



# Attention to the Complaints and Enquiries of Investors Annual Report 2015





**Attention to the Complaints  
and Enquiries of Investors  
Annual Report 2015**

Comisión Nacional del Mercado de Valores

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# 1 Introduction



# 1 Introduction

This Annual Report sets out information for the year 2015 on the steps taken by the Comisión Nacional del Mercado de Valores (CNMV) to deal with the investor complaints and enquiries submitted to its Complaints Service. The legal requirement to draft this report derives from Article 30.4 of Law 44/2002 of 22 November on Financial System Reform Measures, which reads. *The Bank of Spain, the National Securities Market Commission and the Directorate-General of Insurance and Pension Funds shall publish an annual report on their respective complaints units including at least a statistical summary of the enquiries and complaints handled and the criteria applied in relation to the complaints and the respondent firms, indicating whether the findings were favourable or unfavourable to the complainant.*

Investors can file a complaint when they feel their interests have been harmed or their rights undermined through the action of a company providing investment services. Specifically, they may apply to have their rights or interests reinstated by reporting material incidents arising from the acts or omissions of the respondent entity to the CNMV Complaints Service, which, after due consideration, may issue a reasoned report favourable to the complainant's interests if it judges the conduct of the respondent entity to be contrary to the rules of transparency and customer protection or good financial customs and practices.

They may also make enquiries or apply for information and guidance on matters of general interest affecting their rights as financial service users, with regard to transparency and customer protection, and on the legal channels available for the exercise of such rights.

Complaints are resolved through the issue of a non-binding report by the CNMV, which will in no event constitute an administrative act subject to appeal.

Order ECC/2502/2012 of 16 November, in force since 22 May 2013, regulates the procedures for filing complaints and claims with the complaints services of Banco de España, the CNMV and the Directorate-General of Insurance and Pension Funds.

Pursuant to the powers assigned it under the second final provision of the above Order, the CNMV issued Circular 7/2013 of 25 September regulating procedures for the resolution of claims and complaints against investment service providers and for dealing with enquiries in the securities market sphere, adapted to the organization and workings of the CNMV Complaints Service and the regulatory framework governing the securities market.

According to these procedures, complaints may be filed in hard copy or electronically<sup>1</sup>. Complaint forms must specify at least:

- a) The ID of the complainant. If the complaint is being made through a representative, such representation should be accredited by some legally accepted means.
- b) The ID of the respondent entity.
- c) The grounds for the claim or complaint.
- d) An express statement that the same facts have not been laid before some other administrative, arbitration or judicial body.
- e) Proof that the complaint has been placed, on the same grounds, before the entity's Customer Service Department (CSD) or Customer Ombudsman (CO).
- f) Proof that at least two months have elapsed without a resolution since the complaint was filed with the CSD or CO, or that the complaint in question has been rejected or overruled.
- g) The date on which the incidents motivating the complaint took place.
- h) Place, date and signature.

When any of these requirement is not met, the Complaints Service will notify the complainant, giving them 10 business days to make good the omission. If the required information is not received within this period, the complainant will be understood to be withdrawing their complaint and the case file will be closed. The complainant, however, conserves the right to furnish the required material when it comes into their power, at which point a new case file will be opened.

The regulations also envisage a series of grounds for the non-admission of complaints, chief among them:

- a) The facts have been laid before some other administrative, arbitration or judicial body or fall within their competence.
- b) The facts under dispute can only be resolved upon through litigation.
- c) The dispute is over the economic amount of the damages potentially caused to the complainant.
- d) The dispute requires the intervention of experts knowledgeable in some other area than the rules of transparency and consumer protection.
- e) The complaint is considered to be without grounds or no claim is pressed, i.e., the motive of the complaint is unclear.

- f) Two months have not elapsed without the complaint being settled since the date it was filed with the entity's CSD or CO.
- g) The incidents laid before the CNMV are different from those laid before the entity's CSD or CO.
- h) Enquiries about transparency and/or customer protection rights are presented as complaints.
- i) No mention is made of the date when the incident took place.
- j) Claims or complaints are a repeat of others already resolved upon, identical or similar in their content and grounds.
- k) Six years have elapsed since the incidents in question without the corresponding claim or complaint being lodged.

In the event that a complaint meets any of the above grounds for non-admission, the interested party will be sent a reasoned explanation of why it has been turned down, and given ten business days to present their arguments. When these arguments are examined but non-admission is upheld, the interested party will be informed of the final decision. If no reply is received, the case file will be closed.

This Report is organised into four chapters and three annexes. Following this introduction – chapter one – chapter two offers a run-through of the CNMV Complaints Service's 2015 activity, including:

- The number of complaints and enquiries received, processed and resolved in the year, along with those still open at the 2015 close;
- The distribution and time to resolution of complaints dealt with in 2015, by month and quarter respectively;
- The reasons complaints have not been accepted for processing;
- The subjects of complaints concluding in a reasoned report;
- Cases of acceptance by the respondent entity, formal accommodation with the complainant, or withdrawal of the complaint.

The Report ranks entities according to a series of parameters such as the number of complaints concluding in a reasoned report; the percentage of such reports favourable to the complainant; the percentage of responses received after the issue of a report favourable to the complainant; and the percentage of responses assenting to the criteria applied in reports favourable to the complainant.

An account is also given of the entities complained against, the subject of complaints, the conclusions of the reports issued, and the follow-up of reports finding in the complainant's favour.

In the case of enquiries, details are offered of the numbers received, the issues most enquired about and the presentation channels used.

The chapter ends with a description of annual developments in the FIN-NET network for handling cross-border disputes, and a look at the latest regulatory novelties.

The third chapter presents the main subjects of 2015 complaints along with the criteria used in their resolution. Among the main causes of complaint were delays in sending out information on the take-up conditions for capital increases, and the loss of subscription rights in rights offerings. Other frequent cases concerned entities' handling of customer requests for documentation, complaints about incidents involving more than one entity and incidents in the processing of securities buy and sell orders.

Chapter four examines the topics attracting most enquiries in 2015, most prominently the intervention of Banco de Madrid S.A. and subsequent declaration of insolvency proceedings, the procedure whereby mortgage loans are transferred to securitisation vehicles, and the status of such loans when a vehicle is liquidated, doubts and incidents concerning Cypriot investment firms registered with the CNMV under the free provision of services, the possibility of renouncing ownership of shares in delisted companies in order to discontinue payment of custody and administration fees, the exchange rate applicable when switching between collective investment schemes denominated in currencies other than the euro, and doubts about the applicability of fees for the opening and maintenance of a cash account associated with a securities account.

Of the three annexes, the first presents statistics on complaints received, supplementing those presented in chapter one, while the second comprises a list of complaints concluding in reports favourable to the complainant classified by subject matter and respondent entity. The third annexe, finally, offers an introduction to the electronic system for the forwarding of claims, complaints and enquiries.

## 2 2015 activity



## 2.1. Complaints

### 2.1.1. Number of complaints and type of resolution

Investors presented a total of 1,400 claims and complaints in 2015, 41.5% fewer than in 2014. This prolongs the steady decline observable since the 2012 peak of 10,900 cases.

#### Complaints processed by type of resolution

TABLE 1

Number of claims and complaints

	2013		2014		2015		% change 14/15
	Number	%	Number	%	Number	%	
<b>Filed with the CNMV Complaints Service</b>	<b>7.308</b>	–	<b>2.393</b>	–	<b>1.400</b>	–	<b>-41.5</b>
<b>Not admitted for processing</b>	<b>1.685</b>	–	<b>592</b>	–	<b>547</b>	–	<b>-7.6</b>
<b>Processed with no final reasoned report</b>	<b>2.242</b>	<b>26.7</b>	<b>766</b>	<b>16.9</b>	<b>213</b>	<b>14.1</b>	<b>-72.2</b>
Acceptance or accommodation	519	6.2	260	5.8	139	9.2	-46.5
Withdrawal	120	1.4	42	0.9	28	1.8	-33.3
Outside competence of the CNMV	1.603	19.1	464	10.3	46	3.0	-90.1
<b>Processed with final reasoned report</b>	<b>6.143</b>	<b>73.3</b>	<b>3.754</b>	<b>83.1</b>	<b>1.303</b>	<b>85.9</b>	<b>-65.3</b>
Report favourable to complainant	4.199	50.1	2.700	59.7	761	50.2	-71.8
Report unfavourable to complainant	1.944	23.2	1.054	23.3	542	35.8	-48.6
<b>Total processed</b>	<b>8.385</b>	<b>100</b>	<b>4.520</b>	<b>100.0</b>	<b>1.516</b>	<b>100.0</b>	<b>-66.5</b>
<b>In progress at year-end</b>	<b>3.615</b>	–	<b>896</b>	–	<b>233</b>		<b>-74.0</b>

Source: CNMV.

Claims and complaints are not accepted for processing if they fail to comply with the rules for admission and are not duly rectified within the period allowed. A total of 547 claims and complaints were turned down for this reason in 2015.

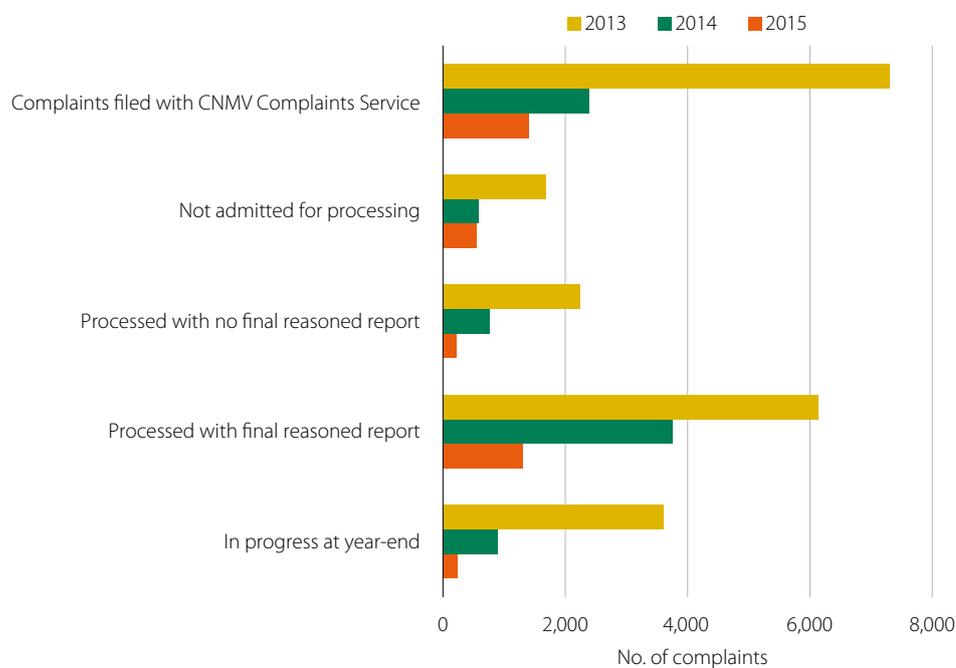
Note that not all admitted claims and complaints conclude with the issue by the CNMV of a reasoned report.

Of the total claims and complaints admitted for processing in 2015, 14.1% were not the subject of a reasoned report, because the entity either accepted the complainant's demands or arrived at an accommodation (9.2% of cases), because the complainant withdrew (1.8% of cases); or because the matter was judged not to fall within the competence of the CNMV Complaints Service (3% of cases).

In the remaining 85.9% of cases, the process concluded with the issuing of a reasoned report on whether the actions of the respondent entity complied or otherwise with the rules of transparency and customer protection or good financial customs and practices.

**Annual variation in complaints**

FIGURE 1



Source: CNMV.

In 2015, the CNMV issued 1,303 reasoned reports in response to claims and complaints compared to 3,754 in 2014, a decrease in the year of 65.3%.

It bears mention that despite the number of complaints filed in 2015 being 41.5% lower than in the previous year, reasoned reports were issued in respect of 2.8% more cases.

Reports were favourable to complainants in 58.4% of cases and unfavourable in the remaining 41.6%, compared to 71.9% and 28.1% respectively in 2014.

**2.1.2. Monthly distribution of complaints and time to resolution**

The first quarter was the busiest period for the filing of claims and complaints with the CNMV Complaints Service, with the 409 complaints received summing 29.2% of the full-year total. Conversely, just 309 complaints were registered in the fourth quarter, equating to 22%.

## Monthly distribution of complaints. 2015

TABLE 2

2015 activity

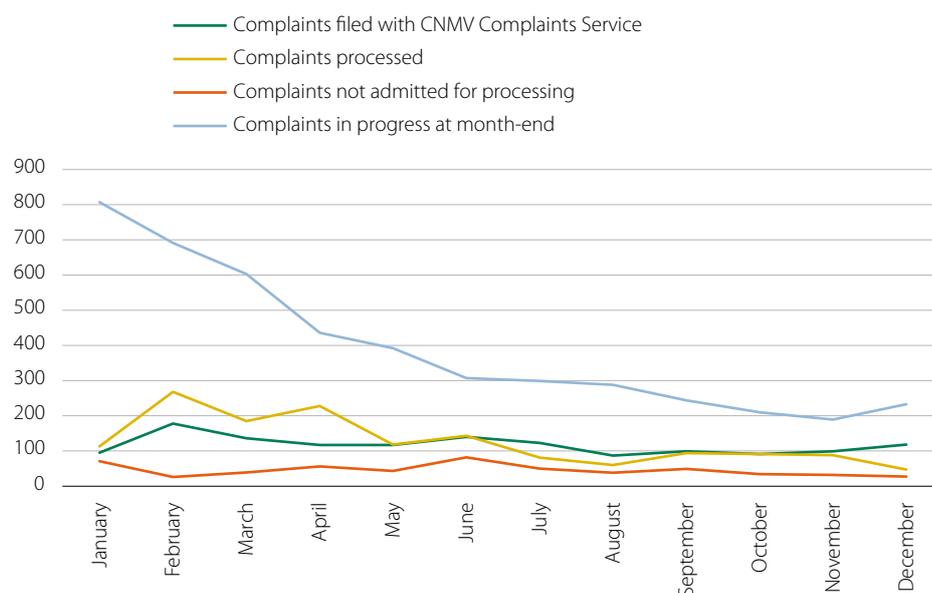
Month	Complaints filed with the CNMV Complaints Service	Complaints processed	Complaints not admitted for processing	Complaints in progress at month-end
January	95	113	71	807
February	178	268	26	691
March	136	185	39	603
April	117	228	56	436
May	117	118	43	392
June	140	143	82	307
July	123	81	50	299
August	87	60	38	288
September	99	94	49	244
October	91	91	34	210
November	99	88	32	189
December	118	47	27	233
<b>TOTAL</b>	<b>1.400</b>	<b>1516</b>	<b>547</b>	

Source: CNMV.

As in previous years, the CNMV considered complaints handling an operational priority and devoted all necessary resources to the task. This dedication, coupled with the decline in complaints filed and the rollout of online systems for communication with the interested parties, have allowed steady inroads into the year-end backlog of complaints. Specifically, complaints in progress at the 2015 close summed around a quarter of those in progress at the year's outset (233 at end-2015 against the 896 pending at end-2014).

## Monthly distribution of complaints. 2015

FIGURE 2



Source: CNMV.

The average time taken for complaint resolution started out at 190 days in the first quarter then worked its way down as the year progressed to just 69 days in the closing quarter.

Pursuant to Circular 7/3013 of 25 September, since 1 June 2014 respondent entities are obliged to exchange all documentation relative to claims and complaints against them with the CNMV Complaints Service using the CIFRADO/CNMV tool.

Investors, meantime, have the choice of filing individual complaints with the Complaints Service by means of a dedicated electronic form. When this option is chosen, all subsequent correspondence between complainant and Complaints Service will also be conducted by electronic means.

With this new system, the parties to complaints can enjoy both the immediacy of electronic communications and the convenience of electronic document filing.

### Time required for processing of resolved complaints. 2015

TABLE 3

Quarter	Processed with final reasoned report		Processed without final reasoned report		Not admitted for processing		Total		Complaints processed or not admitted in under four months	
	No.	Days	No.	Days	No.	Days	No.	Days	No.	% total
1Q	490	231	76	146	136	66	702	190	195	28%
2Q	434	179	55	140	181	52	670	141	370	55%
3Q	191	98	44	69	137	42	372	74	343	92%
4Q	188	88	38	62	93	35	319	69	302	95%
<b>Year</b>	<b>1.303</b>	<b>173</b>	<b>213</b>	<b>114</b>	<b>547</b>	<b>50</b>	<b>2.063</b>	<b>135</b>	<b>1.210</b>	<b>59%</b>

Source: CNMV.

Complaints either processed or turned down within the space of four months represented over 90% of total complaints analysed in the third and fourth quarters of 2015 (92% and 95% respectively). This compared favourably with the 28% and 55% respectively of the first and second quarter, reflecting the higher proportion of complaints concluding in a reasoned report handled in the first six months. This is so because the issue of a reasoned report involves the in-depth study of all the case file documentation, along with any additional material from our records that the case analyst judges necessary to obtain an overview of the issue or issues raised by the complainant. In other words, sufficient time and effort must be put in to facilitate a judgement in keeping with the circumstances of the case as to whether the practices of the respondent entity comply or otherwise with the rules on transparency and customer protection or good financial customs and practices.

