



Supervision and inspection procedures for persons and firms operating in the securities markets (P01)

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1. AREA OF ACTIVITY

This internal procedure has been developed in accordance with the provisions of Article 42 of the Internal Regulations of the National Securities Market Commission (CNMV for its abbreviation in Spanish), which shall be applicable to all actions of the CNMV in execution of supervision and inspection powers over the following persons and entities:

- a) Spanish investment services firms, including the competences of any office or facility in Spain or abroad, and to non-EU investment services firms operating in Spain.
- b) Consolidated groups of investment services firms and financial conglomerates.
- c) Investment services firms authorised in any other member State of the European Union and operating in Spain, including their tied agents and branches in the country, and the Spanish branches of credit institutions authorised in any other member State of the European Union.
- d) Agents of investment services firms.
- e) Credit institutions and their agents, insofar as they may conduct business in the securities markets, and non-EU credit institutions operating in Spain.
- f) Collective investment schemes, their asset management firms and agents, and their depositaries.
- g) Venture capital entities and other closed-ended collective investment companies, their asset management firms and depositaries, where applicable.
- h) Management companies of investor compensation schemes.
- i) Crowdfunding platforms.
- j) The market operators of trading venues, central counterparties and central securities depositaries.
- k) The entity which, where applicable, manages the trading system that enables automated quotation and companies holding all shares, or a direct or indirect controlling interest in the share capital, of any of the entities mentioned in the preceding paragraph.
- l) Issuers of securities, insofar as their activities concern the securities markets.
- m) Members of any trading venue and clearing houses engaged in the settlement of trades.
- n) All other entities or persons mentioned in Article 232 of the Securities Markets and Investment Services Law.
- o) Securitisation funds, banking asset funds and their asset management firms.
- p) Credit rating agencies, issuers and originators of securitisation funds.
- q) Any other natural or legal persons, insofar as their professional activity or business may involve the securities markets.
- r) Public interest entities due to their obligations in relation to the composition and attribution of functions of audit committees.
- s) Voting advisers.

- t) Benchmark administrators, supervised entities using benchmarks and contributing to the calculation of critical benchmarks as well as other natural or legal persons, in so far as they may be affected by the rules of Regulation (EU) 2016/1011 and its implementing measures.
- u) Natural and legal persons found to be in breach of activities and names reserved by current law.

2. APPLICABLE REGULATIONS

The regulatory framework applicable to this procedure is defined, *inter alia*, by the following legislation:

1. Supervision and inspection of entities and natural persons operating in the securities markets. The procedure is governed by the following provisions and standards:
 - Law 6/2023 of 9 March on Securities Markets and Investment Services (LMVSI for its abbreviation in Spanish), Titles V on investment services firms, VII on investment guarantee funds, VIII on rules of conduct and IX on supervisory, inspection and sanctions Regime.
 - Law 5/2015 of 27 April on the promotion of business financing. Chapter IV, supervisory and sanctions regime, of Title III on legal framework for securitisations, and Title V on the legal regime for crowdfunding platforms.
 - Law 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and investment services firms.
 - Law 9/2012 of 14 November on the restructuring and resolution of credit institutions. Tenth additional provision concerning Banking Asset Funds (BAF).
 - Law 22/2014 of 12 November, regulating venture capital entities, other closed-ended collective investment companies and management firms operating closed-ended collective investment companies. Titles II on management firms operating closed-ended collective investment companies and IV on rules of conduct, supervision, inspection and sanctions.
 - Law 10/2014 of 26 June on the regulation, supervision and solvency of credit institutions. Article 4.2.h).
 - Law 22/2015 of 20 July on auditing. Article 32.c.
 - Law 35/2003 of 4 November on collective investment schemes. Titles IV on management firms operating closed-ended collective investment companies, V on depositary entities, and VI on rules of conduct supervision, intervention and sanctions.
 - Law 5/2005 of 22 April on supervision of financial conglomerates and amending other financial sector laws. Articles 1 to 8.
 - Regulation (EC) 1060/2009 of 16 September of the European Parliament and of the Council on credit rating agencies.
 - Consolidated text of the Spanish Corporate Enterprises Law, approved by Royal Legislative Decree 1/2010 of 2 July.

