted to trading or added in subsequent capital increases.
2. Maintenance services	-	A set annual amount of €6,000 for issuers and €12,000 for Registered Advisors.
3. Delisting	-	05/1000 of market value, within a minimum of €1,500 and maximum of €6,000.
4. Trading	-	As stipulated in Circular 2/2007 for the MAB as a whole; organised into 6 tranches running from €1.10 for up to €300 to €13.40 for trades of over €140,000.
5.Admission of financial entities authorised to act as MAB participants	-	No express provision for the MAB growth companies segment, given that authorised entities must be licensed to provide securities investment and trading services.

6 Some thoughts on the regulatory and supervisory model applicable to the new segment

As with the two MAB segments already up and running, the first task for the CNMV is to ensure that the operating rules are up to standard. Its role, a such, is to check that issuer and securities admission procedures, the disclosure requirements for listed companies, as well as trading and suspension, post-trade and delisting rules are consistent with efficient price formation, transparency and investor protection in the new trading system's known circumstances.

This approach in no way differs from that prescribed for MTF regulation and operation in the amended Securities Market Law of December 2007. A case in point is its new article 120 on “Governing bodies and operating rules”, dealing with MTFs, which specifies that each should have its own Regulation covering operational and supervisory procedures.

If we compare the points addressed in this article 120, we find a considerable overlap between the “organisational and operating rules” of an OTS like today ’ s MAB and the future category of MTF, although the “supervisory”” procedures for an MTF are much more detailed (see box 11).

Points to be addressed in MTF Regulations

BOX 11

Are the requirements of the Spanish Securities Market Law similar to those applying to the MAB growth companies segment?

1) General considerations	
a) Financial instruments eligible for trading	Yes, in MAB Regulation.
b) Information to be disclosed on securities admitted to trading so investors can reach a founded judgement.	Yes, in ad hoc Circular.
c) Types of MTF members	Yes, in MAB Regulation.
d) Collateral regime	Yes, in MAB Regulation.
2) Trading	
a) Access to market membership	Yes, in MAB Regulation.
b) Transaction modalities	Yes, in ad hoc Circular.
c) Cases of interruption, suspension or exclusion from trading of listed securities	Yes, in ad hoc Circular.
d) Content and dissemination of pre-trade disclosures	Yes, in ad hoc Circular.
e) Content and dissemination of post-trade disclosures	Yes, in ad hoc Circular.
3) Registration, clearing and settlement	
a) Existence, as the case may be, of central counterparties and other trade novation mechanisms	Not applicable in the systems operated by BME.
b) Methods envisaged or admissible for transaction settlement and, where appropriate, clearing	Yes, in MAB Regulation and ad hoc Circular.
4) Supervision and market discipline	
a) Methods of governing body supervision and control of compliance with Market regulations and the provisions of this Law and other applicable legal norms, especially those referring to market abuse	Novelty of the amended Securities Markets Law of December 2007. These matters were not expressly contemplated for existing OTS.
b) Disciplinary procedures the governing body will apply to members in breach of Market regulations, independently of any administrative sanctions applicable under this Law	Novelty of the amended Securities Markets Law of December 2007. These matters were not expressly contemplated for existing OTS.
c) Procedures the governing body will employ to inform the Comisión Nacional del Mercado de Valores of incidents or instances of member conduct that may infringe this Law or its implementing regulations or the rules established in the Regulation of the multilateral trading facility	Yes, the MAB Regulation and various segment-specific Circulars stipulate that the CNMV must be informed of certain incidents, although the amended Securities Market Law is more explicit on this count.

We can see that there is a close similarity between OTS and MTFs as regards procedural and trading rules, though rather less so in the area of supervision.

More specifically, the new Securities Market Law deals with MTF supervision in the abovementioned article 120 and in its article 123 on “Supervision of compliance with the rules of multilateral trading facilities and other legal obligations". The text of this article 123 assigns responsibility for establishing effective oversight mechanisms and procedures to the governing bodies of MTFs, who are also charged with detecting distortions or infractions of their operating rules. Governing bodies must also inform the CNMV of any breaches or anomalies that may be tantamount to market abuse.

The direct or primary supervision of MTFs would thus seem to fall on their governing bodies, with CNMV as a second-line defence, empowered to sanction important incidents reported by the MTF that might constitute misconduct; mandatorily, conducts relating to price manipulation and market abuse.

This model differs little from the practices followed to date, though the provisions of Securities Market Law articles 120 and 123 give legal definition to what until now have been loosely accepted standards.

7 Current status of the MAB growth company segment

The rules to apply to the new MAB segment have met with no objection from the CNMV and its board of directors may opt to start it up at any moment.

In fact, the MAB board has already begun registering companies as Registered Advisors, with around fifteen signed up to date. Since candidates for listing on the new MAB segment are required to appoint a Registered Advisor – and this office is itself a market novelty – the first step will logically be their authorisation or validation by the MAB board. Applicants to date have ranged from investment firms (financial institutions) and auditors (through their departments or subsidiaries handling corporate services and consultancy) to companies engaging exclusively in business advisory and consultancy services.

On completion of this phase, the new trading segment should be ready for start-up., though obviously this will have to wait until there are companies opting for admission.

It bears mention here that the conversion of the Alternative Equity Market (MAB) from an OTS (organised trading system) into an MTF (multilateral trading facility), as provided by the amended Securities Market Law of December 2007, is no impediment to the segment entering operation.

8 Conclusions

The access and operating conditions of official markets are basically geared to firms of a larger size than SMEs and, while undoubtedly right for a regulated or official market, are expensive and burdensome for smaller enterprises, and may excessively penalise their cost of capital.

The strategy of major market operators should be geared to filling this gap, the more so when the set-up and running of new trading platforms can usually be undertaken at a low marginal cost. Financial risk is not a deterrent, and they only need to confront the reputational risk of offering a service that finds insufficient takers; though, thinking about it, reputational risk is also entailed by not addressing a felt and unmet market need.

The increased competition between European infrastructures resulting from the Financial Services Action Plan and other Community initiatives means SME-supportive trading systems set up in other EU countries can be more easily commercialised in Spain, where they could find both a sizeable and receptive market.

At present, the Spanish equity trading industry has no customised platform catering for the needs and circumstances of low-capitalisation companies with regard to capital access and valuation, while other European markets have developed trading facilities that address precisely these goals.

The MAB growth companies segment will operate under rules comparable to those of other European platforms. These rules are flexible, provide an adequate degree of investor protection regarding information and transparency, and entail a lower compliance cost that does not unfairly penalise small and medium-sized firms.

The regulation of the new MAB segment is both comprehensive and user friendly. In addition, companies wishing to join will receive the help of a Registered Advisor, whose job is to assist them in fulfilling the obligations and standards of investor protection proper to any public trading system.

The debut of the MAB growth companies segment thus opens up a new opportunity for trading service providers and users which will hopefully meet with the interest of Spanish companies.

Financial education: From information to knowledge and informed financial decision-making

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1 Introduction

"Information allows us to predict and take correct decisions, but only within the margin of uncertainty inherent in human behaviour".
J. A. Marina

As we enter the 21st century financial education has emerged as one of the main challenges for the economic and financial authorities.

This is because of the insufficient financial culture among consumers and the importance that they should take informed and correct decisions in order to maintain and boost their confidence in the financial system and thus contribute to its stability and to economic growth.

This article analyses the transformation of information into knowledge and puts into context how financial education must be promoted among the general public if it is to be fully effective. It also sets out the main points of the Financial Education Plan of the Spanish National Securities Market Commission (CNMV) and the Bank of Spain. This has recently been published and constitutes one of the most ambitious initiatives ever undertaken in this field in Spain.

The article is arranged as follows: First it examines the economic, financial and demographic background and the level of the general public's financial culture. Next it analyses the challenges that have to be tackled in order to transform information into knowledge, bearing in mind the new regulatory environment: this means improving the information available for financial consumers and fostering financial education. The last section describes the objectives and content of the Financial Education Plan as well as the schedule for its implementation. Finally, there are some brief conclusions.

2 Analysis of the economic, financial and demographic background

The environment in which financial decisions are made by agents has seen significant changes in the recent past, heightening the need to improve the financial culture of society. Below are some of these characteristics of this changing environment.

2.1 The complexity of financial products and capital markets

Technological advances, new electronic distribution channels and the integration of the financial markets have increased the range of financial products and services available to consumers. However, for many individuals the products are inherently too complex and they find it difficult to assess their risks and future returns.

Products such as shares, fixed-income or traditional mutual funds are in general fairly well accepted by investors. Although this does not mean that their special features are really well understood, at least there is a general idea of the risks involved in each case. Compared with these, the new products such as structured instruments, hedge funds or reverse mortgages present serious difficulties for the general public to understand, and these may be translated into expectations that are not matched by the reality of the products.

If financial innovation is to be really effective and useful for society as a whole, consumer needs have to be taken into account. The better educated those looking for financial products and services are, the better the quality of what is on offer will be and the better it will adapt to their circumstances, needs and expectations.

2.2 Demographic changes

The demographic changes that have taken place over recent decades have given rise to important economic and social challenges.

After the Second World War, many OECD countries experienced a baby boom lasting until the mid-1960s, when there was the start of a sustained fall in the birth rate that has remained constant until today. In Spain the boom began at the end of the 1950s and extended until the 1970s. The baby boom generation will retire between 2025 and 2040, thus increasing the number of pensioners by 60%.

The birth rate has fallen, particularly in Spain, which has one of the lowest rates in the world (1.35 children on average per woman in 2007, according to the National Statistical Institute INE). The INE forecasts that the rate will not increase above 1.53 for the next 50 years.

Life expectancy has also increased considerably over the last two centuries. Currently the life expectancy of Spanish people at birth is 77 for men and 84 for women (INE figures). Over the next forty years it is expected to increase to 81 years for men and 86 or 87 for women.

The increase in life expectancy combined with lower birth rates is resulting in an ageing world population. This effect will mean an inversion of the population pyramid within 15 to 20 years.

Although the rate of ageing varies from country to country, the increase in the dependency rate (the percentage of the population of 65 or over compared with those of an age to work) is common to all. In the case of Spain, this rate is expected to double over the next fifty years.

2.3 Changes in the pension systems

The changes in the population pyramid will have major effects on social protection systems, particularly pensions, in terms of guaranteeing their medium and long-term sustainability in the context of an ageing population. In general, pension reforms involve an overall reduction of benefits and reduced levels of pension income measured against wages.

In these circumstances it is particularly important to encourage people to save and plan financially for retirement. Although the challenge of an ageing population for public pension systems has been widely publicized, it is also true that not everyone knows its causes and the alternatives available to address the problem.

Agents can only choose between the various alternatives for retirement savings (in general quite complex) if they have a thorough knowledge of the basic principles of how their own finances work. For this reason, the financial culture of the population has to be improved, particularly in terms of its knowledge of the social security and pensions system, and of the instruments available for retirement savings. This was acknowledged by the European Union Financial Services Committee in 2007.

2.4 Household financial behaviour

The financial assets of Spanish households rose from just over 211 billion euros in 1985 to over 1,820 billion euros in 2007, or 172% of the GDP. Over the last twenty years, Spanish household savings have been concentrated in home buying (75%-80%), with only 20-25% going to investment in financial assets.

The preferences of Spanish households when it comes to the composition of their financial assets have also changed, with risky assets becoming more popular. In 1985, nearly two thirds of household financial savings (64.9%) were in bank deposits and cash, and the remaining third in direct investment in securities (8% in fixed-income and 12% in equity), insurance (1.2%), collective investment schemes (0.4%), pension funds (0.3%) and other assets (12.6%).

In 2007 bank deposits and cash represented 40% of household financial assets, according to the report on Household Financial Assets by INVERCO. Practically the same percentage now goes on investment in shares and mutual funds. The next most common kinds of savings are pension funds and insurance, at 14%. Fixed-income securities barely represent 2% of the total.

The analysis of the Household Financial Survey (EFF) by the Bank of Spain (2002-2005) suggests that nevertheless there is little sophistication and diversification of portfolios. The level of income and educational level of investors are both important factors when it comes to defining the allocation and preference for certain types of assets. According to the latest data from the EFF, 96.5% of Spanish families have some kind of financial asset, with bank accounts being the most common form. Deposits are the most popular form of savings among those with lowest income and wealth, while shares and mutual funds become increasingly important as household wealth increases.

If we analyse the number of different assets maintained in portfolios as a measure of sophistication, we also find that households with the greatest income are those with the most varied portfolios. The average number of different investments is

3.7. If we remove investment in bank accounts, which almost all households have, and investment in the main residence, that leaves only 2 assets on average. This shows clearly that the portfolios have very little variety.

In general, all Spanish households have a fairly similar profile, and are extremely conservative across all age groups and educational and income levels. Three quarters of the households claim they are totally against risk.

3 Diagnosis of the level of financial education

Studies carried out in a large number of countries agree that people have a deficient education in general economics and personal finance in particular. They also agree that there is a high degree of correlation between financial culture and the socioeconomic status of those surveyed.

In all cases what is clear is that most individuals have difficulties in managing their financial situation. These studies conclude that a large part of the population is not capable of evaluating the risks they are taking and have difficulties in understanding and assimilating the information within their reach.

In the case of the United Kingdom, for example, it has been shown that even though 43% of the population does not want to assume risks in their investments, most hold assets which do not even guarantee the recovery of the principal invested. Moreover, only 30% of those surveyed could make a correct calculation of simple interest, and only 44% showed a basic knowledge of pensions in 2004.

One of the problems identified is that many people do not plan sufficiently in advance. The result is that they are more liable to get into debt and have difficulties if their personal circumstances change - for example in the case of a death, if a relationship fails or they become unemployed. This situation also makes it more difficult for them to enjoy a satisfactory standard of living during retirement.

People who formed part of a study carried out in Canada declared that choosing a suitable savings plan for their retirement was more stressful than going to the dentist. In the United States 47% of workers who do not have savings are nevertheless confident that they will have sufficient money when they retire. In Holland 65% of households cannot offer any estimate of the pension they will receive when they retire.

It is also striking - and worrying - that young people are even less aware and manage their finances worse than their parents. This shows how serious the situation is, and how it is in fact getting worse.

The studies cited also agree that those surveyed normally feel themselves to be better skilled in financial matters than they in fact are. It is curious how individuals in general worry about their education and educating their children when it comes to how to earn money, but do not always appear so interested in education for knowing how to spend it, or even more important, how to save it.

Thus as the OECD indicates, people have to be persuaded that they need to be educated in financial questions. Although many efforts are being made to offer consumers educational activities or materials, they will be of no use if their recipients are not prepared to take advantage of them. The basic initial step is thus to create an awareness of the need.

4 The new regulatory environment

The intense regulatory activity in the financial markets over recent years is largely the result of the Financial Services Action Plan that the European Commission implemented at the end of the 1990s, combined with a process for adopting and implementing Community regulations (the Lamfalussy process). The aim has been to foster the creation of a real single market in financial services in Europe, in both wholesale and retail markets.

The new regulatory framework has evolved towards an approach that aims to manage and mitigate risks derived from bad practices with customers, above all the inadequate distribution of financial products, information asymmetries between what is available to financial intermediaries and investors, and imbalances between both parties.

This risk-oriented approach offers flexibility to the rules guiding action by the entities. It directs their efforts in a preventive way to the demand for prudential, organizational and conduct rules and their control and supervision, both at the initial phase of access and subsequent developments, with particular attention to how financial products are distributed.

But the new regulations not only impose obligations on intermediaries. They also demand a much more active role from the investor. Thus to ensure that entities can offer a better service to their customers, the customers themselves should provide information about their knowledge and experience in the markets, and at times also about their objectives and financial situation. In this way the intermediary can take the investors' profile into account when offering products and services that meet their needs at all times.

In all, the new regulatory environment introduces a new concept of consumer protection based on improving the capacity of consumers to understand and assimilate the risks inherent in the investments they undertake. For this to become reality a number of improvements have to be made: in the education and the quality of information provided; in investors' capacity to negotiate with intermediaries; and of course there have to be swift and efficient mechanisms available to channel and resolve any complaints or claims. In all, the idea is to foster informed decision-making on investments based on knowledge of the subject.

5 Improvements in information available to investors

There is no doubt that the supply of information is one of the necessary conditions for investors to be able to take informed investment decisions; but it is not the only one. What is more, the complexity of such information, and on many occasions the difficulties in finding, accessing and understanding it, make its effectiveness less than ideal.

The article will now discuss some of these problems and the possible ways of ensuring that information is accessible for its target audience to ensure they are capable of processing it, understanding it, and what is most important, converting it into knowledge through appropriate instruction and education.

5.1 The abundance and complexity of information available to investors

Currently the capital markets offer information that is so abundant, and on occasions so complex, that it is impossible for investors to grasp and assimilate it.

Studies carried out in a number of different countries agree that financial information is difficult to find and understand for financial consumers. In the case of the United Kingdom, according to a survey by the Financial Services Authority (FSA), lack of money is not the reason given by people who have not bought or have not considered buying a financial product in recent years; what they point to is lack of knowledge about financial products and their complexity.

The survey also makes clear that consumers dedicate very little time to comparing and looking for the best option when buying a financial product. The reason for this is, according to the consumers themselves, that they feel overwhelmed and confused by the amount of information available to them and do not know how to access comparative information.

A survey carried out by the American Investment Company Institute (ICI) among investors in mutual funds reveals that the information which interests them most relates to fees and expenses and the historic and comparative returns against the fund's reference index. Despite this, most do not consult the prospectuses of mutual funds before making their purchase, as they explain that they are difficult to understand and too long.

The ICI study reveals that 66% of American investors who have bought mutual funds in the last five years did not consult any document before making their investment. In addition, 60% consider the information available (prospectuses and periodic economic reports) to be difficult or very difficult to understand. Some 66% consider that there is too much information and 52% admit that they read little or nothing of this information.

In the case of Europe, the generally admitted failure of the regulated prospectuses of mutual funds, which are neither useful nor efficient because they are too long and technical, has led the European Commission to reconsider the content and format of these documents. Its objective is for documents to include all the data that are really relevant for the investor in a reduced format using a clear and simple but precise language that allows the people they are addressed to - the investors - to understand them, even if their financial culture and capacity for understanding is far from the minimum desirable.

5.2 The variety of alternative financial products

The existence of different types of regulation and information requirements among comparable and alternative products of interest to target consumers means that the degrees of protection and types of sector-based arbitration vary. This in turn requires regulatory actions designed to guarantee that the information requirements are coherent, both at the point of sale and over time. This is the case with the different sector regulations referring to banking, insurance and securities market products.

In the case of insurance and banking products for saving and investment, for example, regulation and administrative intervention in the launch phase of the product is much less pronounced than for products regulated by securities market regulations, above all mutual funds.

Experience shows that too much emphasis on the regulation and control of products not only does not improve the conditions of protection, but in fact impedes the natural development of new products and thus the capacity for entities to expand and grow, limiting competition and possible investment opportunities for consumers of these products.

The ideal situation would be to have limited intervention in the origination process and strict regulations at the commercialization stage. The MiFID approach should take precedence in the three financial sectors, together with a simplification of the processes and launch requirements of the products.

5.3 The role of financial analysts and rating agencies

Financial analysts and rating agencies play a fundamental role in the relationship between issuers of securities and investors, whether institutional or retail, and contribute significantly to the development of the securities markets. Their work helps both issuers and the markets by increasing transparency; and investors are helped to process and understand the huge amount of information available in the market. This valuable work is, however, compromised by the existence of conflicts of interest.

The role of analysts basically consists of studying and analysing the data and information available on companies, the economy and markets, and making predictions and recommendations. However, analysts normally work in financial institutions that engage in multiple activities, and are liable to have conflicting interests, such as intermediation in securities for retail customers together with activity on their own account, and at the same time the underwriting and placement of issues. This often makes them subject to conflicts of interest that interfere with the objectivity of their work.

A similar problem arises with rating agencies. In this case they make an evaluation of the financial strength of an issuing entity (borrower) and the probability of it meeting its financial commitments, even in extreme circumstances. Its work is targeted at investors, but its remuneration comes from the issuing entities. The professional work of agencies may be contaminated by their natural inclination to satisfy the client who pays them.

All this justifies the initiatives adopted in Europe and the United States aiming to manage any conflicts of interest that may arise relating to the service of financial analysis, and preventing these conflicts from seriously damaging the quality of the recommendations made to the market. Recent episodes during the subprime mortgage crisis in the United States have also made clear the need to reinforce the supervision of the work and internal organization of rating agencies.

6 Promoting financial education

Against this background, the promotion of financial knowledge and education among consumers is becoming a common goal of governments, regulators and supervisors. The International Organization of Securities Commissions (IOSCO) was a pioneer in recognizing its importance and recommending more should be done to promote it. The IOSCO reference document on the objectives and principles of regulating securities markets, published in 1998 and updated in 2003, recognizes that financial supervisors should play an active role in financial education. At the same time, it includes financial education as one of the target spheres for cooperation between supervisors, both locally when the supervision of the financial system is divided between different bodies, and at international level.

It is not surprising that IOSCO was the first organization to recognize this important role of financial education, given its objectives and functions. IOSCO is an organization dedicated to the promotion of cooperation between supervisors in order to improve the regulation of markets at a domestic and international level and make effective the principles set out in the document referred to. These principles are themselves based on three general and basic overlapping and complementary objectives: investor protection, efficient and fair markets and financial stability.

More specifically, the Standing Committee on Investment Management (SC-5), working within the mandate granted by the Technical Committee in 1999, developed a study on the role of investor education in the effectiveness of regulation of collective investment schemes. The final document, " A Discussion Paper on the Role of Investor Education in the Effective regulation of CIS and CIS Operators" was published in March 2001.

The document analyses the contribution of financial education to consumer protection and the various techniques used to achieve it. It also defines some basic principles based on the experience of the IOSCO members. These anticipated those subsequently adopted by the OECD and the European Commission:

- Financial education is not a substitute for regulation or supervision, but rather a complement that contributes to the goal of protecting investors.

- Financial education may be tackled in different ways, depending on the objective of the supervisor, the type of financial products and services referred to, the experience and sophistication of investors and of course the resources available to the supervisor.

- The education programmes should adapt to the level of financial experience and sophistication of the individuals they are targeted at. The "one size fits all" option does not work and makes the programmes less effective.

- Financial education should be clearly differentiated from investment advice.

- The supervisors should at all times maintain their independence from the financial institutions they supervise. When the financial sector collaborates on the financial education programmes there should be no indication or apparent recommendation or support for the products or services issued or commercialized by any specific entities.

The importance of good financial education has recently been recognized by international organizations such as the OECD and the International Monetary Fund, as well as the European authorities themselves: the European Commission and ECOFIN.

All agree in stressing the importance of improving financial education, as its absence not only results in undesirable effects at an individual level, but prejudices the economy and society as a whole. Other recommendations are as follows:

- Governments, together with all the stakeholders, should promote financial education in an impartial and coordinated fashion.

- Financial education should begin at school, so that people begin to be educated at the earliest age possible.

- Financial education should be clearly differentiated from advice and actions of a commercial nature. For this purpose, internal codes of action in financial institutions should include measures guaranteeing this distinction.

- Financial education programmes should focus primarily on aspects that are essential for financial planning, such as basic concepts related to savings, debt, insurance and pensions.

- The programmes should aim to improve people's financial capacity, bearing in mind the characteristics and specific needs of each group.

- Future pensioners should be made aware of the need to evaluate the financial suitability of the current public and private pension systems.

- There should be promotion of nationwide campaigns, specific websites, free information systems, support and advice on questions related to high-risk products and prevention of financial fraud.

- The financial education plans should include general instruments to raise awareness of the need to improve understanding of financial problems and risks.

Initiatives of this type have already been implemented in some European countries, such as the United Kingdom and France. Other countries such as the United States, Canada, Australia and Japan are also pioneers in financial education initiatives for the general public.

The conclusions of the documents and initiatives outlined above are clearly of interest as they are based on studies and experiences that are already underway. They have been taken into account for the approach and design of the Financial Education Plan of the CNMV and the Bank of Spain.

7 The Financial Education Plan of the CNMV and the Bank of Spain

The CNMV and the Bank of Spain recently presented a Financial Education Plan for the period 2008-2012[1].

The initiative aims to contribute to the goal of improving the public's financial education. This is a way of fostering more responsible financial consumption, based on informed decisions that are appropriate to the circumstances and needs of those who take them, and that reinforce confidence in the financial system.

7.1 Scope

The plan has a broad scope both in terms of the subjects covered and the target audience. No segment of the population is ruled out a priori, and it will progressively cover all the financial products and services.

It will be based on dividing the population into different groups, identifying the education needs of each group and the most suitable and effective training policies and channels for communication in each case. The results will be monitored and evaluated.

7.2 Segmentation and channels

The segmentation of the population will initially be into two main groups: people linked to the educational system including students; and the general adult

1 The complete document containing the Plan is available via the CNMV website, www.cnmv.es.

population. Various segments have been identified in the latter group according to age, investment attitude, vulnerability and specific needs.

Couples who are having children for the first time, people linked to the world of work, those who work at home, pensioners and other specific groups such as people with disabilities, immigrants or the unemployed in theory form population groups with similar training needs which in some cases could share access channels as well.

Two main access channels have also been identified for the different segments of the population: general and specific. The general channels include the media available to all, whatever their level of knowledge or social situation. These are therefore suitable for publicizing messages that are general in character. Among the specific channels, in which the message can be adapted to the needs of each group, there is the education system, centres of work, colleges and professional associations, centres for the elderly and specific associations according to the population group.

7.3 Collaboration

Because of its scope and characteristics, the plan needs the collaboration and support of the public authorities, in particular in the sphere of education. It is also planned to encourage the active involvement of the social partners and institutions that can cooperate in this task, whilst at the same time preserving the necessary independence and objectivity of the policies and programmes developed at any time.

7.4 Schedule

Although the plan has been designed to cover a period of four years, the nature of its objectives will require that its measures are maintained beyond this period.

The initial planning period covers 2008-2012. During this period a set of initiatives will be developed over four phases including the definition of the project, its implementation, development and consolidation and its evaluation and adaptation.

First phase: Design. The first phase began formally with the creation of the Working Group responsible for designing and executing the plan. It ends with the publication of the plan and the public commitment involved.