In any case, the time taken would be shorter still if we discount the occasional delays in complaint processing due to the time elapsing from when the respondent or complainant is notified of requests or requirements over and above the usual representations until such requests are fulfilled or, failing that, until the time granted for their fulfillment has expired.

Complaints may not be accepted for processing for diverse reasons, at times more than one in the same case. Table 4 below sets out the main grounds for non-admission. As a rule, complaints are likelier to be turned down for reasons of content than for defects of form.

Among the formal grounds for complaint non-admission is the failure to identify the complainant and/or respondent entity; the complaint not having been first put to the entity's CSD or Customer Ombudsman; the fact that the complaint to the entity turns on incidents other than those laid before the Complaints Service, or the complainant's failure to let two months pass since taking their complaint to the entity without proof of its non-admission or rejection. Other defects of form giving rise to non-admission include the absence of a signature or failure to accredit the customer's representative, as the case may be, by some legally accepted means.

As to non-admissions on the grounds of content, the most frequent reason in 2015, affecting 26.7% of rejected submissions, was that over six years had passed without claim or complaint since the incident in question. It should be stated here that this cause for non-admission dates from the entry to force, on 22 May 2013, of Order ECC/2502/2012 of 16 November.

Grounds for non-admission of complaints

TABLE 4

	Number of complaints	%
Formal defects	279	51.0%
– Non-identification of complainant and/or respondent entity	4	0.7%
– No proof of complaint previously being taken to CSD or CO	205	37.5%
– No signature. non-accredited representative or failure to meet other formal requirements.	70	12.8%
Incidents date from more than 6 years ago	146	26.7%
Insufficient detail and other reasons	122	22.3%
<b>Total</b>	<b>547</b>	<b>100.0%</b>

Source: CNMV.

Among formal defects, we can see from the table that failure to provide proof of having placed the matter before the respondent's Customer Service Department (CSD) or Ombudsman (CO) was the most common cause of non-admission, extending to 37.5% of cases.

#### 2.1.4. The subjects of processed complaints concluding in a reasoned report

The information given to investors at the point of sale was the largest focus of complaints giving rise to a final reasoned report (50.4% of the total), though note that its incidence was 79.9% lower than in 2014. In general, these complaints turned on the submitting party's contention that the product acquired did not match their investment profile or else the absence or deficiency of pre-sale information.

## Subjects of complaints concluding in a reasoned report

TABLE 5

### Number of claims and complaints

	2013		2014		2015 change		
	No.	%	No.	%	No.	%	14/15
<b>Pre-sale information and/or product suitability for client</b>	<b>5.790</b>	<b>94.3</b>	<b>3.262</b>	<b>86.9</b>	<b>657</b>	<b>50.4</b>	<b>-79.9</b>
Preference shares and domestic subordinated debt	4.636	75.5	2.550	67.9	185	14.2	-92.7
Convertible products	729	11.9	226	6	44	3.4	-80.5
Swaps	45	0.7	31	0.8	37	2.8	19.4
CIS	42	0.7	17	0.5	29	2.2	70.6
Others	338	5.5	438	11.7	362	27.8	-17.4
<b>Incidents with order execution</b>	<b>82</b>	<b>1.3</b>	<b>117</b>	<b>3.1</b>	<b>241</b>	<b>18.5</b>	<b>106.0</b>
Securities <sup>1</sup>	34	0.6	64	1.7	184	14.1	187.5
CIS	48	0.8	53	1.4	57	4.4	7.5
<b>Fees</b>	<b>97</b>	<b>1.6</b>	<b>148</b>	<b>3.9</b>	<b>187</b>	<b>14.4</b>	<b>26.4</b>
Securities <sup>2</sup>	81	1.3	112	3	139	10.7	24.1
CIS <sup>3</sup>	16	0.3	36	1	48	3.7	33.3
<b>Post-sale information</b>	<b>70</b>	<b>1.1</b>	<b>70</b>	<b>1.9</b>	<b>71</b>	<b>5.4</b>	<b>1.4</b>
Securities	49	0.8	43	1.1	63	4.8	46.5
CIS	21	0.3	27	0.7	8	0.6	-70.4
<b>Other subjects</b>	<b>104</b>	<b>1.7</b>	<b>157</b>	<b>4.2</b>	<b>147</b>	<b>11.3</b>	<b>-6.4</b>
<b>Total processed with final reasoned report</b>	<b>6.143</b>	<b>100</b>	<b>3.754</b>	<b>100</b>	<b>1,303</b>	<b>100</b>	<b>-65.3</b>

Source: CNMV.

- (1) Not including incidents in the execution of sell orders on preference shares or domestic subordinated debt securities, which appear as complaints under the heading "Preference shares and domestic subordinated debt"
- (2) Fees in respect of custody and administration, trades and transfers, and other securities-related charges
- (3) Fees in respect of CIS subscriptions, redemptions and switches, and other CIS-related charges

A breakdown of the type of product subject to alleged misselling shows that complaints were down by 92.7% versus 2014 in the case of preference shares and subordinated debt and by 80.5% in the case of convertible products. Further, their relative weight in total processed complaints concluding in a reasoned report dropped from 67.9% to 14.2% and from 6% to 3.4% respectively.

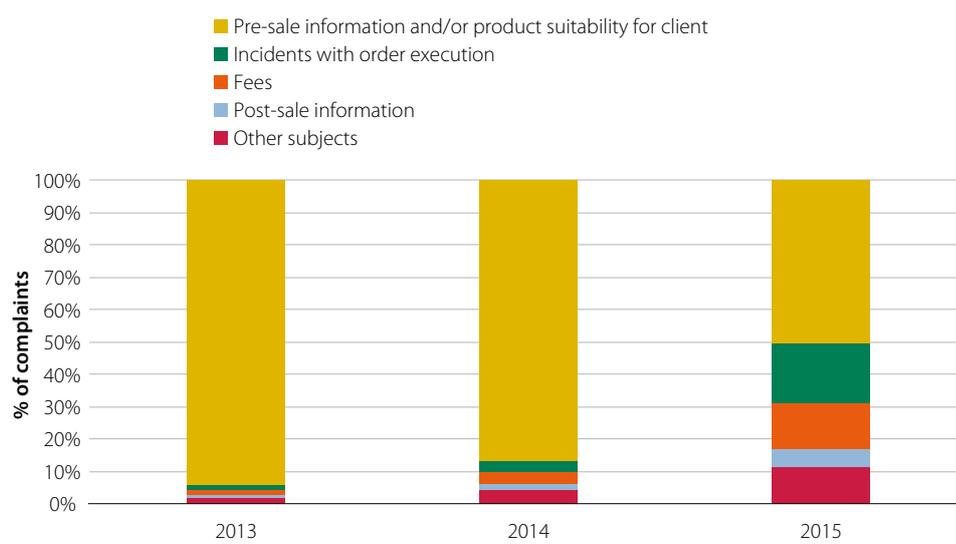
Conversely, the year saw an increase in complaints about the quality of pre-sale information on swaps (19.4%) and collective investment schemes (70.6%), though their share of total complaints concluding in a reasoned report was a modest 2.8% and 2.2% respectively.

Complaints about pre-sale information on products other than the above, down by 17.4% with respect to the previous year, nevertheless accounted for over double the proportion of resolved cases. Shares, in particular, were the subject of a growing percentage of customer complaints, with the 234 processed accounting for as much as 18% of the cases in this category.

## Annual variation in subjects of complaints concluding in a reasoned report

FIGURE 3

2015 activity



Source: CNMV.

Complaints concluding in a reasoned report for incidents with securities buy, sell or transfer orders were up by 187.5% versus 2014<sup>2</sup>, lifting their relative weight in this category from 1.7% to 14.1%. The most common were those referring to share trading orders, with just under 100 cases.

There was also a 7.5% increase in complaints regarding the execution of subscription, redemption or switch orders in collective investment schemes (CIS), which accounted for 4.4% of complaints concluding in a reasoned report.

Resolved complaints about the fees charged by intermediaries were 26.4% higher than in 2014, and summed 14.4% of all those concluding in a reasoned report. The increase in this case owed to both securities transaction fees (execution of market trades, custody and administration, transfer, change of ownership, etc.) and those on CIS subscriptions, redemptions and switches.

Complaints about post-trade information concluding in a reasoned report rose by 46.5% in the case of securities and dropped by 70.4% for CIS. This information is supposed to allow customers to keep accurate track of their positions in financial products, and any options or rights deriving therefrom, yet investors regularly complain about missing statements or having received them too late or with too little advance notice to issue the desired instructions.

Finally, the number of complaints on “other subjects” resolved on in the year was down by 6.4%. This heading takes in a wide variety of incidents, including those relative to contract ownership, testamentary execution, custody and administration agreements, the settlement and early termination of non-standard financial contracts and portfolio management.

<sup>2</sup> Note that this item does not include incidents with sell orders on preference shares and domestic subordinated debt securities, which are also referred to in some complaints concerning pre-sale information.

### 2.1.5. Reports favourable to the complainant by subject of complaint

Complaints concluding in a report favourable to the complainant summed 761 cases (58.4%). A reasoned favourable report is issued when the respondent entity is found not to have acted in accordance with the rules on transparency and customer protection or good financial customs and practices.

The 383 reports favourable to the complainant confirming the deficiency of pre-sale information or a product's lack of suitability for a given investment profile represented 58.3% of reasoned reports issued on this subject (657). A breakdown by product complained about reveals as follows:

- Of the 185 reasoned reports issued on preference shares and subordinated debt, 145 were favourable to the complainant (78.4% of cases).
- Of the 44 reasoned reports dealing with convertible products, 35 or 79.6% were favourable to the complainant.
- Of the 37 final reports dealing with swaps, 73% of cases (27 reports) were favourable to the complainant.
- Of the 29 reports dealing with collective investment schemes, 58.6% (17) were favourable to the complainant.
- Of the 362 reports dealing with other products, 159 (43.9% of cases) were favourable to the complainant.

In addition, final reasoned reports were favourable to the complainant in 58.9% of cases turning on incidents with order execution (142 reports); 56.7% of those concerning fees charged; 54.9% of those concerning defects in post-trade information; and 61.9% of those brought for other causes.

Looking at fee incidents by product, it bears mention that of the 48 reasoned reports issued with regard to CIS, 43.8% were favourable to the complainant, while of the 139 reports issued with regard to other products, this proportion climbed to 61.2%.

**Reports favourable to the complainant by subject of complaint. 2015**

TABLE 6

2015 activity

	Unfavourable to complainant	Favourable to complainant	Total	% favorable to complainant
<b>Pre-sale information and/or product suitability for client</b>	<b>274</b>	<b>383</b>	<b>657</b>	<b>58,3%</b>
Preference shares and domestic subordinated debt	40	145	185	78,4%
Convertible products	9	35	44	79,6%
Swaps	10	27	37	73,0%
CIS	12	17	29	58,6%
Others	203	159	362	43,9%
<b>Incidents with order execution</b>	<b>99</b>	<b>142</b>	<b>241</b>	<b>58,9%</b>
Securities <sup>1</sup>	77	107	184	58,2%
CIS	22	35	57	61,4%
<b>Fees</b>	<b>81</b>	<b>106</b>	<b>187</b>	<b>56,7%</b>
Securities <sup>2</sup>	54	85	139	61,2%
CIS <sup>3</sup>	27	21	48	43,8%
<b>Post-sale information</b>	<b>32</b>	<b>39</b>	<b>71</b>	<b>54,9%</b>
Securities	28	35	63	55,6%
CIS	4	4	8	50,0%
<b>Other subjects</b>	<b>56</b>	<b>91</b>	<b>147</b>	<b>61,9%</b>
<b>Total</b>	<b>542</b>	<b>761</b>	<b>1.303</b>	<b>58,4%</b>

Source: CNMV.

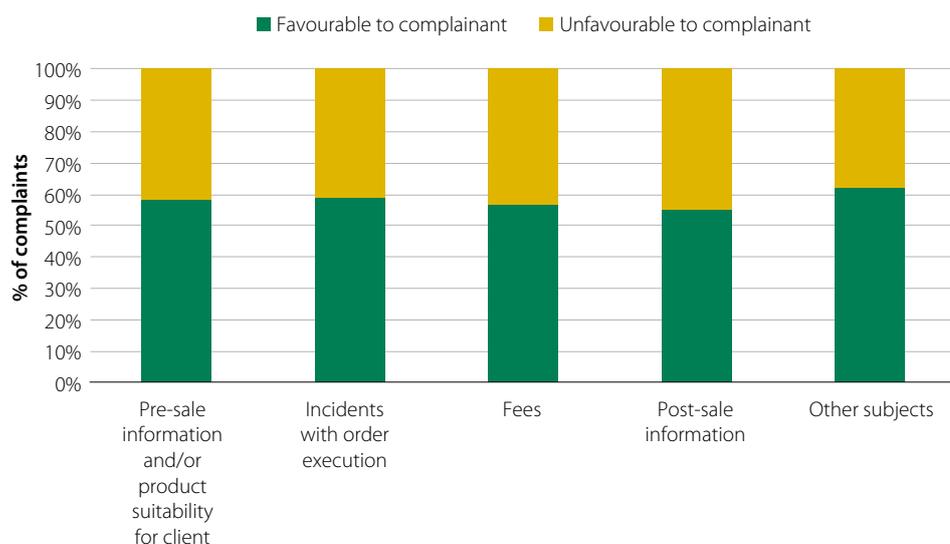
- (1) Not including incidents with domestic market sell orders on preference shares and subordinated debt securities, which appear as complaints under the heading "Preference shares and domestic subordinated debt securities"
- (2) Fees in respect of administration and custody, trades and transfers, and other securities-related charges
- (3) Fees in respect of subscriptions, redemptions, switches and other CIS charges.

As in previous years, the majority of complaints resolved upon in 2015 referred to the customer information gathered by entities in the lead-up to a sale, in order to assess the product's suitability for his or her investment profile, or the information furnished to clients on the characteristics and risks of the proposed investment.

In particular, a significantly higher number of resolved complaints on pre-sale information had to do with the placement of a public offering. The tenor of most was that the investor had no knowledge of the nature and characteristics of the product acquired, primarily the attached risks leading potentially to the loss of capital or expected returns. Regarding the pre-sale information mandated by law, the prospectus itself specified that as proof of compliance the placing agents should conserve a copy of the issue's summary note, duly signed by the investor.

**Distribution of reports favourable to complainant  
 by subject of complaint. 2015**

FIGURE 4



Source: CNMV.

**2.1.6. Acceptances, accommodations and withdrawals by subject of complaint**

The entity's full acceptance of the complaint or accommodation with the complainant, or the latter's withdrawal of their claim, led to the early termination of 167 complaints in 2015 (11% of all those processed) compared to 302 in 2014 (6.5% of processed complaints).

These modalities of early termination arose basically in customer complaints about defects in pre-sale information or the product's match with their investment profile (33.5% of total early terminations), and incidents with provider charges (32.9% of the total, with a particular incidence in complaints about non-CIS securities). Acceptances, accommodations and withdrawals were also frequent, albeit in smaller measure, in complaints about order execution.

## Acceptances, accommodations and withdrawals by subject of complaint. 2015

TABLE 7

2015 activity

	Acceptance or accommodation		Withdrawal		Total	
	No.	%	No.	%	No.	%
<b>Pre-sale information and/or product suitability for client</b>	<b>40</b>	<b>28.8%</b>	<b>16</b>	<b>57.1%</b>	<b>56</b>	<b>33.5%</b>
Preference shares and domestic subordinated debt	4	2.9%	0	0.0%	4	2.4%
Convertible products	0	0.0%	0	0.0%	0	0.0%
Swaps	0	0.0%	0	0.0%	0	0.0%
CIS	4	2.9%	0	0.0%	4	2.4%
Others	32	23.0%	16	57.1%	48	28.7%
<b>Incidents with order execution</b>	<b>30</b>	<b>21.6%</b>	<b>2</b>	<b>7.1%</b>	<b>32</b>	<b>19.2%</b>
Securities <sup>1</sup>	24	17.3%	1	3.6%	25	15.0%
CIS	6	4.3%	1	3.6%	7	4.2%
<b>Fees</b>	<b>47</b>	<b>33.8%</b>	<b>8</b>	<b>28.6%</b>	<b>55</b>	<b>32.9%</b>
Securities <sup>2</sup>	40	28.8%	8	28.6%	48	28.7%
CIS <sup>3</sup>	7	5.0%	0	0.0%	7	4.2%
<b>Post-sale information</b>	<b>6</b>	<b>4.3%</b>	<b>1</b>	<b>3.6%</b>	<b>7</b>	<b>4.2%</b>
Securities	5	3.6%	1	3.6%	6	3.6%
CIS	1	0.7%	0	0.0%	1	0.6%
<b>Other subjects</b>	<b>16</b>	<b>11.5%</b>	<b>1</b>	<b>3.6%</b>	<b>17</b>	<b>10.2%</b>
<b>Total</b>	<b>139</b>	<b>100.0%</b>	<b>28</b>	<b>100.0%</b>	<b>167</b>	<b>100.0%</b>

Source: CNMV.