- Law 10/2010 of 28 April on the prevention of money laundering and terrorist financing. Chapters II, III and IV. Article 44.2.m).
 - Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June on indices used as benchmarks in financial instruments and contracts or to measure the performance of investment funds.
 - Law 11/2018 of 28 December, amending the Spanish Commercial Code, the consolidated text of the Spanish Corporate Enterprises Law approved by Royal Legislative Decree 1/2010 of 2 July and Law 22/2015 of 20 July on auditing, regarding non-financial information and diversity.
 - Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms, and amending Regulations (EU) 1093/2010, (EU) 575/2013, (EU) 600/2014 and (EU) 806/2014.
 - Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) 648/2012.
 - Regulation (EU) 1286/2014 of the European Parliament and of the Council, of 26 November on associated retail investment products and investment products based on insurance.
 - Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October on European providers of equity finance services to enterprises, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937.
2. Supervision and inspection of compliance with the obligations of the governing bodies of trading venues, of the entity that, where applicable, manages the trading system that enables automated quotation, of central counterparties, of central securities depositories, of the members of trading venues, and of the conduct of the entities that participate in the latter. The procedure is governed by the following provisions and standards:
- Law 6/2023 of 9 March on Securities Markets and Investment Services, Titles IV on Trading Venues, clearing systems, settlement and registration of financial instruments, periodic reporting obligations of issuers, reporting obligations on major holdings and treasury stock, takeover bids and proxy advisors, VI on Data provision services, VIII on Rules of conduct, and IX on Supervision, inspection and sanction regime.
 - Consolidated text of the Spanish Corporate Enterprises Law, approved by Royal Legislative Decree 1/2010 of 2 July. Title XIV on listed public limited companies.
 - Regulation (EU) 236/2012 of the European Parliament and of the Council of 14 March on short sales and certain aspects of credit default swaps.
 - Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July regarding OTC derivatives, central counterparties and trade repositories (EMIR).
 - Regulation (EU) 596/2014 of the European Parliament and of the Council of 16 April on market abuse (Market Abuse Regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council, and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.
 - Regulation (EU) 909/2014 of the European Parliament and of the Council of 23 July on improving securities settlement in the European Union and on central securities depositories, and amending Directives 98/26/EC and 2014/65/EU, as well as Regulation (EU) 236/12.

- Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May on markets in financial instruments and amending Regulation (EU) 648/2012.
3. Supervision and inspection of compliance with obligations incumbent on investors trading OTC derivatives contracts. The procedure is governed by the following provisions and standards:
 - Law 6/2023 of 9 March on Securities Markets and Investment Services (LMVSI). Article 251. c).
 - Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July regarding OTC derivatives, central counterparties and trade repositories (EMIR).
 4. Supervisory and inspection procedures related with persons or entities in breach of names and activities reserved by prevailing legislation. The procedure is governed by the following standards:
 - Spanish Law 6/2023 of 9 March on Securities Markets and Investment Services. Article 129.4.
 - Law 35/2003 of 4 November on collective investment schemes. Article 14.
 - Law 5/2015 of 27 April on the promotion of business financing. Articles 28 and 48.
 - Law 22/2014 of 12 November, regulating venture capital companies, other closed-ended collective investment entities and their management firms. Article 11.
 5. Supervisory actions related with the audit committees of public interest entities are governed by:
 - Law 22/2015 of 20 July on auditing. Third additional provision.
 6. Any European Regulation published and applicable to the entities included in the scope of this procedure in the actions carried out by the CNMV in the exercise of its supervisory and sanctioning powers shall be incorporated into this procedure. Any guidelines or recommendations issued by the European Securities and Markets Authority (ESMA) pursuant to Article 16 of Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November establishing a European Supervisory Authority and by the European Banking Authority (EBA) in accordance with Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing the European Supervisory Authority shall also be incorporated into this procedure, as long as the CNMV has confirmed its compliance or intention to comply in accordance with paragraph 3 of Article 16 of both Regulations.
 7. The following will also apply to this procedure:
 - Law 39/2015 of 1 October on public administration and ordinary administrative procedures.
 - Resolution of 19 December 2019 of the Board of the Spanish National Securities Market Commission amending the CNMV Internal Regulations.
 - Agreement of the Board of the Spanish National Securities Market Commission on the delegation of powers in force from time to time.
 - Resolution of 16 November 2011 of the Board of the National Securities Market Commission creating and regulating the Electronic Registry of the Spanish National Securities Market Commission.

3. SUPERVISING BODIES

1. The Institutions Directorate-General will be responsible for the supervision and inspection of the persons and firms mentioned in paragraphs a) to i) of section 1 above, as well as the management firms mentioned in paragraph o). In regards to those persons and entities mentioned in paragraph n), the Institutions Directorate-General will be responsible for the supervision assigned by the Internal Regulations.

Supervision and inspection of credit institutions shall be coordinated with the Bank of Spain.