Second phase: Development. This is the most important phase, during which the various lines of action included in the plan will be implemented, following a previously established order of priorities.

- In the information and knowledge society the Internet plays a key role as a highly potent, efficient and effective means of disseminating information. For this reason as an initial milestone the plan includes the launch of a financial education portal that aims to be a model in the field.

- The policies and specific training programmes designed for each segment of the population will be carried out with precise materials (in terms of content and form) and promoting collaboration with the public authorities, institutions and social partners who can cooperate in the project.

Specifically, this first phase includes collaboration with the educational authorities to achieve the objective of incorporating financial subjects into study plans.

In addition, via the corresponding agreements with educational authorities, this phase will also include the implementation of specific initiatives that fit into the current study plans. In this way financial education will reach students at primary, secondary and high-school level in the shortest possible time. This experience will enable the subjects and contents that may form part of study plans to be defined more correctly and precisely in accordance with the main objective of the plan.

At the same time suitable educational materials will be created for each segment of the adult population, as well as material specifically designed to help trainers chosen for each case.

Access to the different segments will be through agreements with the agents, public authorities and relevant institutions deemed most appropriate for each case. The implementation of this line of action will be based on a prioritization of previously defined segments.

Third phase: Evaluation. This phase represents an effort to consolidate through improving and updating the training programmes and contents that have been implemented.

Possible alternatives will be analysed when monitoring and evaluating the effectiveness of the policies applied. In order to optimize resources, mechanisms have to be included to assess the degree of compliance with the objectives. For this purpose studies will be carried out to evaluate the suitability of the contents and access channels used. In other words, there will be an analysis of the extent that initiatives satisfy the training needs of each population group and whether the channels have allowed the dissemination targets to be reached.

Fourth phase: Adaptation. After analysing the effectiveness of the initiatives adopted, this fourth and last phase of the plan will decide the adaptation, improvement or substitution of the policies and actions undertaken.

The analysis will also enable data on the profile and behaviour of Spanish consumers in the sphere of financial products and services to be updated. This can subsequently be used as a basis for planning and further initiatives.

8 Conclusions

We can be confident in stating that we are on the brink of a global knowledge-based economy. Factors such as innovation, technological development and social, economic and financial globalization contribute to economic growth and social welfare. However, the uncertainties inherent in this process, such as the transfer of risk to more vulnerable agents, require measures to mitigate the possible effects of an inadequate understanding and assimilation of these risks.

For this reason regulation and supervision deal with the demand for rules of conduct in order to manage and mitigate the effects of an unsuitable distribution of financial products, information asymmetries for investors and financial intermediaries and imbalances between them. At the same time, the aim is to increase transparency, improving the quality of information and its mechanisms for dissemination, transmission and transformation.

Information is not useful if it is not understood and processed adequately. In other words, its effectiveness depends on the capacity of investors to understand it. For this reason, the measures to improve the quality of information and its transmission mechanisms should necessarily be accompanied by policies favouring the financial education of its target audience, the investor-consumers. The goal is to ensure that this information is transformed into knowledge. For this reason, the promotion of financial education is becoming a common objective of governments, regulators, supervisors, financial entities and consumers themselves.

The Financial Education Plan promoted by the CNMV and the Bank of Spain aims to provide an effective contribution towards achieving this goal.

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Implementation of Impact Assessment in the EU regulatory process

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1 Introduction

One of the European initiatives that may contribute to the integration of financial services is Impact Assessment (hereinafter "IA"), the purpose of which is to assist decision-making by regulators. Such assessment is intended to identify any problems existing on the market, the effects that regulation or supervision have had in the past and the various options that there may be in the future. In the latter respect it is sought to predict what the possible unforeseen side effects and hidden costs of regulatory proposals may be, with the ultimate aim of deciding upon the most efficient option and in any event avoiding the adoption of unnecessary regulations.

This measure is part of the "better regulation" policy that emerged as a development of one of the mandates provided by the European Council of Lisbon in 2000, and which was subsequently confirmed at the Councils of Stockholm, Laeken and Barcelona, with the aim of making the European Union the most competitive and dynamic knowledge-based economy in the world by 2010.

The Mandelkern Group's final report on "better regulation", of 13 November 2001, set out an Action Plan recommending that both Member States and the European Commission adopt a package of regulatory measures to help achieve this aim. Among these measures we may highlight, for example, the obligation to consider the various policy options before choosing any one and turning it into a regulation; allowing greater public participation with the development of a consultation phase in regulatory development; simplifying regulations; and, of course, performing IA on the regulations of most importance and influence.

Almost simultaneously the European Commission brought out a *White Book on European Governance* which also requested the cooperation not only of the European institutions but also of the Member States with a view to achieving political decision-making processes with greater levels of integration, participation and responsibility, leading to a more direct connection between government and citizens.

As a result, following these mandates, the Commission has adopted various communications over the years. Of these the *Communication from the Commission of June 2002* on an Action Plan whose aim was to "simplify and improve the regulatory environment" was the first to put greater emphasis on the line to be taken by the Member States in carrying out the principles of "better regulation". It states that "the Member States, at both governmental and parliamentary levels, also have an important political responsibility when it comes to simplifying and improving the regulatory environment", arising from the duty to transpose Community legislation (Directives). At the same time the Communication stresses that States must apply IA and conduct consultation for all transposing legislation which, for example, exceeds the provisions of European Directives or contains provisions adapting them to the particularities of a national market.

In the sphere of financial services, the Commission included the application of the principles of "better regulation" in its White Paper on the policy to be followed in the industry for the period 2005-2010[1]. Concerning the regulatory process, it regards two conditions as essential to achieving the adoption of appropriate regulations to provide added value in this field: there should be open consultation and IA should be conducted. Thus the Commission undertakes to accompany any new proposal related to financial services with an IA in which each issue should be scoped and the most suitable option determined, taking into account not only its economic, social and environmental costs and benefits but also its impact on financial stability, proper functioning of markets and consumer protection.

IA is organized on the basis of a set of steps designed to facilitate the structuring and preparation of policy. On one hand it provides a consistent structure to aid decision-making throughout the regulatory process. Moreover, the analysis of market and regulatory failures allows problems and the threats that they pose to regulatory goals to be identified precisely, thereby facilitating efficient and effective policymaking. Another reason for it is the time saving that may be achieved in the long term, as it reduces the risk of failed regulations. Furthermore, the greater transparency, due to formal and informal consultations with stakeholders, enhances the regulatory process's accountability and also its organizational credibility, as it brings the process closer to the methods used by the European Commission and the guidelines for better regulation proposed by the OECD[2].

The IA report should be proportional to the significance, complexity and uncertainty of the problem to be resolved. This principle of proportionality, justified by the normally long periods required for the preparation of regulations, involves the existence of two types of report: a "screening IA" and a "full IA" , distinguished by their differing depth or length. A screening IA is a short report, relatively quick to prepare, stating whether a public initiative is justified and recommending a full IA report if appropriate. The length of the latter will depend on the difficulty of the problem at hand and may include, in addition to the screening report, a qualitative and quantitative analysis of the various policy proposals (cost-benefit analysis) and one or two stakeholder consultation processes. Such consultation processes make policymaking more transparent and ensure that stakeholders' views are heard and taken into account.

The aim of this paper is to describe the IA that is to be introduced into the regulatory process in European stock markets. The paper's second section contains a comparative analysis of various jurisdictions, highlighting the main differences; its third section describes the process by which an IA is produced, and finally its last section offers some conclusions.

1 Commission (2005): White Paper on Financial Services Policy (2005-2010), December.
2 OECD (2005): "Guiding Principles for Regulatory Quality and Performance", April.

2 The application of IA in various jurisdictions

The US was the first country to make a formal assessment of the costs and benefits of a regulatory proposal, in 1981. In the past two decades the use of IA as part of the regulatory process has become widespread in many countries, and has met with success in the US, the UK, Canada, Australia and New Zealand, all of which have the same kind of legal system, the so-called *common law*. This is a more flexible system than those used in the continental countries of Europe, where the efforts to improve regulatory accountability have also been more recent.

2.1 IA in the European Union

As a result of the Mandelkern group's final report and the *White Paper on European Governance*, as mentioned earlier, the European Commission adopted a series of Communications developing the mandates set out in these documents. In fact in 2002 the Commission issued four Communications in this regard: the first elucidated what was meant by "better regulation"; the third was aimed at promoting a culture of consultation and dialogue, setting out the minimum consultation principles to be observed by Commission services; the fourth, discussed in the previous section, contained the Action Plan for "simplifying and implementing the regulatory environment", which, as mentioned, urged both Member States and EU institutions to adopt measures to considerably improve the regulatory process, including IA. The second Communication put forward a systematic integrated IA model to be followed by the Commission in its initiatives (chiefly legislative ones). The integrated IA methodology replaced the single-sector assessments that the Commission had been conducting with an analysis including economic, environmental and social impacts. This model was reviewed and adjusted in May 2005. Moreover, since May 2006 the Commission has integrated the measurement of administrative costs into its IA procedure.

In 2003 the European Parliament, the Council and the Commission adopted an *Inter-institutional Agreement on Better Lawmaking,* in which the three bodies undertook to improve regulatory quality. The measures adopted for the purpose included IA. The aim was for the Commission to use it in its main legislative bills, whereas the European Parliament and the Council would do so only in the event of a substantial amendment to a bill submitted by the Commission, during the co-decision process. Subsequently, in 2005, the three bodies agreed a common position in relation to the IA to be applied, both to basic Commission initiatives and to substantial amendments requested by the Council and the European Parliament.

As a result of the *Communication from the Commission to the Council and the European Parliament* in 2005 on *Better regulation for growth and jobs in the European Union*, in which Member States were urged to report on the specific measures that they were adopting in relation to "better regulation", the national governments redoubled their efforts to carry through these principles in their countries.

The *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions* issued in 2006 reviewed the European strategy on "better regulation" with specific instructions again aimed both at the European institutions and the Member States. Regarding the latter, this review chiefly affected the development of consultation mechanisms at internal level; the analysis of economic, social and environmental impact; regulatory simplification; and the application of EU law. In the same year the Commission issued a first progress report on its strategy for simplifying the regulatory environment.

In turn, developing one of the points included in this Communication, and without prejudice to the previous work, the Commission adopted an *Action Plan for reducing administrative burdens*, and the European Council of spring 2007 set the joint goal of reducing these burdens by 25% by 2012[3]. Meanwhile, following the line set in this Communication, the Member States have been adopting similar measures at national level and have expressed a clear commitment to reducing administrative burdens in this period.

Such is the importance of "better regulation" policy to the European Commission that it created a supervisory body in November 2006 called the *Impact Assessment Board* (IAB), which reports directly to the President of the Commission and whose mission is to review the activity in this field of the various Commission departments.

Finally we should mention that the Commission is working jointly with the US on IA in relation to trade and investments so that in future certain coordinated assessments may be made in the field when regulations are adopted.

2.2 IA in the UK

One model IA report to be mentioned is that used in the UK, given its influence in the assessment model used by the European Commission, at least in the early stage, and also its importance within Europe.

The UK introduced its *Compliance Cost Assessment* (CCA) in 1986, designed to estimate regulations' effects on business costs. This assessment takes particular account of the expected impact of proposed regulations on very small business, as these represent 99.8% of total businesses in the UK.

Only in 1998 did the UK include a detailed cost-benefit analysis (CBA) process. The methodology established by the FSA is the most highly developed one in the EU, especially in the estimation of a regulation's costs, whereas the benefit analysis is not exhaustive. The CBA is produced by FSA regulators with the advice, in certain cases, of economists belonging to the independent *Economics of Financial Regulation* (EFR) team. Another of this team's tasks is to review and approve the CBA conducted.

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3 Previously this goal was also set in the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on regulatory simplification in 2005.

2.3 Main characteristics of different IAs

Quite a few countries produce an IA in successive steps that are normally similar. Generally speaking the process first determines the problem to be resolved and how it relates to the regulation's objectives; then the various proposed options are identified and described, with a view to a subsequent CBA being conducted on each regulatory option; and finally the proposed alternatives are compared so that the best one may be chosen.

One common characteristic is the holding of a public consultation process, with subsequent publication of the response received. Regulators agree that consultation enhances transparency and allows stakeholders' opinions to be taken into account. But the process for public consultation of the stakeholders who are to be affected by a regulation may be conducted only on the selected proposal or, alternatively, on the whole IA, in which case the stakeholders have much more information. Thus there are countries that submit an IA (i) after public consultation (France, Netherlands, Australia); (ii) before the consultation but only to the stakeholders, not to the general public (Italy); or (iii) in certain cases, depending on its importance (Portugal, Japan).

One difference between the various jurisdictions is the different legal basis that they have for the production of an IA. More particularly an IA may be underpinned by a law, a degree, a government regulation, etc., or, as is more common, by provisions of lower rank such as government directives, decisions or resolutions, ministerial guidelines, etc. There are also countries that have no underlying legal basis but in which IAs are conducted voluntarily.

Given that a CBA is expensive to conduct, it is important to determine when one is necessary. In the US such analyses are conducted for regulations whose economic impact is expected to be greater than 100 million dollars a year. Other guidelines analyzed are less specific, indicating only that such analyses should focus on major policy initiatives, or that their thoroughness should depend on the initiative ' s importance. As a result there are countries that conduct a screening assessment for all policy proposals, and a full assessment (including a CBA) only for major initiatives.

There are various types of IA other than CBA, which, though the fullest sort, is not always feasible. For example, cost-effectiveness analysis, cost valuation, benefit valuation and risk analysis. The US uses cost-effectiveness analysis in cases in which it is impossible or very hard to put a money value on the benefits.

The following table shows a summary of the main differences between the various financial regulators in the European Union.

IA conducted by financial regulators TABLE 1

	UK	France	Germany	Netherlands	Belgium	Sweden	Ireland
Legal obligation	Yes	No	Yes	No	No	Yes	No
Formal IA guidelines	Yes	No	Yes	No	No	No	No
Screening IA	Yes	Yes	Yes	Yes	Yes	No	Yes
Specialists with responsibility	Yes	No	No	No	No	Yes	No
Public Commission	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Publication of the IA	Yes	No	No	No	No	Yes	Yes
IA of a policy's effectiveness (ex-post AI)	Yes	No	Yes	No	No	Yes	No

Source: García Santos (2007).

3 Process of producing an IA

The Lamfalussy process 3L3 committees (CESR, CEBS and CEIOPS[4]) prepared definitive IA guidelines in February 2008. Among other things they describe the process of producing an IA report.

Generally speaking, the production of an IA should revolve around three main aspects, broken down into eight steps.

1. Exposé of the reasons for which a market is not working properly and the possibilities for improvement if a regulatory or supervisory action is carried out. The authors of a screening IA as described above should address these points. This aspect corresponds to the first five steps in the production of an IA.

2. Public consultation process regarding the various proposed regulatory policies. This aspect corresponds to steps 6 and 7.

3. Review, where appropriate, of the effectiveness of the policy implemented. This aspect corresponds to the eighth and final step.

The process by which an IA is prepared in the financial sphere should guarantee four principles: clarity, effectiveness and relevance, proportionality and transparency. First, the report should describe in simple, non-technical language the policy's context, its objectives and the various policy options (principle of clarity). Then it must be ensured that all regulatory initiatives are linked to the problem and to the effects identified (principle of effectiveness and relevance), and are appropriate to the issue or risk perceived (principle of proportionality) and that they are open, receptive and reported to the stakeholders (principle of transparency).

Below we outline the eight steps in the process of producing an IA, and the objective pursued by each one.

4 The acronyms CESR, CEBS and CEIOPS correspond to *Committee of European Securities Regulators, Committee of European Banking Supervisors and Committee of European Insurance and Occupational Pensions Supervisors*, respectively. The 3L3 committees are those containing the three sectoral supervisors and that prepare recommendations in the so-called level 3 of the Lamfalussy process.

Step 1. Identifying the market problem

A first aim of an IA report is to ascertain if there are any problems on the market affecting the regulation's objectives. Such problems may be of two types: market failures and regulatory failures. If there are problems, it must be assessed whether the market is able to resolve them or whether public intervention is necessary, and in the latter case, what type of intervention may be most effective.

This first analysis requires a thorough knowledge of the relevant market, products (including replacements) and stakeholders, as well as of the consumers, market players, etc. The characteristics and incentives of each group are analyzed.

A first type of problem to be detected is market failures. A market failure is taken to exist when there are inefficiencies in a market, i.e. when a free market gives rise to an allocation of resources that is not efficient. This may be a result of two main causes. One may be that prices do not properly correspond to the costs and benefits involved in the allocation of goods. A second cause may be the existence of an inappropriate market structure as a result of which prices and amounts do not constitute an optimum solution.

It is worth noting four possible market failures:

1 **External impacts.** These occur when the activity of economic agents has (either positive or negative) effects on third parties that are not reflected in the price. This is a market failure, as the price is not reflecting all the costs.

  A typical example of negative external impact in financial services is systematic risk in the banking sector, where the failure of one bank may cause contagion in other banks and create panic among bank customers.

2 **Incomplete and imbalanced information.** The decisions that individuals take are influenced by the information that they possess, which may not be complete (incomplete information), given the cost that must be incurred in order to obtain it. Information imbalances arise when one of the parties to a financial transaction makes use of the greater and better information that it possesses. This is a market failure because a lack of information causes market agents to make inefficient decisions, as they are unaware of the true nature of the goods and services being exchanged.

  This is the most notable failure on the financial markets. Generally speaking, it is small investors who have less information, and this justifies regulations to protect investors.

3 **Market dominance of lack of competition.** Market dominance exists when prices are set above the underlying costs and the advent of competition in that market does not cause a fall in prices. This might happen if companies engage in collusion, if they have a well-reputed brand or if there is some kind of barrier against new entrants. This is a market failure, as the market structure may give rise to a non-optimum solution.

More particularly, regulators' requirements for fit and proper behaviour, codes of conduct or prudential considerations all set up barriers against new entrants that reduce competitive pressure.

4 **Public goods.** Goods for which there is no rivalry among market participants, as their cost is independent of the number of consumers and it is very hard to prevent individuals from consuming them. Generally speaking, for this type of goods, market mechanisms do not provide an efficient result, due to the existence of free riders, that is, individuals who make no effort since they will make no profit.

In the context of the financial markets, financial stability is an example of a public good and is one of financial regulators' main objectives.

A second type of deficiency is that associated with regulatory failures. In this context it is worth distinguishing between five possible different scenarios. First, it may be that the problem arises not from a major market failure but from the implementation of a regulation aimed at regulating a different situation. Second, it may be that the regulation was enacted after a market failure was detected, and the desired result has been engineered, but so have unforeseen and undesirable side-effects. Third, there are cases in which a regulation's practical implementation exacerbates the problem that it was intended to resolve. Fourth, it may be that the regulation has not achieved the expected outcome, but that this will be achieved in the future. Finally, it may also occur that national lawmakers have acted in a sphere over which they have no jurisdiction. Regulatory failure may also exist when a regulation is adopted without there being any market failure, naturally transferring unnecessary costs to the market with no gain in return.

Thus it must first be determined whether the problem to be resolved is the result of a market failure, not of a regulation. Then it is necessary to define the objective sought by the measure (e.g. improving market confidence or investor protection). Once the objective has been defined, it is necessary to ascertain whether it has already been addressed in any regulation. If so, it should be considered whether, in addition to the market failure, there is also a regulatory failure.

If, once a regulatory or supervisory failure has been identified, the market is not able to correct it itself, regulatory action is justifiable, provided that the policy or regulation contained in the new legislation entails greater benefits than the cost involved in preparing it and in its impact on the sector.

In any event, the assessment should begin by defining the problem, so as to be able to determine whether it is important and to categorize it in one of the types mentioned.

Step 2. Development of the main policy options

Once it has been decided that regulatory intervention is necessary, the regulators should identify various alternatives, including "not doing anything" and the "market solution".

Step 3. Definition of policy objectives

The existence of market or regulatory failures does not suffice to justify public interventions. It is also necessary for such failures to entail a threat or risk to the regulation's objectives. This is why it is important to determine the link between the proposed policy options and the regulatory objectives.

The objectives pursued by the regulatory policy may be of several types:

- General objectives, corresponding to basic regulatory objectives. For example, financial stability, appropriate functioning of markets or consumer protection.

- Specific objectives, which are a subset of the general objectives, consisting of the various policy solutions. For example, adjustment of capital or of codes of conduct.

- Operational objectives, which are the result of new regulations designed to put the specific objectives into practice. For example, regulations on the publication of prospectuses or on market or credit risk valuation models.

Step 4. Calculation of positive and negative effects, and of the net effects of each option (CBA)

In proposed regulatory measures from which significant effects are expected on consumers and market participants (companies and regulators), and wherever possible, a quantitative analysis of benefits and costs is required. This is the aim of a CBA. This analysis seeks to determine the increase in costs and benefits in comparison with a benchmark option, such as "not doing anything". Thus account must be taken of the change caused by the proposed policy, not by changes in business practice.

In theoretical terms, CBA is very straightforward, but in practical terms the difficulties raised are manifold. A first issue is that such analysis can rarely be presented in quantifiable terms, which complicates comparison between proposals. A second issue that adds complexity is the duration in time of both benefits and costs; this is calculated with the use of net present value (NPV), consisting of discounting future value back to the present. A third issue is the treatment of uncertainty and risk. A fourth issue is that the end result may largely depend on the assumptions and parameters chosen. And finally, the regulation's distributing effects must be considered, as the agents who bear the cost may be different to those who enjoy the benefits. Accordingly it may be useful to distinguish between net costs and transfers.

Assessing a policy's benefits is generally harder than assessing its costs, but it is of considerable importance, for if the regulator precisely identifies the benefits, the regulatory process will gain credibility. In order to assess both benefits and costs it is possible to use what is known as "opportunity cost", i.e. the value of the best policy if not carried out.

Among the costs to be considered, we should note:

- Regulators' costs, which are direct costs, in both money and time, easy to calculate. In cases where the regulator is financed by the regulated companies, this cost would really be borne by the latter, and ultimately by consumers. In principle such costs do not vary greatly between different measures.

- Compliance costs, which are additional direct costs incurred by the regulated individuals and entities in order to comply with the regulatory policy. For example, the costs of setting up a new organizational structure, internal checks, computer programs or training courses. In calculating such costs it will be important to consult those affected, which will moreover have incentives to overrate them.

- Indirect costs, which are the policy's negative effects on the behaviour of products and market participants. These are generally hard to quantify and so they often have to be analyzed qualitatively, but they may be greater than the direct costs.

Step 5. Comparison of the various options

Comparing the positive and negative effects of each proposal enables us to identity the preferred one or ones. This does not mean that these will be chosen, as the IA report aids regulators' decision-making but does not replace it.

Step 6. Draft proposal consultation

The consultation process is regarded as a key aspect of IA, for it means taking into account the views of stakeholders and moreover enhances the regulatory process's transparency.

The sequence of an IA report may vary depending on whether there are one or two public consultations, which depends in turn on the complexity of the problem addressed. If there is just one consultation, this will be conducted once the qualitative and quantitative analysis has been completed. If on the other hand there are two consultations, the first will be conducted after the qualitative analysis and the second after the quantitative analysis. In this case the input from consultations at an earlier stage may help determine whether the problem is significant, and if it is, what the solutions may be.

Step 7. Publication of the response received and reply

The aim of this step is to explain the regulatory option chosen and its justification, once the outcome of consultation is known. The document published should briefly summarize the reasons and the consultation process, the response elicited and, if the policy chosen was changed as a result of the response received, the reasons for the change.

Step 8. Review of the policy's effectiveness once implemented

Where the policy's impact is uncertain, the IA report itself should include a date for a review of effectiveness, and an ex-post IA may be produced. In this case the principle of proportionality must again be taken into account. The aim of this step is to ensure that the policy was properly implemented and that it achieved the goals pursued.

The main difficulty in such an analysis is ascertaining the causality between the policy implemented and the change in the behaviour of the agents involved. This means comparing the state of the market resulting from the implementation of the regulation or supervision with the state of the same market in the hypothesis that no measure had been implemented.

4 Conclusions

In February 2008 the 3L3 Committees published their definitive IA guidelines, setting out detailed recommendations for the production of such assessments within the European Union. The aim is to introduce a more thorough assessment in the regulatory process in financial terms, with the ultimate goal of taking the most efficient decision and avoiding the adoption of unnecessary regulations.

The IA guidelines seek to structure the regulatory process in eight steps. This structure is similar to that of the various IAs introduced in other countries. Thus the first stage is to identify the problem existing on the market, the main policy options that may resolve the problem and their links with the regulatory objectives. The idea of this first stage is to determine whether public intervention is advisable or if it is preferable to leave the market to resolve the problem. Once it is concluded that intervention is necessary, a CBA is carried out to determine the net benefit of each of the proposed options. In this analysis the regulators should compare the various options, identifying the preferred one(s). At this point the public consultation process begins, after which the response received and the reply thereto are published, with the final policy option as a conclusion. A final step once the chosen measure has been implemented is a review of its effectiveness over the time that it has been in effect.

Some countries have already introduced IA to a greater or lesser extent in their respective regulatory processes, prompted by the EU, which regards this as one of the vital measures in order for the objectives set at the Council of Lisbon in 2000 to be met. In the stock-market sphere, while countries such as the UK, Germany or Italy have already included the obligation to conduct an IA in their procedures for the preparation of regulations, many others are expected shortly to introduce the same requirement.

Spain is also committed to the process of improving regulation and simplifying legislation. Accordingly it has taken on board the conclusions of the Brussels European Council of spring 2007 and the Spanish Council of Ministers of 4 May

2007 adopted a Resolution on *Promotion of a Programme for Improvement in Regulation and Reduction of Administrative Burdens.* The Ministry of Public Administration has also been engaged in the preparation of an *Action plan for the reduction of administrative burdens.* Moreover, all procedures for the preparation of regulations, not only those of the highest rank, are to join the trend of requiring an integrated IA. What is more, the *Report by the Spanish Council of State* of February 2008 *on the insertion of European law into the Spanish system* says that the Spanish government should conduct IA during the negotiation process for EU legislation with a view to identifying needs in the sector concerned, so as to maintain positions that better defend the national interests.