(1) Not including incidents with domestic market sell orders on preference shares and subordinated debt securities, which appear as complaints under the heading "Preference shares and domestic subordinated debt securities"

(2) Fees in respect of administration and custody, trades and transfers, and other securities-related charges

(3) Fees in respect of subscriptions, redemptions, switches and other CIS charges

### 2.1.7. Follow-up of reports favourable to the complainant

The reasoned report issued by the CNMV is not of a binding nature. However, when a case concludes with a report favourable to the complainant, the CNMV requires respondent entities to indicate their assent or otherwise to the premises and criteria of the report and, where pertinent, to provide documentary proof of having remedied the situation with the complainant. Such communications must be received within a month of the report being conveyed to the respondent entity. And failure to reply within this term will be deemed to signify its non-assent to the criteria expressed therein.

Of the 761 complaints in 2015 concluding in a report favourable to the complainant, the respondent entity replied in 80.7% of cases (30.9% in 2014), with 31.3% assenting to the report's criteria (7.3% in 2014) and/or stating that they would take steps to remedy the situation with the complainant. In 49.5% of complaints (23.7% in 2014), the entity indicated its disagreement with the report's conclusions or made representations implying its non-assent to the report's criteria and refusal to rectify the situation with its client. In the remaining 19.3% (69% in 2014), entities made no mention of any follow-up action.

**Follow-up of reports favourable to the complainant by type of entity**

TABLE 8

Type of entity	Number of reports favourable to complainant	Follow-up action reported by respondent entity				Total	Entities not reporting follow-up action	
		Assent to criteria: acceptance or accommodation		No express assent: no acceptance or accommodation			No.	%
		No.	%	No.	%			
Banks and savings banks	724	225	31.1%	369	51.0%	594	131	18.1%
Credit cooperatives	10	3	30.0%	3	30.0%	6	4	40.0%
Investment firms	19	6	31.6%	3	15.8%	9	10	52.6%
CIS management companies	8	4	50.0%	2	25.0%	6	2	25.0%
<b>Total</b>	<b>761</b>	<b>238</b>	<b>31.3%</b>	<b>377</b>	<b>49.5%</b>	<b>615</b>	<b>147</b>	<b>19.3%</b>

Source: CNMV.

### 2.1.8. Ranking of respondent entities

In this section, respondent entities are ranked<sup>3</sup> according to the number of complaints against them concluding in a reasoned report; the percentage of such reports favourable to the complainant; the percentage responding to the CNMV's requirements after reports favourable to the complainant; and the percentage subsequently indicating their assent to the criteria maintained in the said report.

The fact that a complaint process concludes in a reasoned report indicates an investor's disagreement with the conduct of a provider which has not previously been resolved through other means like acceptance by the entity, accommodation between the parties, or recourse to other mechanisms for the in-court or out-of-court settlement of disputes.

Table 9 ranks entities in descending order by the number of final reasoned reports issued in their respect in 2015.

We can see that eleven entities were in receipt of over thirty reasoned reports: Bankia, S.A. (354); Banco Santander, S.A. (192); Caixabank, S.A. (98); Catalunya Banc, S.A. (75); Banco Bilbao Vizcaya Argentaria, S.A. (73); Banco de Sabadell, S.A. (62); Bankinter, S.A. (52); Banco Popular Español, S.A. (48); Banco de Caja España de Inversiones, Salamanca y Soria, S.A. (35); Deutsche Bank, Sociedad Anónima Española (33) and Abanca Corporación Bancaria, S.A. (32).

## Entities by number of reasoned reports issued. 2015

TABLE 9

2015 activity

Entity	Pre-sale information and/or product suitability		Others subjects		Total	
	No.	%	No.	%	No.	%
1. Bankia, S.A.	286	43.5%	68	10.5%	354	27.2%
2. Banco Santander, S.A.	90	13.7%	102	15.8%	192	14.7%
3. Caixabank, S.A. <sup>1</sup>	35	5.3%	63	9.8%	98	7.5%
4. Catalunya Banc, S.A.	59	9.0%	16	2.5%	75	5.8%
5. Banco Bilbao Vizcaya Argentaria, S.A.	19	2.9%	54	8.4%	73	5.6%
6. Banco de Sabadell, S.A.	30	4.6%	32	5.0%	62	4.8%
7. Bankinter, S.A.	10	1.5%	42	6.5%	52	4.0%
8. Banco Popular Español, S.A.	22	3.3%	26	4.0%	48	3.7%
9. Banco de Caja España de Inversiones, Salamanca Y Soria, S.A.	19	2.9%	16	2.5%	35	2.7%
10. Deutsche Bank, Sociedad Anónima Española	15	2.3%	18	2.8%	33	2.5%
11. Abanca Corporación Bancaria, S.A.	12	1.8%	20	3.1%	32	2.5%
12. Ing Bank N.V., Sucursal en España <sup>3</sup>	2	0.3%	18	2.8%	20	1.5%
13. Liberbank, S.A.	7	1.1%	11	1.7%	18	1.4%
14. Ibercaja Banco, S.A. <sup>2</sup>	2	0.3%	14	2.2%	16	1.2%
<b>Others (*)</b>	<b>49</b>	<b>7.5%</b>	<b>146</b>	<b>22.6%</b>	<b>195</b>	<b>15.0%</b>
<b>Total</b>	<b>657</b>	<b>100.0%</b>	<b>646</b>	<b>100.0%</b>	<b>1.303</b>	<b>100.0%</b>

Source: CNMV.

(\*) 57 entities receiving final reasoned reports in respect of 15 or fewer complaints.

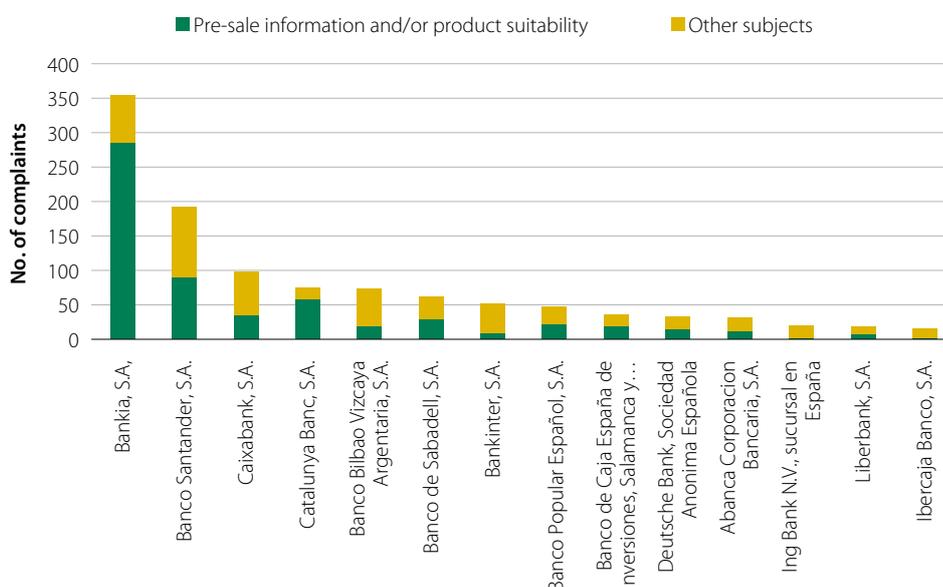
(1) 33 complaints were against BARCLAYS BANK, S.A., subsequently taken over by CAIXABANK, S.A.

(2) One complaint was against BANCO GRUPO CAJATRES, S.A., now part of IBERCAJA BANCO, S.A.

(3) Three complaints were against ING DIRECT, N.V. SUCURSAL EN ESPAÑA, wound up with the transfer of its operations to ING BANK N.V., SUCURSAL EN ESPAÑA.

## Complaints concluding in a reasoned report by entity. 2015

FIGURE 5



Source: CNMV.

The reasoned reports issued by the Complaints Service can be of two types, favourable or unfavourable to the complainant, with only the former implying the commission of a fault by the respondent entity.

Table 10 below ranks entities, again in descending order, by the percentage of reasoned reports favourable to the complainant issued by the Complaints Service. Seven of their number exceeded the overall average (58.4%), with percentages as follows:

- Between 80% and 90%, Catalunya Banc, S.A. (81.3%).
- Between 70% and 80%, Deutsche Bank, Sociedad Anónima Española (78.8%) and Caixabank, S.A. (78.6%).
- Between 60% and 70%, Bankinter, S.A. (63.5%); Banco Santander, S.A. (63.0%); Banco de Sabadell, S.A. (62.9%) and Banco Popular Español, S.A. (60.4%).

A further seven entities score below this average level, specifically: Liberbank, S.A. (55.6%); Banco Bilbao Vizcaya Argentaria, S.A. (52.1%); Banco de Caja España de Inversiones, Salamanca y Soria, S.A. (51.4%); Abanca Corporación Bancaria, S.A. (46.9%); Bankia, S.A. (42.9%); Ibercaja Banco, S.A. (37.5%) and Ing Bank N.V., Sucursal en España (30.0%).

**Entities by reasoned report favourable to the complainant**

TABLE 10

Entity	Number of complaints concluding in reasoned report			% favourable to complainant
	Unfavourable to complainant	Favourable to complainant	Total	
1. Catalunya Banc, S.A.	14	61	75	81.3%
2. Deutsche Bank, Sociedad Anónima Española	7	26	33	78.8%
3. Caixabank, S.A. <sup>1</sup>	21	77	98	78.6%
4. Bankinter, S.A.	19	33	52	63.5%
5. Banco Santander, S.A.	71	121	192	63.0%
6. Banco de Sabadell, S.A.	23	39	62	62.9%
7. Banco Popular Español, S.A.	19	29	48	60.4%
8. Liberbank, S.A.	8	10	18	55.6%
9. Banco Bilbao Vizcaya Argentaria, S.A.	35	38	73	52.1%
10. Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	17	18	35	51.4%
11. Abanca Corporación Bancaria, S.A.	17	15	32	46.9%
12. Bankia, S.A.	202	152	354	42.9%
13. Ibercaja Banco, S.A. <sup>2</sup>	10	6	16	37.5%
14. Ing Bank N.V., Sucursal en España <sup>3</sup>	14	6	20	30.0%
<b>Others (*)</b>	<b>65</b>	<b>130</b>	<b>195</b>	<b>66.7%</b>
<b>Total</b>	<b>542</b>	<b>761</b>	<b>1303</b>	<b>58.4%</b>

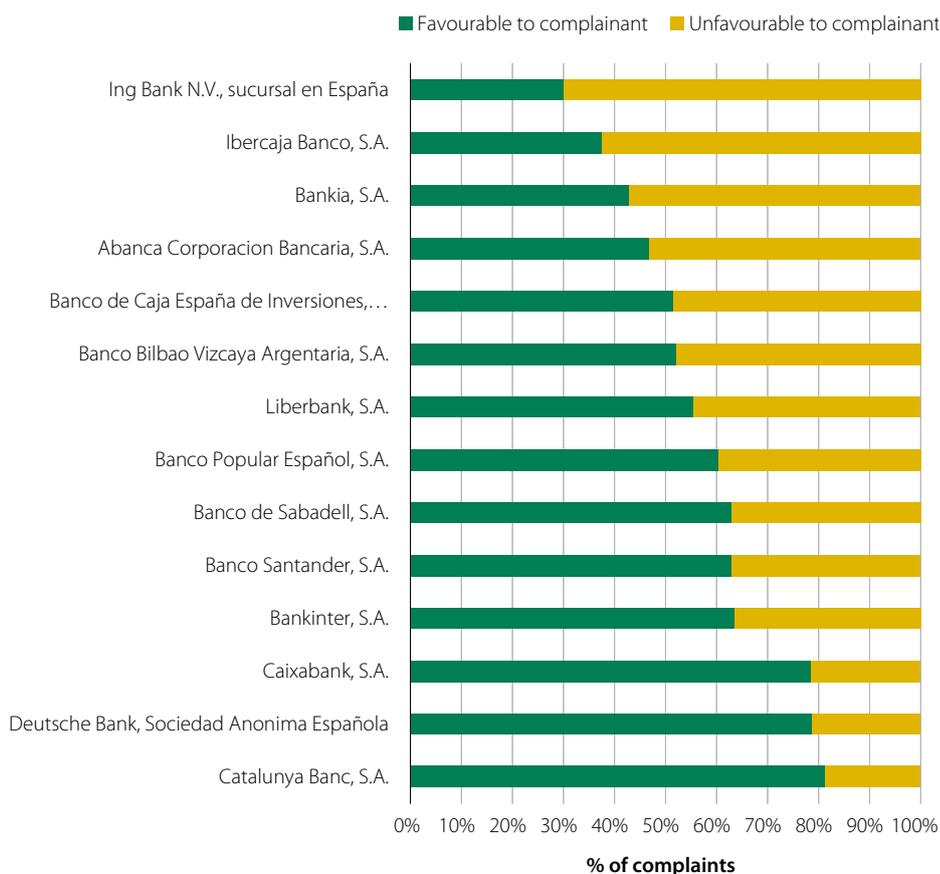
Source: CNMV.

(\*) 57 entities receiving final reasoned reports in respect of 15 or fewer complaints.

(1) 33 complaints were against BARCLAYS BANK, S.A., subsequently taken over by CAIXABANK, S.A.

(2) One complaint was against BANCO GRUPO CAJATRES, S.A., now part of IBERCAJA BANCO, S.A.

(3) Three complaints were against ING DIRECT, N.V. SUCURSAL EN ESPAÑA, wound up with the transfer of its operations to ING BANK N.V., SUCURSAL EN ESPAÑA.



Source: CNMV.

Table 11 shows entities ranked by their assent to the criteria stated in the reasoned report favourable to the complainant. Average assent rates, as stated earlier, were 31.1%, with five entities at or above this level: Banco de Sabadell, S.A. (71.8%); Banco de Caja España de Inversiones, Salamanca y Soria, S.A. (66.7%); Banco Popular Español, S.A. (65.5%); Banco Bilbao Vizcaya Argentaria, S.A. (39.5%); Bankinter, S.A. (33.3%) and Liberbank, S.A. (30.0%).

## Entities by assent to report criteria (%)

TABLE 11

Entity	Reports favourable to complainant	Follow-up action reported	Assent to criteria: acceptance or accommodation	% follow-up action reported	% assent
1. Banco de Sabadell, S.A.	39	39	28	100.0%	71.8%
2. Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	18	18	12	100.0%	66.7%
3. Banco Popular Español, S.A.	29	27	19	93.1%	65.5%
4. Banco Bilbao Vizcaya Argentaria, S.A.	38	37	15	97.4%	39.5%
5. Bankinter, S.A.	33	18	11	54.5%	33.3%
6. Liberbank, S.A.	10	10	3	100.0%	30.0%
7. Bankia, S.A.	152	136	45	89.5%	29.6%
8. Caixabank, S.A. <sup>1</sup>	77	52	22	67.5%	28.6%
9. Deutsche Bank, Sociedad anónima Española	26	20	6	76.9%	23.1%
10. Abanca Corporación Bancaria, S.A.	15	7	3	46.7%	20.0%
11. Ibercaja Banco, S.A.	6	1	1	16.7%	16.7%
12. Banco Santander, S.A.	121	101	20	83.5%	16.5%
13. Catalunya Banc, S.A.	61	61	1	100.0%	1.6%
14. Ing Bank N.V., Sucursal en España	6	0	0	0.0%	0.0%
<b>Others (*)</b>	<b>130</b>	<b>87</b>	<b>52</b>	<b>66.9%</b>	<b>40.0%</b>
<b>Total</b>	<b>761</b>	<b>614</b>	<b>238</b>	<b>80.7%</b>	<b>31.3%</b>

Source: CNMV.

(\*) 57 entities receiving reasoned reports in respect of 15 or fewer complaints.

(1) 28 reports favourable to the complainant, 9 follow-up actions and 5 cases of assent to criteria and/or acceptances or accommodations refer to BARCLAYS BANK, S.A., now part of CAIXABANK, S.A.

Also germane is the percentage of entities improving on the 77.4% response rate to our request (table 12). The list in this case runs Banco de Sabadell, S.A. (100.0%); Banco de Caja España de Inversiones, Salamanca y Soria, S.A. (100.0%); Catalunya Banc, S.A. (100.0%); Liberbank, S.A. (100.0%); Banco Bilbao Vizcaya Argentaria, S.A. (97.4%); Banco Popular Español, S.A. (93.1%); Bankia, S.A. (89.5%) and Banco Santander, S.A. (83.5%).

As a rule, the entities responding most frequently are also the likeliest to assent to the criteria of the reasoned report. This is not true, however, of Catalunya Banc, S.A., which despite a response rate of 100%, only accepted the report's criteria in one out of 61 cases in its replies to the Complaints Service.