2. The Markets Directorate-General will be responsible for supervision and inspection of activities conducted by the persons and entities mentioned in paragraphs j) to s), not including management firms mentioned in paragraph o) of section 1, as well as supervise and inspect activity in the securities markets. In regards to those persons and entities mentioned in paragraph n), the Markets Directorate-General will be responsible for the supervision assigned by the Internal Regulations.

Supervision and inspection of members of Public Debt market for Entries shall be coordinated with the Bank of Spain.

3. The Directorate-General for Strategic Policy and International Affairs shall be responsible for the supervision and inspection of the activity of the persons and entities mentioned in paragraph t) of section 1 of this procedure.
4. The Legal Services Directorate-General shall be responsible for procedures relating to persons or entities in breach of reserved names and activities as mentioned in paragraph u), section 1 of this procedure.

4. SUPERVISION AND INSPECTION FUNCTIONS

1. The CNMV will be vested with full requisite supervisory and inspection powers for the discharge of its functions, whether directly or in collaboration with other Spanish or foreign authorities. The powers of supervision and inspection are provided in the LMVSI and will be applied in the manner and subject to the restrictions established by law.
2. Supervisory and inspection procedures will be carried out subject to the following provisions:
 - 2.1 Supervisory and inspection actions will be carried out in line with the terms of supervision and inspection plans, as amended where applicable.
 - 2.2 Any CNMV actions which are not subject to planning will be undertaken in line with the procedural criteria established by the General Director responsible for opening a CNMV supervisory process.
 - 2.3 Ongoing supervision of market activity will be undertaken in line with the parameters defined by the Markets General Director.

3. Supervisory and inspection functions are carried out through inspections and remote supervision.

CNMV supervisory staff may access all books, records, reports, data, ledgers and documents (on whatever support) belonging to the natural persons or legal entities inspected, in accordance with the provisions of prevailing legislation.

To better carry out its supervisory functions, the CNMV may, in accordance with the regulations in force and in the event of a duly justified need, be supported by the collaboration of auditors, consultants or other independent experts. Specifically, in order to assess the degree of compliance of supervised entities with the rules affecting securities markets and, in particular, on the marketing practices of financial instruments, the CNMV may request professional experts to issue any reports. The experts designated for such issue of reports and their employees may operate without disclosing that they act on behalf of the CNMV.

4. Supervision and inspection procedures will be undertaken subject to the following criteria:
 - 4.1 Inspections and summons to record statements must be notified in advance to the corresponding entities or concerned persons. In cases requiring immediate action, such notices may be served upon the start of the procedure.
 - 4.2 Inspections carried out in the offices and premises of the supervised parties shall be made within the working hours of the entities or persons concerned, avoiding any disturbance in their normal activity. Nevertheless, such entities or persons may agree to hold inspections on other days and/or at other times.
5. Remote supervisory reviews concern the information reported to the CNMV on a regular or continuous basis by the market and by the persons and entities operating therein, as well as information sought in the course of supervisory activities.
6. In the execution of its supervisory and inspection functions, the CNMV may adapt and extend the procedures described in its plans and estimates in view of its control findings and market circumstances.

5. SUPERVISION AND INSPECTION PLANS

1. In order to ensure due performance of supervisory and inspection activities, the General-Directorates of Institutions, Markets and Strategic Policy and International Affairs will each draw up an annual procedures plan setting out the following criteria or provisions:
 - Planned remote supervision procedures to be developed, identifying periodic and specific actions and stipulating whether they are, in principle, general or specific in scope.
 - Planned on-site inspections to be carried out, specifying whether they constitute complete, partial or follow-up procedures, in principle.
 - Criteria for the selection of target companies, entities, institutions, persons and transactions for supervisory purposes.
 - Schedule of different supervision procedures.

- General summary of controls and verification procedures, objectives and purposes, and the human, material and technical resources to be used in view of the nature of the supervision planned.
- 2. Supervision and inspection plans shall be approved by the CNMV's Executive Committee, at the proposal of the relevant General Director. Subsequent amendments will be reported and justified by the General Directors through the Board of Directors, allowing the Chairman to decide to refer the matter to the CNMV's Executive Committee at any time.
- 3. The General-Directorates of Institutions, Markets and Strategic Policy and International Affairs shall submit their Supervision and Inspection Plans to the CNMV Board for its information.
- 4. The General Director for Institutions, the General Director for Markets and the General Director for Strategic Policy and International Affairs, within the scope of their respective competences, shall submit before the Executive Committee an annual report on the supervisory and inspection activities that have been carried out. They shall also report to the Executive Committee on a semi-annual basis on the development of the supervision and inspection plans if there are relevant issues.
- 5. Supervision and inspection plans are subject to the duty of professional secrecy as provided for in article 233 of the Securities Markets and Investment Services Law and will not be accessible to the public, according to article 14 of Law 19/2013 of 9 December on transparency, access to public information and good governance.