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Corporate Governance and Company Law: Shareholder Protection

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1 Introduction

There have been major developments in corporate governance over recent years, particularly in the most developed financial markets. All legislators and supervisors agree that corporate governance is a key element in improving economic efficiency and promoting investor confidence.

Regulation and efforts to perfect corporate governance have received a renewed impulse as a result of factors such as recent financial scandals (Enron, Parmalat), privatization processes carried out in some countries and the growing internationalization and interdependence of markets and companies. As a result of the financial crises of 1997-1998 in Asia, Russia and Brazil special attention was also paid to problems posed by corporate tensions in the economies of emerging markets[1].

The financial sector has undergone an intense transformation, with the suppression of barriers to free movement of capital, deregulation, technological innovation and the progressive disappearance of watertight compartments between banks, insurance and shares. All these involve the need to create incentives for good corporate practices in order to strengthen the confidence of investors and the stability of the financial system. Specifically, the improvement of financial systems and their increased soundness require increased information transparency among listed companies and all the participants in the financial markets.

All this has made the authorities more aware of the need to revise the way in which companies attracting public savings are governed. In recent years there has been a gradual move towards a more active role by the regulators in developing and implementing existing standards on this question. The case of the United Kingdom is a good example. A specific supervisor has been created there for corporate governance and auditing, called the Financial Reporting Council. In Australia and Italy the supervision of both in listed companies corresponds to the securities supervisor, whereas in Spain the publication of the new Unified Code of Good Governance establishes a model for the evaluation of corporate governance practices of listed companies, which is done annually by the National Securities Market Commission (CNMV).

The article is set out as follows: The second section analyses international developments in the sphere of corporate governance; the third comments briefly on developments in Spain; the fourth analyses the implementation of certain accounting measures and principles and the company law related to corporate governance; and the fifth assesses the system of corporate governance that currently exists in Spain.

1 Among examples worth highlighting is India, where 13 million family units have invested directly in debt or capital shares. In China there are estimated to be over 60 million investors in ordinary shares.

2 International developments in the sphere of corporate governance

International developments in corporate governance have different features according to the cultural, economic and geographical context in which they take place. In the case of Europe two basic geographical areas can be distinguished: the continental and the Anglo-Saxon.

The continental area is characterized by a high concentration of ownership in the hands of controlling shareholders and the resulting conflicts of interest between these and minority shareholders. This area can in turn be divided into two systems, the monist and dualist, according to the way that the system corporate governance is drawn up.

In the monist system (such as Spain, for example) the core mission of the Board of Directors is company strategy and its execution, with due respect for the company's objects and interest.

The dualist system (mainly Germany) is so called because of the dual system of company governance, formed by the Management Committee and the Supervisory Board, which supervises the activity of the Committee. As a result, many of the measures included in the development of good corporate governance in countries where this system predominates focus on the supervisory boards and the internal audit committees.

The Anglo-Saxon system is based both on a long tradition and the absence of groups of controlling shareholders (high level of free float). An example of this is the United Kingdom, where historically there has been a great awareness of this question. As a result, it is now at an advanced stage of development, particularly in terms of the functioning of the General Shareholders' Meetings and the treatment given to free float. The importance of these subjects can be seen from the various reports dealing with these questions in recent years. Their names are taken from those of their main author: the Cadbury Report (1992), the Greenbury Report (1995), the Hampel Report (1998) and the Higgs Report (2003). The common theme running through of all of them is increased transparency, integrity and responsibility of the directors.

The use of rules for admission to listing is normal in some of the countries using this system, for example the United States, while in other countries such as the United Kingdom it is more frequent to use codes containing recommendations. The federal structure of the U.S. and its various trading centres mean that it is the rules of admission to each market that determine whether certain requirements related to good corporate governance are demanded from companies.

An important milestone in the promotion of good corporate governance in the U.S. was the Sarbanes-Oxley Act (2002), which was passed as a reaction to a series of corporate scandals. The basic objectives of this Act may be summarized as follows:

- To improve the performance of the accounting profession, with the creation of an accounting oversight board for public companies, subject to supervision by the SEC.

- To establish new tools creating incentives for complying with legislation on the securities market.

- New requirements improving the disclosure of financial information by including off-balance-sheet items, making rotation of auditors obligatory every five years and obliging an audit committee to be set up in listed companies responsible for supervising accounting, auditing and financial services.

Another important cornerstone of the policies on this issue is the report approved by the OECD in 2004 revising and adopting the corporate governance principles that had been approved within the organization in 1999. The OECD Principles of Corporate Governance are focused on the following objectives:

a) Ensuring the basis for an effective corporate governance framework.

b) Ensuring compliance with the rights of shareholders.

c) Safeguarding an equitable treatment of shareholders.

d) Promoting transparency.

e) Developing the responsibilities of the Board of Directors.

The active stance taken by the OECD has meant that many developing countries are evolving from systems of governance based on personal relations to ones rooted in rules and principles. Legal security (i.e. the application of the law) is the key for switching from systems of corporate governance based on personal relations to ones based on rules.

3 Fostering corporate governance practices in Spain

In Spain the cabinet ordered the creation of a commission in 1997 to study the governance of companies. It was called the "Commission for the Study of a Code of Ethics for Boards of Directors", and its work ended with the approval of the Olivencia Report in 1998. The report focused on the structure and functioning of Boards of Directors, from the perspective of effectiveness and economic rationality.

In addition to this, the Aldama Report (2003), whose aim was to promote transparency and security in markets and companies, set out the following objectives:

- To promote transparency and security in the markets.

- To develop the duty of loyalty among directors.

- To develop the right of shareholders to information.

- To restructure the functions of the General Shareholders' Meeting.

Legal developments have continued, with the main features being the following five laws:

- Law 44/2002 of 22 November, on reform measures in the financial system, aiming to improve the financial and accounting information provided by companies (independence of auditors, audit committees, communication of privileged information, etc.).

- Law 26/2003 of 17 July, reinforcing transparency in public listed companies.

- Law 62/2003 of 30 December, dealing with fiscal, administrative and corporate measures.

- Ministerial Order 3722/2003 of 26 December, on the annual corporate governance report and other instruments providing information on public listed companies and other entities.

- Circular 1/2004, on the annual corporate governance report of public listed companies and other entities that issue securities traded on official secondary securities markets, as well as other instruments for reporting on public listed companies.

- Law 6/2007 of 12 April, modifying the system of rules applying to takeover bids and the transparency of issuers; and Royal Decree 1362/2007 of 19 October on regulated information, governing the requirements relating to the content, publication and dissemination of regulated information on issuers of securities.

At the same time, the publication of the new Unified Code of Good Governance in 2006 represented a significant increase in the requirements related to the governance of listed companies. From 2007 companies have had to choose one of the following options: accept the Recommendations of the new Code or offer an adequate explanation for adopting other criteria[2]. The fact these are principles and not rules of statute law has led some legal experts to criticize this reform on the grounds that it is based on the methodological framework of self-regulation.

Before ending this brief description of the development of corporate governance in Spain it should be stressed that in the face of the new challenges of globalization and market integration, national legislation should encourage the creation of an appropriate stable framework that is properly incorporated into the European context.

The supervisory bodies play an important role in achieving this goal, to the extent that regardless of whether the regulations are more or less obligatory, the supervisors of securities markets are among the targets of the annual reports and the "sensitive" information (linked operations, conflicts of interest, operation of the General Meetings, shareholder pacts, etc.). This is the background to the study

2 In Spain many companies began to adopt the Code voluntarily last year on a progressive basis.

published by the International Organization of Securities Commissions (IOSCO) in February 2005 on the measures needed to reinforce the credibility of capital markets and prevent financial fraud. This report not only gives particular importance to improving the practices of corporate governance but also lays particular stress on the protection of minority shareholders and the role of securities market supervisors.

4 Legislative measures within company law that may affect corporate governance

In recent years the economic environment of European companies has evolved rapidly with the globalization of economies and major technological developments. This has led to the need for Community legislators to adapt to the new reality.

The legislative measures developing transparency and the diligent exercise of rights and obligations of the directors of listed companies have a very positive effect on the general opinion of the business reality of a country. The market is given the idea that the managing bodies of companies work properly, that there are diligent and balanced committees and that they may trust their investments, as the interest of the company and shareholders will always prevail over that of the directors.

A number of recent legislative measures in Spain have granted more powers to the governing bodies of companies (mainly listed companies). This could affect certain controls established in the developments related to corporate governance. Among the measures are those included below.

4.1 Simplifying measures related to the Third and Sixth Directive, dealing with the reports of independent experts

These Directives regulate the mergers and divisions of public limited companies in a single Member State. They do not establish complete harmonization, so some rules vary among Member States, although a minimum level of protection is guaranteed across the whole of the European Union.

The requirements favouring flexibility in mergers and divisions should not harm to the shareholders affected; the petition to suppress the report of the project by an independent expert should only be accepted if all the shareholders affected authorize it; neither should the interests of the creditors and the workers in the companies involved be prejudiced.

The group of non-governmental experts on corporate governance and company law determined that these reports were not necessary as long as this was agreed by the shareholders of the companies affected. The bill on structural modifications to companies also supports this idea.

Regardless of this, it is true that our legislators should take into account the fact that the elimination of these requirements, which can represent a great expense, does not represent a reduction of the transparency requirements with which these company operations are carried out.

4.2 Modification relating to the Second Directive, regulating matters including financial assistance and own shares

The Second Council Directive of 13 December 1976 regulates the formation of public limited liability companies and the maintenance and alteration of their capital.

Among the matters regulated by this Directive is financial assistance and own shares.

Financial assistance

With regard to financial assistance, the Second Directive established in Article 23 as a general principle that a company may not advance funds, make loans or provide security with a view to the acquisition of its shares by a third party. This was an almost complete prohibition, with only the following exceptions:

a) Transactions of financial assistance for the acquisition of own shares in the normal course of business of banks and other financial institutions.

b) Financial assistance for acquisition of shares by or for the company employees or the employees of an associate company.

The prohibition of financial assistance produced a certain unease, as it prevented companies from giving financial assistance to a third party to buy shares in the company, but nevertheless authorized the companies to acquire their own shares (within the limit of 10% of the share capital and if authorized by the General Shareholders' Meeting).

Regardless of these exceptions, the concern of the Community legislators was to preserve the integrity of the capital. For this reason, it was established that these transactions and operations could not result in the net assets of the company being lower than the amount of subscribed capital plus the reserves that the law or statutes do not allow to be distributed to shareholders.

In Spanish law, Article 81 of the Public Limited Companies Law regulates financial assistance for the acquisition of own shares, establishing three types of prohibited behaviour, together with a general closing clause:

- The company may not advance funds, grant loans, provide security or facilitate any kind of financial assistance for the acquisition of its own shares or shares in its controlling company by a third party.

- This is not applicable to operations aimed at facilitating the acquisition by company employees of the company's own shares or shares of a company in the group.

- The prohibition will not be applied to operations carried out by its banks or other credit institutions in the normal course of their business as included among the company's objects, and paid for from the company's unencumbered assets. A reserve equivalent to the amount of the loans included as assets in the balance sheet should be included under the liabilities.

The modification of the Second Directive, passed on 6 September 2006, moderates the conditions, as long as some requirements are complied with. These are, broadly, as follows: (1) that the financial assistance is granted in fair market conditions, (2) that the General Shareholders' Meeting is informed and approves the transaction, and (3) that it does not affect the net assets.

The mention of fair market conditions aims to prevent a covert liquidation, whether total or partial, of the company assets in favour of the beneficiary of financial assistance. The reference to the prior approval of the General Shareholders' Meeting appears to refer to a case-by-case approval. Thus it does not seem that a general authorization can be made to carry out these transactions, nor an express authorization by statute.

Thus the modification of the Directive makes its implementation more flexible to a certain extent, potentially giving a new instrument to the directors of listed companies. National legislators will be able to continue totally prohibiting these transactions, with the exceptions relating to operations by banks in the ordinary course of their business and the financing of the company's employees; or they may make use of the flexible elements in the Directive[3].

Own shares

Historically there has been a great variety of legislation relating to the legal capacity of companies to carry out these kinds of transactions. Traditionally English law limited such capacity as it prioritized both the protection of minority shareholders and of creditors. The continental systems put an emphasis on the legal security of trading and the flexibility and speed of transactions. In this case there is a broader recognition of the capacity of companies to act.

The idea of the lack of capacity of legal persons is being gradually abandoned in this case. The Member States have admitted that companies may acquire their own shares within certain preset limits.

The situation relating to own shares before the modification of the Second Directive was as follows:

- Authorization by the General Shareholders' Meeting, with the exceptions mentioned above.

- A maximum period of authorization of 18 months.

- Maximum limit of 10% (in Spain 5%) for listed companies.

3 Under Spanish law until the legislation implementing the Directive is reformed, the business of financing shall be void ipso jure (if the company that is transferring its own shares provides financial assistance to the buyer).

- No reduction of net assets below certain limits.

The new situation after the modification of the Directive is based on the following points:

- Authorization by the General Shareholders' Meeting.
- Maximum 5-year period of authorization.
- No reduction of net assets below certain limits.
- Abolition of the 10% maximum limit and possible establishment of higher limits.

Community regulation has also established that as a result of the acquisition the net worth or net company assets may not fall below the sum of the capital plus the legal reserve. In short, the aim is that when the company acquires its own shares, it should not engage in a covert liquidation, putting in danger the integrity of the capital or lessening the guarantees of its creditors.

Spanish law, which has still not implemented the modification of the second Directive, considered that the limit of 10% was very high when dealing with large public limited companies. Because of the lack of direct ownership of shares by directors, as well as the limited size of the Spanish stock market, the legislator considered the limit of 10% may be excessive.

Within the Community sphere, the modification in the Second Directive makes the rules governing the indirect acquisition of a company's shares more flexible, allowing a certain legal diversity. As a result, the Member States may prohibit or permit these transactions, as long as they respect the conditions imposed by the Directive; they may also extend them, though not substitute or modify them, as they represent an irrevocable minimum.

Excessive flexibility in regulation could give greater discretionary powers to directors. The unwarranted use of this discretion, regardless of the reactions of the legal system to an improper company transaction, could favour their remaining as directors in the company, disheartening minorities and possible third parties.

At the same time, improper use of the regulation could allow companies to modify their internal structure and the ownership structure in defence of their interests. For these reasons, it could be a good idea for the Spanish legislators to establish a maximum limit of own shares of 10% (i.e. the minimum allowed by Community legislation) when implementing the modifications to the Second Directive.

Finally, and also regarding the modifications to the Second Directive, there could be more thought about the role of share capital as security and the role played by our company law system as a safety net. In any case, it seems reasonable that the capital requirements should be uniform across the financial system, and balanced against another reference guideline, that of liquidity, which is an essential element for the correct balance of company activities.

4.3 Implementation of new accounting standards in the European Union

The implementation of the International Accounting Standards and International Financial Reporting Standards (IAS/IFRS) aims to promote the comparability of financial information given by companies, promoting competition between the different capital markets through the application of the concept of reasonable value for the valuation of assets. Nevertheless, this valuation criterion may represent a new discretionary instrument, so these regulations should not only increase demands on the work of auditors and market supervisors, but preserve the precision and integrity of the financial information provided.

In Spain the legislators have reinforced the reporting obligations of issuers by introducing modifications in the regulatory framework for regulated financial information, with the aim of facilitating economic and financial analysis of listed companies, establishing the principle of reporting transparency and facilitating investment decisions by participants in the securities markets.

The main modifications of the accounting regulatory framework were introduced for these reasons in 2008, together with the obligation that the management reports for 2007 should include aspects directly related to the correct internal performance of listed companies. These modifications relate to the following subjects:

- Capital structure.
- Restriction of the free transferability of securities.
- Significant holdings.
- Shareholder agreements.
- Restrictions on voting rights.
- Regulations on the appointment of board members and modification of the company statutes.
- Powers of the Board members.
- Company resolutions that enter into force, are modified or conclude because of a change in the control of the company.
- Compensation paid to the management when it is dismissed or resigns as a result of a takeover.

Article 49 of the Business Code establishes that the corporate governance report should be included in a separate section of the management report for 2008. All these legislative measures aim to establish the principle of informational transparency, which is an essential element for listed companies.

5 Evaluating the current system of corporate governance in Spain

Spain enjoys structural conditions that are particularly appropriate for the development of corporate governance. There is a flexible legal framework together with an “obligatory base” that determines a set of clearly expressed competencies, rights, duties and responsibilities for the company organs, and in particular the persons forming part of these organs.

In recent years there has been a significant growth in reporting transparency among listed companies. This is the result of a set of legal measures that have facilitated the cross-border exercise of voting rights, making the use of electronic participation in General Shareholders' Meetings more widespread and strengthening certain aspects of shareholders’ right to information (the right to include new points on the agenda, the exercise of non-presential rights, the right to apply for advice needed for complying with functions, the right to ask questions and the right to receive the minutes of Board meetings, delegated committees and the supervisory and control committees).

A very positive element has been the effective development and generalized implementation of the different types of committees within the Boards of Directors. The audit committee is obligatory, and so exists in 100% of companies; the appointments and retribution committee in about 80%; while the executive committee exists in about 50% of listed companies. At the same time, the appointments and dismissal procedure for directors has been clarified and public information about the evaluation of the Board has been included in aspects related to the operation of committees, their quality and efficiency, and the performance of the chairman and the chief executive. Another characteristic of Spanish corporate governance is increased transparency through the Company Register. An example of this is that the Regulations of the General Shareholders’ Meetings and the Boards of Directors should be reported to the CNMV and subsequently entered into the Company Register.

In Spain there is a high level of concentration of ownership in listed companies. The average shareholder participation of the biggest shareholder is about 35.5% of the share capital, and that of the five biggest shareholders 52.4%. This explains why the development of corporate governance has focused on the prevention of abuse by managing executives, and by extension on the risk of transfer of management power to controlling shareholders.

The conflicts between majority and minority shareholders are not of the same kind as those between ownership and management. It is in the latter conflicts where there may be an agency risk. Executives should not concentrate all the management power of the company nor fill its management organs. Decision-making power should be duly shared and distributed. This is why the definition of the characteristics and the role of “independent” directors are particularly relevant in Spain.

Another way in which Spain is different relates to the rules on direct holding, where there is a dual entry system: i.e., the Iberclear register as a central depository of securities, and the auxiliary registers of the participating entities.

Article 34 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, establishes that Member States shall require investment firms from other Member States to have the right of access to central counterparty, clearing and settlement systems in their territory. This potential "opening up" of the registration system of all the countries of the European Union has led to a sector of Spanish legal experts to propose that mortgage principles - particularly those of entry, chain of title, legitimacy and good faith in the register – should be transferred into those operations carried out within the sphere of application of Spanish law. They argue that the legal security of our system is near-absolute.

Other features of the Spanish situation are the increasing presence of independent directors on the boards of listed companies (now around 32% of the total), as well as the lack of age limits for directors and the significant concentration of power in the chairmen of Boards of Directors. Spanish legislators have considered that experience is an essential value in the management and administration of companies, particularly in questions related to accounting, auditing or risk management.

An element which has given rise to controversy in various European countries is that related to the remuneration of directors. In Spain it increased about 20% in 2007 on the previous year in IBEX companies. Another feature which is worth highlighting is that related to the slow but persistent increase in the presence of women on the Boards of Directors. The figure was 6% in IBEX companies in 2007. This trend is more noticeable in companies with a lower market capitalization.

There are a number of circumstances which should be taken into account by Spanish legislators when considering legal measures related to corporate governance in our jurisdiction. These include the fact that there is a limited reporting duty by collective investment schemes with regard to the exercise of voting rights related to the securities in their portfolios. A more active participation of these institutions in the General Shareholders' Meetings of listed companies would increase their important role. It seems opportune to reflect on whether it is a good idea to promote the shareholding activity of institutional investors through the development of a suitable set of rules governing responsibility. A step in this direction could be to extend transparency measures related to shareholder representation.

One element which should be considered is that related to legal duplications of certain matters relating to listed companies. These generate high information costs for companies with small capitalization ratios. The European Commission has recently announced that a simplification of regulations is desirable, both from the point of view of economic rationality and that of integration of the market in financial services. In particular, companies are requesting measures that simplify company reporting. They argue that new technologies can cheapen the system of reporting based on entry in the register and subsequent publication on the Official State Gazette, and conclude that ways should be studied to cheapen costs if the existing duplication of regulations is not tackled.

At the same time, there is the question of admitting civil liability insurance for directors of public listed companies in certain circumstances. It is worth evaluating whether an insurance contract could generate a reduction in their due diligence in complying with duties, even resulting in an exoneration and/or limitation of directors' liabilities. Without prejudice to the above, it is true that although these kinds of insurance policies are admitted in most legal systems, and in Anglo-Saxon countries they even enjoy express legal recognition, it should not be forgotten that the costs of insurance are paid for by the company itself and that only culpable behaviour is insurable, probably removing any incentives to start legal proceedings for wilful intent.

Another possible element missing from our legislation is the scarcity of regulations dealing with the figure of intermediary. There is a certain confusion relating to the figure of intermediary/manager/trustee/quasi-owner/real owner of shares. A clarification of this question would benefit legal security. The attribution of the rights of shares to the account owners, and the separation of assets between customers and intermediaries, should be key elements of our legal system in this respect.

Under Spanish law, and the traditional European system, there is an indissoluble link between the issuer of shares and the investor/owner who buys them. The securities register should always identify the last investor/owner, who is the person holding all the rights derived from the ownership of the securities. The Anglo-Saxon system differs from this and institutionalizes a contractual relation between the investor and intermediary managing his interests, sharing the rights derived from ownership. It appears reasonable that there should be regulations in place ensuring control of ownership of assets and that they should be fully subject to the law.

An area that could be developed is that related to the promotion of the company as a responsible agent in society; currently, everything related to the social responsibility of companies is subject to criteria of voluntariness. There are three basic tools for this purpose: sustainability reports, measurement and certification systems, and sector-based self-regulation.

The Report of the Parliamentary Sub-Commission on strengthening and promoting the social responsibility of companies states that the public authorities should make it easier for companies to increase their commitment to the criteria of social responsibility. Currently there are already 42 Spanish companies that draw up sustainability reports, following the model of the Global Reporting Initiative. However, there is a lack of common indicators for measuring, controlling and communicating them.

In addition, it appears a good idea to gradually incorporate other matters into the reports, such as rules dealing with health and safety at work, the existence of company policies on the environment, the reconciliation between work and family life and the gradual implementation of gender diversity.

Finally, there could also be a consideration of the need to develop a policy of strict laws covering infringements of the duty of loyalty. The costs associated with mistakes are unduly limited. We should tackle the lack of sufficient supervisory mechanisms for combating the strong incentives to extract private benefits.

6 Conclusions

The Spanish institutional framework for promoting good corporate governance practices is in a strong position in the European Union. In Spain, as is the case in other similar countries, there are two levels of regulation: statute law, with its consequent constraints; and recommendations, subject to the principle of "comply or explain".

Reporting transparency should constitute the basic principle at both levels, and be extended to the real application not only of legal duties but also of other ethical, organic and structural principles that give a unity and/or interpretive and systematic unity to this subject. The implementation of this principle appears fundamental both for the external control of companies and for the evaluation of the quality of their management. "Transparency and reporting is the best guard against fraud."

The CNMV has played an important role in implementing these principles and practices, not only through its supervisory work, but also in its active role in drawing up the Unified Code of Good Governance for listed companies.

Without prejudice to the above, there are some aspects of the regulations which should be studied by our authorities with the aim of balancing transparency and the protection of investors/shareholders/participants with the flexibility and dynamism of the securities markets and companies' capacity for self-organization.

The new Community Directives that directly or indirectly affect corporate governance are in general Directives setting out minimums and granting freedom to national legislators to regulate activities within their own territories. This makes it even more important that national legislation should provide a balance between company freedom and shareholder protection.

Finally, a plan to expand corporate governance and increase awareness of it in various organizations, institutions and public bodies in civil society could be an important way of increasing general understanding of this subject. Such organizations could include universities, business schools and chambers of commerce.

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III Regulatory novelties

The new regulation of depositories: analysis of ORDER EHA/596/2008

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1 Introduction[1]

Since 1992 the legal regime governing collective investment undertaking depositories (*depositarios de instituciones de inversión colectiva* – "CIUDs") has been detailed in a Ministerial Order, which therefore constituted the subsidiary development of the provisions on CIU depositories contained in the Regulations under the 1984 Undertakings for Collective Investment (CIU) Act.

This Ministerial Order specified, and hence reinforced, the tasks and functions of depositories, in particular that of supervising the activities of management entities.

The promulgation in 2003 of a new CIU Act and subsequent 2005 Regulations pursuant to this Act has made it essential to update the legal regime governing CIUDs. In this respect it should be emphasised that the changes brought in by the new legislation are of such scope that a regulation in greater detail is required of the functions of depositories.

The broadening of the operating capacity of CIUs and the possibility for managers to carry out new functions, such as marketing CIUs, thus require that the function of supervision and vigilance take due account of all these new possibilities.

Furthermore, the growing weight in CIU portfolios of investments in other CIUs or OTC derivatives, being assets which as a result of their characteristics are not technically susceptible to custodianship in the strict meaning of the term, requires that configuration of the custodianship function in such cases be determined.

In addition, the introduction of new collective investment concepts such as Hedge Funds (*IIC de Inversión Libre - "IICIL")* and Funds of Hedge Funds (*"IICIICIL")*, requires adaptation of the general functions of depositories to their specific features. In this respect, in the case of Hedge Funds it is fundamental to clarify the relationship of the depository with another typical concept related to these institutions, the prime broker, since the latter carries out functions which overlap with those of the depositary. With respect to Funds of Hedge Funds, their particular portfolio construction process requires reformulation of the depositary supervision and vigilance functions.

Finally, and no less important, the aim of the new legislation to systematise procedural aspects of depositary activities should be emphasised. It is not in vain that the greater complexity, scope and number of tasks of depositories in comparison with the former regime requires structuring and systematisation of their functions, which is principally achieved by implementing an internal procedure manual.