## Entities by follow-up actions reported

TABLE 12

Entity	Reports favourable to complainant	Follow-up actions reported	Assent to criteria: acceptance or accommodation	% follow-up actions reported	% assent
1. Banco de Sabadell, S.A.	39	39	28	100.0%	71.8%
2. Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	18	18	12	100.0%	66.7%
3. Catalunya Banc, S.A.	61	61	1	100.0%	1.6%
4. Liberbank, S.A.	10	10	3	100.0%	30.0%
5. Banco Bilbao Vizcaya Argentaria, S.A.	38	37	15	97.4%	39.5%
6. Banco Popular Español, S.A.	29	27	19	93.1%	65.5%
7. Bankia, S.A.	152	136	45	89.5%	29.6%
8. Banco Santander, S.A.	121	101	20	83.5%	16.5%
9. Deutsche Bank, Sociedad Anónima Española	26	20	6	76.9%	23.1%
10. Caixabank, S.A. <sup>1</sup>	77	52	22	67.5%	28.6%
11. Bankinter, S.A.	33	18	11	54.5%	33.3%
12. Abanca Corporación Bancaria, S.A.	15	7	3	46.7%	20.0%
13. Ibercaja Banco, S.A.	6	1	1	16.7%	16.7%
14. Ing Bank N.V., Sucursal en España	6	0	0	0.0%	0.0%
<b>Others (*)</b>	<b>130</b>	<b>87</b>	<b>52</b>	<b>66.9%</b>	<b>40.0%</b>
<b>Total</b>	<b>761</b>	<b>614</b>	<b>238</b>	<b>80.7%</b>	<b>31.3%</b>

Source: CNMV.

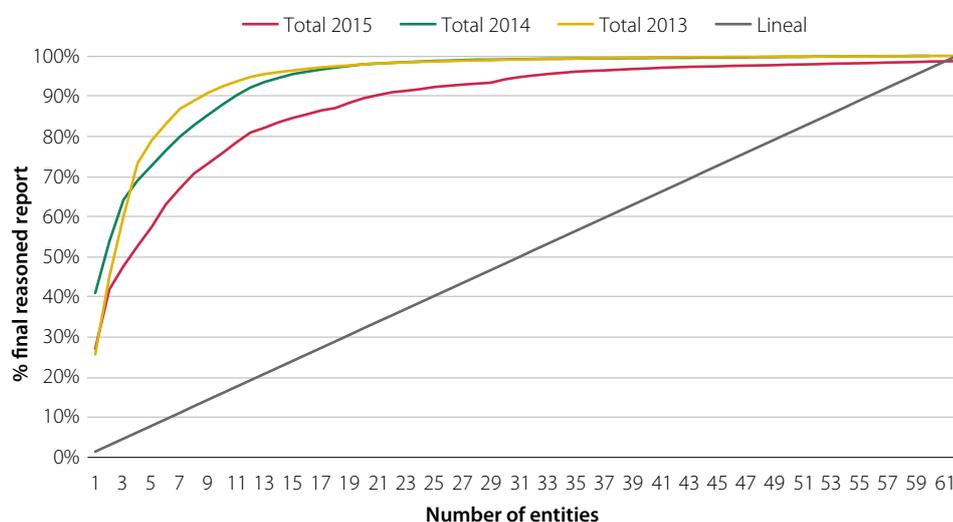
(\*) 57 entities receiving reasoned reports in respect of 15 complaints or fewer

(1) 28 reports favourable to the complainant, 9 follow-up actions and 5 cases of assent to criteria and/or acceptances or accommodations refer to BARCLAYS BANK, S.A. now CAIXABANK, S.A.

As we can see from table 12 and figure 7, the majority of complaints concluding in a reasoned report affected the eleven top-ranked entities by the measure of number of complaints concluding in a reasoned report (table 9). Specifically, these eleven accounted for 78.1% of reports issued in 2015, despite representing just 16.7% of the entities named therein.

## Distribution of complaints concluding in a reasoned report

FIGURE 7



Source: CNMV.

Table 12 shows that BANKIA, S.A. summed 46.5% of complaints concluding in a reasoned report in 2015, compared to 41% the previous year. However the remaining percentage up to 90% corresponded to 21 entities against 10 in 2014, signifying that reasoned reports were more spread out with the exception of the most frequent recipient.

## 2.2. Enquiries

The CNMV Complaints Service handles investor enquiries on topics of general interest concerning the rights of financial service users and the legal channels available to defend them. These requests for information and advice are dealt with in Article 2.3 of Order ECC/2502/2012 of 16 November regulating the procedure for lodging claims and complaints with the complaints services of Banco de España, the Comisión Nacional del Mercado de Valores and the Directorate-General of Insurance and Pension Funds.

Aside from the enquiries envisaged in the said Order ECC/2502/2012, the Complaints Service will facilitate investor searches of the information held in its official registers and other public documents it makes available, as well as addressing any issues or doubts investors might raise in the securities market sphere.

It will also respond to written communications which are not enquiries as such, but which set forth opinions, complaints or proposals on matters within the CNMV's supervisory remit.

At times written communications have to be dealt with by other CNMV departments, because of their subject matter or because the sender is a professional investor. In such cases, the writer is informed that the Complaints Service only handles enquiries from investors or financial service users on matters of transparency and customer protection, and that for questions of a professional nature they should approach the relevant department of the CNMV.

Finally, the Service passes on any written communications that are addressed to the CNMV but whose content places them outside its area of competence. These tend to be enquiries about banking products and/or services, or about insurance or pension funds. In such cases, the CNMV forwards the communications to the competent supervisory body, informing the sender accordingly. Another set of enquiries outside the CNMV's remit concerns tax-related matters, in which case the interested party is directed to the Spanish inland revenue service Agencia Tributaria.

### 2.2.1. Volume and channel of enquiries

The CNMV dealt with 8,866 investor enquiries in 2015. Most were made by telephone (78.7%) and were handled by call centre operators. Phone enquiries are generally confined to information available in the CNMV's official registers or posted on its website, although enquirers can also be informed about the progress of a complaint. The CNMV virtual office was the second most utilised channel (15.6%), followed by postal mail and personal submissions through the general registry (5.8%).

As we can see from table 13, the CNMV dealt with 22.8% more enquiries in 2015 compared to the prior year. Growth was fastest in the telephone channel (1,667

more enquiries than in 2014), followed by postal mail, with an increase of 29%. Conversely, enquiries received through the CNMV virtual office were 9% fewer than in 2014.

2015 activity

The volume of enquiries surged in 2012 and 2013, due basically to investor doubts about the sale of preference shares and subordinated debt securities and, in 2013 particularly, the intricacies of the exchange and/or buy-back of certain hybrid instruments or the arbitrage processes unfolding at entities intervened by the Fund for Orderly Bank Restructuring (FROB). Although levels since have been closer to normality, the year 2015 brought numerous enquiries from investors affected by the Banco de Madrid, S.A. insolvency proceedings.

Another 2015 stand-out was the reduction achieved in response times to enquiries other than those made by telephone (normally handled the same day). Specifically, enquiries were responded to in around one month on average, dropping to just eight calendar days in the closing quarter.

### Number of enquiries by channel

TABLE 13

	2013		2014		2015		% change 2014/2013
	Number	% total	Number	% total	Number	% total	
Telephone	9,532	71.4%	5,307	73.5%	6,974	78.7%	31.4%
Written	1,062	8.0%	397	5.5%	512	5.8%	29.0%
Form/Virtual office	2,757	20.7%	1,517	21.0%	1,380	15.6%	-9.0%
<b>Total</b>	<b>13,351</b>	<b>100.0%</b>	<b>7,221</b>	<b>100.0%</b>	<b>8,866</b>	<b>100.0%</b>	<b>22.8%</b>

Source: CNMV.

The channels available for submitting enquiries to the CNMV are:

- Electronically through the CNMV website ([www.cnmv.es](http://www.cnmv.es)) or virtual office, using an existing certificate or electronic ID, or creating a user name and password.
- By writing to the CNMV, C/ Edison, 4 - 28006 Madrid. A form is available for this purpose on [www.cnmv.es](http://www.cnmv.es), in the “enquiries” section of the “Investors’ website”, in accordance with the template figuring in Annexe III of CNMV Circular 7/2013 of 25 September, regulating procedures for the resolution of claims and complaints against investment service providers and for dealing with enquiries in the securities market sphere.
- Through the investor helpline 902 149 200. This line is manned by call centre operators, and is confined to enquiries about information held in the CNMV’s official registers or posted on its website ([www.cnmv.es](http://www.cnmv.es)).

A dedicated mailbox is also available, at [ServiciodereclamacionesCNMV@cnmv.es](mailto:ServiciodereclamacionesCNMV@cnmv.es), so investors can check the status of complaints or enquiries previously submitted to the Complaints Service through the appropriate procedures. The complainant or enquirer must identify themselves and provide the reference number assigned to their case. It should be stressed that the channel is provided for this sole use and is not prepared for the admission of new enquiries.

## 2.2.2. The subjects of enquiries

Investors enquired about a variety of market-related matters and events, of which the following in particular stand out:

- Banco Madrid, S.A. insolvency proceedings. The CNMV received numerous enquiries from investors affected, from the first signs of trouble up to its application for insolvency proceedings.

Investors sought clarification on three main points: 1) the status of their investments in collective investment schemes managed by Banco de Madrid SGIIC, 2) the situation of customers of broker-dealer Interdin Bolsa, S.V. S.A., which had Banco de Madrid as its parent company, and 3) the situation of customers of Banco de Madrid, S.A.

- The prospective securitisation of mortgage loans. Investors wished to know if their loans had been assigned to securitisation vehicles and, if so, what their names are and how they could access their memorandum of association and other documentation.
- Doubts and incidents regarding Cypriot investment firms figuring in the CNMV's official registers under the free provision of services. Enquiries were also received from investors in dispute with the above firms who wished to know how and where to submit a complaint.
- Custody and administration fees in the case of securities delisted or suspended from trading. Commonly, enquiries under this head centre on the implications for shareholders of firms being delisted or withdrawn from trading, and the alternatives available. Many investors were unhappy about being made to pay custody and administration fees in respect of securities not available for trading.
- Takeover bids authorised by the CNMV in 2015; specifically, the bids launched for the companies Realía Business, S.A., Sociedad Anónima Damm, S.A., Jazztel, S.A., and Compañía Logística de Hidrocarburos CLH, S.A.

In the case of takeover bids aimed at the delisting of the company's shares, as with Sociedad Anónima DAMM, S.A. and Compañía Logística de Hidrocarburos CLH, S.A., some enquirers were in disagreement with the prices specified in the delisting offer.

Other enquiries turned on squeeze-outs/sell-outs, particularly in what cases they are authorised and the steps investors should follow to take up the offer.

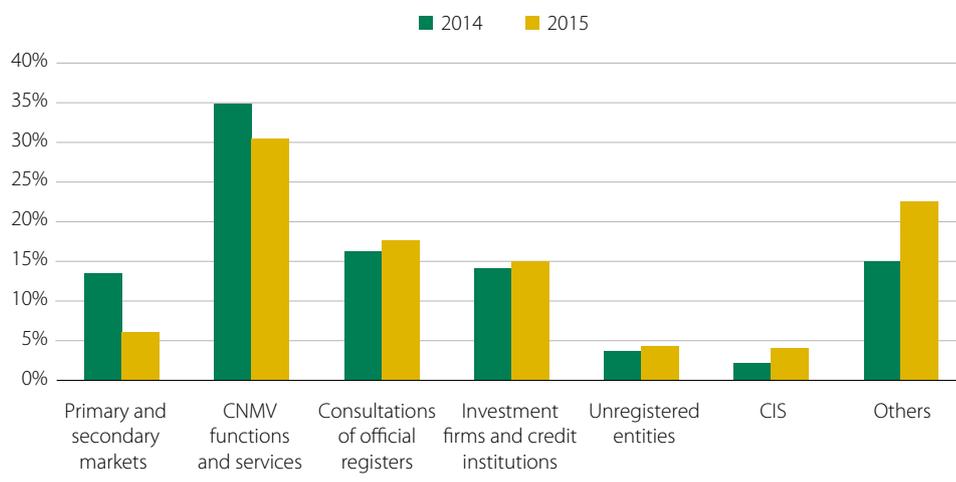
- Enquiries and complaints continued to come in throughout 2015 on the stock market launch of Bankia, S.A., and the continued suspension from trading of Pescanova, S.A.

Other enquiries recurring each year refer to the possibility of consulting the prospectuses of securities issues, public offerings, initial public offerings, takeover bids or collective investment schemes; the identity and activity of non-registered entities, known colloquially as "boiler rooms"; the fees charged for investment services, primarily for securities transfers and custody and administration; the coverage provid-

ed by investor compensation schemes in the event of custodian insolvency, and, finally, the functions and services of the CNMV (status of claims and complaints in progress, CNMV notices, investor guides and factsheets, statistics and other publications).

### Enquiries by subject

FIGURE 8



Source: CNMV.

## 2.3. International cooperation mechanisms

### 2.3.1. Financial Dispute Resolution Network (FIN-NET)

The Financial Dispute Resolution Network (hereafter, FIN-NET) is a network for the out-of-court resolution of cross-border disputes between consumers and financial service providers in the European Economic Area (EEA)<sup>4</sup>. FIN-NET owes its existence to European Commission Recommendation 98/257/EC of 30 March, on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes. It was set up by the European Commission in 2001 so investment service users can channel any complaints they wish to direct against providers in another country within the EEA. The CNMV joined FIN-NET in 2008 and the organisation currently has 58 members drawn from 25 countries.

Any resident of an EEA country wishing to complain about a foreign provider with its domicile elsewhere within the area can approach the complaints settlement scheme in their home country. This local scheme will help them identify the relevant complaints scheme in the service provider's country and indicate the next steps that they should follow. The consumer can then choose to contact the foreign complaints scheme directly or else leave the complaint with their home-country scheme, which will pass it on accordingly.

To streamline the process, FIN-NET offers claimants a consumer guide along with a form which helps them set out the key points of their complaint. Both documents are available from the FIN-NET website ([http://ec.europa.eu/finance/fin-net/index\\_en.htm](http://ec.europa.eu/finance/fin-net/index_en.htm)), in the section headed *Key Documents*.

4 Formed by the 28 countries of the European Union plus Iceland, Liechtenstein and Norway

FIN-NET members agree to be bound by a Memorandum of Understanding<sup>5</sup> which outlines the mechanisms and other conditions according to which they shall cooperate to facilitate the settlement of cross-border disputes. Although it is not binding on the signatories in a legal sense, the CNMV, as a FIN-NET member, undertakes to comply with its terms. The document (in English and Spanish) can be consulted on its website through the link in the preceding paragraph.

### Plenary meetings

FIN-NET meets twice a year, primarily to report back on the European Union's legal initiatives in the spheres of alternative dispute resolution (ADR)<sup>6</sup> and financial services, and on regulatory developments within each member state and the novelties affecting their respective ADR schemes. Plenaries are also an opportunity for the exchange and pooling of specific claim and complaint cases, both national and cross-border.

The CNMV Complaints Service took part in the year's two plenaries held in June and December, in Brussels on both occasions.

### Cross-border complaints processed

The Complaints Service received a total of nine cross-border complaints in 2015, filed by non-residents alleging the commission of faults by investment service providers operating in Spain<sup>7</sup>. In two of these nine cases, the complainants were directed to the body in charge of the out-of-court resolution of disputes in the country where the company was established, in a further three the file was closed because the complainant failed to provide the mandatory particulars, and one was not admitted on the grounds that the subject was rightly the competence of the Banco de España Complaints Service.

In one other case, the respondent entity accepted the claims of the complainant, and in the remaining two, after analysing the arguments and documentation furnished by both sides, the CNMV issued a final reasoned report on the conduct of the respondent entity.

Finally, the CNMV received 22 claims or complaints from citizens resident in Spain against entities established in other countries. Since the CNMV had no power to resolve them, the complainants were directed to the bodies in charge of the out-of-court resolution of disputes in the companies' home states (the United Kingdom and Cyprus).

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5 Memorandum of understanding (MoU).

6 An alternative dispute resolution or ADR entity is understood to mean any body or department that resolves claims between investors and investment service providers without recourse to the courts.

7 Further, two complaint files were received from investors resident in non-EU countries (Andorra and Mexico).

Work progressed in 2015 on the transposition and regulatory development of two important legislative texts approved at EU level during 2013:

- Directive on alternative dispute resolution (ADR) for consumer disputes<sup>8</sup>.

The objective of this Directive is to ensure consumers can opt to file claims or complaints against service providers with entities offering alternative dispute resolution, provided these entities are independent and transparent, and their procedures fast and fair. The alternative dispute resolution entity can propose or impose a solution, or else bring the parties together to facilitate an amicable solution. The Directive's text gives FIN-NET as an example of alternative dispute resolution in the financial services sphere, stating that this kind of network should be strengthened within the European Union and that Member States should encourage local entities to join.

Member States must bring into force the laws, regulations and administrative provisions necessary to comply with Directive 2013/11/EU by 9 July 2015.

- Regulation on online dispute resolution in consumer matters<sup>9</sup>, known as the ODR Regulation<sup>10</sup>.

This regulation was approved on 21 May 2013. Its purpose is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market, and in particular of its digital dimension, by providing a European platform (ODR platform) for online dispute resolution facilitating the independent, impartial, transparent, effective, fast and fair out-of-court resolution of disputes between consumers and traders online.

Following its approval, the European Commission took charge of the platform's technical development. It began operation in February 2016.