6. SUPERVISION AND INSPECTION REPORTS

1. Supervision and inspection reports shall be reviewed and signed by the Director of the competent Department or by the head of the Market Oversight Unit or the Money Laundering Prevention Unit or the unit responsible for benchmark functions, as appropriate, and by the relevant General Director.
2. Upon completion of an inspection and due consideration of any observations received, the General Director competent for the matter concerned will present a final report to the Executive Committee with the following subjects:
 - a) Matters of fact observed.
 - b) Proposal for formal letters or cautions to be addressed to the persons or entities concerned.
 - c) Proposal for preventive, interim or corrective measures and/or sanctions considered appropriate.

However, in the case of inspections carried out in execution of the money laundering Agreement, given that the powers are vested in the Standing Committee under the Money Laundering Law, once the inspection has been completed, the General Director shall inform the Board of Directors of the outcome of the proceedings and, without prejudice to the possibility that it may subsequently be decided to refer it to the Executive Committee, the Secretariat of the Commission for the Prevention of Money Laundering shall be submitted the facts revealed along with the corresponding proposal for its assessment by the Standing Committee. Additionally, any recommendations deemed appropriate shall be passed on to the entity.

3. The competent General Director will report any material or significant infringements to the Executive Committee over the course of the inspection that may be considered particularly serious and significant, as well as of the measures deemed necessary. Any infringements reported will be previously verified and assessed by the competent General Director following the assessment of observations of supervisions.
4. The General Director of Institutions, the General Director for Markets and the General Director for Strategic Policy and International Affairs, within the scope of their respective competences, shall report regularly to the Executive Committee on the findings obtained in remote supervisions. Upon completion of a remote supervision procedure, however, the competent General Director will determine whether it is necessary to report findings separately to the Executive Committee in accordance with paragraph 2 above.
5. If any irregularity is observed in the course of ongoing supervision of market activity, a report will be issued with the content mentioned in paragraph 2 above.

7. DEMANDS AND REQUESTS FOR INFORMATION AND DATA

1. During the execution of their supervisory and inspection functions, the General Directorates of Institutions, Markets, Strategic Policy and International Affairs, as well as Legal Services, may require the companies, bodies, entities or persons mentioned in section 1 above to provide all such information as they may consider necessary and appropriate for the application of their activities and, if necessary, summon and take statements from any parties in order to obtain information.
2. Demands and requests for information will, in general, be made in accordance with the provisions of the *Procedure for the issue of demands and requests for data and reports to companies, institutions and entities operating in the Securities Market*.

Demands and requests for information and data made in the course of supervisory and inspection procedures may establish reasonable deadlines in view of the nature, contents and market impact of the procedure or of the information requested, and in view of the difficulty or workload inherent in compliance.

8. DUTY OF SECRECY AND CONFIDENTIALITY

1. The authorities and staff of the CNMV shall be subject to the duty of professional secrecy in the execution of their supervisory and inspection functions.
2. Confidential or reserved information and data obtained as a consequence of the supervisory or inspection procedures carried out shall therefore not be disclosed, reported or divulged to any other person or authority, in accordance with articles 233 of the LMVSI.
3. Any breach of the duty of professional secrecy will entail the criminal, civil and disciplinary liability established by law.
4. Article 233, paragraph 3 of the LMVSI establishes the only exceptions to the obligation to maintain professional secrecy.

9. PROCEDURE MANUALS

1. The CNMV's General Directors will approve the necessary "Procedure Manuals" to ensure compliance with and application of this procedure in practice within their respective remits.
2. The criteria or standards set in the "Procedure Manuals" constitute the basic operational guidelines and specific rules to ensure the appropriate and efficient completion of work.
3. The "Procedure Manuals" will include such controls as may be deemed necessary under the CNMV Risk Management System to ensure effective compliance with relevant legal provisions and with this procedure.
4. The "Procedure Manuals" will be developed following the criteria or guidelines issued by ESMA and, to the extent applicable, by the EBA to promote common supervisory practices shall be followed, in accordance with the provisions in Article 29.2 of Regulation (EU) 1095/2010, as well as any guides that may be published by the CNMV in relation to this procedure.

10. EFFECT

This procedure shall come into force as of 21 September 2016 and will be revised annually and wherever its contents are materially affected by any regulatory change.