1 Introduction prepared by Jorge Antonio Vergara Escribano, for whose collaboration I am grateful.

An analysis is provided in this article of Order EHA/596/2008, based on the different functions entrusted to depositories, comparing its contents with the previous regulation, now repealed. To this end, in the second section the objectives and a summary of the principal new features are set out. In the third section the function of supervision and vigilance of the activities of CIU Management Companies (SGIICs) is examined, and in the fourth custodianship and administration tasks are analysed, ending in the fifth section with an analysis of the tasks of the depositary in subscription and repayment of shares and holdings in CIUs. Finally, the sixth section briefly refers to regulation of the position statement, which is unchanged in relation to the previous regulation, concluding with the seventh section where an assessment is made of the contents of the new legislation.

2 Objectives and new features of the regulation

Order EHA/596/2008 has two declared objectives:

a) To update the legal regime governing collective investment undertaking depositories, setting out the provisions contained in the Undertakings for Collective Investment Act, 35/2003 (*Ley 35/2003 de Instituciones de Inversión Colectiva* – hereinafter the "CIU Act") and its subsidiary Regulations contained in Royal Decree 1309/2005 (hereinafter the "CIU Regulations").

b) To develop the contents of the position statements referred to in Section 4.3 of the CIU Regulations.

With respect to the first and most relevant of the foregoing objectives, the regulation substantially strengthens the function of CIUDs and specifies in greater detail the manner in which they must carry out this task.

Of the new features of the new Order which contribute to strengthening and detailing the tasks of CIUDs we can highlight the following:

- Express acknowledgement of the possibility of delegating the functions of supervision and vigilance.

- Obligation of the depositary to have an internal procedure manual setting out its scope, methods used and regularity of its review.

- The need to have a control system which enables manager assessment procedures to be carried out.

- In order to verify calculation of liquidating values the possibility is accepted of using criteria of comparison against indices and previously established tolerance thresholds.

- Express acknowledgement of the obligation to verify that the assets subject to investment conform to the investment vocation defined in the prospectus.

- Depositories must receive reserved statements at least 15 days before they are sent to the CNMV in order to make the appropriate verifications.

- Definition and classification of anomalies detected based on their importance.

- Introduction of supervision of marketing in cases in which the manager acts as CIU marketing entity.

- Obligation of the depositary to open the accounts with which the CIU will operate, and in the case of Variable Capital Investment Companies (*SICAVs*) the impossibility for the manager or directors to utilise balances directly.

In accordance with the sole repealing provision of the Order, it replaces the regulation contained in two Orders:

a) The whole of the Order of the Ministry of Economy and Finance of 30 July 1992 on specification of the functions and obligations of depositories, position statements and major holdings in CIUs. The new Order regulates depositories and position statements without making any reference to major holdings, currently regulated by Section 29 of the CIU Regulations, which unified the regime of investment company and fund information in this area.

b) It partially repealed Chapter VI of the Order of the Ministry of Economy and Finance of 24 September 1993 on real estate investment companies and funds, in which specific rules were contained regarding depositories of this type of CIU.

Consequently, all provisions of ranking lower than the CIU Regulations relating to depositories are brought together into a single Order and specific features are also included relating to real estate CIUs and the new types of CIU, Hedge Funds (*IICILs*) and Funds of Hedge Funds (*IICIICILs*).

In relation to the regulation of CIU position statements, the Order does not bring in any new features since it transcribes what was set out in the previous regulation.

The new Order came into force three months after its publication in the Official State Gazette, i.e. on 7 June 2008.

3 Supervision and vigilance function

3.1 General regime

3.1.1 Content of supervision and vigilance tasks

The Ministerial Order of 30 July 1992 specifically set out the tasks in this field which depositories had to comply with, tasks which in the new regulation are maintained but with new features in relation to their scope and manner of execution, since it provides that depositories must:

a) Verify that securities purchase and sale transactions for the portfolio of CIUs have taken place on market terms. In this case reference has been eliminated to responsibility relating to special stock exchange transactions set out in the former CIU Regulations and the assets covered by transactions have been expressly included: "property, rights, securities or instruments".

   Reference has also been eliminated to transactions of a SICAV with directors and managers, which are included under the general rules governing connected transactions set out in the CIU Regulations.

b) Verify that transactions comply with the requirements, coefficients, criteria and restrictions established by legislation, as well as verifying that investments have been made in accordance with the investment vocation defined in the prospectus. The new features comprise inclusion of the terms "requirements and restrictions", reference to verification of the conformity of investments made with the investment vocation of the CIU defined in the prospectus, and review of the suitability of assets in which investment is made, by reference to Section 36 of the CIU Regulations, establishing a monthly regularity of these verifications.

c) In relation to the correctness of the calculation of liquidating value.

   1 The depositary must supervise the procedures, criteria and formulae used to calculate the liquidating value of shares and holdings. As a new feature, Order EHA/596/2008 refers both to investment funds and SICAVs, whilst the former regulation and the CIU Act only referred to holdings.

   There is greater detail in the manner in which the depositary must carry out this task. It must thus have a control system enabling it to verify the valuation procedures of the manager or of directors, with the inclusion of details of this control system in its internal procedure manual.

   The manager is under an obligation to notify the depositary of any change which takes place in the valuation procedures.

   The regularity of controls is also determined, which must be carried out by the depositary and must be at least yearly or whenever legislative changes take place which affect calculation of liquidating value or there is a modification to the investment policies of the CIU. This regularity must also be recorded in the internal procedure manual.

2 The depositary must not only verify the procedures but must also verify the calculation of liquidating value.

As a new feature in relation to the previous Order, the possibility is introduced of using "criteria of comparison against previously established tolerance thresholds and reference indices", a system which is in fact used by several depositories. This verification must be at least monthly and must be set out in the internal procedure manual of the depositary.

In the case of assets not traded on any type of market or trading system, and in that of illiquid assets or those whose market quotation is not representative, the depositary will have to verify that the parameters used in their valuation are adequate and reflect market movements and situations.

3.1.2 Other aspects relating to supervision and vigilance tasks

In general the new regulation specifies to a greater extent than the previous regulation the regularity and manner of carrying out supervision and vigilance tasks.

Section 1.2 of the Ministerial Order of 30 July 1992 provided that in order to engage in the activities of supervision and vigilance "the Depositary must each month gather sufficient information from the management company or directors of the SIMCAV enabling it to correctly carry out" the said functions. This reference disappears in the new Order since it is set out almost literally in Section 93.1 of the CIU Regulations.

The reference made in Section 1.3 of the previous Order to the obligation of depositories to "carry out the appropriate checks to verify the sufficiency of the information, documentation and publicity sent to the CNMV" has also disappeared. This provision, with modifications by incorporation of the word "accuracy", was set out in Section 93.2 of the CIU Regulations. Order EHA/596/2008 develops this obligation:

a) In the case of reserved statements, the information must be provided to the depositary at least 15 days before it is sent to the CNMV in order that it can be the "subject of the appropriate checks on reconciliation of the positions of the collective investment undertaking".

b) In the case of the prospectus and periodic public information, the depositary must verify, before it is sent to the CNMV, its accuracy, quality and sufficiency. Unlike the previous case, no minimum period is established for the information to be sent, with verification affecting all contents of the documents.

Finally, and as mentioned previously, Section 9 of the Order introduces an obligation for the depositary to have an "internal procedure manual in which the scope of reviews must be detailed along with the methods used and regularity with which the function is carried out of control and vigilance of coefficients, limits, investment policies and criteria for calculating liquidating value", as well as the remaining functions entrusted by the regulation.

This internal procedure manual must comply with two requirements:

a) it is approved by the management body of the depositary, and

b) it is always duly updated.

3.1.3 Classification and notification of anomalies detected

Section 1 of the Ministerial Order of 30 July 1992 set out an obligation for the depositary to notify the CNMV of situations in which it detected an insufficiency or inaccuracy in the information sent by management companies or directors, or it disagreed with the content of the said information, and an obligation to notify, in this case in writing, any anomaly detected in the management or administration of CIUs.

This notification obligation is maintained in Section 62.1 of the CIU Act, on the responsibilities of depositories, when providing that "the depositary shall be under an obligation to notify the CNMV of any anomaly which it detects in management of the institutions whose assets are in its custody ". Nevertheless, it is in Section 93.3 of the CIU Regulations where this obligation is specified in three respects:

a) Obligation to send a half-yearly report to the CNMV on compliance with the vigilance and supervision function in relation to the accuracy, quality and sufficiency of the information received from CIU Management Companies and from directors of SICAVs and the information which must be sent to the CNMV. This report was not provided for in the previous Order.

b) Contents of the report: the report must contain all legislative breaches or anomalies detected by the depositary in management and administration of the CIUs.

c) Classification of anomalies detected: a different treatment is established depending on whether or not they are considered to be of particular importance.

   In the first case, in accordance with Section 93.4 of the CIU Regulations "...the depositary must without delay report in writing to the CNMV on any anomaly which it detects in the management or administration of CIUs which is of particular importance". This information must also be included in the half-yearly report.

   For their part, anomalies which are not of particular importance need not be the subject of written notification to the CNMV immediately, but it will suffice to include them in the half-yearly report, although the observations must be included which the manager or directors have made. To this end the depositary must have previously informed them of the anomaly detected.

Until publication of the new Order there was no definition of what was meant by anomaly of particular importance. The Order establishes two possible situations in Section 2.4, which do not constitute an exhaustive list. The following are thus of particular importance:

a) Those anomalies which could have an appreciable impact on liquidating value.

b) Acts or omissions classified as serious or very serious infringements by the penalty regime under the CIU Act.

3.1.4 Supervision of marketing entities

Act 35/2003 on undertakings for collective investment introduced a new supervision and vigilance task for depositories relating to the activities of managers. Section 60.h thus provides that the depositary must “Oversee respect for legality of actions of the management company when it acts as an investment fund marketing entity”.

The new regulation develops this provision by setting out, in Section 2.5, that “depositories shall verify that the marketing procedures established by the management company in documents, such as marketing manuals, conform to the provisions laid down by legislation applicable to them in cases in which the management company acts as direct marketing entity”. The supervisory task of the depositary is circumscribed solely and exclusively to review of the marketing procedures set out in the manual.

3.1.5 Delegation of functions

One of the principal new features of the Order is contained in Section 2.6, in which the possibility is acknowledged of delegation of the supervisory and vigilance function to third party entities. This possibility had not previously appeared. With respect to the CIU Act and CIU Regulations there is no such clear and exhaustive as in the case of delegation of powers by managers. They only make the following references:

a) In Section 60.i of the Act, when talking of the functions of deposit or administration of securities, the liability of the depositary is established in cases in which it does not carry out the functions directly.

b) In Section 68.6 of the Regulations, when establishing prohibitions on delegation by managers, it states that “neither will it be possible to delegate the said functions to the same entity to which the depositary has delegated custodianship of the CIU assets”.

c) In sub-sections 5 and 8 of Section 5 of the CIU Regulations, when regulating the maximum deposit commission applicable to CIUs, when it provides that “the said commission shall constitute the remuneration of the depositary for carrying out all functions assigned thereto by legislation and funds may not meet additional costs when the depositary has delegated any of the said functions to third parties".

The new Order lists a series of requirements which must be fulfilled by agreements to delegate functions of the depositary in order to ensure effective supervision and vigilance of the activities of managers:

a) The delegation agreement must include an undertaking by the delegee to permit and facilitate the task of supervision by the CNMV at its premises and ensure compliance with obligations to provide information to the CNMV.

b) Competence and capacity is required of the delegee entity.

c) In order to verify the requirements in the previous paragraph there is provision for the depositary to establish adequate control procedures over the activities delegated. The depositary may at all times give instructions to the delegee entity. It may further revoke the delegation immediately, but this revocation is limited to those cases in which the functions delegated are not adequately carried out.

d) Two prohibitions are established: delegation to the manager itself or to an entity to which the manager has previously delegated the function of legislative compliance.

The depositary will of course remain fully liable for the functions delegated.

3.2 Special features

3.2.1 Real estate collective investment undertakings

In the case of real estate CIUs, and in addition to the tasks of supervision and vigilance to be carried out by the depositary in respect of all CIUs, Section 2.2 provides that they must:

a) Verify compliance with the criteria and coefficients inherent in this type of CIU.

b) Verify compliance with valuation obligations contained in the CIU Regulations in relation to entities which can carry out the same, valuation principles and the time and regularity with which they must be carried out.

c) Verify that in the monthly calculation of liquidating value new valuations are included of real estate which has been due for valuation in that period.

3.2.2 Hedge funds

With respect to this type of CIU the general rules contained in Section 2 of the new Order are applicable, but taking into account the specific features of these CIUs.

Section 3, based on the distinctive nature of these CIUs, includes three particular references affecting the tasks of the Depositary:

a) The obligation of the manager and directors of SICAVs to give prior notice to the depositary of contracts which they are to enter into with “a financial intermediary which provides them with financing, settles their transactions and provides them with other financial services, taking charge of the assets of the collective investment undertaking”.

b) For the purposes of verifying the solvency of the financial intermediary in suitable manner the latter “must have a favourable credit rating from a specialist risk rating agency of acknowledged prestige. Specifically this rating must consist of the entity having at least a strong long term capacity to meet its payment obligations and in the short term a satisfactory capacity to meet its payment obligations”. In the case of the Standard & Poor’s agency this would be an A rating for the long term and A-2 for the short term.

c) Finally, in the case of verifications made by the depositary of calculation of liquidating value, the regularity thereof must be established based on the dates which have been established for calculating the liquidating value of the CIU.

3.2.3 Funds of hedge funds

As in the previous case, the rules contained in Section 2 of the new Order will be applicable to the depositary but taking into account the specific legislative features of these CIUs.

The particular features set out in Section 4 are:

a) The depositary must establish “a system for controlling procedures for selection of investments” established by the manager or by directors of the company, and verify that they comply with the legislative requirements applicable to them.

b) Two obligations are imposed on the management company and directors of the company:

    1 To provide the depositary with such documentary information and justification as the same may request.

    2 To allow the depositary to approach the relevant entities if it considers the same appropriate.

c) Finally, in the case of the verifications made by the depositary of the calculation of liquidating value, its regularity must be established on the basis of the dates provided for calculating the liquidating value of the CIU.

4 Functions of custodianship and administration of cash and securities

4.1 Custodianship function

4.1.1 General regime

Section 5 of Order EHA/596/2008 regulates the custodianship function, providing in sub-section 1 for liability of the depositary for its actions. The novelty lies in the different configuration of objective scope, since the expression "... all tradable securities making up the net worth of the fund" is replaced by "... all tradable securities and other financial assets which make up the net worth of the CIU".

The custodianship function may, in accordance with Section 5.2, be carried out by the depositary directly or through another entity which participates in clearing, settlement and registration systems of the markets in which it operates. Liability will always remain with the depositary, however. Furthermore it must, at the time of making the appointment, establish control and supervision measures which ensure that assets are not utilised without its consent and authorisation.

The definition of this function, set out in Section 5.3 of the new Order, is more detailed than in the Order of 30 July 1992. Whilst the latter only referred to securities represented by book entry, it now specifies for each type of asset what the custodianship function must mean. Thus:

a) In the case of assets represented by certificate, it consists of their physical custody.

b) For those represented by book entry, it consists of maintaining the records, whether directly or through other members of the system.

c) In the case of collective investment undertakings two possible situations must be distinguished:

   1 The shares or holdings are recorded in the name of the depositary or of a sub-custodian, which must be designated by the former, in which case the custodianship function would be complied with by the said recording.

   2 If they are recorded directly in the name of the investor CIU, the depositary function will consist of establishing "mechanisms which ensure its involvement in and control of the contracting processes which are promoted by the collective investment undertaking".

   In both cases, in the same letter c of sub-section 5.2, it provides that the involvement of the depositary "must ensure that ownership, absolute title and free disposal of the assets lies at all times with the collective investment undertaking".

d) In the case of derivative financial instruments not traded on a market or trading system, "the custodianship function of the depositary shall be limited to verification and control of the contracting processes and ensuring that disposal of flows deriving from the said contracts does not take place without its consent and authorisation".

e) With respect to real estate and rights thereover, "the depositary must establish the necessary mechanisms to ensure that in no event is cash deriving from disposal or termination of the corresponding agreements disposed of without its consent and authorisation".

4.1.2 Custodianship of foreign securities and assets

Special mention is merited, and this is expressly reflected in Section 5.4 of the Order, of the use of global accounts in custodianship of foreign securities and assets, which was not previously included.

The following requirements must be fulfilled for their use:

a) A report must be issued on the credit quality of the entity with which the account is opened and the legal and operational risks which are involved.

b) There must be complete separation between the own account of the entity and that of third parties, with its name reflecting the nature of the third party account.

c) The depositary must individually account for the position of each client internally.

4.1.3 Hedge funds

In order to ensure compliance with the custodianship function of the depositary, Section 7.1 of Order EHA/596/2008 lays down an obligation to record the following aspects in contracts which are entered into with intermediaries:

a) The duty of the financial intermediary to provide such information as the depositary requires, with reference to the provision of required periodic information regarding positions and valuation of the portfolio assigned, external audits and accounting data.

b) The duty of the intermediary to distinguish, in the information provided to depositories, between the assets which have been the subject of financial security and those which have not.

c) The duty of the intermediary to report to depositories on the settlement of transactions carried out.

d) Subjection of financial security provided to the provisions of legislation applicable thereto.

e) The control, supervision and reconciliation procedures and agreements necessary to ensure ownership, free availability and full exercise of the rights of collective investment undertakings over assets which have not been the subject of financial security. In relation to assets which have been the subject of such security, the depositary must supervise the control made by the management company of the security and its return.

For its part, sub-section 2 of the same section provides for an exemption from liability of the depositary in respect of those assets over which it cannot exercise custodianship as a result of being assigned as security and being subject to custodianship by the financial intermediary. In these cases the prospectus must mention this exclusion from liability.

Finally, the same sub-section provides an obligation, which does not affect the depositary but the manager, and which consists of a duty to verify the solvency and professionalism of such financial intermediaries, and also requiring of them a "favourable credit rating from a specialist risk rating agency of acknowledged prestige".

4.2 Administration function

4.2.1 General regime

The Ministerial Order of 30 July 1992 made little reference to the concept of administration of cash and securities. It provided in Section 4.1, as function of the depositary by reference to Section 56.g of the former CIU Regulations, for the settlement of securities purchase and sale transactions and collection of interest and dividends accrued by them, on behalf of CIUs.

Section 6 of the new Order sets out this function with greater detail and specificity. This idea is indicated in the change of name of the section itself, since although the previous title of Section 4 was "Regarding the functions of the depositary in relation to purchase and sale of financial instruments", Section 6 of the new regulation refers to the "Function of administration of cash and securities of collective investment undertakings". There is regulation beyond simple settlement, since an active task is imposed on the depositary of conservation, by its actions, of the value and rights of the assets of the CIU in respect of which it exercises this function.

The function of administration of cash and securities is established by two means when specifying, firstly, certain activities which it comprises in sub-sections 1, 3 and 4 of the said Section 6, and secondly establishing, in sub-section 2, limits on the actions which the manager or directors may engage in.

In order to carry out the administration tasks the depositary must have the cooperation of the management company or directors of the investment company.

After establishing that tasks must be carried out in respect of all assets which form part of the net worth of CIUs ("negotiable securities and other assets", whilst in the Order of 30 July 1992 it referred to any class of cash and securities), the generic content of the administration function is established as follows:

a) "Collecting the corresponding returns at times when they fall due or are paid".

b) " Taking such steps as may be necessary in order that the securities or assets in custody preserve the value and rights corresponding thereto".

An obligation is further set out for the depositary to settle transactions and also participate in their execution when so required by the nature of the assets and the rules of markets in which they are contracted. Their involvement must in any event always follow the instructions received from manager or directors of investment companies, verifying that settlement of transactions takes place within the periods established in the corresponding markets in which they operate.

In the specific case of assets not traded on regulated markets or organised trading systems, this function will consist of complying with the settlement instructions given by the manager or directors of the company, to which end they must make position certificates issued by counterparties available to the depositary.

In addition, Section 6.2 limits the action of managers when defining the following as exclusive tasks of the depositary:

a) Opening accounts, which constitutes a novel feature since it was not previously provided for.

b) Direct utilisation of balances. In a more logical manner this task has been introduced within the section relating to administration functions, whilst it was previously included in that devoted to participation of the depositary in the repayment of holdings. As a result, it is fully applicable to SICAVs and therefore their directors, or authorised representatives of the manager as the case may be, may not be shown as holders on their current accounts or utilise them.

5 Functions relating to subscription and repayment

5.1 Participation of the depositary

In the wording of the CIU Act there is no uniform provision for the participation of the depositary in subscription and repayment processes since, for the former, Section 60.d provides that it must "oversee the correctness of subscriptions for holdings and verify that the net amount of the transaction is paid into the fund account". In the case of repayments however, in accordance with Section 60.e its function is limited to "making repayments of holdings, for account of funds, the net amount of which must be debited to the fund account".

The only reference made by the CIU Regulations is in Section 48.5, where it provides that "the repayment must be made by the depositary within a maximum period of three business days from the date of the liquidating value applicable to the request".

The action of the depositary in these transactions will always be at the request of the manager. The new Order thus provides in Section 8.1 that "the depositary must take part in subscriptions and repayments in accordance with the instructions of the management company ", and this is confirmed in Section 8.3, "Repayment shall be made by the depositary on prior instructions sent expressly by the management company ", a reference already contained in the Ministerial Order of 30 July 1992.

5.2 Means of payment and effect

Section 7.4 of the CIU Act provides, in respect of investment funds, that "In general subscriptions and repayments of investment funds must be made in cash. Nevertheless, on an exceptional basis when so provided by regulations and in the management regulations, subscriptions and repayments may be made by delivery of property, securities or rights suitable for investment, which are appropriate to the investment vocation of the fund".

The reference to these transactions having to be carried out in general in cash must be understood in a broad sense since subsequently, in Section 40.3, it is clarified, although solely in relation to subscriptions, that "subscriptions or acquisitions of holdings or shares must mandatorily take place by nominative cheque issued in favour of the CIU, bank transfer in favour thereof or by direct delivery of cash by the person concerned to the depositary for subsequent crediting to the account of the fund or company ".

The CIU Regulations does not make any reference to the manner in which subscriptions and repayments must be made, except in one particular case in respect of Hedge Funds when it states in Section 43.d that "subscriptions and repayments of investment funds, or acquisitions and sales of shares in investment companies as the case may be, may take place, provided that the prospectus so establishes, by delivery of assets and financial instruments suitable for investment, appropriate to the investment vocation of the CIU", and likewise in the case of real estate funds in Section 63 of the CIU Regulations the possibility is provided of contributing real estate for creation of or increase in the net worth of the CIU.

With respect to means of payment, Order EHA/596/2008 retains the same as those set out in the previous regulation for both subscriptions and repayments:

a) Nominative cheque in favour of the fund or holder.

b) Bank transfer in favour of the fund or to an account of the owner of the holding.

c) Cash handed over directly to the depositary or holder.

In relation to when the subscription must take effect the provisions are retained of the former Order in the case of subscriptions for holdings in funds by cheque and transfer, i.e. the date of crediting. In the case of contributions in cash, Section 8.2 of the new Order provides that "...payment into the account of the fund shall be deemed not to take place until the value date of the credit".

As a particular feature, in the case of contributions of real estate to real estate CIUs the same provision provides, "...the request shall be deemed not to be made until the date of registration of the property in the name of the real estate investment fund in the Land Registry". On the other hand, there is no reference to when subscription must be considered to take effect in the case of delivery of assets and financial instruments suitable for investment by Hedge Funds.

As in the previous Order, the new one literally maintains the need for the manager to have documentation evidencing that it is authorised to make the repayment to a third party other than the holder, who may act on behalf thereof and receive the amount repaid.

Finally, Section 8.4 sets out the applicability of the rules on subscriptions and repayments of investment fund holdings to the acquisition and sale of SICAV shares when they are not listed on securities exchanges or organised trading systems or markets.

6 The position statement

The new regulation contains no novelties in relation to the existing regulation, since Section 10 reproduces the regulation contained in the Ministerial Order of 30 July 1992 on position statements.

Sub-section 1 of this section thus specifies the minimum content of the position statement and sub-section 2 renews the authority of the CNMV to "develop the contents of the position statement and establish the corresponding model", maintaining the same mandate as under the previous regulation, which was not implemented.

7 Conclusions

The new Order has satisfied the need to adapt the rules governing CIU Depositories to the new CIU Act and subsidiary Regulations, maintaining the basic structure of the tasks of this type of entity, without overlooking the new functions of managers permitted by the legislation, such as CIU marketing, which make it necessary to extend supervision and vigilance tasks to them.

Certain activities of the depositary are established in the regulation in greater detail, as in the case of supervising the calculation of liquidating value or detailed description of the custodianship function, specifying and clarifying its obligations. In the case of the securities administration function, regulation of its scope has been extended and is not restricted solely to the settlement of purchase and sale transactions of any type of securities, as previously. The particular features of the new collective investment concepts, Hedge Funds and Funds of Hedge Funds, are further provided for, to which the tasks of the depositary must necessarily be adapted.

The separate treatment which was given, depending on whether it was an IF or SICAV, as to who may utilise the cash balances of the current accounts of the CIU has been corrected.

This all contributes to strengthening the position of the depositary in its tasks of controlling the actions of the manager and of custodianship of assets held by the CIU by specifying, clarifying and unifying the principles which must underlie its actions.

Furthermore, acknowledgement of the possibility of delegating functions of the depositary in relation to supervision and vigilance of the actions of CIU managers means flexibility in the rules governing them, which should not mean a loss of quality in carrying out this task, a risk which must be minimised by the necessary control measures over the entity to which delegation is made.

8 Bibliography

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New legislation for CIUs on transactions in derivatives and assets eligible for investment

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1 Introduction

In the field of transactions by Collective Investment Undertakings in financial derivatives, Ministerial Order 888/2008, of 27 March, constitutes a new stage in the legislative development begun by promulgation of Act 35/2003 on Undertakings for Collective Investment and its subsidiary Regulations pursuant to Royal Decree 1309/2005. The new Order repeals that of 10 June 1997, promulgated in the context of the previous Act and regulations, and which therefore did not provide for the new legislative features, particularly regarding the new underlying considered eligible.