Regarding the transposition to Spanish law of the ADR Directive, a draft bill of the Law of Alternative Dispute Resolution for Consumer Disputes, published 16 April 2015, has been sent out to consultation. Meantime, the Council of State, at its meeting of 28 January 2016, approved Ruling 926/2015 initiating its examination of the draft bill pursuant to Article 21.2 of Law 3/1980 of 22 April on the Council of State, in view of its status as an implementing provision of a European Union directive.

As to the length of the transposition process, specifically, the date of its completion, point 1 of the Final Considerations of the above Ruling has this to say: *...the draft bill of the Law of Alternative Dispute Resolution for Consumer Disputes sent out for con-*

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8 Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No. 2006/2004 and Directive 2009/22/EC.

9 Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

10 Online dispute resolution.

*sultation should be subject to in-depth review, redrafting and, if appropriate, resubmission, before being placed before the Council of Ministers for approval as a bill.*

Another relevant piece of legislation is Law 5/2015 of 27 April on the promotion of corporate financing, in force as of 28 April, 2015, whose sixth additional provision seeks to improve the protection of financial service users. Part of its text reads: *Within six months, the Government will introduce the necessary legal amendments to improve the current institutional system of consumer protection and enhance the effectiveness of existing public complaints services, customer ombudsmen and customer service departments. In this context, it will consider the advisability of promoting the unification of the complaints services currently run separately by Banco de España, the CNMV and the Directorate-General of Insurance and Pension Funds.*

### **ODR platform launch**

The European platform for the online resolution of disputes, known as the ODR platform, began operation on 15 February 2016. The European Commission promoted this initiative in order to help consumers and traders settle disputes over online purchases.

The Centro Europeo del Consumidor (CEC), an affiliate of the Spanish Agency for Consumer Affairs, Food Safety and Nutrition (AECOSAN), has been designated as the platform's contact point in Spain, providing on request assistance and support to consumers wishing to submit complaints via the new platform.

The ODR platform consists of an interactive multilingual website <http://ec.europa.eu/odr>, providing consumers and companies with a free, one-stop shop for the out-of-court settlement of contractual disputes in respect of goods and services sold online. All businesses, service providers and platforms or marketplaces offering products and services online are obliged to carry an easily accessible link to the platform on their websites, or refer to it in the body of the message if they offer products by e-mail.

The platform allows consumers and service providers to submit complaints by completing an electronic form available in all the official languages of the European Union (plus Norwegian and Icelandic), with the option of attaching the pertinent documents. The CEC, as contact point in Spain, will automatically send the complaint to the national dispute resolution body agreed by the parties, with ninety days to arrive at an outcome. The creation and development of the online dispute resolution platform are governed by the terms of Regulation (EU) 524/2013 of the European Parliament and of the Council, commonly known as the ODR Regulation.

### **Amendment of the FIN-NET Memorandum of Understanding (MoU)**

The European Commission suggested that FIN-NET modify its MoU dating from 2001 in the light of the provisions of the ADR Directive. This was agreed, with the resulting review pursuing the following three objectives:

- Ensure that future FIN-NET members meet the standards of quality laid down in the ADR Directive.

- Establish a two-year transition period for countries (like Spain) which are already members but have not yet transposed the ADR Directive.
- Ensure the continuity of affiliates (for example, representatives of non-EU countries like Switzerland or the Channel Islands).

As such, the main changes to the MoU were the inclusion of references to the new legislation applicable to the out-of-court settlement of disputes, namely the ADR Directive and the ODR Regulation. In particular, FIN-NET members must inform consumers of the existence of the ODR platform as a possible channel for submitting their claims or complaints.

The recast Memorandum came into force on 16 May 2016.



### **3 Key subjects of complaints and criteria applied in their resolution**



### 3 Key subjects of complaints and criteria applied in their resolution

Key subjects of complaints and criteria applied in their resolution

Further to the legal obligation laid down in Article 30.4 of Law 44/2002 of 22 November on financial system reform measures, there follows a description of some of the criteria applied relative to the subjects of 2015 complaints. Certain issues are singled out due either to the recurrence of complaints in their regard or because recent regulatory changes have required parallel changes in the way the issue is approached.

#### 3.1. Delays in sending out information on the conditions of ongoing capital increases

Complaints R/104/2015, R/210/2015, R/476/2015 and R/352/2015 sought an opinion on the conduct of entities that they alleged were late in sending out information on the conditions of ongoing capital increases.

Among the responsibilities of entities providing the service of securities administration is that of facilitating information to their clients in a diligent and expeditious manner about how to go about issuing instructions in the event of corporate transactions by the companies whose shares they hold.

Spanish legislation does not stipulate that such information should be sent by certified mail or with acknowledgement of receipt, so a notice sent by ordinary mail or some alternative means agreed between the parties, is sufficient to comply with the legal precepts.

However, given that issuing companies tend to specify a very short time for issuing instructions and the importance for investors of having the longest time possible to do so, entities should immediately send out the required notices asking their clients for instructions.

The conclusion of reports was that entities could reasonably be expected to have procedures in place to have notices sent immediately to all clients affected by the operation, as far as possible by automatic means. Clients should be able to choose to receive these notices through the fastest available channel, e-mail for example.

Where such delays have recurred, as in the cases of R/210/2015, R/476/2015 and R/352/2015, it was felt that entities should not only send out information but also check whether any incidents have occurred with its receipt and, if so, determine where the fault lies and report on the corrective measures taken.

### 3.2. Loss of subscription rights in rights offerings

Entities providing investment services are required to act with care and diligence in their operations, to carry them out in accordance with their best execution policy and, where pertinent, to follow the specific instructions issued by their customers<sup>11</sup>.

The Complaints Service understands that in rights offerings, the default position in the absence of instructions from investors assigned rights by virtue of share ownership should be for the custodian entity to unilaterally sell such rights before their trading period has expired.

This is so because once the trading period has ended, the rights generally lose their value not only in economic terms but also from a legal and corporate standpoint. Selling them is accordingly the best possible option for the client in the situation described, see complaint R/104/2015.

It is important, however, that rights should only be sold in the absence of instructions, i.e., when the service provider has received no word on how to respond to the offering. This was not the case with R/451/2015 and R/452/2015, where the complainants has in fact issued instructions for a limited sale.

Investors who hold no shares in the issuing company but wish to buy preemptive subscription rights during the trading period by means of a secondary market order – complaint R/544/2015 – should issue specific instructions to their intermediary on what to do with the acquired rights, regardless of when the purchase was ordered.

If no sell order is issued within the legally established period, the custodian entity is not obliged to do anything, and it is even possible that the rights may expire with the resulting loss to the investor. This is the default situation unless the entity has established a different course of action and disclosed it to its client in due time and form.

### 3.3. Processing of complaints arising from incidents involving more than one entity

The content of some complaints indicates the involvement of several investment service providers, as in R/0249/2014, R/1566/2014, R/1990/2014, R/2026/2014, R/2172/2014, R/2239/2014, R/2264/2014 and R/2312/2014.

This can occur in any transaction involving a delivering and receiving entity, such as securities account transfers or the switching of units or shares between collective investment schemes. Although the complainant in such cases tends to lay the blame on just one provider – normally the delivering entity – the efficient delivery of an investment service requires each intervening entity to meet all its legal obligations.

The rules governing the submission of complaints to the CNMV<sup>12</sup> make reference to such cases, stipulating that for a complaint to be admitted it will suffice for the

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11 Article 79 sexies of Securities Market Law 24/1988 of 28 July (currently Article 221 of Royal Legislative Decree 4/2015 of 23 October approving the consolidated text of the Securities Market Law).

12 Rule 12 of CNMV Circular 7/2013 of 25 September, regulating procedured for the resolution of claims and complaints against investment service providers and for dealing with enquiries in the securities

complainant to have previously taken the matter to the Customer Service Department or Ombudsman of one of the entities involved in the incident.

The Complaints Service then requires all intervening entities to furnish information about their specific role in the incident, and to make any representations they considered pertinent. This notice is deemed to be equivalent to the previous filing of a complaint with the CDS or Ombudsman of the entity not named as a respondent. This was the case in complaints R/0249/2014, R/1566/2014, R/1990/2014, R/2026/2014, R/2172/2014, R/2239/2014, R/2264/2014 and R/2312/2014.

If its examination of the case and, particularly, the representations made by both entities lead the Service to conclude that the entity at fault is not the one originally complained about but the other one involved in the transaction, the procedure will from that point focus on the latter, subject to a reasoned notification from the CNMV. This was the case with complaint R/1990/2014.

In fulfilling this legal obligation, the Complaints Service has detected cases where the entity at fault was not the original respondent. The course followed has been to notify such parties of the grounds for considering them in breach of the rules of transparency and investor protection or good financial practices – reasoned modification – before the issuance of a final reasoned report.

### 3.4. Handling of customer requests for documentation

Entities providing investment services must keep their customers adequately informed at all times<sup>13</sup>, and fulfill their requests for information on any transactions engaged in, provided they are not disproportionate and/or lack the minimum detail required.

The proper handling of customer requests for documentation means delivering all relevant materials in the provider's power and clearly explaining which documents it is unable to hand over, because they are not kept on record or for whatever other reason.

In R/534/2015, despite the complainant's request for the complete documentation, the entity failed to furnish even one part. The report concluded that there was no evidence in this case of the provider having responded properly to the complainant's request.

In R/787/2015, the entity directed the complainant to go to his branch where he could access the documentation requested on the valuation of his investment in 2008 and 2009, warning him that a fee might be charged. This provider was judged to be at fault in placing an unnecessary obstacle in the way of the customer receiving the desired documentation, the more so as it had furnished him copies of other documents pertaining to the same matter.

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market sphere.

13 Article 209 of Royal Legislative Decree 4/2015 of 23 October approving the consolidated text of the Securities Market Law.

In R/769/2015 and R/869/2015, the entity was deemed to be at fault because its client had to file a complaint in order to obtain a copy of documents generated in the course of the business relationship: firstly, because the investor was obstructed in the pursuit of his best interest and, secondly, because its failure to respond provoked a wasteful use of the administrative machinery.

### 3.5. Incidents with the processing of securities orders

When filling customers' orders, investment service providers must take all reasonable steps to obtain the best possible outcome for their transactions in terms of price, cost, the speed and likelihood of execution and settlement, volume, modality of trade, and any other element with a bearing on their execution<sup>14</sup>.

A customer's intention to acquire a financial asset is sufficiently demonstrated by the processing of a buy order.

In this case, the buy order, placed via online banking, did not specify a price limit, so was forwarded for execution at the best matching price the moment the shares began trading on the market. The complainant accordingly took on the risk of not controlling the share price at which the order would go through.

The trade's execution produced an overdraft in the complainant's account since the matching price at the start of trading was far higher than he expected.

In such cases, although entities may condition the processing and execution of customers' securities orders to the necessary provision of funds, they are not obliged to do so unless the terms of the contract stipulate otherwise, and the fact of allowing through trades at an amount higher than the customer's actual balance does not in itself constitute a fault.

In R/89/2015, however, transactional limit and risk control clauses were found to exist in the contract signed between the parties, so the entity was judged to have acted incorrectly in allowing a buy order to be filled at a higher than agreed price.

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14 Article 221 of Royal Legislative Decree 4/2015 of 23 October approving the consolidated text of the Securities Market Law.

## 4 Key subjects of enquiries



In this chapter we single out enquiry subjects considered of particular relevance.

### 4.1. Intervention and subsequent declaration of insolvency proceedings at Banco de Madrid, S.A.

The intervention and subsequent insolvency proceedings of banking entity Banco de Madrid, S.A. (Banco de Madrid) declared on 25 March 2015 by the judge in charge of Commercial Court No.1 in Madrid, affected the normal functioning of markets as regards both collective investment schemes – as the CIS depository and owner of management company Banco de Madrid Gestión de Activos, Sociedad Gestora de IIC – and the custody and administration of third-party securities. The intervention and declaration of insolvency at Banco de Madrid had as a corollary the intervention and subsequent deregistration of broker-dealer Interdin Bolsa, SV. S.A.

The news prompted a stream of complaints and enquiries which the Complaints Service dealt with on the basis of the information available as the insolvency proceedings unfolded. Investors' situations, moreover, differed widely in terms of both the products and services acquired and the dates on which such services were provided or executed. Enquiries, accordingly, had to be analysed and dealt with on a case by case basis.

That said, the concerns voiced by investors divide broadly into three large blocks: i) enquiries relative to mutual fund holdings, ii) enquiries about securities deposited with Banco de Madrid and iii) enquiries about the ensuing situation at Interdin.

#### i) Enquiries relative to mutual fund holdings:

- Following the suspension of subscriptions and redemptions in mutual funds with Banco de Madrid as depository, agreed by the CNMV on 16 March 2015 for reason of the suspension of the bank's operations, many investors wanted to know what would happen with redemption and/or fund switch orders issued before its intervention and still partially outstanding.

The Complaints Service informed them that the suspending of subscriptions and redemptions in mutual funds managed by Banco Madrid Gestión, SGIIC, S.A. and whose depository was Banco de Madrid, S.A. had affected transactions whose applicable net asset value (NAV) under the terms of the prospectus corresponded to that date or later.

Therefore correctly filled out orders for the redemption of mutual fund holdings whose applicable NAV date was prior to 16 March 2015 should have been executed and settled.

As to mutual fund switches ordered before the intervention of Banco de Madrid, the CNMV informed enquirers that all outstanding transactions would go through in accordance with the original instructions given by the unit-holders.

As to redemption and/or switch orders ordered after the intervention, enquirers were told that before they could dispose freely of their investments, the receiver appointed for Banco de Madrid would first have to order the transfer of the mutual funds' assets to CECABANK (depository of the assets and funds previously deposited with Banco de Madrid).

- In the case of mutual funds managed by Banco de Madrid Gestión de Activos, SGIIC which were not deposited with Banco de Madrid, enquirers were assured that they continued to operate as normal, except for the funds BMN Fondepósito, FI and BMN RF Corporativa, FI., which had current accounts and deposits at Banco de Madrid and were accordingly assigned to a special purpose compartment. This situation would be regularised, they were informed, when the Banco de Madrid receiver delivered the retained cash to CECABANK. This is so because all CIS assets are segregable, i.e., they were not included in the pool of assets available to the bank's creditors following its liquidation.
- The CNMV also explained that Banco de Madrid Gestión de Activos, SGIIC was continuing to fulfill its obligation to publish the NAV of managed schemes, and that both these NAVs and the figures for fund assets and unit-holders were posted on its website. This obligation, it pointed out, does not expire with the suspension of subscriptions and redemptions in the affected funds.

ii) Enquiries about securities deposited with Banco de Madrid, S.A.:

Investors' complaints and/or enquiries centered on Banco de Madrid's inability to process their securities sell orders and applications to redeem holdings in foreign CIS.

They were informed that Banco de Madrid customers could avail of their securities by transferring portfolios to the provider of their choice, since in no event would they appear on the insolvent entity's balance sheet or be considered its property. Once this transfer has gone through, the customer can sell or redeem their securities and mutual funds by issuing the corresponding order to the new entity where their securities are registered.

In the specific case of foreign CIS, although it is possible to request the transfer (switch) to another fund, this would involve redeeming units from the customer's CIS and simultaneously subscribing to a new scheme, a transaction affected by the operating restrictions on Banco de Madrid.

Banco de Madrid is obliged to process the transfer of securities custody from itself to another entity under the terms of Article 12 bis of the Securities Mar-

ket Law<sup>15</sup> which reads: *1. In the event of insolvency of an entity responsible for the accounting of securities represented by book entries or of an entity participating in the record-keeping system, the holders of securities recorded in those registers will have the right to withdraw the securities registered in their name and to request their transfer to another entity, (...)*

To this end, customers should provide the entity chosen for the reception and custody of their securities with the details of the instruments to be transferred (requesting the corresponding statements from Banco de Madrid if they do not have them in their power). The entity selected will then transact the transfer from Banco de Madrid by the usual means. Transfers should go through at no cost to the investor pursuant to Article 44 bis<sup>16</sup> of the Securities Market Law, which states that once insolvency proceedings have been opened (in respect of Banco de Madrid in the present case), the owners of securities can request their transfer to another entity immediately and at no charge.

It bears mention that CNMV has exercised its supervisory powers under current legislation to attempt to get Banco de Madrid to fulfill transfer orders from clients as expeditiously as possible, in view of the exceptional circumstances in which the entity finds itself (in terms of the human and technical resources available).

Another cause of controversy was that numerous investors with securities deposited with Banco de Madrid found it difficult or impossible to exercise their rights as shareholders of a listed company in the context of corporate transactions requiring them to issue instructions to their custodian entity.

In these cases, the Complaints Service told enquirers that Banco de Madrid was bound to comply with its customer information obligations, indicating the alternatives at their disposal, and to correctly process any instructions received. However, given the operational restrictions affecting the entity vis à vis the processing of securities orders, it might be that some of the alternatives theoretically available were inoperative in practice.

The CNMV expressed the view that investors thus prevented from selling rights or taking up a capital increase should submit a complaint to the receiver via the channels established for this purpose, and if they consider that the latter's actions have damaged their interests, make the corresponding claim through the ordinary courts.

Finally, some investors sought clarification on the status of unexecuted buy, sell or transfer orders placed prior to the declaration of insolvency proceedings at Banco de Madrid; i.e., orders still outstanding.

The Complaints Service explained that any buy, sell or transfer orders correctly placed before the declaration of insolvency should be processed by Banco de

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15 Current Article 15 of the Securities Market Law in the wording approved by Royal Legislative Decree 4/2015 of 23 October

16 Current Article 102.2 of the Securities Market Law in the wording approved by Royal Legislative Decree 4/2015 of 23 October.

Madrid, in accordance with Paragraph 2 of Article 12 bis<sup>17</sup> of the Securities Market Law, which states that the insolvency judge and the insolvency administrators will safeguard the rights deriving from the settlement operations under way at the time that the entity responsible for the accounting of securities by book entries or the member entity of the record-keeping system declares insolvency, according to the rules on clearing, settlement and registration.

iii) Enquiries about the ensuing situation at Interdin:

Mainly, investors wished to know if the obligatory settlement of open positions in derivatives was considered a normal transaction in such cases.

The Complaints Service replied that due to Banco de Madrid applying for insolvency proceedings and the subsequent freezing of its customer accounts, Interdin, which held a large volume of its customers' cash on deposit at the bank, found itself materially unable to give them back the full balance of their accounts. Its lack of liquidity was therefore unavoidable rather than arbitrary, a product of force majeure. In such a situation, under the terms of the account opening agreements signed between customers and Interdin, the entity was entitled to cancel transactions in the interests of investors. This did not stop customers from choosing to transact with another entity rather than accepting a possible opportunity cost, since, as online clients, they were kept informed of the situation in real time.

Faced with this situation and the resulting transactional difficulties, Interdin ceased to accept the opening of new positions and proceeded to the orderly closure of outstanding positions in a short space of time. On 16 March, the firm informed its customers in real time that they could close their positions directly on its trading platforms. The end of the trading session of 16 March was set as the time limit for the closure of OTC positions in CFDs and Forex, and the end of trading on Wednesday 18th as the limit for closing open positions on organised markets.

Notwithstanding this, the final decision to close positions or otherwise rested with each client, with the following options available:

- Close positions.
- Have the position transferred to another intermediary (clients so requesting had their positioned transferred along with their margin). Only for open positions on regulated markets.
- Replicate their position with another intermediary. For any type of trade.

As of 20 March, most of Interdin's customers retained only cash balances receivable.

To this end, on 31 March 2015 Interdin initiated the partial reimbursement, under CNMV supervision, of customer balances other than those

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17 Current Article 15.2 of the Securities Market Law in the wording approved by Royal Legislative Decree 4/2015 of 23 October.

deposited with Banco de Madrid (proportionally in accordance with their global position with the entity), since the bank had frozen the cash balances in the customer accounts held there by Interdin.

Finally, given the material impossibility of repaying customers the full amount of their cash balances with Interdin, without first receiving the funds deposited with Banco de Madrid, S.A., and in view of the reply from the receiver on 30 April 2015 to the effect that individual balances could not be derived from the account, the CNMV Board, meeting in extraordinary session, approved the administrative declaration that would release payments to investors from guarantee scheme FOGAIN.

The investors concerned were informed of these events, and told they would be contacted by the FOGAIN management company which would request them to complete forms with the amount claimed and other details, so the scheme could make payment of the due amounts up to a maximum of 100,000 euros per account holder.

The CNMV also told enquirers with securities held in deposit that they should furnish the entity chosen for their reception and custody with details of the financial instruments to be transferred. This entity would then arrange the transfer with Interdin by the usual means.

Finally, the CNMV directed all those affected by the Banco de Madrid insolvency to three communications posted on its website on 11 May 2015, in connection with: 1) the situation of investors in the collective investment schemes managed by Banco de Madrid SGIIC, 2) the situation of customers of Interdin Bolsa, S.V. S.A., and, 3) the situation of customers of Banco de Madrid, S.A.

#### **4.2. Request for information on the transfer of a mortgage loan to a securitisation vehicle and on the status of a mortgage loan following the liquidation of the vehicle to which it was transferred**

- One recurrent subject of enquiries in 2015 was from borrowers wishing to know if their mortgage loans had been transferred to a securitisation vehicle and, if so, where they could consult a copy of its memorandum of association and other documentation, since they had no access to this material and, in some cases, were unable to obtain it from their bank.

In this respect, the CNMV published a communication on 20 October 2015, (available at [www.cnmv.es](http://www.cnmv.es)) informing as follows:

- Anyone interested in finding out if their mortgage has been securitised should request this information from their bank (identifying themselves as the holder of the loan).

If the bank fails to fulfill this request, they can submit a complaint that will be dealt with by the Complaints Service of Banco de España (contact data provided) – the competent authority since the information sought concerns a mortgage loan.

If their bank confirms that the loan has been transferred to a securitisation vehicle, indicating its name, they can approach the CNMV at the e-mail address [informacion@cnmv.es](mailto:informacion@cnmv.es) or by letter to the General Secretariat of the CNMV, requesting a copy of the corresponding documentation.

- The management companies of such vehicles are obliged under the terms of Law 5/2015 of 27 April on the promotion of corporate financing to publish the following documents on their websites: memorandum of association and any other public documents granted thereafter; the issue prospectus and supplement(s) and the annual report and quarterly statements of each managed fund.

In the case of funds with securities admitted to trading, the corresponding prospectus can be found on the CNMV website ([www.cnmv.es](http://www.cnmv.es)) under “Registration files”, “Issues, trading and takeover bids”, “Issue and public offering prospectuses”.

Anyone interested can also consult the list of securitisation fund management companies under “Registration files”, “Issuer filings: regulated and other information”. Click on the name of the company to access a list of the funds under their management.

- The communication explains, in any case, that the transfer of a mortgage loan to a third party such as a securitisation vehicle in no way affects the loan’s terms and conditions.
- As a follow-up to this set of enquiries, some customers who had identified the vehicle to which their loan was transferred subsequently learned that it had been liquidated, and wanted to know what had happened to their loans.
- These enquirers were told that the liquidation of a securitisation vehicle must be filed with the CNMV as price sensitive information, disclosing the process for disposing of fund assets and the identity of the buyer, normally the originator. To determine the current status of their loans, they should accordingly approach the buyer of the fund’s assets.
- They were also informed that the vehicle’s incorporation and dissolution papers can be consulted through the CNMV website [www.cnmv.es](http://www.cnmv.es), by selecting “Registration files” then “Companies search”, entering the name of the vehicle and, finally, clicking on book-entry deeds, or by approaching the dedicated enquiry desks in our Madrid and Barcelona offices.

#### **4.3. Enquiries and incidents relative to Cypriot investment firms entered in the CNMV’s official registers under the free provision of services**

As in 2014, a number of enquiries centered on whether this or that firm was authorised to provide investment services in Spain. Attention focused particularly on firms authorised in Cyprus providing investment services in Spain under the free provision of services (i.e., without a branch or registered agents).

Other enquirers who had experienced incidents with the above firms wished to know who they should complain to or how to get their money back.

The Complaints Service informed them firstly that these were firms domiciled in Cyprus, passported to operate in Spain under the free provision of services. They were also told, where appropriate, that the supervisory responsibility for such firms lies with the competent authority in their home state as regards both solvency and rules of conduct, and furnished with the contact details of the Cypriot supervisor.

#### 4.4. Enquiries about the possibility of renouncing ownership of shares in delisted companies to avoid paying custody and administration fees

- One of investors' frequent questions turns on the payment of custody and administration fees on shares of delisted companies. Cases in point were the firms Fergo-Aisa, Martinsa-Fadesa, Indo Internacional and La Seda de Barcelona, all withdrawn from trading in 2015.

The Complaints Service explained that the custody and administration of shares represented by book entries rather than physical certificates must mandatorily be carried out by authorised entities. The book-entry system requires that shares be held in an account opened with an authorised financial intermediary, which is responsible for their management, subject to the corresponding custody and administration agreement.

Legally, then, even delisted shares still exist and must continue to be held in a securities account, meaning the custodian entity is entitled to apply the fees specified in this respect until such time as the company is fully dissolved. The only exception is if the custodian decides for purely commercial reasons to spare its clients the cost.

Circular 7/2001 of 18 July of the Securities Clearing and Settlement Service regulates a procedure for the voluntary relinquishment of account record-keeping in the case of inactive companies withdrawn from trading.

This procedure is not applicable to the cases of Fergo-Aisa, Martinsa-Fadesa, Indo Internacional and La Seda de Barcelona, since none meets the condition whereby at least four years must elapse without any entries in the company's book kept at the Mercantile Register.

- In the case of Española del Zinc (delisted on 9 February 2012), investors were advised that they could trigger this voluntary relinquishment procedure, since the company's last movement in the Mercantile Register dated from 27 May 2011.

To take up this option, they must make an application to their custodian entity for passing on to Iberclear, which will verify their ID, their effective ownership of the shares and whether these are free of liens or encumbrances before issuing a decision.

Note, however, that investors are urged to first consult their custodian's fee brochure to find out how much it will charge for handling these formalities.

- Finally, the Complaints Service considers it good practice for custodians to refrain from applying custody and administration in respect of shares in

delisted and inactive companies, even if they are still entered in the Mercantile Register.

#### **4.5. Currency exchange in switches between collective investment schemes denominated in currencies other than the euro**

Enquirers on the subject were informed that the National Electronic Clearing System (SNCE), which entities generally use for moving investments between CIS, only accepts transfers in euros.

This means that switches between CIS denominated in the same non-euro currency and with different distributors can only be channeled through SNCE by converting the currency into euros and then back.

However, when the delivering and receiving distributor are one and the same, they have no need to go through SNCE, obviating the need for this double exchange.

In any case, there are now many alternatives to SNCE for entities wishing to process switches in non-euro currencies. So unless the intervening entities can demonstrate that none of these are practicable, double exchanges can be avoided even when the delivering and receiving distributors are not the same.

#### **4.6. Opening and maintenance fees applied to cash accounts associated with securities accounts**

Securities custody and administration agreements include clauses obliging clients to open and maintain a cash account associated with their securities account in the providing entity, for greater ease of operation (debits and credits arising from securities trades, dividend and coupon payments, etc.).

The CNMV has historically taken the view that when a provider obliges a client to operate a cash account (current or passbook accounts or similar) to serve exclusively as support for securities account transactions, it should not apply either opening or maintenance charges. Obviously if the cash account is used for other purposes, this criterion will not apply.

This criterion was written into rule 4.2.b) of CNMV Circular 7/2011 of 12 December on the brochure of fee and commission charges and content of standard contracts, which states as follows with regard to the fee charged by investment service providers for securities custody and administration: *this item will cover the maintenance of both the securities account and the supporting cash account, when the latter is exclusively associated with the securities account.*

Conversely, if the cash account serves a purpose other than that of operational support for an associated securities account, this exemption will not apply.

## Annexe 1 Statistical tables



Geographical distribution of complaints. 2015

TABLE A1.1

Provenance	Processed with final reasoned report	Processed without final reasoned report	Not admitted for processing	Total	Percentage
Andalusia	126	20	59	205	9.9%
Aragón	46	8	16	70	3.4%
Canary Islands	39	8	13	60	2.9%
Cantabria	18	3	8	29	1.4%
Castilla La Mancha	56	5	22	83	4.0%
Castilla y León	80	9	34	123	6.0%
Catalonia	144	18	77	239	11.6%
Ceuta	1	0	1	2	0.1%
Madrid Region	293	44	126	463	22.4%
Navarra	15	1	6	22	1.1%
Valencia Region	205	46	85	336	16.3%
Extremadura	28	3	10	41	2.0%
Galicia	85	11	28	124	6.0%
Balearic Islands	16	6	8	30	1.5%
La Rioja	16	3	7	26	1.3%
Basque Country	57	10	17	84	4.1%
Asturias	32	10	11	53	2.6%
Murcia Region	38	3	12	53	2.6%
EU	7	4	5	16	0.7%
Other countries	1	1	2	2	0.1%
<b>Total</b>	<b>1,303</b>	<b>213</b>	<b>547</b>	<b>2,063</b>	

## Distribution of complaints by respondent entity

TABLE A1.2

Entity	Not admitted	Acceptance or accommodation	Withdrawal	Final reasoned report		Total
				Unfavourable	Favourable	
Abanca Corporación Bancaria, S.A.	16	6	0	17	15	54
Abante Asesores Distribución, Agencia de Valores, S.A.	1	0	0	0	0	1
Activotrade Valores, Agencia de Valores, Sociedad Anónima	0	0	0	1	1	2
Aes Financial Services Ltd	1	0	0	0	0	1
Ahorro Corporación Financiera, S.V., S.A.	1	0	0	1	0	2
Ahorro Corporación Gestión, S.G.I.I.C., S.A.	1	1	0	0	0	2
Allianz Popular Asset Management, S.G.I.I.C., S.A.	0	0	0	0	1	1
Andbank España, S.A.	2	2	0	4	10	18
Auriga Global Investors Sociedad de Valores, S.A.	0	0	0	0	1	1
Axa Ibercapital, Agencia de Valores, S.A.	0	0	0	0	1	1
Banc de Binary Limited	1	0	0	0	0	1
Banca March, S.A.	0	0	0	0	2	2
Banco Bilbao Vizcaya Argentaria, S.A.	33	3	0	35	38	109
Banco Caixa Geral, S.A.	0	0	0	0	3	3
Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	4	0	0	17	18	39
Banco de Castilla-La Mancha, S.A.	0	1	0	4	3	8
Banco de Madrid, S.A. en liquidación	1	5	1	0	2	9
Banco de Sabadell, S.A.	27	20	16	23	39	125
Banco Finantia Sofinloc, S.A.	0	0	0	0	2	2
Banco Inversis, S.A.	1	1	0	2	2	6
Banco Madrid Gestión de Activos S.G.I.I.C., S.A.	1	0	0	0	1	2
Banco Mare Nostrum, S.A.	4	3	0	0	8	15
Banco Mediolanum, S.A.	1	0	0	5	2	8
Banco Popular Español, S.A.	25	5	1	19	29	79
Banco Santander, S.A.	115	10	3	71	121	320
Bancopopular-E, S.A.	1	0	0	1	4	6
Bankia, S.A.	135	47	0	202	152	536
Bankinter, S.A.	21	2	0	19	33	75
Bestinver Gestión, S.A., S.G.I.I.C.	2	0	0	9	2	13
Bnp Paribas España, S.A.	0	0	0	1	1	2
Bnp Paribas Securities Services, Sucursal en España	0	0	0	0	1	1
Bnp Paribas, Sucursal en España <sup>1</sup>	0	0	0	1	1	2
Caixa de Credit dels Enginyers- Caja de crédito de los Ingenieros, S. Coop. de Crédito	0	1	0	0	1	2
Caixa Popular-Caixa Rural, S. Coop. de Crédito V.	1	0	0	0	0	1
Caixabank, S.A. <sup>2</sup>	33	8	1	21	77	140
Caja 3 Bolsa Sociedad de Valores S.A.	0	0	0	1	0	1
Caja de Ahorros y Monte de Piedad de Ontinyent	0	0	0	0	1	1
Caja de Arquitectos S. Coop. de Crédito	0	0	0	0	1	1
Caja Laboral Popular Coop. de Crédito	4	0	0	1	3	8

Entity	Not admitted	Acceptance or accommodation	Withdrawal	Final reasoned report		Total
				Unfavourable	Favourable	
Caja Rural de Aragón, Sociedad Cooperativa de Crédito	0	0	0	1	0	1
Caja Rural de Castilla-La Mancha, Sociedad Cooperativa de Crédito	1	0	0	0	1	2
Caja Rural de Granada, Sociedad Cooperativa de Crédito	0	0	0	0	1	1
Caja Rural del Sur, Sociedad Cooperativa de Crédito	0	0	0	0	1	1
Cajas Rurales Unidas, Sociedad Cooperativa de Crédito	4	1	0	3	2	10
Cajasur Banco, S.A.	0	0	0	0	2	2
Catalunya Banc, S.A.	39	7	2	14	61	123
Catalunyacaixa Inversio, S.G.I.I.C., S.A.	1	0	0	0	0	1
Citibank España, S.A.	0	0	0	4	5	9
Cmc Markets Uk Plc, Sucursal en España	0	0	0	0	0	0
Deutsche Bank, Sociedad Anónima Española	2	3	0	7	26	38
Dif Broker Sociedade Corretora, S.A., Sucursal en España	0	0	0	0	1	1
Dracon Partners, Eafi, SI	1	0	0	0	0	1
Etx Capital (Monecor London, Ltd)	1	0	0	0	0	1
Eurodeal Agencia de Valores, S.A.	0	0	0	0	1	1
Evo Banco S.A.	1	0	0	3	0	4
Finanze Fenix Planificadores Financieros, Eafi, Sa	1	0	0	0	0	1
Gestión De Patrimonios Mobiliarios, S.A,Av ( Gpm,Av)	0	0	0	0	1	1
Gvc Gaesco Valores, Sociedad de Valores, S.A.	4	0	0	0	1	5
Hanseatic Brokerhouse Financial Services Gmbh, Sucursal en España	1	0	0	0	0	1
Ibercaja Banco, S.A. <sup>3</sup>	4	4	0	10	6	24
Ig Markets Limited, Sucursal en España	0	0	0	0	1	1
Ing Bank N.V., Sucursal en España <sup>4</sup>	6	1	0	14	6	27
Interdin Bolsa, Sociedad de Valores, S.A., en liquidación	0	0	0	1	4	5
Ironfx Global Limited	6	0	0	0	0	6
Kutxabank, S.A.	3	1	0	3	9	16
Liberbank, S.A.	5	3	3	8	10	29
Mapfre Inversión Dos, Sgiic, S.A.	0	0	0	1	3	4
Mapfre Inversión Sociedad de Valores, S.A.	1	0	0	0	1	2
Miramar Capital Asesores, Eafi, SI	0	0	0	0	3	3
Mutuactivos Inversiones, Agencia de Valores, S.A.	1	0	0	0	1	2
Novo Banco, S.A., Sucursal en España	4	1	0	0	15	20
Open Bank, S.A.	1	0	1	2	2	6
Orey Financial-Instituição Financeira de crédito, S.A. Sucursal en España	1	0	0	1	1	3
Ouroboros Derivatives Trading Ltd	3	0	0	0	0	3
Ovb Allfinanz España S.A.	1	0	0	0	0	1
Pegase Capital Limited	1	0	0	0	0	1
Plus500Cy Limited	4	0	0	0	0	4
Plus500Uk Limited	5	0	0	0	0	5
Popular Banca Privada, S.A.	0	0	0	0	0	0