Together with the development of aspects relating to this new underlying, the Order emphasises the categorisation of derivative instruments into two groups depending on their greater or lesser complexity. The inclusion of a derivative instrument in one of these categories determines the purposes, investment, cover or specific return objectives for which it may be used by undertakings. It therefore defines a new, different criterion from that established in the Order repealed, which related to whether the derivatives used were quoted or not on the market.

A large part of the principles and definitions regarding derivative financial instruments now set out in the regulation are the outcome of European provisions of different ranking, principally Directive 2007/16/EC, of 19 March 2007, on coordination of legal provisions regarding undertakings for collective investment in transferable securities, and the pronouncements of the CESR[1] under references CESR/06-005, 07-044, 07/433 and 07/434.

Furthermore, in its Chapter II Ministerial Order 888/2008, of 27 March, transposes into the Spanish legal system the clarifications of the meaning of certain terms established in the said Directive 2007/16/EC. The bulk of these clarifications affect the treatment of certain financial assets as eligible for investment by collective investment undertakings and their classification as assets admitted or subject to commitment to apply for their admission to secondary markets (sub-sections 1.a and 1.b of Section 36 of the Regulations under the Undertakings for Collective Investment Act), as assets which can be computed within the overall limit of 10% of net worth of the undertaking laid down by sub-clause 1.j of the same Section 36 or, finally, as money market assets not admitted to trading of those covered by Section 36.1.h.

It should be emphasised that given their particular investment regime, hedge funds (*instituciones de inversión colectiva de inversión libre*) are excluded from the scope of application of the new Order.

Over the course of this article, Act refers to Act 35/2003 on Undertakings for Collective Investment, Regulations refers to the Regulations under Act 35/2003 promulgated by Royal Decree 1309/2005, Order refers to Order EHA/888/2008

1 Committee of European Securities Regulator. Information on this European regulator coordination body in the securities field can be consulted on its website at www.cesr-eu.org.

regulating transactions by collective investment undertakings in financial derivative instruments, CIUs refer to the collective investment undertakings included in the scope of application of the Order, and Managers to the management company of a CIU or variable capital investment company in the event of being self-managed.

This article is divided into two blocks. The first, relating to the use of derivative instruments by CIUs, deals successively in sections 2 to 8 with eligible instruments and underlying, the treatment of financial instruments which incorporate an implicit derivative, the purposes which may be sought by their use based on their classification, the requirements laid down for those not listed in the market, restrictions on their use, the obligations required of Managers, and other aspects relating to derivative financial instruments covered by the Order.

The second block, section 9, summarises the principal clarifications regarding eligible assets and other aspects dealt with by the Order. The article ends with brief conclusions in section 10.

2 Derivative instruments and eligible underlying

The list of derivative financial instruments eligible to form part of the portfolio of a CIU is established in the Order, in Section 2, on the basis of three criteria: the type of contract, the underlying, and the manner of settling the derivative.

2.1 Eligible derivative contracts

With respect to the first criterion, eligible derivative contracts, sub-section 1 of the said section lists futures contracts, forwards, term sales, financial exchanges (swaps), which include an optional component or otherwise, and finally option contracts instrumented or otherwise by warrant. Section 2.4 nevertheless empowers the CNMV to authorise the use in general or particular of contracts other than the foregoing[2].

2.2 Accepted underlying

The following will be eligible underlying for the foregoing contracts provided that the same is stipulated in the investment policy declared in the prospectus:

1 Transferable securities grouped into issues and contracts admitted to trading or which have applied for their admission on organised trading markets or systems in any State which have regular functioning with rules relating to

2 Neither temporary acquisitions of assets nor simultaneous cash purchase and term sale of public debt transactions will be considered as derivatives.

their functioning, transparency, access and admission to trading and level of investor protection equivalent to those provided by official markets located within Spanish territory.

2 Shares or holdings in CIUs in accordance with Directive 85/611/EC, or equivalent thereto in accordance with the requirements of Section 36.1.d of the Regulations, provided that the investment policy established in their legal documents does not permit them to invest more than 10% of their net worth in other CIUs.

3 Credit risk.

4 Volatility of shares admitted to trading on a market which fulfils the requirements of the foregoing paragraph 1, stock exchange indices, interest rates, exchange or currency rates.

5 Financial indices.

6 Interest rates.

7 Exchange rates and currencies.

8 Commodities for which there is a secondary trading market.

9 Spanish hedge fund shares or holdings, or those of equivalent undertakings in third party countries.

10 The inflation of countries or geographical zones, rules for the calculation, transparency and dissemination of which are equivalent to those of the harmonised consumer price index of the European Union[3].

11 Any combination of the foregoing.

As in the case of types of contract, the Order empowers the CNMV to authorise the use of derivative instruments with other underlying not included in the foregoing list.

The list of accepted underlying in the Order is broader than that in European legislation on UCITS[4] (Articles 19.1.g of Directive 85/611/EEC and 8.2 of 2007/16/EC) which do not provide for volatility, commodities or shares or holdings in hedge funds as eligible. It does not therefore comply in full with the said legislation and consequently Spanish CIUs which provide for the use of derivatives with this underlying will not enjoy a Community passport for the purpose of their free marketing in the European Union.

3 Which may be consulted at http://epp.eurostat.ec.europa.eu/portal/page?_pageid=2714,1,2714_61582099&_dad=portal&_schema=PORTAL.
4 Undertakings for Collective Investment in Transferable Securities. Expression used to refer to collective investment bodies in transferable securities. In the case of Spain IFs and SICAVs which comply with Directive 85/611/EEC have the status as such.

2.3 Settlement of contracts

The final criterion which must be fulfilled by derivative financial instruments in order to be treated as eligible is that their settlement may not give rise to inclusion in the net worth of the CIU of a non-financial asset.

2.4 Additional requirements for certain underlying

The Order establishes a series of conditions which must be fulfilled by derivatives which have credit risk or financial indices as underlying in order to be considered eligible.

In the case of credit risk, defined in Section 4.1 of the Order as the risk that the credit rating of a reference financial asset falls below a certain level or that a credit event occurs which affects the reference entity, in order for its utilisation by CIUs the following must be complied with:

- The credit derivatives transfer solely the said risk independently of others which may affect the financial instrument or reference entity.

- Managers' risk control systems must not only take into account those assumed by positions in these derivatives, but also those which may derive from the existence of asymmetry in the information between the Managers and the counterparty of the CIU in the event that the latter may have access to non-public information on the entities to which the derivatives are referenced. The scope of this requirement could be considered, in the light of obligations of issuers of securities admitted to trading (periodic and classified as sensitive) to transmit information to the market, to be covered by the overwhelming majority of credit derivative reference entities; and prohibition on use of privileged information and establishment of separate areas would be applicable to the majority of institutions active in the credit derivatives market.

For its part, a financial index will be valid underlying if:

- Its components are underlying considered eligible for investment by CIUs in derivative or other instruments authorised by the CNMV. This condition is stricter than that imposed by European regulation (Articles 8.1.a.iv and 9.1.a.iii of Directive 2007/16/EC), which does not restrict the type of assets which the financial index may comprise provided that the index complies with the requirements of diversification and adequate publication and reference laid down by Article 9 of the Directive. Thus, for example, in accordance with the Order an index referenced to the real estate market could not be an admissible underlying for a derivative which a CIU can acquire[5].

- It is a valid reference for its market by making adequate and relevant measurement of the return on a representative series of assets belonging

5 Expressly laid down in level 3 pronouncement by the CESR /07-44, box 22.

thereto, and it guarantees to continue doing so by periodic adjustments and reviews carried out in accordance with publicly disseminated objective criteria, and finally it comprises assets sufficiently liquid to permit its reproduction as appropriate.

- It is published in adequate manner. The procedures for gathering prices of its components, mechanisms for determining the prices of those for which no market price is available, and those for calculating the value of the index, must thus be solid.

- All relevant information is accessible to the public regarding the manner of calculating the index, the objective criteria for selecting its components, its reversible nature or otherwise, methods for readjustment, variations and possible incidents which prevent facilitating accurate and appropriate information regarding the index.

- It is sufficiently diversified, complying with the requirement of Section 38.2.d) of the Regulations of not presenting a concentration in a single issuer or issuers of the same group exceeding 20% and that variations in prices or trading of one of its components do not have an undue influence on the performance of the index.

- It is not calculated, and decisions on inclusion or removal of components are not taken by an entity whose economic group has issued or is counterparty to any type of security or financial instrument whose performance is referenced to the index.

If a derivative has an index as underlying which lacks any of the foregoing characteristics, it will be treated as a derivative of a combination of the components of the index, provided that they are eligible as underlying.

In the case of hedge fund indices, CESR has established a series of level 3 criteria[6], which have not been transposed in the Order, although they could be considered to be included in the general requirements and furthermore be incorporated in future regulatory developments. The CESR criteria are:

- That the provider of the index does not accept payments from its potential components.

- The calculation methodology prevents variations in index values of past dates as a result of changes in its composition (backfilling).

- The Managers have carried out a due diligence assessment of at least the following aspects:

  - Exhaustive examination of the index calculation method: classification of component, allocation of weighting, treatment of index components which disappear whilst they form part of it, etc.

6 Contained in the documents under reference CESR/07-434

- Analysis of the availability of information on the index: regularity of publication in relation to the frequency of repayment offered by the investor CIU, existence of audits of effective abidance by procedures defined and due diligence carried out by the provider of the index in respect of its potential components.

3 Derivative instruments embedded in a security or financial instrument

In order to bring about a consistent application of the regulations it is necessary, in the case of securities or financial instruments which incorporate an embedded derivative, that it be broken down into the different cash and derivative components which it includes. This requirement is recognised by the Order, in Section 8, with respect to computation of total market risk exposure limits, in Section 39.4 of the Regulations regarding the limits to exposure to the market and counterparty risk in relation to a single issuer established by Section 38, and in sub-section 11 of Rule 11 of CNMV Circular 7/1990 in the case of accounting treatment and valuation[7].

Section 8.4 of the Order lays down the criteria which, if fulfilled, will require breakdown of the financial instrument and separate treatment of the derivative instruments:

1 Obviously, that the instrument includes a derivative such that as a result of its issue or contractual conditions its flows are modified by variations in or levels of interest rates, prices of financial instruments, exchange rates, credit ratings, etc.

2 The characteristics and financial risks inherent in the derivative are not closely related to those of the cash component.

In accordance with CNMV Circular 3/1998, Rule 3.6, fixed income securities which incorporate a derivative whose underlying is an interest rate which does not substantially modify the payments which would result in the absence of the said derivative, will be considered closely connected and therefore not subject to breakdown. The same paragraph clarifies that instruments will in any event be subject to breakdown which, pursuant to the derivative component, expose the buyer to the risk of not recovering all of the investment or the possibility of negative interest flows.

Various examples of cases in which the risks and characteristics of the two components are not considered closely related and therefore need not be separated can be found in the level 3 criteria issued by CESR (CESR/07-044):

7 This aspect is also dealt with in Rule 19.9 of the draft CIU accounting circular, subject to public consultation until 10 June 2006 on the website of the CNMV.

Credit Linked Notes, securities whose return is linked to that of a bond index, or to a basket of shares and bonds convertible or exchangeable for other assets.

NIC 39, paragraphs 11, GA30 and GA33, the origin of the CESR recommendation in this respect, adopted in Directive 2007/16/EC and literally included in the Order, provides other examples of applying this principle.

3 The implicit derivative must have a significant effect on the risk profile and price of the derivative instrument.

4 The operation must incorporate a certain degree of gearing. The Order repeats this requirement now contained in Rule 3.6.a) of CNMV Circular 3/1998.

It is foreseeable that new regulations to be issued will develop the foregoing principles in greater detail.

Together with the need to separate the cash and derivative components, account must be taken of the analogous separation of different derivatives which may be present in turn in a derivative instruments or structured product.

The level 3 document referred to, CESR/07-044, expressly establishes the treatment which must be given to CDO or ABS through which a synthetic securitization has taken place. These instruments will not be broken down into cash and derivative components unless any of the following circumstances apply: they expose the holder to losses beyond the capital invested, there is insufficient diversification among the reference entities, or they are made to measure for the holder (single tranche CDO). As with other level 3 pronouncements, their incorporation into Spanish legislation will take place by the corresponding regulatory developments by the CNMV.

4 Purposes for using derivative financial instruments

Section 39.2 of the Regulations specifies the purposes which may be sought by Managers by using derivative financial instruments: ensuring an adequate cover of risks assumed in all or part of their portfolio, as investment for effective management of the portfolio, or as investment to achieve a specific yield objective.

4.1 Sophisticated and unsophisticated derivatives

The purposes for which derivatives may be used are established in the Order based on whether they are classified as sophisticated or unsophisticated.

Futures, forwards, term sales and swaps without option component will be considered unsophisticated, whether or not listed on a market, provided that when the underlying is fixed income or interest rate the modified duration parameter is adequate to measure their market risk or, in the case of different underlying, either it or the derivative itself is traded in the market where a daily price is obtained based on transactions exchanged. Similar treatment will be given to option contracts, including those instrumented by warrants or in swap format without exchange of the whole of the premium at the beginning of the contract, whose valuation by analytic models (closed formulae) on the hypothesis of lognormality of prices is generally accepted.

Other derivatives which do not comply with the previous paragraph and derivatives in respect of credit risk will be considered sophisticated.

4.2 Use of derivative instruments based on their degree of sophistication

Sections 3 and 4.3 of the Order specify the specific uses which may be made of a derivative, based on its complexity:

- All derivative financial instruments permitted by legislation may be used as hedging.
- Derivatives may also be used, whether sophisticated or not, in the framework of management aimed at achieving a specific yield objective.
- The following derivatives will be eligible for the purpose of investment:
  - Unsophisticated.
  - Sophisticated, provided that they are incorporated into a structured instrument which guarantees principal or which is traded on a market in such manner that a daily price obtained from transactions carried out by third parties is disseminated for them.
  - The following, whose underlying is credit risk: credit default swaps on a single reference entity, liquid and with representative daily quotation, and structured instruments with an embedded credit derivative which do not expose the holder to greater losses than the capital initially invested. The term “investment” is not specified in the regulation in the case of credit derivatives, which must be interpreted as any position which exposes the CIU to a risk that it would not have if it does not retain it. Consequently, investment can be considered to include both sale of protection under a CDS, and purchase on an entity in which the CIU has not previously maintained long credit positions (investment position which would expose the CIU to the risk of variation in the quoted premiums).

    When investing in other types of derivative Managers must ensure, before opening an investment position, that execution thereof does not give rise to the acquisition of assets which are ineligible for the CIU pursuant to legislation or prospectus. CDS on loans will not therefore be admissible for the purpose of investment.

5 Specific requirements laid down in the case of derivatives not traded on markets or organised trading systems

Section 36.1.g) of the Regulations, together with Section 7 of the Order, regulate the mandatory aspects of using derivatives not quoted on organised markets or systems[8].

1 The counterparties of CIUs in these transactions must be financial institutions domiciled in the OECD subject to prudential supervision or supra-national bodies of which Spain is member.

2 Counterparties must regularly engage in this type of transaction.

3 Counterparties must have sufficient solvency (for the period and currency of the transaction, qualifying Rule 23.1 of Circular 3/1998) evidenced by a favourable credit rating given by a specialist agency.

   In accordance with CNMV Circular 3/1998, Rule 23, sub-rules 2 and following, favourable long term credit rating will mean one which implies a strong capacity to meet payment obligations when due (A or better on the S&P scale). In the short term, it will be one which involves at least a satisfactory capacity to meet payment obligations when due (A-2 or better in accordance with S&P).

   This condition will be likewise deemed to be fulfilled if the obligations of the counterparty are jointly and severally guaranteed by another entity which has the required credit rating.

4 Transactions may be closed at any time in the discretion of CIUs for which the counterparty must undertake to offer daily firm purchase and sale prices, the maximum differential of which must be contractually fixed in accordance with a valuation method also established by contract. Both closing of the position against the counterparty and assignment of that maintained by the CIU at prices no worse than those quoted to a third party who complies with the foregoing requirements 1 to 3 are admissible.

5 With respect to the obligation that connected transactions carried out by CIUs be on better than market terms and conditions in the case of derivatives with a counterparty amongst entities of the group of the manager, investment company or depositary, the Order considers that compliance therewith will be demonstrated if there are quotations from at least two unconnected counterparties with worse terms and conditions. The other conditions must nevertheless be observed which are imposed to carry out this type of transaction by Section 67.3 of the Act.

In accordance with the Regulations, these five points will also be applied to derivatives quoted on markets which comply with the requirements of equivalence with official Spanish markets but do not have the requirement of guarantee deposits or daily settlement of gains and losses and a clearing house interposed between the parties acting as buyer in relation to the seller and vice versa, with the exception of term sales of public debt contracted with members of this market.

8 Those with regular functioning, investor protection and rules for transparency, functioning, access and admission to trading equivalent to official markets or systems in Spanish territory.

6 Restrictions on the use of derivatives

6.1 Restrictions on positions in market risk derivatives

The first restriction is that the total exposure of a CIU through derivatives[9] to market risk may not exceed its net worth. The method for calculating exposure is entrusted by the Order to the CNMV, with the following basic lines:

- The methodology must take into account the sophisticated or unsophisticated nature of the derivatives.

- The use of a compromise methodology in accordance with which positions in derivatives are transformed into equivalent positions in their underlying and currently developed in Chapter III of CNMV Circular 3/1998 will be valid in the case of unsophisticated instruments, except for options in which the delta parameters or modified duration are not adequate as measures of sensitivity of market risk.

- The conditions must have been defined for setting off positions, which will include those maintained in cash when they are covered by others in derivatives.

The second restriction is not being able to reach an amount exceeding 10% of net worth of the CIU in premiums paid for options (isolated or split off from structured instruments). The Order includes the principle, hitherto laid down in Rule 20.3 of CNMV Circular 3/1998, that this limit will only be computed on each new purchase of options. The remaining sub-rules of Rule 20 currently develop the method for computing this limit: the acquisition price must be taken, unless its market or fair value is significantly higher, and the premiums paid may be set off against those received for sale of options with the same underlying and with the same maturity date, unless they are incorporated in different structured instruments.

The Order lays down periods for restoring compliance with the foregoing limits when they are exceeded for reasons not attributable to Managers. The general period will be three months from when a breach takes place, which is reduced to 15 days if exposure to market risk exceeds 120% of the net worth of the CIU.

6.2 Restrictions on positions in counterparty risk derivatives

Restrictions have similarly been fixed for counterparty risk in the case of derivatives which are not traded on markets or trading systems equivalent to official Spanish systems in which in addition there is a clearing house interposed

9 Which will include short sales for these purposes. These transactions, instrumented through sales of securities received on loan by the CIU are expressly prohibited in the case of short sales of shares or holdings in other CIUs or money market instruments and untraded securities, in accordance with Sections 30.5 of the Act and 41.3 of the Regulations. From interpretation of the rule it is considered that short sales of other eligible assets are likewise prohibited (in accordance with an answer from the CNMV of 15/02/2006 to question 23 of the first block of consultations regarding the Regulations, available on its website in the section *CNMV al día-Comunicaciones de la CNMV*).

between buyer and seller and a deposit of security is required or a daily settlement is made of gains and losses. The limits on this risk are defined in Section 38.5 of the Regulations and Section 9 of the Order.

Counterparty risk is defined as the value to the CIU of realising the derivative instrument, the amount which it will receive in a market transaction for closing the position, discounting as the case may be the part which may have been already received from its counterparty. This risk may be reduced by deposits of cash or eligible public debt securities received by the CIU to secure compliance with the derivative contract, provided that the said security is fully enforceable in the event of breach by the counterparty. The Order opens the possibility for the CNMV to regulate set-off of balances in respect of derivative transactions with the same counterparty (netting) in order to calculate this risk and other requirements to be established regarding the security received for its reduction.

The value of the counterparty risk so calculated may not exceed 5% of the net worth of the CIU, 10% if the counterparty is a credit institution domiciled in the OECD subject to prudential supervision with a favourable credit rating and which has undertaken to offer firm daily quotations. In addition, in accordance with the Order, Managers must at all times maintain a reasonable policy of diversifying this risk.

6.3 Treatment of positions in derivatives in computing limits on exposure to a single issuer

Finally, positions in derivative instruments must also be taken into account for the purpose of computing the limits of exposure of a CIU to the same issuer, laid down in subsections 2, 3, 6 and 7 of Section 38 of the Regulations, for which purpose positions in derivatives will have to be converted into equivalent positions in their underlying. In the case of financial instruments which expose the CIU to counterparty risk dealt with in the previous paragraphs, there must be a twofold computation of these limits: firstly in respect of the equivalent position in the underlying, and secondly adding the related counterparty risk to other risks which may be maintained in relation to the issue of the derivative. As already indicated, derivatives in respect of a combination of underlying must be broken down in order to verify compliance with the limits to a single issuer.

Those CIUs in which derivatives are used for the purpose of achieving a specific return objective guaranteed to them by third parties will not be subject to the three types of limit described. Nevertheless, the third party who gives the guarantee must comply with the solvency requirements laid down for counterparties in transactions with derivatives not quoted on the market.

7 Obligations of Managers

The obligations of Managers firstly include that of daily valuation at market price of positions in derivatives of the CIU[10].

For this purpose, when there is no sufficiently liquid market enabling compliance therewith, the board of directors of Managers must, before engaging in the transaction, have approved the valuation method (in accordance with generally accepted methodologies) to be used for obtaining the theoretical amount at which informed parties would be prepared to engage in a transaction on market conditions. This method must furthermore be previously verified by a person with sufficient authority from the depositary.

Valuations obtained must be verified with adequate frequency, either by a third party to the counterparty or by a unit of Managers independent of the management unit, it being required in each case that the person responsible has sufficient resources for verification.

Managers are also under an obligation to permanently monitor commitments acquired by the CIU in respect of its derivative transactions. To this end they must keep a statement updated daily available to the CNMV evaluating the commitments and risks resulting from the positions maintained by each CIU in derivatives in relation to the general risks of their portfolio. The statements must be reviewed weekly by persons other than those who prepared them. The specific terms on which this obligation is complied with may be laid down by the CNMV pursuant to the authorisation set out in Section 11.e) of the Order.

There is a third group of obligations which, in the case of transactions in derivatives, specify the need for Managers to have sufficient internal control procedures and resources in accordance with the activities they intend to carry out, established in Sections 41.2) and 43.1.j) of the Act. The following can be highlighted:

- To have experts or contract independent advisers with proven experience in the field. The CNMV may fix the specific terms of this requirement in accordance with the sophisticated or unsophisticated nature of the instruments it is planned to use.

- To have qualified professional knowledge.

- To draw up an investment plan and gather the information necessary at all times to take investment decisions in a consistent and solidly reasoned manner.

- To verify the consistency of transactions with the investment policy notified to participants.

10 The daily regularity of this obligation is established in the Order independently of the frequency of calculating liquidating value indicated by each CIU in its prospectus.

8 Other aspects dealt with by the Order

The Order regulates another two aspects relating to transactions in derivatives.

It firstly establishes minimum information to be included in periodic documents of CIUs: purpose, risks assumed, results obtained, maximum spread established in OTC contracts and, with respect to transactions in unquoted derivatives contracted with entities belonging to the group of the Manager or depositary, that necessary to demonstrate that they have been carried out under market conditions. This information must comply with the provisions laid down by the CNMV[11].

Finally, the supervision regime of these transactions is regulated, obliging Managers at the request of the CNMV to send detailed information on transactions in derivatives. This includes information relating to risk covered and results obtained in coverage transactions and open positions, premiums paid and received and realised or latent results in investment transactions. The CNMV may establish standard models for compliance with this obligation.

9 Definition and clarification of certain concepts

As indicated in the introduction, Chapter II of the Order transposes a large part of Directive 2007/16/EC of the European Commission, where certain definitions are clarified relating to assets eligible for UCITS for the purpose of bringing about uniform application of European regulation amongst Member States.

9.1 Eligible transferable securities

The first concept is that of eligible transferable securities, set out in Spanish legislation in sub-sections 1.a and b (principally negotiable securities admitted or to be admitted to listing and grouped into issues), and 1.j (UCITS not harmonised or equivalent, hedge funds and funds of hedge funds or equivalent, unlisted securities and holdings in risk capital) of Section 36 of the Regulations. The characteristics which must be fulfilled by financial rights held by CIUs in order to fall within the two categories set out in the Regulations, as well as those established therein, are:

1 The highest loss which the owner may suffer from holding them may not exceed the amount paid for their acquisition.

2 They must be negotiable. A requirement which is presumed to be complied with, unless Managers have information from which the contrary can be

11 A new circular is presently being prepared on the content of quarterly, half-yearly and annual reports of collective investment undertakings and position statements, a draft of which was at the public consultation stage until 22/04/2008.

concluded, if they are admitted to trading on markets which fulfil the requirements of Section 36.1.a) of the Regulations.

3 Appropriate information regarding the instruments must be available. In the case of instruments under Section 36.1.a and b, the condition is fulfilled by the obligatory provision to the market of periodic complete data required regarding the security. It is required that information with the same characteristics be provided to the CIU in the case of assets under Section 36.1.j.

4 A reliable valuation of these instruments must be available. In the case of assets under Section 36.1.a) and b) of the Regulations, this requirement means the existence of reliable periodic prices either obtained from the market or by independent valuation systems of issuers. In the case of assets under 36.1.j), compliance therewith means the need to have a periodic valuation made from information from the issuer or competent studies in the investment field.

5 The liquidity of the instruments may not compromise the ability of the CIU to meet repayment of its shares or holdings. Liquidity is presumed, unless Managers have information from which the contrary can be concluded, if they are admitted to trading on markets which fulfil the requirements of Section 36.1.a) of the Regulations.

6 Their acquisition must be compatible with the investment policy and objectives declared by the CIU and the risks which are involved in holding them must be taken into account by the management processes of Managers.

The following instruments will be deemed to be included within Section 36.1.a) of the Regulations, provided that their characteristics conform to those listed in the six previous points and those required by the Regulations themselves:

- Shares or holdings in closed collective investment undertakings with return linked to that of assets considered to be valid underlying of derivatives, subject to corporate governance mechanisms equivalent to those applied to companies, and managed by an entity subject to national provisions for the protection of investors.