Entity	Not admitted	Acceptance or accommodation	Withdrawal	Final reasoned report		Total
				Unfavourable	Favourable	
Privat Bank Degroof, S.A.	0	0	0	0	1	1
Renta 4 Banco, S.A.	0	0	0	4	8	12
Riva y García Gestión, S.G.I.I.C., S.A.	0	0	0	0	1	1
Safecap Investments Ltd	2	0	0	0	0	2
Santander Asset Management, S.A., Sgiic	0	0	0	2	0	2
Santander Investment, S.A.	1	0	0	0	0	1
Self Trade Bank, S.A.	1	2	0	5	5	13
Societe Generale	1	0	0	0	1	2
Swissquote Ltd	1	0	0	0	0	1
The Eden Brown Group, S.L	2	0	0	0	0	2
Trading Point of Financial Instruments Ltd	1	0	0	0	0	1
Triodos Bank, N.V., S.E.	0	0	0	0	1	1
Unicaja Banco, S.A.	1	0	0	3	2	6
Unoe Bank, S.A.	0	1	0	1	0	2
Xfr Financial Ltd	2	0	0	0	0	2
X-Trade Brokers Dom Maklerski, S.A., Sucursal en España	0	0	0	0	1	1
No Identificada	1	0	0	0	0	1
<b>Total</b>	<b>547</b>	<b>139</b>	<b>28</b>	<b>542</b>	<b>761</b>	<b>2,017</b>

Source: CNMV.

- (1) One unfavourable report refers to CORTAL CONSORS, SUCURSAL EN ESPAÑA, now part of BNP PARIBAS, SUCURSAL EN ESPAÑA
- (2) 40 complaints (6 non-admitted, 1 accommodation, 5 unfavourable and 28 favourable) refer to BARCLAYS BANK, S.A., now CAIXABANK, S.A..
- (3) 2 complaints (1 accommodation and 1 unfavourable) refer to BANCO GRUPO CAJATRES, S.A., now part of IBERCAJA BANCO, S.A.
- (4) 3 complaints (unfavourable) refer to ING DIRECT, N.V. SUCURSAL EN ESPAÑA, wound up after the transfer of its operations to ING BANK N.V., SUCURSAL EN ESPAÑA.

**Follow-up actions after report favourable to the complainant by entity**

TABLE A1.3

Entity	Number of reports favourable to complainant	Assent to criteria and/or acceptance or accommodation	Non-assent to criteria, no acceptance or accommodation
ABANCA CORPORACIÓN BANCARIA, S.A.	15	3	12
ACTIVOTRADE VALORES, AGENCIA DE VALORES, SOCIEDAD ANÓNIMA	1	1	0
ALLIANZ POPULAR ASSET MANAGEMENT, SGIIC, S.A.	1		1
ANDBANK ESPAÑA, S.A.	10	7	3
AURIGA GLOBAL INVESTORS SOCIEDAD DE VALORES, S.A.	1	1	0
AXA IBERCAPITAL, AGENCIA DE VALORES, S.A.	1	1	0
BANCA MARCH, S.A.	2	2	0
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	38	15	23
BANCO CAIXA GERAL, S.A.	3	1	2
BANCO DE CAJA ESPAÑA DE INVERSIONES, SALAMANCA Y SORIA, S.A.	18	12	6
BANCO DE CASTILLA-LA MANCHA, S.A.	3		3
BANCO DE MADRID, S.A. EN LIQUIDACIÓN	2		2
BANCO DE SABADELL, S.A.	39	28	11
BANCO FINANTIA SOFINLOC, S.A.	2	1	1
BANCO INVERSIÓN, S.A.	2		2
BANCO MADRID GESTIÓN DE ACTIVOS S.G.I.I.C., S.A.	1		1
BANCO MARE NOSTRUM, S.A.	8	3	5
BANCO MEDIOLANUM, S.A.	2	1	1
BANCO POPULAR ESPAÑOL, S.A.	29	19	10
BANCO SANTANDER, S.A.	121	20	101
BANCOPOPULAR-E, S.A.	4	1	3
BANKIA, S.A.	152	45	107
BANKINTER, S.A.	33	11	22
BESTINVER GESTIÓN, S.A., S.G.I.I.C.	2	1	1
BNP PARIBAS ESPAÑA, S.A.	1		1
BNP PARIBAS SECURITIES SERVICES, SUCURSAL EN ESPAÑA	1		1
BNP PARIBAS, SUCURSAL EN ESPAÑA	1		1
CAIXA DE CREDIT DELS ENGINYERS- CAJA DE CRÉDITO DE LOS INGENIEROS, S. COOP. DE CRÉDITO	1	1	0
CAIXABANK, S.A.	77	22	55
CAJA DE AHORROS Y MONTE DE PIEDAD DE ONTINYENT	1		1
CAJA DE ARQUITECTOS S. COOP. DE CRÉDITO	1		1
CAJA LABORAL POPULAR COOP. DE CRÉDITO	3	1	2
CAJA RURAL DE CASTILLA-LA MANCHA, SOCIEDAD COOPERATIVA DE CRÉDITO	1		1
CAJA RURAL DE GRANADA, SOCIEDAD COOPERATIVA DE CRÉDITO	1		1
CAJA RURAL DEL SUR, SOCIEDAD COOPERATIVA DE CRÉDITO	1		1
CAJAS RURALES UNIDAS, SOCIEDAD COOPERATIVA DE CRÉDITO	2	1	1
CAJASUR BANCO, S.A.	2	2	0
CATALUNYA BANC, S.A.	61	1	60
CITIBANK ESPAÑA, S.A.	5	1	4

Entity	Number of reports favourable to complainant	Assent to criteria and/or acceptance or accommodation	Non-assent to criteria, no acceptance or accommodation
DEUTSCHE BANK, SOCIEDAD ANÓNIMA ESPAÑOLA	26	6	20
DIF BROKER SOCIEDADE CORRETORA, S.A., SUCURSAL EN ESPAÑA	1	1	0
EURODEAL AGENCIA DE VALORES, S.A.	1		1
GESTIÓN DE PATRIMONIOS MOBILIARIOS, S.A, AV ( GPM,AV)	1		1
GVC GAESCO VALORES, SOCIEDAD DE VALORES, S.A.	1	1	0
IBERCAJA BANCO, S.A.	6	1	5
IG MARKETS LIMITED, SUCURSAL EN ESPAÑA	1		1
ING BANK N.V., SUCURSAL EN ESPAÑA	6		6
INTERDIN BOLSA, SOCIEDAD DE VALORES, S.A., EN LIQUIDACIÓN	4		4
KUTXABANK, S.A.	9	2	7
LIBERBANK, S.A.	10	3	7
MAPFRE INVERSIÓN DOS, SGIIC, S.A.	3	2	1
MAPFRE INVERSIÓN SOCIEDAD DE VALORES, S.A.	1		1
MIRAMAR CAPITAL ASESORES, EAFI, SL	3		3
MUTUACTIVOS INVERSIONES, AGENCIA DE VALORES, S.A.	1	1	0
NOVO BANCO, S.A., SUCURSAL EN ESPAÑA	15	7	8
OPEN BANK, S.A.	2	2	0
OREY FINANCIAL-INSTITUIÇÃO FINANCEIRA DE CREDITO, S.A. SUCURSAL EN ESPAÑA	1	1	0
PRIVAT BANK DEGROOF, S.A.	1		1
RENTA 4 BANCO, S.A.	8	1	7
RIVA Y GARCIA GESTIÓN, S.G.I.I.C., S.A.	1		1
SELF TRADE BANK, S.A.	5	5	0
SOCIETE GENERALE	1	1	0
TRIODOS BANK, N.V., S.E.	1		1
UNICAJA BANCO, S.A.	2	2	0
X-TRADE BROKERS DOM MAKLESKI, S.A., SUCURSAL EN ESPAÑA	1		1
<b>Total</b>	<b>761</b>	<b>238</b>	<b>523</b>

Source: CNMV.

(1) 28 reports favourable to the complainant, 9 follow-up actions and 5 cases of assent to criteria and/or acceptance or accommodation refer to BARCLAYS BANK, S.A., now part of CAIXABANK, S.A..

**Annexe 2 List of complaints with report favourable  
to the complainant**



## Annexe 2 List of complaints with report favourable to the complainant

List of complaints with report favourable to the complainant

### A2.1. Pre-sale information and/or product suitability

#### A2.1.1 Preference shares and domestic subordinated debt

Entity	Complaints
Abanca Corporación Bancaria, S.A.	R/1929/2014; R/1937/2014; R/440/2015
Banco Bilbao Vizcaya Argentaria, S.A.	R/1499/2014; R/300/2015
Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	R/1354/2014; R/1467/2014; R/1614/2014; R/1918/2014; R/2057/2014; R/2252/2014; R/309/2015; R/382/2015; R/474/2015
Banco de Castilla-La Mancha, S.A.	R/1369/2014; R/1673/2014
Banco de Sabadell, S.A.	R/1168/2014; R/1616/2014; R/1660/2014; R/1716/2014; R/1745/2014; R/1825/2014; R/2180/2014; R/2294/2014; R/160/2015
Banco Finantia Sofinloc, S.A.	R/1420/2014
Banco Mare Nostrum, S.A.	R/0931/2014; R/552/2015; R/602/2015
Banco Popular Español, S.A.	R/2202/2014; R/2359/2014
Banco Santander, S.A.	R/5561/2013; R/6780/2013; R/1178/2014; R/1344/2014; R/1588/2014; R/0965/2014; R/404/2015; R/460/2015; R/504/2015
Bankia, S.A.	R/6238/2013; R/6401/2013; R/7044/2013; R/1516/2014; R/1695/2014; R/1712/2014; R/1744/2014; R/1892/2014; R/1901/2014; R/2005/2014; R/2075/2014; R/2080/2014; R/2084/2014; R/2093/2014; R/2155/2014; R/2198/2014; R/2199/2014; R/2320/2014; R/2336/2014; R/185/2015; R/186/2015; R/196/2015; R/211/2015; R/23/2015; R/27/2015; R/313/2015; R/335/2015; R/354/2015; R/356/2015; R/358/2015; R/403/2015; R/415/2015; R/432/2015; R/605/2015
Caixabank, S.A.	R/1380/2014; R/2183/2014; R/2290/2014; R/0973/2014; R/386/2015; R/458/2015; R/488/2015; R/524/2015
Caja Laboral Popular Coop. de Crédito	R/1658/2014
Catalunya Banc, S.A.	R/6708/2013; R/7191/2013; R/1283/2014; R/1292/2014; R/1297/2014; R/1305/2014; R/1328/2014; R/1403/2014; R/1418/2014; R/1502/2014; R/1507/2014; R/1520/2014; R/1576/2014; R/1600/2014; R/1703/2014; R/1734/2014; R/1737/2014; R/1755/2014; R/1806/2014; R/1807/2014; R/1856/2014; R/1900/2014; R/1924/2014; R/2040/2014; R/2077/2014; R/2078/2014; R/2108/2014; R/2230/2014; R/2266/2014; R/2282/2014; R/2370/2014; R/0674/2014; R/0842/2014; R/152/2015; R/165/2015; R/2/2015; R/220/2015; R/234/2015; R/242/2015; R/244/2015; R/295/2015; R/307/2015; R/336/2015; R/353/2015; R/409/2015; R/414/2015; R/433/2015; R/535/2015
Kutxabank, S.A.	R/7099/2013; R/7100/2013; R/7102/2013; R/7181/2013; R/1592/2014
Liberbank, S.A.	R/1586/2014; R/1947/2014; R/2392/2014; R/0309/2014; R/612/2015
Novo Banco, S.A., Sucursal en España	R/2381/2014; R/455/2015; R/519/2015
Unicaja Banco, S.A.	R/1206/2014

## A2.1.2 Convertible products

Entity	Complaints
Banco de Sabadell, S.A.	R/0459/2014; R/149/2015; R/194/2015
Banco Mare Nostrum, S.A.	R/493/2015
Banco Popular Español, S.A.	R/1386/2014; R/0180/2014; R/0827/2014; R/191/2015; R/245/2015; R/345/2015; R/39/2015; R/580/2015; R/590/2015; R/701/2015
Banco Santander, S.A.	R/1375/2014; R/1377/2014; R/1391/2014; R/1487/2014; R/1519/2014; R/1524/2014; R/1574/2014; R/1585/2014; R/1676/2014; R/1711/2014; R/2046/2014; R/117/2015; R/13/2015; R/183/2015; R/270/2015; R/320/2015; R/346/2015; R/383/2015; R/470/2015; R/507/2015; R/55/2015

## A2.1.3 Swaps

Entity	Complaints
Abanca Corporación Bancaria, S.A.	R/6624/2013; R/1268/2014; R/0914/2014
Banco Bilbao Vizcaya Argentaria, S.A.	R/7292/2013; R/1532/2014; R/2357/2014; R/2364/2014; R/2366/2014; R/0379/2014; R/0786/2014; R/0975/2014; R/317/2015; R/48/2015
Banco de Caja España de Inversiones, Salamanca Y Soria, S.A.	R/363/2015
Banco de Sabadell, S.A.	R/5878/2013; R/1269/2014
Banco Santander, S.A.	R/1424/2014; R/1590/2014; R/1665/2014; R/1939/2014; R/2326/2014
Bankia, S.A.	R/1518/2014; R/1608/2014; R/0677/2014; R/225/2015
Caixabank, S.A.	R/139/2015; R/76/2015

## A2.1.4 Collective investment schemes

Entity	Complaints
Banca March, S.A.	R/173/2015
Banco Bilbao Vizcaya Argentaria, S.A.	R/541/2015
Banco de Madrid, S.A. en liquidación	R/256/2015
Banco de Sabadell, S.A.	R/546/2015
Banco Santander, S.A.	R/21/2015; R/299/2015; R/72/2015
Bankia, S.A.	R/495/2015
Bestinver Gestión, S.A., S.G.I.I.C.	R/2315/2014
Cajas Rurales Unidas, Sociedad Cooperativa de Crédito	R/674/2015
Catalunya Banc, S.A.	R/1417/2014; R/1908/2014; R/1951/2014; R/85/2015
Mapfre Inversión Dos, Sgiic, S.A.	R/2015/2014
Mutuactivos Inversiones, Agencia de Valores, S.A.	R/120/2015
Novo Banco, S.A., Sucursal en España	R/444/2015

## A2.1.5 Others

List of complaints with report favourable to the complainant

Entity	Complaints
Andbank España, S.A.	R/429/2015
Banca March, S.A.	R/0929/2014
Banco Bilbao Vizcaya Argentaria, S.A.	R/1938/2014
Banco Caixa Geral, S.A.	R/1481/2014; R/315/2015
Banco de Sabadell, S.A.	R/7289/2013; R/1648/2014; R/1881/2014; R/1894/2014; R/1934/2014; R/0598/2014
Banco Popular Español, S.A.	R/0410/2014; R/533/2015
Banco Santander, S.A.	R/1089/2014; R/1577/2014; R/1653/2014; R/1686/2014; R/1749/2014; R/1761/2014; R/1811/2014; R/1823/2014; R/1889/2014; R/1920/2014; R/2100/2014; R/2115/2014; R/2151/2014; R/2318/2014; R/2369/2014; R/0697/2014; R/0825/2014; R/0895/2014; R/134/2015; R/188/2015; R/237/2015; R/293/2015; R/384/2015; R/388/2015; R/389/2015; R/394/2015; R/405/2015; R/496/2015; R/5/2015; R/529/2015; R/569/2015; R/71/2015; R/79/2015; R/8/2015
Bancopopular-E, S.A.	R/2185/2014
Bankia, S.A	R/6430/2013; R/1326/2014; R/1329/2014; R/1343/2014; R/1378/2014; R/1729/2014; R/1733/2014; R/1743/2014; R/1794/2014; R/1864/2014; R/1878/2014; R/1909/2014; R/2002/2014; R/2063/2014; R/2092/2014; R/2117/2014; R/2119/2014; R/2161/2014; R/2169/2014; R/2184/2014; R/2225/2014; R/2236/2014; R/2248/2014; R/2281/2014; R/2293/2014; R/0773/2014; R/100/2015; R/106/2015; R/107/2015; R/108/2015; R/135/2015; R/169/2015; R/177/2015; R/192/2015; R/213/2015; R/218/2015; R/255/2015; R/257/2015; R/261/2015; R/287/2015; R/290/2015; R/331/2015; R/364/2015; R/387/2015; R/393/2015; R/396/2015; R/412/2015; R/446/2015; R/456/2015; R/464/2015; R/471/2015; R/551/2015; R/576/2015; R/598/2015; R/638/2015; R/680/2015; R/685/2015
Bankinter, S.A.	R/1005/2014; R/1217/2014; R/1462/2014; R/1683/2014; R/2122/2014; R/0574/2014; R/0062/2014; R/276/2015; R/513/2015; R/547/2015
Caixabank, S.A.	R/4803/2013; R/5476/2013; R/5908/2013; R/6545/2013; R/6574/2013; R/7163/2013; R/1351/2014; R/1482/2014; R/1880/2014; R/1888/2014; R/2112/2014; R/2153/2014; R/2390/2014; R/0303/2014; R/221/2015; R/236/2015; R/365/2015; R/577/2015; R/635/2015
Caja de Arquitectos S. Coop. de Crédito	R/0844/2014
Catalunya Banc, S.A.	R/1870/2014; R/115/2015
Citibank España, S.A.	R/0051/2014; R/0747/2014
Deutsche Bank, Sociedad Anónima Española	R/1085/2014; R/1119/2014; R/1226/2014; R/1241/2014; R/1252/2014; R/1517/2014; R/1670/2014; R/2047/2014; R/2048/2014; R/2302/2014; R/0076/2014; R/263/2015
Gestiónd de Patrimonios Mobiliarios, S.A,Av ( Gpm,Av)	R/517/2015
Miramar Capital Asesores, Eafi, SI	R/1150/2014; R/1700/2014
Novo Banco, S.A., Sucursal en España	R/521/2015; R/560/2015; R/677/2015
Renta 4 Banco, S.A.	R/603/2015; R/670/2015

## A2.2 Incidents with order execution

### A2.2.1 Incidents with securities orders

Entity	Complaints
Abanca Corporación Bancaria, S.A.	R/1567/2014; R/571/2015
Andbank España, S.A.	R/5528/2013; R/2035/2014
Auriga Global Investors Sociedad de Valores, S.A.	R/509/2015
Banco Bilbao Vizcaya Argentaria, S.A.	R/1188/2014; R/0160/2014; R/1854/2014; R/2262/2014; R/124/2015; R/159/2015; R/352/2015; R/428/2015; R/430/2015; R/556/2015; R/584/2015
Banco de Madrid, S.A. en liquidación	R/0238/2014
Banco de Sabadell, S.A.	R/5453/2013; R/1966/2014; R/172/2015; R/651/2015
Banco Inversis, S.A.	R/1290/2014
Banco Mare Nostrum, S.A.	R/125/2015
Banco Mediolanum, S.A.	R/5821/2013; R/2013/2014
Banco Popular Español, S.A.	R/298/2015; R/501/2015; R/582/2015; R/615/2015
Banco Santander, S.A.	R/1195/2014; R/1523/2014; R/1778/2014; R/2203/2014; R/2298/2014; R/203/2015; R/479/2015; R/60/2015; R/625/2015; R/682/2015; R/75/2015
Bancopopular-E, S.A.	R/668/2015
Bankia, S.A.	R/6196/2013; R/1542/2014; R/1912/2014; R/2301/2014; R/0826/2014; R/10/2015; R/210/2015; R/337/2015; R/600/2015; R/91/2015
Bankinter, S.A.	R/5443/2013; R/5661/2013; R/6498/2013; R/1009/2014; R/1243/2014; R/1310/2014; R/2261/2014; R/0308/2014; R/0045/2014; R/549/2015
Bnp Paribas Securities Services, Sucursal en España	R/2317/2014
Bnp Paribas, Sucursal en España	R/128/2015
Caixabank, S.A.	R/6721/2013; R/1650/2014; R/1735/2014; R/1763/2014; R/2102/2014; R/2166/2014; R/0741/2014; R/184/2015; R/467/2015; R/704/2015; R/89/2015
Caja de Ahorros y Monte de Piedad de Ontinyent	R/6778/2013
Caja Rural de Castilla-La Mancha, Sociedad Cooperativa de Crédito	R/2023/2014
Caja Rural del Sur, Sociedad Cooperativa de Crédito	R/1169/2014
Citibank España, S.A.	R/6244/2013; R/6323/2013; R/0797/2014
Deutsche Bank, Sociedad Anónima Española	R/1054/2014; R/0108/2014; R/0133/2014; R/207/2015
Dif Broker Sociedade Corretora, S.A., Sucursal en España	R/271/2015
GVC Gaesco Valores, Sociedad de Valores, S.A.	R/1916/2014
Ibercaja Banco, S.A.	R/379/2015
IG Markets Limited, Sucursal en España	R/0841/2014
Ing Bank N.V., Sucursal en España	R/2299/2014; R/2353/2014; R/113/2015; R/400/2015
Interdin Bolsa, Sociedad de Valores, S.A., en liquidación	R/6156/2013; R/7139/2013; R/0147/2014; R/478/2015

List of complaints with report favourable to the complainant

Entity	Complaints
Kutxabank, S.A.	R/2177/2014
Liberbank, S.A.	R/2338/2014
Novo Banco, S.A., Sucursal en España	R/683/2015
Open Bank, S.A.	R/34/2015
Orey Financial-Instituição Financeira de Crédito, S.A. Sucursal en España	R/32/2015
Renta 4 Banco, S.A.	R/6057/2013; R/36/2015
Self Trade Bank, S.A.	R/170/2015; R/601/2015; R/95/2015
Societe Generale	R/492/2015

### A.2.2.2 Incidents with CIS orders

Entity	Complaints
Andbank España, S.A.	R/1707/2014; R/2358/2014; R/284/2015
Axa Ibercapital, Agencia de Valores, S.A.	R/2368/2014
Banco Bilbao Vizcaya Argentaria, S.A.	R/264/2015; R/391/2015; R/627/2015
Banco de Sabadell, S.A.	R/1324/2014
Banco Inversis, S.A.	R/1796/2014
Banco Madrid Gestión de Activos S.G.I.I.C., S.A.	R/334/2015
Banco Santander, S.A.	R/2246/2014; R/281/2015; R/31/2015; R/620/2015
Bancopopular-E, S.A.	R/1981/2014
Bankia, S.A	R/199/2015; R/573/2015
Bankinter, S.A.	R/2264/2014; R/374/2015
Caixabank, S.A.	R/1822/2014; R/1990/2014; R/2094/2014; R/17/2015; R/357/2015; R/9/2015
Caja Rural de Granada, Sociedad Cooperativa de Crédito	R/561/2015
Catalunya Banc, S.A.	R/2239/2014; R/238/2015
Deutsche Bank, Sociedad Anónima Española	R/40/2015
Ing Bank N.V., Sucursal en España	R/2371/2014
Liberbank, S.A.	R/2172/2014
Mapfre Inversión Sociedad de Valores, S.A.	R/204/2015
Privat Bank Degroof, S.A.	R/2284/2014
Renta 4 Banco, S.A.	R/1858/2014
Self Trade Bank, S.A.	R/12/2015

**A.2.3 Fees****A.2.3.1 Fees in respect of custody and administration, trades and transfers, and other securities-related charges**

<b>Entity</b>	<b>Complaints</b>
Abanca Corporación Bancaria, S.A.	R/1767/2014; R/654/2015; R/69/2015
Andbank España, S.A.	R/2265/2014; R/33/2015
Banco Bilbao Vizcaya Argentaria, S.A.	R/6756/2013; R/431/2015
Banco Caixa Geral, S.A.	R/1470/2014
Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	R/7019/2013; R/1527/2014; R/1919/2014
Banco de Sabadell, S.A.	R/5412/2013; R/6224/2013; R/6988/2013; R/1383/2014; R/1431/2014; R/1484/2014; R/1855/2014; R/423/2015; R/525/2015; R/616/2015
Banco Finantia Sofinloc, S.A.	R/1988/2014
Banco Mare Nostrum, S.A.	R/1828/2014
Banco Popular Español, S.A.	R/208/2015; R/594/2015; R/623/2015
Banco Santander, S.A.	R/6088/2013; R/6738/2013; R/7007/2013; R/7014/2013; R/7124/2013; R/1143/2014; R/1558/2014; R/1582/2014; R/1652/2014; R/1897/2014; R/2050/2014; R/140/2015; R/376/2015; R/481/2015
Bankia, S.A.	R/6357/2013; R/2067/2014; R/2343/2014; R/112/2015; R/148/2015; R/323/2015
Bankinter, S.A.	R/6982/2013; R/7016/2013; R/1473/2014; R/2000/2014; R/643/2015
Caixabank, S.A.	R/5209/2013; R/1302/2014; R/1413/2014; R/1419/2014; R/1475/2014; R/1489/2014; R/1817/2014; R/1871/2014; R/1930/2014; R/1948/2014; R/2274/2014; R/0676/2014; R/0781/2014; R/176/2015; R/366/2015; R/522/2015
Caja Laboral Popular Coop. de Crédito	R/1112/2014; R/689/2015
Cajasur Banco, S.A.	R/2103/2014; R/0304/2014
Catalunya Banc, S.A.	R/2130/2014; R/226/2015; R/473/2015
Deutsche Bank, Sociedad Anónima Española	R/1311/2014; R/1408/2014; R/1604/2014; R/1845/2014; R/305/2015
Ibercaja Banco, S.A.	R/0692/2014; R/613/2015
Kutxabank, S.A.	R/1402/2014
Renta 4 Banco, S.A.	R/5810/2013; R/516/2015
Unicaja Banco, S.A.	R/57/2015

### A.2.3.2 Fees in respect of suscriptions, redemptions, switches and other CIS charges

List of complaints with report favourable to the complainant

Entity	Complaints
Andbank España, S.A.	R/2123/2014; R/461/2015
Banco Bilbao Vizcaya Argentaria, S.A.	R/1551/2014; R/1552/2014
Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	R/1758/2014; R/2351/2014
Banco Popular Español, S.A.	R/0249/2014; R/655/2015
Banco Santander, S.A.	R/644/2015; R/663/2015
Bancopopular-E, S.A.	R/716/2015
Bestinver Gestión, S.A., S.G.I.I.C.	R/2195/2014
Bnp Paribas España, S.A.	R/14/2015
Mapfre Inversión dos, Sgiic, S.A.	R/512/2015; R/515/2015
Novo Banco, S.A., Sucursal en España	R/2227/2014; R/2231/2014; R/2232/2014; R/2233/2014; R/2241/2014; R/2243/2014

### A.2.4 Post-sale information

#### A.2.4.1 Information on incidents affecting securities

Entity	Complaints
Abanca Corporación Bancaria, S.A.	R/6340/2013; R/1337/2014
Banco Bilbao Vizcaya Argentaria, S.A.	R/1526/2014; R/2076/2014; R/545/2015
Banco Mare Nostrum, S.A.	R/0644/2014
Banco Popular Español, S.A.	R/0228/2014; R/272/2015
Banco Santander, S.A.	R/1225/2014; R/539/2015; R/592/2015; R/66/2015; R/681/2015
Bankia, S.A.	R/1458/2014; R/1494/2014; R/2073/2014; R/122/2015; R/538/2015; R/578/2015; R/611/2015; R/617/2015; R/83/2015
Bankinter, S.A.	R/1610/2014; R/0400/2014
Caixabank, S.A.	R/7265/2013; R/7270/2013; R/1905/2014; R/2087/2014
Deutsche Bank, Sociedad Anónima Española	R/1180/2014; R/0645/2014
Eurodeal Agencia de Valores, S.A.	R/239/2015
Liberbank, S.A.	R/1261/2014
Novo Banco, S.A., Sucursal en España	R/94/2015
Open Bank, S.A.	R/586/2015
Self Trade Bank, S.A.	R/669/2015

## A.2.4.2 Information on incidents affecting CIS

Entidad	Reclamaciones
Abanca Corporación Bancaria, S.A.	R/0549/2014
Bankia, S.A.	R/212/2015
Bankinter, S.A.	R/1867/2014; R/483/2015

## A.2.5 Other subjects

Entidad	Reclamaciones
Abanca Corporación Bancaria, S.A.	R/343/2015
Activotrade Valores, Agencia de Valores, Sociedad Anónima	R/614/2015
Allianz Popular Asset Management, Sgiic, S.A.	R/2229/2014
Banco Bilbao Vizcaya Argentaria, S.A.	R/1191/2014; R/1675/2014; R/398/2015
Banco de Caja España de Inversiones, Salamanca y Soria, S.A.	R/1359/2014; R/1771/2014; R/2012/2014
Banco de Castilla-La Mancha, S.A.	R/296/2015
Banco de Sabadell, S.A.	R/1544/2014; R/1704/2014; R/476/2015
Banco Mare Nostrum, S.A.	R/3/2015
Banco Popular Español, S.A.	R/1754/2014; R/2085/2014; R/2267/2014; R/110/2015
Banco Santander, S.A.	R/5204/2013; R/1565/2014; R/1832/2014; R/1954/2014; R/181/2015; R/187/2015; R/292/2015; R/355/2015; R/38/2015; R/408/2015; R/469/2015; R/58/2015; R/68/2015
Bankia, S.A.	R/1308/2014; R/1472/2014; R/1514/2014; R/1649/2014; R/1802/2014; R/1942/2014; R/1946/2014; R/2018/2014; R/2095/2014; R/2221/2014; R/2339/2014; R/2374/2014; R/101/2015; R/163/2015; R/195/2015; R/215/2015; R/216/2015; R/240/2015; R/249/2015; R/322/2015; R/348/2015; R/349/2015; R/369/2015; R/534/2015; R/542/2015; R/626/2015; R/650/2015; R/757/2015
Bankinter, S.A.	R/5433/2013; R/0595/2014
Caixa de Credit dels Enginyers- Caja de Crédito de los Ingenieros, S. Coop. De Crédito	R/229/2015
Caixabank, S.A.	R/1389/2014; R/1477/2014; R/1583/2014; R/2030/2014; R/2348/2014; R/2394/2014; R/0496/2014; R/161/2015; R/232/2015; R/318/2015; R/41/2015
Cajas Rurales Unidas, Sociedad Cooperativa de crédito	R/729/2015
Catalunya Banc, S.A.	R/1638/2014; R/92/2015
Deutsche Bank, Sociedad Anónima Española	R/1562/2014; R/2025/2014
Ibercaja Banco, S.A.	R/1873/2014; R/2178/2014; R/2382/2014
Ing Bank N.V., Sucursal en España	R/2065/2014
Kutxabank, S.A.	R/629/2015; R/726/2015
Liberbank, S.A.	R/1501/2014; R/2283/2014
Miramar Capital Asesores, Eafi, Sl	R/1775/2014
Renta 4 Banco, S.A.	R/1641/2014
Riva y García Gestión, S.G.I.I.C., S.A.	R/2208/2014
Triodos Bank, N.V., S.E.	R/2124/2014
X-Trade Brokers Dom Maklerski, S.A., Sucursal en España	R/2164/2014

## **Annexe 3 Electronic forwarding of claims and complaints between the complaints services of Banco de España and CNMV**



## Annexe 3 Electronic forwarding of claims and complaints between the complaints services of Banco de España and CNMV

Electronic forwarding of claims and complaints between the complaints services of Banco de España and CNMV

An electronic system has been in place for some years for claims and complaints processing under the label “representations by respondent entities in customer complaints”, providing a channel for respondents to receive the notifications issued by the CNMV Complaints Service and to submit representations and other documentation relative to complaint files. In addition, investors can present their individual complaints via electronic forms, combining convenience for the user with the assurance of compliance with official models.

The next step came in 2015, with the rollout of a claims and complaints forwarding service with the Complaints Service of Banco de España. Claims and complaints, it should be recalled, can be submitted interchangeably to the complaints services of Banco de España, the CNMV or the Directorate-General of Insurance and Pension Funds from where they are passed on immediately to the competent authority, as the case may be.

Of the 2,063 cases processed or turned down for processing in 2015, 43.2% came from the Complaints Service of Banco de España, and 1.3% were sent to this service as the competent body for the incidents set forth by the complainant.

The new electronic forwarding system between Banco de España and the CNMV is in use for claims and complaints but also enquiries, and replaces the physical exchange of the corresponding documentation, expediting its dispatch and reception while ensuring greater ease of processing. It came into operation on 12 May 2015, and by the end of the year had registered a through traffic of 373 complaint and 60 enquiry files.

These improvements are in line with the broader goal of expanding electronic government capabilities. In this respect, the report drafted by the Comisión para la Reforma de las Administraciones Públicas (CORA), established by a resolution of the Council of Ministers of 26 October 2012, and presented to the Council on 21 June 2013, acknowledges the fundamental importance of the rollout of information and communication technologies (ICT) throughout the public sector.