- Financial instruments whose return is linked to eligible underlying for derivatives.

- Instruments of the two foregoing paragraphs whose return is not linked to that of eligible underlying which are subject to daily trading and a market price fixed on the basis of transactions exchanged and which do not incorporate an embedded derivative.

9.2 Unquoted money market instruments

The Order subsequently specifies the characteristics required of money market instruments not quoted on markets or trading systems equivalent to official Spanish systems covered by Section 36.1.h) of the Regulations, in order to be considered eligible:

1 There must be adequate information regarding the instrument, including that enabling assessment of the credit risk incurred by their acquisition. Adequate will mean, with slight variations based on the issuer, information relating to the issue and issue programme and legal and financial situation of the issuer in relation both to a date prior to issue of the instrument and updated periodically, and provided that significant events are registered.

2 The value of these instruments must be determined accurately at all times. This value will be that at which informed parties will be prepared to exchange them in an arm's length transaction on market conditions obtained through market data or valuation models of which those based on amortised costs will be acceptable.

3. Section 36.1.h) of the Regulations provides that issuers will include entities subject to prudential supervision. It will be deemed that an entity is subject to prudential supervision when it must comply with prudential rules and observe one of the following conditions: it is located in the European Economic Area or OECD countries belonging to the Group of Ten, has a credit rating within investment grade, or can demonstrate that the prudential rules applicable to the issuer are at least as rigorous as Community rules.

9.3 Regarding CIUs which replicate indices

The Order finally clarifies two aspects in respect of CIUs whose investment policy is to reproduce an equity or fixed income index:

- Both reproduction by replication of the components of the index in the fund portfolio and that brought about by the use of derivatives are admissible.

- The requirements for diversified composition, adequate market reference and public dissemination under Section 38.2.d) of the Regulations will be deemed to be fulfilled if the index complies with those required in order to be considered valid as underlying of derivative instruments.

10 Conclusions

The use of derivatives by CIUs has undergone two major modifications as a result of promulgation of the Order. Firstly the broadening of eligible underlying laid down by the Regulations is specified, clarifying certain concepts and introducing specific requirements for underlying such as credit risk and financial indices. Furthermore, the purposes for which these instruments may be used are established from the perspective of their greater or lesser sophistication and not, as previously, their status as quoted or not in the market. Consequently, the exposure of CIUs by the use of sophisticated derivative instruments must be measured for the purpose of computing limits with a different methodology to that of commitment as currently laid down in Circular 3/1998 and pending development.

Transposition by the Order of clarifications regarding eligible assets contained in the European regulation means that CIUs can gain exposure through their cash investments to new assets traditionally considered ineligible, provided that certain conditions are fulfilled, principally regarding the information available in respect of them, valuation and representative market quotation. The Order, seeking consistency between exposures which can be achieved by cash or derivatives, considers commodities and hedge funds as eligible underlying for derivative instruments, which is not provided for in European regulation.

IV Statistics Annex

1 Markets

1.1 Equity

Share issues and public offerings[1]

TABLE 1.1

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[2]
CASH VALUE[3] (Million euro)	2,960.5	5,021.7	23,757.9	11,218.1	4,337.2	7,398.7	9.5	39.9
Capital increases	2,803.4	2,562.9	21,689.5	9,896.5	4,273.8	6,823.1	0.0	39.9
Of which, primary offerings	0.0	644.9	8,502.7	334.2	3,485.2	4,683.3	0.0	0.0
With Spanish tranche	0.0	303.0	4,821.4	334.2	2,449.6	2,037.6	0.0	0.0
With international tranche	0.0	342.0	3,681.4	0.0	1,035.6	2,645.8	0.0	0.0
Secondary offerings	157.1	2,458.8	2,068.5	1,321.6	63.4	575.6	9.5	0.0
With Spanish tranche	54.7	1,568.1	1,517.1	913.5	63.4	432.4	9.5	0.0
With international tranche	102.5	890.7	551.4	408.1	0.0	143.3	0.0	0.0
NO. OF FILES[4]	27	30	35	10	6	12	1	2
Capital increases	25	21	26	8	5	7	0	2
Of which, primary offerings	0	8	8	2	2	4	0	1
Of which, bonus issues	6	0	0	0	0	0	0	0
Secondary offerings	2	14	12	3	1	7	1	1
NO. OF ISSUERS[4]	24	23	29	10	6	10	1	2
Capital increases	23	18	24	8	5	7	0	2
Of which, primary offerings	0	6	6	2	2	4	0	1
Secondary offerings	1	10	8	3	1	5	1	1

1 Total files registered with the CNMV (including supplements of initial files).
2 Available data: May 2008.
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

				2007			2008	
Million euro	2005	2006	2007	II	III	IV	I	II[1]
PRIMARY OFFERINGS	0.0	644.9	8,502.7	334.2	3,485.2	4,683.3	0.0	0.0
Spanish tranche	0.0	303.0	4,646.2	334.2	2,277.0	2,035.0	0.0	0.0
Private subscribers	0.0	8.7	2,841.0	112.0	1,898.5	830.5	0.0	0.0
Institutional subscribers	0.0	294.3	1,805.2	222.2	378.5	1,204.5	0.0	0.0
International tranche	0.0	342.0	3,681.4	0.0	1,035.6	2,645.8	0.0	0.0
Employees	0.0	0.0	175.2	0.0	172.6	2.6	0.0	0.0
Others	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SECONDARY OFFERINGS	157.1	2,458.8	2,068.5	1,321.6	63.4	575.6	9.5	0.0
Spanish tranche	54.7	1,565.0	1,505.7	903.6	63.4	430.8	9.5	0.0
Private subscribers	27.3	390.0	393.9	289.4	0.0	88.4	0.0	0.0
Institutional subscribers	27.3	1,175.0	1,111.8	614.3	63.4	342.4	9.5	0.0
International tranche	102.5	890.7	551.4	408.1	0.0	143.3	0.0	0.0
Employees	0.0	3.1	11.4	9.9	0.0	1.6	0.0	0.0
Others	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

1 Available data: May 2008.

Admission to listing. Files registered at the CNMV

TABLE 1.3

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
NOMINAL VALUE (Million euro)								
With issuance prospectus	498.0	963.4	5,894.3	91.2	171.8	5,562.1	13.3	25.5
Capital increases	494.0	575.9	5,687.2	6.6	171.8	5,439.6	13.3	25.5
Of which, primary offerings	0.0	145.3	5,424.4	4.5	0.0	5,419.8	0.0	0.0
Secondary offerings	4.0	387.5	207.1	84.6	0.0	122.5	0.0	0.0
Without issuance prospectus	167.3	564.7	8,366.1	1,166.4	440.9	6,438.4	274.7	270.7
NO. OF FILES								
With issuance prospectus	26	18	22	5	4	8	2	1
Capital increases	25	13	18	3	4	6	2	1
Of which, primary offerings	0	5	6	2	0	4	0	0
Secondary offerings	1	9	7	3	0	4	0	0
Without issuance prospectus	27	61	72	19	20	16	9	7

1 Available data: May 2008.

Companies listed[1]

TABLE 1.4

	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[2]
Total electronic market[3]	126	135	143	137	136	143	141	141
Of which, without Nuevo Mercado	115	124	142	127	126	142	141	141
Of which, Nuevo Mercado	11	11	1	10	10	1	0	0
Of which, foreign companies	5	6	5	6	6	5	5	5
Second Market	14	12	11	11	11	11	10	9
Madrid	2	2	2	2	2	2	2	2
Barcelona	10	9	9	8	9	9	8	7
Bilbao	0	0	0	0	0	0	0	0
Valencia	2	1	0	1	0	0	0	0
Open outcry ex SICAV	47	38	31	33	32	31	29	29
Madrid	22	16	13	14	14	13	13	13
Barcelona	28	24	20	20	20	20	19	19
Bilbao	14	10	9	9	9	9	8	8
Valencia	18	13	9	11	10	9	7	7
Open outcry SICAV	3,111	744	8	23	9	8	5	4
MAB[4]	-	2,405	3,287	3,193	3,241	3,287	3,322	3,347
Latibex	32	34	34	34	34	34	34	34

1 Data at the end of period.
2 Available data: May 2008.
3 Without ETF (Exchange Traded Funds).
4 Alternative Stock Market.

Capitalisation[1]

TABLE 1.5

Million euro	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[2]
Total electronic market[3]	616,659.5	813,765.1	892,053.8	895,117.9	840,333.3	892,053.8	780,720.1	825,048.2
Of which, without Nuevo Mercado	607,167.8	800,148.0	891,875.7	884,128.5	829,721.5	891,875.7	780,720.1	825,048.2
Of which, Nuevo Mercado	9,491.8	13,617.1	178.1	10,989.4	10,611.9	178.1	0.0	0.0
Of which, foreign companies	64,312.7	105,600.9	134,768.6	137,570.1	104,807.9	134,768.6	120,418.7	141,809.0
Ibex 35	411,712.5	512,828.0	524,651.0	537,038.9	527,210.1	524,651.0	455,694.3	466,914.8
Second Market	444.2	392.7	286.8	610.3	295.7	286.8	217.1	169.0
Madrid	9.2	18.9	27.8	37.3	24.6	27.8	23.2	27.6
Barcelona	291.2	184.2	259.0	234.2	271.1	259.0	193.9	141.4
Bilbao	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Valencia	143.8	189.6	0.0	338.8	0.0	0.0	0.0	0.0
Open outcry ex SICAV	6,874.8	7,905.3	7,444.9	8,713.0	8,890.0	7,444.9	7,228.8	6,970.3
Madrid	3,486.7	2,698.1	1,840.6	3,050.6	2,796.4	1,840.6	1,810.9	1,738.8
Barcelona	3,129.2	4,966.3	4,627.8	5,159.5	5,247.4	4,627.8	4,963.8	4,789.7
Bilbao	405.9	59.5	108.2	137.1	137.1	108.2	107.3	27.0
Valencia	836.1	741.9	1,206.5	777.8	1,145.5	1,206.5	994.2	1,004.2
Open outcry SICAV	33,171.1	9,284.1	245.4	1,289.6	990.1	245.4	200.2	202.4
MAB[4]	0.0	29,866.3	41,659.8	41,196.5	41,259.2	41,659.8	39,298.0	40,410.9
Latibex	216,111.3	271,641.8	427,773.6	346,492.3	387,064.2	427,773.6	389,629.9	482,771.2

1 Data at the end of period.
2 Available data: May 2008.
3 Without ETF (Exchange Traded Funds).
4 Alternative Stock Market.

Trading

TABLE 1.6

Million euro	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[1]
Total electronic market[2]	847,652.2	1,144,562.9	1,653,354.8	438,830.9	369,572.5	430,021.7	377,897.7	211,778.7
Of which, without Nuevo Mercado	818,653.2	1,118,546.1	1,627,369.5	433,444.8	364,309.6	425,558.0	377,886.2	211,778.7
Of which, Nuevo Mercado	28,999.0	26,016.8	25,985.3	5,386.2	5,262.9	4,463.7	11.4	0.0
Of which, foreign companies	15,115.1	11,550.3	7,499.3	1,313.2	939.4	1,018.2	552.1	260.6
Second Market	25.9	49.3	192.9	21.4	37.7	11.8	3.2	1.7
Madrid	1.8	7.2	8.9	2.4	0.9	0.8	0.5	1.6
Barcelona	22.9	41.6	182.3	18.7	36.0	11.0	2.7	0.2
Bilbao	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Valencia	1.3	0.5	1.7	0.3	0.7	0.0	0.0	0.0
Open outcry ex SICAV	887.1	737.6	792.7	152.4	65.4	258.6	38.5	17.2
Madrid	198.2	257.9	236.1	55.4	21.3	92.7	17.5	6.4
Barcelona	667.0	297.8	402.8	94.5	40.1	29.1	17.6	10.5
Bilbao	13.4	159.9	0.1	0.0	0.0	0.0	0.0	0.0
Valencia	8.4	22.0	153.8	2.5	3.9	136.7	3.3	0.4
Open outcry SICAV	5,022.8	4,580.6	361.6	56.4	32.4	15.2	5.9	2.1
MAB[3]	0.0	1,814.2	6,985.2	1,604.9	1,369.1	2,240.4	1,966.1	1,114.9
Latibex	556.7	723.3	868.2	226.5	209.1	215.6	305.9	123.0

1 Available data: May 2008.
2 Without ETF (Exchange Traded Funds).
3 Alternative Stock Market.

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

TABLE 1.7

Million euro	2005	2006	2007	2007 II	III	IV	2008 I	II[2]
Regular trading	798,934.5	1,080,117.5	1,577,249.5	426,431.3	359,745.1	389,841.9	354,712.5	204,145.6
Orders	488,416.3	658,839.2	985,087.6	250,841.2	232,805.5	246,015.5	245,239.9	119,908.0
Put-throughs	82,403.1	105,910.7	155,085.1	42,731.3	34,295.0	38,761.4	34,574.7	19,181.4
Block trades	228,115.1	315,367.7	437,076.8	132,858.9	92,644.6	105,064.9	74,898.0	65,056.2
Off-hours	27,863.0	11,651.6	18,301.5	5,191.6	3,563.2	5,902.5	4,260.1	2,255.7
Authorised trades	4,773.4	4,052.0	4,189.6	1,789.6	304.6	640.3	374.6	383.5
Art. 36.1 SML trades	1.3	6,439.7	0.0	0.0	0.0	0.0	0.0	0.0
Tender offers	6,682.8	18,094.6	26,284.3	50.0	1,995.7	20,079.8	14,049.1	3,297.6
Public offerings for sale	226.3	3,264.0	11,177.4	1,939.5	0.0	9,237.9	0.0	0.0
Declared trades	2,298.9	10,347.9	2,954.4	268.3	172.5	233.6	836.3	0.0
Options	5,268.0	8,279.8	10,240.4	2,609.6	2,795.7	3,227.0	2,450.3	371.9
Hedge transactions	1,615.4	2,315.7	2,957.8	550.9	995.9	858.8	1,214.7	1,324.4

1 Without ETF (Exchange Traded Funds).
2 Available data: May 2008.

Margin trading for sales and securities lending

TABLE 1.8

Million euro	2005	2006	2007	2007 II	III	IV	2008 I	II[1]
TRADING								
Securities lending[2]	393,964.1	550,850.4	835,326.9	245,021.9	179,969.9	213,637.3	159,984.9	125,470.8
Margin trading for sales of securities[3]	152.2	379.9	555.4	123.2	166.6	136.3	189.5	98.4
Margin trading for securities purchases[3]	465.0	511.9	411.3	108.2	72.5	84.5	52.7	26.0
OUTSTANDING BALANCE								
Securities lending[2]	66,737.5	62,058.2	79,532.9	103,293.4	92,265.1	79,532.9	69,068.6	71,339.3
Margin trading for sales of securities[3]	28.5	73.6	112.4	94.6	133.7	112.4	97.8	65.8
Margin trading for securities purchases[3]	52.3	70.1	59.4	64.0	45.3	59.4	30.7	30.7

1 Available data: May 2008.
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

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[2]
NO. OF ISSUERS	155	159	173	66	53	75	59	41
Mortgage covered bonds	9	11	10	4	6	4	7	11
Territorial covered bonds	2	5	4	1	2	1	7	0
Non-convertible bonds and debentures	49	46	41	20	16	3	5	6
Convertible bonds and debentures	4	1	0	0	0	0	0	0
Backed securities	53	61	77	22	16	34	16	15
Commercial paper	68	68	80	22	18	35	26	12
Of which, asset-backed	3	3	3	2	1	0	0	0
Of which, non-asset-backed	65	65	77	20	17	35	26	12
Other fixed-income issues	1	0	2	1	2	0	0	0
Preference shares	6	9	5	1	2	0	4	1
NO. OF ISSUES	263	335	334	86	76	84	74	58
Mortgage covered bonds	21	37	32	10	9	5	11	16
Territorial covered bonds	3	6	8	1	4	1	7	0
Non-convertible bonds and debentures	93	115	79	25	20	3	7	12
Convertible bonds and debentures	4	1	0	0	0	0	0	0
Backed securities	54	82	101	25	19	40	18	17
Commercial paper	80	83	106	23	20	35	27	12
Of which, asset-backed	3	3	3	2	1	0	0	0
Of which, non-asset-backed	77	80	103	21	19	35	27	12
Other fixed-income issues	1	0	3	1	2	0	0	0
Preference shares	7	11	5	1	2	0	4	1
NOMINAL AMOUNT (Million euro)	414,253.9	523,131.4	648,757.0	156,957.4	163,782.9	154,568.4	117,526.8	87,673.5
Mortgage covered bonds	35,560.0	44,250.0	24,695.5	7,245.5	6,525.0	2,525.0	1,250.0	7,595.0
Territorial covered bonds	1,775.0	5,150.0	5,060.0	1,500.0	2,000.0	110.0	1,020.0	0.0
Non-convertible bonds and debentures	41,907.1	46,687.5	27,416.0	9,427.0	7,750.0	257.0	604.1	2,051.6
Convertible bonds and debentures	162.8	68.1	0.0	0.0	0.0	0.0	0.0	0.0
Backed securities	69,044.3	91,607.7	141,627.0	31,517.5	17,898.3	52,819.0	28,657.0	19,481.6
Spanish tranche	63,908.3	85,099.9	141,627.0	31,517.5	17,898.3	52,819.0	28,657.0	19,481.6
International tranche	5,136.0	6,507.8	0.0	0.0	0.0	0.0	0.0	0.0
Commercial paper[3]	264,359.5	334,457.0	442,433.5	106,967.4	122,464.6	98,857.4	85,899.6	58,445.3
Of which, asset-backed	2,767.5	1,992.7	464.8	138.8	85.0	85.0	133.0	48.0
Of which, non-asset-backed	261,592.0	332,464.3	441,968.7	106,828.6	122,379.6	98,772.4	85,766.6	58,397.3
Other fixed-income issues	89.3	0.0	7,300.0	225.0	7,075.0	0.0	0.0	0.0
Preference shares	1,356.0	911.0	225.0	75.0	70.0	0.0	96.0	100.0
Pro memoria:								
Subordinated issues	11,078.5	27,361.5	47,158.3	3,777.6	12,702.1	16,196.9	2,312.5	1,353.3
Underwritten issues	94,368.0	92,213.5	121,608.5	31,616.5	17,898.3	32,701.5	6,533.5	3,719.6

1 This Includes the volume of issues admitted to trading without register issuance prospectuses.
2 Available data: May 2008.
3 The figures for commercial paper refer to the amount placed in the year.

Issues admitted to trading on AIAF

TABLE 1.10

				2007			2008	
Nominal amount in million euro	2005	2006	2007	II	III	IV	I	II[1]
Total	425,137.4	507,525.3	640,096.2	147,084.9	172,663.4	144,959.2	121,675.6	87,759.3
Commercial paper	263,728.9	332,328.4	439,787.3	105,314.5	120,587.0	98,821.1	89,157.4	58,377.8
Bonds and debentures	56,771.5	45,155.4	30,006.9	7,295.0	9,375.0	2,704.9	507.0	2,025.7
Mortgage covered bonds	31,600.0	43,720.0	27,195.5	6,495.5	8,575.0	2,575.0	1,225.0	2,120.0
Territorial covered bonds	1,775.0	2,650.0	7,450.0	1,000.0	3,500.0	0.0	930.0	200.0
Backed securities	67,480.5	83,042.5	135,149.5	26,904.9	30,556.5	40,858.1	29,760.2	25,035.8
Preference shares	3,781.5	629.0	507.0	75.0	70.0	0.0	96.0	0.0
Matador bonds	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

1 Available data: May 2008.

AIAF. Issuers, issues and outstanding balance

TABLE 1.11

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
NO. OF ISSUERS	384	438	492	457	472	492	509	521
Commercial paper	66	69	73	66	71	73	74	73
Bonds and debentures	82	80	92	92	92	92	91	91
Mortgage covered bonds	12	14	14	15	14	14	17	22
Territorial covered bonds	3	5	7	7	7	7	11	11
Backed securities	211	257	316	280	297	316	333	347
Preference shares	42	46	50	49	50	50	52	52
Matador bonds	20	20	15	17	16	15	15	14
NO. OF ISSUES	2,836	3,681	4,314	4,143	4,293	4,314	4,410	4,648
Commercial paper	1,724	2,242	2,493	2,539	2,552	2,493	2,480	2,646
Bonds and debentures	329	398	445	430	452	445	442	448
Mortgage covered bonds	54	83	111	98	106	111	121	134
Territorial covered bonds	8	11	19	15	19	19	25	26
Backed securities	631	856	1157	971	1074	1,157	1,249	1,302
Preference shares	58	65	71	70	71	71	75	75
Matador bonds	32	26	18	20	19	18	18	17
OUTSTANDING BALANCE[2] (Million euro)	448,679.3	588,942.3	758,559.8	675,996.4	729,774.6	758,559.8	772,385.6	797,545.6
Commercial paper	57,719.4	70,778.6	98,467.6	81,591.4	97,795.9	98,467.6	96,152.7	100,177.6
Bonds and debentures	103,250.7	131,107.8	139,586.3	136,090.3	142,655.3	139,586.3	132,397.1	133,479.4
Mortgage covered bonds	90,550.0	129,710.0	150,905.5	145,755.5	151,330.5	150,905.5	152,130.5	154,250.5
Territorial covered bonds	7,575.0	9,525.0	16,375.0	13,475.0	16,375.0	16,375.0	16,305.0	16,505.0
Backed securities	164,810.0	222,866.1	328,924.6	274,173.0	297,196.9	328,924.6	351,003.4	368,796.4
Preference shares	22,486.6	23,115.6	23,062.6	23,492.6	23,062.6	23,062.6	23,158.6	23,158.6
Matador bonds	2,287.6	1,839.2	1,238.2	1,418.5	1,358.4	1,238.2	1,238.2	1,178.1

1 Available data: May 2008.
2 Nominal amount.

AIAF. Trading

TABLE 1.12

				2007			2008	
Nominal amount in million euro	2005	2006	2007	II	III	IV	I	II[1]
BY TYPE OF ASSET	877,812.1	910,493.9	1,127,477.7	262,799.2	287,044.2	291,041.6	338,568.2	382,586.5
Commercial paper	408,185.0	489,069.5	568,009.6	140,611.4	148,715.3	124,955.9	130,792.9	89,482.3
Bonds and debentures	86,585.7	82,421.1	87,035.7	25,082.6	19,214.4	15,580.9	19,036.9	15,313.7
Mortgage covered bonds	60,060.9	70,113.5	80,811.2	19,535.9	16,042.3	24,196.7	17,036.8	29,956.6
Territorial covered bonds	2,740.1	3,659.1	7,749.8	568.4	4,315.0	1,649.6	4,669.9	1,118.3
Backed securities	313,778.5	257,628.9	378,005.2	75,463.1	97,548.2	123,504.1	166,049.8	246,134.4
Preference shares	4,046.2	4,647.8	4,492.4	1,031.7	897.7	1,153.4	976.0	580.3
Matador bonds	2,415.7	2,954.1	1,373.8	506.2	311.4	0.9	6.0	0.8
BY TYPE OF TRANSACTION	877,812.1	910,493.9	1,127,477.7	262,799.2	287,044.2	291,041.6	338,568.2	382,586.5
Outright	322,819.1	386,368.8	416,477.9	100,039.0	104,013.7	97,807.4	99,070.8	70,678.5
Repos	284,520.0	330,839.9	441,362.7	117,077.4	109,684.9	94,131.8	84,487.7	57,950.0
Sell-buybacks/Buy-sellbacks	270,473.0	193,285.1	269,637.1	45,682.8	73,345.6	99,102.3	155,009.7	253,958.0

1 Available data: May 2008.

AIAF. Third-party trading. By purchaser sector

TABLE 1.13

				2007			2008	
Nominal amount in million euro	2005	2006	2007	II	III	IV	I	II[1]
Total	591,837.2	702,608.8	837,308.5	211,982.4	209,271.8	184,318.1	178,672.7	124,351.0
Non-financial companies	218,139.5	260,108.1	364,490.6	102,730.2	91,476.3	82,132.5	73,182.6	50,621.5
Financial institutions	218,381.1	247,876.4	282,816.9	71,023.9	73,910.0	69,024.8	71,161.5	51,954.4
Credit institutions	71,118.9	83,999.1	99,492.0	26,406.4	26,507.9	26,550.0	25,715.4	23,510.1
CIS[2], insurance and pension funds	138,580.4	145,911.5	152,429.2	38,310.3	39,606.4	34,195.3	39,714.3	25,227.8
Other financial institutions	8,681.8	17,965.8	30,895.6	6,307.3	7,795.7	8,279.5	5,731.7	3,216.0
General government	5,629.4	7,058.9	7,762.4	2,195.6	1,944.6	1,108.1	1,224.6	961.1
Households and NPISHs[3]	14,433.3	23,675.9	28,534.8	4,427.7	4,047.5	3,749.2	3,656.6	2,442.4
Rest of the world	135,253.9	163,889.4	153,703.8	31,605.1	37,893.3	28,303.5	29,447.4	18,372.2

1 Available data: May 2008.
2 Collective Investment Schemes.
3 Non-profit institutions serving households.

Issues admitted to trading on equity markets. Files registered at the CNMV

TABLE 1.14

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
NOMINAL AMOUNTS (Million euro)	1,234.6	68.1	7,000.0	0.0	0.0	7,000.0	0.0	0.0
Non-convertible bonds and debentures	1,140.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Convertible bonds and debentures	94.6	68.1	0.0	0.0	0.0	0.0	0.0	0.0
Others	0.0	0.0	7,000.0	0.0	0.0	7,000.0	0.0	0.0
NO. OF FILES	6	1	1	0	0	1	0	0
Non-convertible bonds and debentures	3	0	0	0	0	0	0	0
Convertible bonds and debentures	3	1	0	0	0	0	0	0
Others	0	0	1	0	0	1	0	0

1 Available data: May 2008.

Equity markets. Issuers, issues and outstanding balances

TABLE 1.15

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
NO. OF ISSUERS	56	57	53	53	50	53	53	53
Private issuers	39	40	40	38	37	40	40	40
Non-financial companies	12	10	6	8	7	6	6	6
Financial institutions	27	30	34	30	30	34	34	34
General government[3]	17	17	13	15	13	13	13	13
Regional governments	3	3	3	3	3	3	3	3
NO. OF ISSUES	267	264	249	247	243	249	245	251
Private issuers	122	131	133	121	120	133	133	133
Non-financial companies	22	18	12	14	13	12	10	10
Financial institutions	100	113	121	107	107	121	123	123
General government[3]	145	133	116	126	123	116	112	118
Regional governments	92	89	83	91	89	83	81	85
OUTSTANDING BALANCES[2] (Million euro)	16,323.0	17,105.4	25,654.7	16,594.7	16,918.2	25,654.7	25,583.8	26,289.0
Private issuers	5,507.3	6,784.3	14,958.1	6,183.0	6,055.4	14,958.1	14,800.1	14,709.9
Non-financial companies	835.4	492.1	452.5	454.0	454.0	452.5	381.2	381.2
Financial institutions	4,671.9	6,292.2	14,505.6	5,729.0	5,601.4	14,505.6	14,418.9	14,328.7
General government[3]	10,816.1	10,321.1	10,696.6	10,411.7	10,862.8	10,696.6	10,783.7	11,579.1
Regional governments	8,457.2	8,319.8	8,862.6	8,721.4	8,788.0	8,862.6	9,100.3	9,695.7

1 Available data: May 2008.
2 Nominal amount.
3 Without public book-entry debt.

Trading on equity markets

TABLE 1.16

				2007			2008	
Nominal amounts in million euro	2005	2006	2007	II	III	IV	I	II[1]
Electronic market	220.0	257.3	444.8	23.5	17.8	316.3	537.7	255.4
Open outcry	4,538.3	5,009.9	7,154.3	592.6	471.1	4,023.6	1,873.2	23.8
Madrid	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Barcelona	4,404.2	4,879.6	7,040.1	563.6	445.3	3,998.2	1,829.1	0.6
Bilbao	9.2	24.8	7.5	2.0	1.7	2.1	1.6	0.7
Valencia	124.8	105.5	106.7	27.0	24.1	23.2	42.6	22.5
Public book-entry debt	36.1	35.6	33.6	10.4	6.9	8.7	8.8	8.2
Regional governments debt	83,204.0	84,443.6	84,178.3	21,295.2	20,750.1	21,152.6	16,972.7	12,783.3

1 Available data: May 2008.

Organised trading systems: SENAF y MTS. Public debt trading by type

TABLE 1.17

				2007			2008	
Nominal amounts in million euro	2005	2006	2007	II	III	IV	I	II[1]
Total	219.6	175.1	95.8	22.9	14.1	32.8	27.3	14.1
Outright	71.0	94.3	58.6	14.1	12.0	15.2	19.5	4.1
Sell-buybacks/Buy-sellbacks	148.5	80.2	37.2	8.8	2.0	17.6	7.8	10.0
Others	0.1	0.6	0.0	0.0	0.0	0.0	0.0	0.0

1 Available data: May 2008.

1.3 Derivatives and other products

1.3.1 Financial derivatives markets: MEFF

Trading on MEFF TABLE 1.18

				2007			2008	
Number of contracts	2005	2006	2007	II	III	IV	I	II[1]
Debt products	46	15	13	4	4	4	4	2
Debt futures[2]	46	15	13	4	4	4	4	2
Ibex 35 products[3, 4]	5,490,958	7,119,853	9,288,909	2,443,146	2,423,272	2,176,326	2,346,726	1,577,873
Ibex 35 plus futures	4,935,648	6,408,961	8,435,258	2,235,602	2,211,103	1,931,745	2,042,491	1,433,303
Ibex 35 mini futures	114,563	159,830	286,574	70,034	78,006	75,552	84,643	44,747
Call mini options	232,825	288,542	227,535	53,850	43,365	82,293	76,766	38,429
Put mini options	207,922	262,521	339,542	83,661	90,798	86,736	142,826	61,393
Stock products[5]	29,728,916	33,655,790	34,887,808	6,818,146	8,141,493	13,011,176	12,300,311	9,658,921
Futures	18,813,689	21,229,811	21,294,315	3,773,666	5,105,492	8,637,161	8,519,578	7,416,401
Call options	6,803,863	7,664,125	6,775,525	1,655,261	1,398,403	2,097,371	1,585,176	1,109,125
Put options	4,111,364	4,761,854	6,817,968	1,389,219	1,637,598	2,276,644	2,195,557	1,133,395
Pro-memoria: MEFF trading on Eurex								
Debt products[6]	1,440,370	1,117,956	1,059,113	303,004	294,058	219,959	342,976	134,113
Index products[7]	1,080,801	1,423,441	1,371,250	401,267	365,491	265,783	348,341	142,443

1 Available data: May 2008.
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

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
WARRANTS[2]								
Premium amount (Million euro)	1,840.0	5,144.3	8,920.3	1,492.9	2,971.6	2,513.7	3,173.0	2,518.7
On stocks	1,180.8	3,697.6	6,215.1	1,077.8	1,888.6	1,836.7	2,257.1	1,305.8
On indexes	559.9	1,064.9	2,311.2	380.9	951.7	529.1	726.8	1,151.1
Other underlyings[3]	99.3	381.8	394.0	34.2	131.2	147.8	189.1	61.8
Number of issues	1,720	4,063	7,005	1,404	1,808	2,126	2,791	1,231
Number of issuers	6	8	7	6	7	7	7	5
OPTION BUYING AND SELLING CONTRACTS								
Nominal amounts (Million euro)	112.2	206.8	151.0	45.0	25.0	20.0	12.0	45.0
On stocks	87.8	196.2	145.0	45.0	25.0	20.0	12.0	45.0
On indexes	16.4	0.6	0.0	0.0	0.0	0.0	0.0	0.0
Other underlyings[3]	8.0	10.0	6.0	0.0	0.0	0.0	0.0	0.0
Number of issues	13	12	9	2	1	2	1	2
Number of issuers	4	4	3	1	1	1	1	1

1 Available data: May 2008.
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

	2005	2006	2007	2007 II	III	IV	2008 I	II[1]
WARRANTS								
Trading (Million euro)	2,142.3	2,907.4	5,129.6	1,323.8	1,429.6	1,206.7	892.9	458.7
On Spanish stocks	1,431.7	1,803.9	3,200.7	823.3	805.4	788.0	521.5	253.2
On foreign stocks	155.8	294.7	474.2	133.6	115.1	104.6	47.0	35.1
On indexes	516.8	727.4	1,376.6	351.3	489.9	297.7	303.2	144.8
Other underlyings[2]	38.0	81.4	78.1	15.6	19.3	16.5	21.2	25.6
Number of issues[3]	2,520	4,284	7,837	3,440	3,848	4,083	4,144	3,636
Number of issuers[3]	8	9	9	9	9	9	9	8
CERTIFICATES								
Trading (Million euro)	69.8	58.8	57.5	14.3	14.7	13.3	5.1	4.2
Number of issues[3]	15	14	18	12	11	17	17	21
Number of issuers[3]	5	5	4	3	3	4	4	4
ETF								
Trading (Million euro)	-	-	4,664.5	832.8	844.9	2,059.6	3,037.1	522.6
Number of funds	-	-	21	5	12	21	27	32
Assets[4] (Million euro)	-	-	885.8	521.6	511.8	885.8	1,994.7	na

1 Available data: May 2008.
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

Number of contracts	2005	2006	2007	2007 II	III	IV	2008 I	II[2]
On olive oil								
Extra – virgin olive oil futures[3]	21,145	35,079	46,405	14,173	5,832	9,721	13,586	13,060

1 Olive oil futures market.
2 Available data: May 2008.
3 Nominal amount of the contract: 1,000 kg.

2 Investment services

Investment services. Spanish firms, branches and agents

TABLE 2.1

	2005	2006	2007	2007 II	III	IV	2008 I	II[1]
Broker – dealers								
Spanish firms	46	47	46	46	46	46	49	51
Branches	96	108	102	97	100	102	109	110
Agents	6,562	6,610	6,657	6,614	6,618	6,657	6,674	6,584
Brokers								
Spanish firms	56	57	53	55	54	53	50	52
Branches	11	11	12	12	12	12	7	10
Agents	516	589	625	644	647	625	624	626
Portfolio management companies								
Spanish firms	17	15	11	13	12	11	11	11
Branches	4	4	4	4	4	4	4	4
Agents	14	5	6	5	6	6	5	5
Credit institutions[2]								
Spanish firms	206	204	201	202	202	201	200	200

1 Available data: May 2008.
2 Source: Banco de España.

Investment services. Foreign firms

TABLE 2.2

	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[1]
Total	1,196	1,321	1,766	1,386	1,432	1,766	1,949	2,024
European Economic Area investment services firms	867	973	1,394	1,027	1,068	1,394	1,573	1,646
Branches	18	22	29	25	26	29	30	33
Free provision of services	849	951	1,365	1,002	1,042	1,365	1,543	1,613
Credit institutions[2]	329	348	372	359	364	372	376	378
From EU member states	320	339	363	351	355	363	367	369
Branches	38	44	52	49	50	52	55	56
Free provision of services	281	294	310	301	304	310	311	312
Subsidiaries of free provision of services institutions	1	1	1	1	1	1	1	1
From non-EU states	9	9	9	8	9	9	9	9
Branches	8	8	8	7	8	8	8	8
Free provision of services	1	1	1	1	1	1	1	1

1 Available data: May 2008.
2 Source: Banco de España.

Intermediation of spot transactions

TABLE 2.3

Million euro	I 2007 Spanish Stock Exchange	I 2007 Other Spanish markets	I 2007 Foreign markets	I 2007 Total	I 2008 Spanish Stock Exchange	I 2008 Other Spanish markets	I 2008 Foreign markets	I 2008 Total
FIXED – INCOME								
Total	6,375	2,808,308	300,208	3,114,891	6,545	2,239,006	353,893	2,599,444
Broker-dealers	6,225	205,120	53,678	265,023	5,964	250,715	40,640	297,319
Brokers	150	2,603,188	246,530	2,849,868	581	1,988,291	313,253	2,302,125
EQUITY								
Total	598,107	2,423	29,104	629,634	493,870	1,749	27,005	522,624
Broker-dealers	549,502	1,379	26,481	577,362	458,343	1,116	23,428	482,887
Brokers	48,605	1,044	2,623	52,272	35,527	633	3,577	39,737

Intermediation of derivative transactions[1]

TABLE 2.4

Million euro	I 2007 Spanish organised markets	I 2007 Foreign organised markets	I 2007 Non-organised markets	I 2007 Total	I 2008 Spanish organised markets	I 2008 Foreign organised markets	I 2008 Non-organised markets	I 2008 Total
Total	236,642	1,390,968	1,097,890	2,725,500	227,979	2,310,399	1,034,114	3,572,492
Broker – dealers	110,433	325,996	78,458	514,887	192,132	1,888,310	17,385	2,097,827
Brokers	126,209	1,064,972	1,019,432	2,210,613	35,847	422,089	1,016,729	1,474,665

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.

Portfolio management. Number of portfolios and assets under management

TABLE 2.5

	I 2007 Total	I 2007 IIC[1]	I 2007 Other[2]	I 2008 Total	I 2008 IIC[1]	I 2008 Other[2]
NUMBER OF PORTFOLIOS						
Total	18,705	104	18,601	17,130	122	17,008
Broker – dealers	10,201	36	10,165	10,087	41	10,046
Brokers	4,088	33	4,055	3,383	31	3,352
Portfolio management companies	4,416	35	4,381	3,660	50	3,610
ASSETS UNDER MANAGEMENT (Thousand euro)						
Total	13,677,219	1,438,719	12,238,500	12,792,680	1,859,859	10,932,821
Broker – dealers	5,647,280	699,469	4,947,811	5,939,710	1,020,851	4,918,859
Brokers	3,494,627	450,252	3,044,375	2,740,542	587,009	2,153,533
Portfolio management companies	4,535,312	288,998	4,246,314	4,112,428	251,999	3,860,429

1 IIC: Collective investment schemes.
2 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 II	2007 III	2007 IV	2008 I	2008 II[2]
I. FINANCIAL INCOME	57,653	17,325	-29,968	11,025	-15,840	-29,968	-10,488	-4,043
II. NET INCOME FROM SECURITIES TRADING	200,360	48,335	-224,173	-166,565	-214,615	-224,173	78,843	148,249
III. NET COMMISSION	653,273	775,377	893,803	485,244	680,927	893,803	195,164	252,995
Commission revenues	847,524	1,009,089	1,181,772	624,257	894,244	1,181,772	270,711	349,351
Brokering	526,241	629,952	775,418	409,875	588,741	775,418	186,711	242,728
Placement and underwriting	58,685	73,278	62,145	31,775	47,019	62,145	10,560	12,212
Securities deposit and recording	17,593	22,367	25,351	12,455	18,665	25,351	5,861	8,256
Portfolio management	20,599	23,883	29,649	14,570	20,388	29,649	5,946	7,252
Design and advising	52,180	55,918	65,083	40,110	51,793	65,083	7,729	9,473
Stocks search and placement	6	0	9	9	9	9	7	7
Market credit transactions	56	33	23	11	17	23	5	6
IIC subscription and redemption	118,871	141,312	138,481	70,425	105,659	138,481	30,202	39,914
Other	53,293	62,346	85,613	45,027	61,953	85,613	23,690	29,503
Commission expenses	194,251	233,712	287,969	139,013	213,317	287,969	75,547	96,356
IV. TOTAL NET REVENUES	911,286	841,037	639,662	329,704	450,472	639,662	263,519	397,201
V. OPERATING INCOME	498,362	395,105	180,892	98,455	113,320	180,892	144,447	230,574
VI. EARNINGS AFTER TAXES	266,734	430,651	540,390	482,067	674,057	540,390	151,025	186,028

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: April 2008.

Results of proprietary trading. Broker – dealers

TABLE 2.7

Thousand euro[1]	Total I 2007	Total I 2008	Financial income I 2007	Financial income I 2008	Securities portfolio I 2007	Securities portfolio I 2008	Other charges I 2007	Other charges I 2008
Total	45,081	59,049	8,484	-10,488	38,135	78,843	-1,538	-9,306
Money market assets and public debt	-5,784	-5,821	908	846	-6,692	-6,667	-	-
Other fixed – income securities	19,558	19,814	13,595	15,287	5,963	4,527	-	-
Domestic portfolio	13,522	18,030	11,132	14,818	2,390	3,212	-	-
Foreign portfolio	6,036	1,784	2,463	469	3,573	1,315	-	-
Equities	-5,267	-621,711	37,469	13,213	-42,736	-634,924	-	-
Domestic portfolio	49,909	-256,647	17,501	11,020	32,408	-267,667	-	-
Foreign portfolio	-55,176	-365,064	19,968	2,193	-75,144	-367,257	-	-
Derivatives	85,774	725,248	-	-	85,774	725,248	-	-
Repurchase agreements	-1,230	-283	-1,230	-283	-	-	-	-
Market credit transactions	0	0	0	0	-	-	-	-
Deposits and other transactions with financial Intermediaries	-48,266	-48,002	-48,266	-48,002	-	-	-	-
Other transactions	296	-10,196	6,008	8,451	-4,174	-9,341	-1,538	-9,306

1 Added amounts from the beginning of the year to the last day of every quarter. It includes companies removed through out the year.

Aggregated income statement. Brokers

TABLE 2.8

Thousand euro[1]	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[2]
I. FINANCIAL INCOME	10,665	12,934	14,395	6,899	10,500	14,395	2,434	3,262
II. NET INCOME FROM SECURITIES TRADING	3,306	3,906	580	1,120	651	580	-939	-799
III. NET COMMISSION	184,113	233,447	237,403	121,309	177,379	237,403	41,507	55,442
Commission revenues	229,752	297,030	310,892	159,573	233,859	310,892	48,935	64,640
Brokering	97,948	114,111	131,976	66,060	96,183	131,976	19,349	24,334
Placement and underwriting	3,821	3,183	2,501	1,470	2,409	2,501	994	1,482
Securities deposit and recording	1,357	1,520	1,680	1,005	1,294	1,680	314	339
Portfolio management	14,868	28,672	27,457	14,534	20,239	27,457	5,847	8,182
Design and advising	2,664	2,360	2,224	1,119	1,273	2,224	252	382
Stocks search and placement	0	0	0	0	0	0	0	0
Market credit transactions	0	0	0	1	1	0	0	0
IIC subscription and redemption	46,171	68,513	74,918	37,345	57,090	74,918	9,679	12,293
Other	62,923	78,671	70,136	38,039	55,370	70,136	12,500	17,628
Commission expenses	45,639	63,583	73,489	38,264	56,480	73,489	7,428	9,198
IV. TOTAL NET REVENUES	198,084	250,287	252,378	129,328	188,530	252,378	43,002	57,905
V. OPERATING INCOME	66,420	95,026	98,596	53,410	76,858	98,596	9,302	12,735
VI. EARNINGS AFTER TAXES	38,264	62,449	86,017	64,113	85,525	86,017	9,427	11,618

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: April 2008.

Aggregated income statement. Portfolio management companies

TABLE 2.9

				2007			2008	
Thousand euro[1]	2005	2006	2007	II	III	IV	I	II[2]
I. FINANCIAL INCOME	575	895	1,442	705	1,095	1,442	376	521
II. NET INCOME FROM SECURITIES TRADING	65	6	21	-16	-8	21	-32	-33
III. NET COMMISSION	17,164	15,195	15,501	7,485	11,313	15,501	3,459	4,522
Commission revenues	25,508	27,625	27,340	14,804	22,411	27,340	6,308	8,351
Portfolio management	18,813	22,068	22,545	12,371	19,114	22,545	5,203	6,938
Design and advising	4,380	4,951	2,614	1,380	1,668	2,614	637	781
IIC subscription and redemption	592	261	1,728	820	1,281	1,728	368	474
Other	1,723	345	453	233	348	453	100	158
Commission expenses	8,344	12,430	11,839	7,319	11,098	11,839	2,849	3,829
IV. TOTAL NET REVENUES	17,804	16,096	16,964	8,174	12,400	16,964	3,803	5,010
V. OPERATING INCOME	6,051	6,352	7,226	3,171	4,967	7,226	1,041	1,297
VI. EARNINGS AFTER TAXES	3,465	4,112	4,837	2,477	3,597	4,837	730	906

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: April 2008.

Surplus equity over capital adequacy requirements[1]

TABLE 2.10

	Surplus		Number of companies according to its surplus percentage									
Thousand euro	Total amount	%[2]	< 50[3]	<100	<150	<200	<300	<400	<500	<750	<1000	>1000
Total	1,201,301	343.37	14	14	13	7	18	7	10	11	5	11
Broker – dealers	1,087,185	380.54	3	1	4	3	8	5	8	7	3	7
Brokers	96,810	222.04	9	11	6	3	8	2	2	4	2	3
Portfolio management companies	17,306	84.17	2	2	3	1	2	0	0	0	0	1

1 Available data: March 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.
3 Includes all registered companies, even if they have not sent information.

Return on equity (ROE) before taxes[1]

TABLE 2.11

		Number of companies according to its annualized return								
	Average[2]	Losses	0-5%	6-15%	16-30%	31-45%	46-60%	61-75%	76-100%	>100%
Total	30.06	27	11	22	24	6	9	4	4	3
Broker – dealers	31.79	7	7	7	15	2	5	2	1	3
Brokers	18.26	16	4	11	8	3	3	2	3	0
Portfolio management companies	7.85	4	0	4	1	1	1	0	0	0

1 Available data: March 2008.
2 Average weighted by equity, %.

3 Collective investment schemes (IIC)*

Number, management companies and depositories of collective investment schemes registered at the CNMV

TABLE 3.1

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
Total financial IIC	5,841	6,006	6,296	6,169	6,245	6,296	6,347	6,391
Mutual funds	2,723	2,850	2,954	2,921	2,947	2,954	2,956	2,973
Investment companies	3,118	3149	3,290	3,217	3,251	3,290	3,328	3,353
Funds of hedge funds	-	2	31	22	30	31	38	40
Hedge funds	-	5	21	9	17	21	25	25
Total real estate IIC	13	17	18	17	19	18	17	17
Real estate investment funds	7	9	9	9	10	9	9	9
Real estate investment companies	6	8	9	8	9	9	8	8
Total foreign IIC marketed in Spain	260	340	440	362	397	440	465	481
Foreign funds marketed in Spain	115	164	225	171	197	225	241	251
Foreign companies marketed in Spain	145	176	215	191	200	215	224	230
Management companies	112	114	120	116	121	120	121	121
IIC depositories	135	132	126	127	127	126	126	126

1 Available data: May 2008.

* In this document, neither hedge funds nor funds of hedge funds are included in the figures referred to mutual funds.

Number of IIC investors and shareholders

TABLE 3.2

	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[1]
Total financial IIC	8,869,084	9,048,207	8,492,282	9,180,702	8,900,911	8,492,282	7,861,369	-
Mutual funds	8,450,164	8,637,781	8,053,049	8,755,921	8,467,203	8,053,049	7,420,379	7,281,761
Investment companies	418,920	410,403	434,156	423,142	430,315	434,156	434,167	-
Funds of hedge funds[2]	-	2	3,950	1,456	3,142	3,950	5,488	5,433
Hedge funds[2]	-	21	1,127	183	251	1,127	1,335	1,333
Total real estate IIC	119,113	151,053	146,353	154,426	152,577	146,353	145,036	144,922
Real estate investment funds	118,857	150,304	145,510	153,630	151,916	145,510	144,197	144,083
Real estate investment companies	256	749	843	796	661	843	839	839
Total foreign IIC marketed in Spain	560,555	779,165	850,931	825,771	834,914	850,931	729,321	-
Foreign funds marketed in Spain	104,089	144,139	142,782	176,884	158,925	142,782	137,933	-
Foreign companies marketed in Spain	456,466	635,026	708,149	648,887	675,989	708,149	591,388	-

1 Available data: April 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

Million euro	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[1]
Total financial IIC	289,810.7	300,584.0	287,968.7	310,144.3	303,306.6	287,968.7	264,775.7	261,597.4
Mutual funds[2]	262,200.9	270,406.3	255,040.9	276,600.4	269,907.0	255,040.9	234,043.9	230,498.1
Investment companies	27,609.8	30,152.7	31,481.5	32,791.7	32,360.1	31,481.5	29,055.9	29,359.8
Funds of hedge funds[3]	-	0.6	1,000.6	600.2	829.2	1,000.6	1,129.6	1,186.4
Hedge funds[3]	-	24.4	445.8	152.0	210.2	445.8	546.3	553.1
Total real estate IIC	6,690.8	9,052.0	9,121.4	9,416.8	9,409.6	9,121.4	8,912.8	8,937.6
Real estate investment funds	6,476.9	8,595.9	8,608.5	8,929.4	8,905.3	8,608.5	8,563.8	8,586.6
Real estate investment companies	213.9	456.1	512.9	487.4	504.3	512.9	349.0	351.0
Total foreign IIC marketed in Spain	33,668.1	44,102.9	37,092.7	50,141.4	44,847.4	37,092.7	30,184.5	-
Foreign funds marketed in Spain	8,267.3	12,099.3	7,010.3	14,211.5	10,530.7	7,010.3	5,004.9	-
Foreign companies marketed in Spain	25,400.8	32,003.5	30,082.4	35,929.9	34,316.7	30,082.4	25,179.6	-

1 Available data: April 2008. Real estate investment companies and foreign IIC send this information quarterly.
2 For the first quarter 2008, mutual funds investments in financial IIC reached 17.4 billion euro
3 Provisional data in case of funds of hedge funds and hedge funds.

Mutual funds asset allocation[1,2]

TABLE 3.4

Million euro	2005	2006	2007	2007 II	2007 III	2007 IV	2008 I	2008 II[3]
Asset	262,200.9	270,406.9	256,040.2	277,200.6	270,736.3	256,040.2	235,173.5	231,684.5
Cash	8,207.5	10,462.9	15,485.2	11,578.9	14,698.8	15,485.2	15,768.9	17,362.7
Portfolio investment	255,273.6	260,002.9	240,110.5	265,596.0	255,694.9	240,110.5	219,010.7	213,985.6
Domestic securities	123,683.6	127,355.4	134,700.7	131,055.2	137,101.4	134,700.7	128,697.2	127,182.0
Shares	11,602.1	13,806.8	11,600.7	14,196.3	12,619.2	11,600.7	8,137.3	8,177.5
Mutual funds units	17,255.9	17,322.8	18,720.4	18,719.4	19,667.5	18,720.4	17,772.2	17,670.3
Public money market assets	4,149.4	2,887.7	2,206.6	2,539.7	2,329.6	2,206.6	3,493.5	4,605.3
Other public fixed-income	10,088.7	9,891.6	8,708.7	9,715.2	9,488.6	8,708.7	6,608.3	6,544.2
Private money market assets	26,850.7	28,483.2	37,486.9	30,711.7	35,565.7	37,486.9	35,309.7	36,217.3
Other private fixed-income	18,835.6	23,105.3	24,251.5	24,879.8	24,363.4	24,251.5	23,039.2	22,723.4
Spanish warrants and options	483.1	603.3	553.2	675,3	569.1	553.2	344.0	426.2
Repos	34,417.8	31,229.4	31,172.4	29,592.5	32,497.9	31,172.4	33,992.7	30,817.5
Unlisted securities	0.2	25.4	0.2	25.4	0.2	0.2	0.2	0.2
Foreign securities	131,590.0	132,647.4	105,409.8	134,540.7	118,593.5	105,409.8	90,313.5	86,803.6
Euros	118,871.5	118,664.1	94,205.2	120,459.4	106,110.8	94,205.2	82,742.5	79,042.8
Shares	8,925.1	11,418.0	10,772.1	14,247.4	12,735.6	10,772.1	6,970.4	6,767.1
Mutual fund units	15,986.0	23,414.2	13,149.1	23,440.2	16,876.9	13,149.1	8,659.6	8,272.8
Fixed-income	90,220.7	78,933.4	65,972.8	77,447.7	71,585.9	65,972.8	64,362.8	61,205.1
Foreign warrants and options	3,739.7	4,898.7	4,311.2	5,324.0	4,912.4	4,311.2	2,749.7	2,797.7
Unlisted securities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	12,718.5	13,983.3	11,204.6	14,081.3	12,482.7	11,204.6	7,571.0	7,760.8
Shares	7,019.5	7,343.0	5,964.0	7,705.1	6,893.3	5,964.0	3,972.9	4,083.9
Mutual fund units	4,395.6	5,491.5	4,477.8	5,343.0	4,774.1	4,477.8	3,097.6	3,172.3
Fixed-income	1,204.8	1,011.7	631.1	888.4	675.9	631.1	413.5	411.1
Foreign warrants and options	97.2	136.0	130.8	143.7	138.4	130.8	86.4	92.8
Unlisted securities	1.4	1.2	0.9	1.1	1.1	0.9	0.8	0.7
Net balance (Debtors -Creditors)	-1,280.3	-58.8	444.5	25.7	342.5	444.5	393.9	336.2

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: April 2008.

Investment companies asset allocation

TABLE 3.5

Million euro	2005	2006	2007	2007 II	III	IV	2008 I	II[1]
Asset	27,610.0	30,152.7	31,481.5	32,791.7	32,360.1	31,481.5	29,055.9	29,359.8
Cash	728.9	802.2	1,182.2	1,004.7	1,021.6	1,182.2	1,457.3	1,602.5
Portfolio investment	26,884.9	29,294.1	30,037.4	31,692.4	31,105.2	30,037.4	27,440.2	27,757.6
Domestic securities	13,851.1	15,553.8	17,075.3	15,905.8	16,841.4	17,075.3	17,080.2	17,064.6
Shares	5,906.5	6,727.3	6,173.6	7,191.8	6,528.1	6,173.6	5,073.8	5,104.2
Mutual funds units	941.2	1,095.0	1,362.3	1,309.5	1,392.5	1,362.3	1,370.6	1,393.0
Public money market assets	128.1	463.4	382.8	418.1	434.3	382.8	386.6	327.7
Other public fixed-income	897.0	678.2	710.2	802.0	755.0	710.2	536.7	525.8
Private money market assets	359.1	555.4	1,568.6	732.9	1,032.2	1,568.6	1,854.6	1,836.2
Other private fixed-income	397.3	554.8	620.8	534.9	548.8	620.8	702.0	797.1
Spanish warrants and options	15.3	19.7	22.1	23.0	25.2	22.1	19.5	22.2
Repos	5,206.2	5,459.1	6,234.1	4,892.7	6,121.4	6,234.1	7,132.6	7,053.9
Unlisted securities	0.3	0.8	0.8	0.8	4.0	0.8	3.7	4.7
Foreign securities	13,033.8	13,740.3	12,962.2	15,786.6	14,263.8	12,962.2	10,360.0	10,693.0
Euros	9,178.6	9,847.7	9,413.7	11,635.6	10,295.1	9,413.7	7,768.0	8,016.5
Shares	2,885.6	3,379.9	3,367.7	4,414.1	3,928.2	3,367.7	2,319.8	2,442.3
Mutual fund units	3,351.6	4,169.1	3,826.1	5,012.2	4,254.0	3,826.1	3,252.4	3,291.8
Fixed-income	2,755.8	2,041.5	2,006.7	1,984.2	1,877.3	2,006.7	2,017.6	2,108.3
Foreign warrants and options	185.7	257.2	213.1	225.1	235.7	213.1	178.3	174.1
Unlisted securities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	3,855.2	3,892.6	3,548.5	4,151.0	3,968.7	3,548.5	2,592.0	2,676.6
Shares	2,173.9	2,104.7	1,752.2	2,086.3	1,923.8	1,752.2	1,304.0	1,345.9
Mutual fund units	1,403.7	1,517.7	1,600.6	1,852.7	1,816.5	1,600.6	1,139.2	1,183.8
Fixed-income	270.0	234.8	183.2	199.7	219.5	183.2	138.9	138.4
Foreign warrants and options	7.5	11.3	12.5	12.3	8.9	12.5	9.9	8.4
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	94.7	233.3	261.8	158.5	-0.3

1 Available data: April 2008.

Financial mutual funds: number, investors and total net assets by category[1]

TABLE 3.6

	2005	2006	2007	2007 I	II	III	IV	2008 I
NO. OF FUNDS								
Total financial mutual funds	2,705	2,822	2,926	2,872	2,919	2,920	2,926	2,942
Fixed-income[2]	624	606	600	609	606	604	600	609
Mixed fixed-income[3]	217	212	204	207	211	203	204	203
Mixed equity[4]	222	222	207	215	216	216	207	206
Spanish equity	116	118	123	118	118	121	123	123
Foreign equity[5]	454	467	481	480	488	485	481	477
Guaranteed fixed-income	211	220	251	232	233	241	251	256
Guaranteed equity	514	559	590	577	579	589	590	592
Global funds	347	418	470	434	457	461	470	476
Funds of hedge funds[6]	-	2	31	2	22	30	31	38
Hedge funds[6]	-	5	21	6	9	17	21	25
INVESTORS								
Total financial mutual funds	8,450,164	8,637,781	8,053,049	8,740,972	8,755,921	8,467,203	8,053,049	7,420,379
Fixed-income[2]	3,071,656	2,960,879	2,763,442	2,933,505	2,881,128	2,869,191	2,763,442	2,620,712
Mixed fixed-income[3]	492,988	524,827	493,786	551,786	539,799	511,811	493,786	434,935
Mixed equity[4]	408,757	357,013	331,214	374,508	376,559	359,667	331,214	289,184
Spanish equity	365,301	317,386	288,210	341,396	363,017	343,208	288,210	219,842
Foreign equity[5]	1,199,460	1,258,426	1,089,868	1,274,138	1,263,619	1,184,871	1,089,868	942,733
Guaranteed fixed-income	455,237	497,540	549,108	518,940	541,442	540,637	549,108	552,116
Guaranteed equity	1,849,626	1,783,867	1,715,144	1,771,469	1,766,834	1,754,596	1,715,144	1,639,760
Global funds	607,139	937,843	822,277	975,230	1,023,523	903,222	822,277	721,097
Funds of hedge funds[6]	-	2	3,950	26	1,456	3,142	3,950	5,488
Hedge funds[6]	-	21	1,127	108	183	251	1,127	1,335
TOTAL NET ASSETS (Million euro)								
Total financial mutual funds	262,200.9	270,406.3	255,040.9	273,412.8	276,600.4	269,907.0	255,040.9	234,043.9
Fixed-income[2]	123,890.7	116,511.9	113,234.1	116,963.0	116,344.7	118,489.4	113,234.1	116,544.0
Mixed fixed-income[3]	14,625.8	15,314.5	13,011.9	15,755.0	15,329.1	14,142.3	13,011.9	10,551.0
Mixed equity[4]	10,005.6	10,149.2	8,848.0	10,090.7	10,289.1	9,753.4	8,848.0	6,811.6
Spanish equity	9,741.7	10,416.4	7,839.4	11,238.3	9,523.4	8,353.3	7,839.4	5,369.9
Foreign equity[5]	20,925.1	24,799.6	22,698.4	25,759.1	29,428.3	26,453.8	22,698.4	14,962.8
Guaranteed fixed-income	13,442.0	14,484.8	17,674.4	15,179.1	15,810.4	16,291.2	17,674.4	19,253.8
Guaranteed equity	45,839.8	44,796.6	42,042.1	43,998.9	44,140.0	43,365.6	42,042.1	38,521.4
Global funds	23,730.1	33,933.3	29,692.6	34,428.9	35,735.4	33,058.2	29,692.6	22,029.4
Funds of hedge funds[6]	-	0.6	1,000.6	9.5	600.2	829.2	1,000.6	1,129.6
Hedge funds[6]	-	24.4	445.8	119.9	152.0	210.2	445.8	546.3

1 Mutual funds that have sent reports to the CNMV (therefore mutual funds in a process of dissolution or liquidation are not included).
2 This category includes: Short-term fixed income, Long-term fixed income, Foreign fixed-income and Monetary market funds.
3 This category includes: Mixed fixed-income and Foreign mixed fixed-income.
4 This category includes: Mixed equity and Foreign mixed equity .
5 This category includes: Euro equity, Foreign equity Europe, Foreign equity Japan, Foreign equity USA, Foreign equity emerging countries and Other foreign equity.
6 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 II	III	IV	2008 I	II[1]
INVESTORS	8,450,164	8,637,804	8,058,126	8,757,560	8,470,596	8,058,126	7,427,202	7,288,527
Individuals	8,202,638	8,389,315	7,818,701	8,499,831	8,219,220	7,818,701	7,206,815	7,073,382
Residents	8,101,310	8,292,264	7,725,443	8,402,736	8,123,347	7,725,443	7,116,692	6,984,448
Non-residents	101,328	97,051	93,258	97,095	95,873	93,258	90,123	88,934
Legal entities	247,526	248,489	239,425	257,729	251,376	239,425	220,387	215,145
Credit Institutions	1,634	1,609	2,276	1,721	1,715	2,276	1,130	1,166
Other resident Institutions	244,223	244,980	235,298	254,123	247,752	235,298	217,441	212,203
Non-resident Institutions	1,669	1,900	1,851	1,885	1,909	1,851	1,816	1,776
TOTAL NET ASSETS (Million euro)	262,200.9	270,431.3	256,487.3	277,352.6	270,946.4	256,487.3	235,719.8	232,237.7
Individuals	193,948.6	201,411.0	190,980.6	204,173.3	200,464.5	190,980.6	175,579.4	173,088.5
Residents	190,753.2	198,330.5	188,210.0	201,266.3	197,507.1	188,210.0	173,073.0	170,600.5
Non-residents	3,195.4	3,080.5	2,770.6	3,086.8	2,957.4	2,770.6	2,506.4	2,487.9
Legal entities	68,252.3	69,020.3	65,506.7	72,579.1	70,481.9	65,506.7	60,140.4	59,149.2
Credit Institutions	4,253.2	5,318.0	5,920.9	5,422.3	5,116.4	5,920.9	3,700.6	3,830.0
Other resident Institutions	62,749.8	61,646.6	57,670.6	65,248.3	63,190.9	57,670.6	54,904.4	53,765.0
Non-resident Institutions	1,249.4	2,055.70	1,915.2	2,328.8	2,174.7	1,915.2	1,535.4	1,554.2

1 Available data: April 2008.

Subscriptions and redemptions of financial mutual funds by category[1]

TABLE 3.8

Million euro	2005	2006	2007	2007 I	II	III	IV	2008 I
SUBSCRIPTIONS								
Total financial mutual funds[2]	169,807.0	194,787.4	180,943.6	52,761.5	44,063.4	42,610.5	41,508.2	47,016.2
Fixed-income	108,566.1	118,705.9	116,323.9	31,678.8	27,498.6	30,580.5	26,566.0	37,510.5
Mixed fixed-income	6,677.3	8,476.6	5,859.4	2,322.7	1,439.3	1,141.7	955.7	620.2
Mixed equity	2,065.2	2,783.6	2,749.8	908.8	753.2	635.6	452.2	278.9
Spanish equity	5,588.5	5,590.4	4,402.4	1,984.6	991.9	482.5	943.4	414.5
Foreign equity	14,006.2	17,662.3	16,631.5	5,518.9	4,925.4	3,215.9	2,971.3	1,867.3
Guaranteed fixed-income	6,923.9	6,126.2	9,161.3	2,073.6	1,915.3	2,191.3	2,981.1	3,286.2
Guaranteed equity	13,520.7	8,914.1	8,070.6	1800.2	1,858.3	1,316.4	3,095.7	1,089.4
Global funds	12,459.2	26,528.3	17,744.2	6,474.0	4,681.2	3,046.3	3,542.7	1,949.1
Funds of hedge funds	-	0.6	1,071.2	8.9	614.0	232.8	215.5	200.1
Hedge funds	-	24.4	380.8	47.0	28.6	62.2	243.0	164.1
REDEMPTIONS								
Total financial mutual funds[3]	155,304.2	198,600.1	202,827.4	52,566.6	45,164.4	48,647.5	56,448.9	62,032.7
Fixed-income	107,150.9	127,469.1	122,178.3	32,087.4	28,502.6	28,982.4	32,605.9	35,049.1
Mixed fixed-income	4,339.6	7,048.4	7,809.6	1,967.4	1,664.7	2,049.5	2,128.0	2,861.9
Mixed equity	2,602.5	3,644.7	4,023.0	1,023.0	893.9	999.2	1,106.9	1,675.7
Spanish equity	5,323.3	7,824.6	6,723.3	1,750.2	1,861.3	1,429.0	1,682.8	1,979.7
Foreign equity	11,390.2	16,490.9	20,073.1	4,986.4	4,010.5	5,242.4	5,833.8	6,456.5
Guaranteed fixed-income	7,014.0	5,029.3	6,430.6	1,452.0	1,369.5	1,897.1	1,712.0	2,085.8
Guaranteed equity	8,931.6	11,830.1	11,602.6	2,785.1	2,238.1	2,142.1	4,437.3	3,647.6
Global funds	8,552.1	19,263.1	23,986.6	6,515.1	4,623.8	5,905.5	6,942.2	8,276.4
Funds of hedge funds	-	0.0	65.9	0.0	1.6	11.1	53.2	98.7
Hedge funds	-	0.1	2.6	0.0	0.1	0.45	2.1	50.9

1 Estimated data.
2 For the first quarter 2008, mutual funds subscriptions in financial IIC reached 5.3 billion euro.
3 For the fist quarter 2008, mutual funds redemptions in financial IIC reached 5.8 billion euro.

Financial mutual funds asset change by category: Net subscriptions/redemptions and return on assets

TABLE 3.9

Million euro	2005	2006	2007	2007 I	II	III	IV	2008 I
NET SUBSCRIPTIONS/REDEMPTIONS								
Total financial mutual funds	14,444.3	-4,524.5	-21,877.7	222.7	-1,114.8	-5,995.1	-14,990.5	-14,950.1
Fixed-income	1,445.5	-9,423.4	-5,852.4	-415.0	-1,009.7	1,601.6	-6,029.3	2,480.0
Mixed fixed-income	2,349.6	1,539.2	-1,942.0	355.9	-224.7	-909.6	-1,163.6	-2,238.2
Mixed equity	-546.5	-854.7	-1,277.0	-112.4	-141.0	-367.8	-655.8	-1,391.2
Spanish equity	276.0	-2,219.4	-2,314.4	242.4	-871.0	-940.2	-745.6	-1,561.2
Foreign equity	2,652.4	1,133.8	-3,342.6	553.5	928.6	-2,007.2	-2,817.5	-4,553.7
Guaranteed fixed-income	-354.4	1,018.9	2,714.6	621.7	623.8	294.6	1,174.5	1,190.9
Guaranteed equity	4,693.6	-3,021.1	-3,604.9	-982.8	-479.7	-802.2	-1,340.2	-2,564.4
Global funds	3,928.2	7,302.1	-6,258.9	-40.6	58.9	-2,864.3	-3,412.9	-6,312.3
Funds of hedge funds	-	0.6	1,005.5	8.9	612.4	221.7	162.6	107.9
Hedge funds	-	24.3	164.7	47.0	28.5	61.8	27.4	13.8
RETURN ON ASSETS								
Total financial mutual funds	11,670.2	12,733.7	6,517.0	2,784.2	4,303.9	-696.7	125.6	-6,045.6
Fixed-income	1,837.6	2,260.2	3,073.5	831.1	747.3	723.6	771.5	599.0
Mixed fixed-income	620.3	606.6	271.8	140.9	145.9	-30.6	15.6	-287.1
Mixed equity	1,053.4	984.2	261.5	163.0	258.2	-120.3	-39.4	-645.2
Spanish equity	1,623.7	2,882.9	768.3	579.5	203.5	-229.8	215.1	-908.3
Foreign equity	3,507.1	2,736.1	251.5	420.5	1,678.4	-942.1	-905.3	-3,191.1
Guaranteed fixed-income	222.8	112.3	334.7	87.2	40.7	164.0	42.8	188.7
Guaranteed equity	1,635.5	1,995.2	1,105.8	242.0	694.2	25.0	144.6	-1,075.9
Global funds	1,169.8	1,156.2	450.2	320.0	535.8	-286.3	-119.4	-725.7
Funds of hedge funds	-	0.0	-9.6	0.0	2.3	-16.7	4.8	5.5
Hedge funds	-	0.1	0.2	0.8	3.6	-3.9	-5.3	-12.4

Financial mutual funds return on assets. Detail by category

TABLE 3.10

% of daily average total net assets[1]	2005	2006	2007	2007 I	II	III	IV	2008 I
MANAGEMENT YIELDS								
Total financial mutual funds	5.87	5.73	3.45	1.31	1.87	0.02	0.32	-2.24
Fixed-income	2.31	2.51	3.32	0.89	0.84	0.79	0.85	0.68
Mixed fixed-income	6.18	5.30	2.98	1.22	1.27	0.11	0.44	-2.17
Mixed equity	12.96	11.31	4.25	2.03	2.94	-0.78	-0.01	-8.18
Spanish equity	20.10	30.10	9.14	5.77	2.54	-2.13	3.01	-15.02
Foreign equity	22.82	13.82	2.78	2.09	6.42	-2.95	-3.19	-18.34
Guaranteed fixed-income	2.45	1.67	3.25	0.78	0.46	1.22	1.02	1.16
Guaranteed equity	5.26	5.86	3.65	0.91	1.95	0.44	0.47	-2.32
Global funds	7.41	4.84	2.57	1.28	1.88	-0.52	-0.07	-2.64
Funds of hedge funds	-	ns	-1.36	-0.31	0.96	-1.83	1.04	0.38
Hedge funds	-	ns	0.57	1.47	4.50	-1.64	-0.69	-2.38
EXPENSES. MANAGEMENT FEE								
Total financial mutual funds	1.07	1.04	1.00	0.26	0.27	0.25	0.24	0.23
Fixed-income	0.73	0.63	0.61	0.16	0.16	0.15	0.15	0.15
Mixed fixed-income	1.24	1.21	1.13	0.29	0.30	0.29	0.29	0.29
Mixed equity	1.69	1.63	1.54	0.40	0.40	0.39	0.39	0.38
Spanish equity	1.77	1.83	1.59	0.45	0.44	0.41	0.42	0.42
Foreign equity	1.80	1.78	1.70	0.43	0.48	0.41	0.41	0.42
Guaranteed fixed-income	0.77	0.75	0.62	0.17	0.17	0.17	0.16	0.14
Guaranteed equity	1.38	1.34	1.30	0.33	0.33	0.34	0.34	0.34
Global funds	1.41	1.26	1.16	0.32	0.35	0.25	0.26	0.28
Funds of hedge funds	-	ns	1.15	0.37	0.29	0.42	0.43	0.47
Hedge funds	-	ns	1.39	0.40	0.99	0.09	0.67	0.56
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	0.03	0.03	0.02
Funds of hedge funds	-	ns	0.06	0.04	0.01	0.02	0.02	0.02
Hedge funds	-	ns	0.33	0.04	0.52	0.05	0.05	0.04

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: it is not significant.

Mutual fund quarterly returns. Detail by category

TABLE 3.11

In %	2005	2006	2007	2007 I	II	III	IV	2008 I
Total financial mutual funds	5.00	5.59	2.73	1.11	1.65	-0.15	0.10	-1.96
Fixed-income	1.53	1.95	2.71	0.72	0.65	0.63	0.68	0.54
Mixed fixed-income	5.00	4.18	1.93	0.94	0.96	-0.16	0.18	-2.32
Mixed equity	11.85	10.34	2.69	1.71	2.57	-1.17	-0.40	-7.56
Spanish equity	20.60	33.25	8.02	5.78	2.07	-2.42	2.53	-12.01
Foreign equity	24.18	14.98	2.13	2.12	6.38	-2.80	-3.28	-15.06
Guaranteed fixed-income	1.66	0.83	2.78	0.59	0.29	1.03	0.84	1.02
Guaranteed equity	3.95	4.66	2.44	0.56	1.62	0.13	0.12	-2.56
Global funds	6.16	4.01	1.47	0.99	1.57	-0.70	-0.38	-2.56
Funds of hedge funds	-	ns	-0.43	-0.55	1.08	-2.14	1.22	-2.31
Hedge funds	-	ns	0.84	1.26	3.18	-2.20	-1.31	-1.95

ns: it is not significant.

Management companies. Number of portfolios and assets under management

TABLE 3.12

	2005	2006	2007	2007 II	III	IV	2008 I	II[1]
NUMBER OF PORTFOLIOS								
Mutual funds	2,723	2,850	2,954	2,921	2,947	2,954	2,956	2,966
Investment companies	2,989	3,049	3,181	3,112	3,143	3,181	3,217	3,228
Funds of hedge funds	-	2	31	22	30	31	38	39
Hedge funds	-	5	21	9	17	21	25	25
Real estate investment fund	7	9	9	9	10	9	9	9
Real estate investment companies	6	8	9	8	9	9	8	8
ASSETS UNDER MANAGEMENT (Million euro)								
Mutual funds	262,200.9	270,406.3	255,040.9	276,600.4	269,907.1	255,040.9	234,043.9	230,498.1
Investment companies	25,486.0	28,992.7	30,300.0	31,523.9	31,125.9	30,300.0	27,984.8	28,256.8
Funds of hedge funds	-	0.6	1,000.6	600.2	829.2	1,000.6	1,129.6	1,186.4
Hedge funds	-	24.4	445.8	152.0	210.2	445.8	546.3	553.1
Real estate investment fund	6,476.9	8,595.9	8,608.5	8,929.4	8,905.3	8,608.5	8,563.8	8,586.6
Real estate investment companies	213.9	456.1	512.9	487.4	504.3	512.9	349.0	351.0

1 Available data: April 2008.

Foreign Collective Investment schemes marketed in Spain

TABLE 3.13

				2007				2008
	2005	2006	2007	I	II	III	IV	I
INVESTMENT VOLUME[1] (Million euro)	33,614.7	44,102.9	37,092.7	45,113.8	50,141.4	44,847.4	37,092.7	30,184.5
Mutual funds	8,267.2	12,099.3	7,010.3	12,464.3	14,211.5	10,530.7	7,010.3	5,004.9
Investment companies	25,347.4	32,003.5	30,082.4	32,649.6	35,929.9	34,316.7	30,082.4	25,179.6
INVESTORS/SHAREHOLDERS	560,555	779,165	850,931	782,020	825,771	834,914	850,931	729,321
Mutual funds	104,089	144,139	142,782	158,900	176,884	158,925	142,782	137,933
Investment companies	456,466	635,026	708,149	623,120	648,887	675,989	708,149	591,388
NUMBER OF SCHEMES	260	340	440	354	362	397	440	465
Mutual funds	115	164	225	169	171	197	225	241
Investment companies	145	176	215	185	191	200	215	224
COUNTRY								
Luxembourg	161	189	229	190	196	210	229	241
France	47	83	122	90	92	105	122	127
Ireland	35	46	52	48	48	50	52	59
Germany	11	12	15	12	12	15	15	15
UK	5	6	12	9	9	11	12	13
The Netherlands	1	1	1	1	1	1	1	1
Austria	-	1	5	1	1	1	5	5
Belgium	-	1	3	2	2	3	3	3
Malta	-	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

				2007			2008	
	2005	2006	2007	II	III	IV	I	II[1]
REAL ESTATE MUTUAL FUNDS								
Number	7	9	9	9	10	9	9	9
Investors	118,857	150,304	145,510	153,630	151,916	145,510	144,197	144,083
Asset (Million euro)	6,476.9	8,595.9	8,608.5	8,929.4	8,905.3	8,608.5	8,563.8	8,586.6
Return on assets (%)	5.35	6.12	1.27	1.10	1.53	1.27	1.16	0.37
REAL ESTATE INVESTMENT COMPANIES								
Number	6	8	9	8	9	9	8	8
Shareholders	256	749	843	769	661	843	839	839
Asset (Million euro)	213.9	456.1	512.9	487.4	504.3	512.9	349.0	351.0

1 Available data: April 2008. In this case, the return on assets is monthly.

V Legislative Annex (*)

(*) This annex has been prepared by the CNMV Studies and Statistics Department.

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

- **Circular 2/2008**, of 26 March, issued by the Spanish Securities Market Commission ["Comisión Nacional del Mercado de Valores"], partially modifying Circular 4/1994, of 14 December, on accounting rules, information obligations, determination of liquidating value and investment and operating coefficients and real estate valuation activities of real estate investment funds and companies.

  At the present time the CNMV requests certain information contained in valuation reports through a new System, CIFRADOC/CNMV, thereby eliminating the need to send valuation certificates on paper. This information must be completed by the valuation company and sent to the CNMV with two signatures: that of the valuer and that of the collective investment undertaking management company or investment company. Adapting to this change, the Circular specifies the information which must be included in valuation reports by both types of company. It firstly modifies the rules relating to information on valuations, the manner and period for sending to the CNMV, and the specific information prepared by valuers to be included in the said reports; and secondly it adds four rules regarding additional information to be sent, valuation timetable or that relating to conditional valuation reports.

- **ORDER EHA/888/2008**, of 27 March, on transactions in derivatives by collective investment undertakings of a financial nature, clarifying certain concepts of the Regulations under Act 35/2003, of 4 November, on collective investment undertakings promulgated by Royal Decree 1309/2005, of 4 November.

  The Order is divided into two parts. It firstly makes the framework more flexible for transactions by CIUs in derivatives. It specifically clarifies which derivatives are eligible and the purposes for which they may be used. It also introduces additional requirements for those instruments with certain underlying assets or which are not traded on organised markets. In addition, it requires clarification of how the limits contained in the regulations in respect of market and counterparty risk are computed and how the valuation is made. It further includes internal control obligations required in order to operate with these instruments and the information which must be given to the CNMV and to holders and shareholders in respect of transactions carried out.

  The Order secondly incorporates Commission Directive 2007/16/EC, of 19 March 2007, into our legal system, which lays down provisions applying Council Directive 85/611/EEC on co-ordinating legal, regulatory and administrative provisions for certain undertakings for collective investment in transferable securities (UCITS), clarifying certain definitions and detailing those assets which are to be considered suitable.