

COMISIÓN NACIONAL DEL MERCADO DE VALORES

**ANNUAL REPORT
2000**

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LETTER FROM THE PRESIDENT OF CNMV

I am pleased to present the CNMV's Annual Report for 2000. By means of this publication, the CNMV complies with a legal obligation clearly specified in article 13 of the Securities Market Law, which requires us to render accounts of our actions. We are delighted to do so, since we are aware of the importance of the work which Spanish society has entrusted to us and, therefore, of the need to provide citizens with sufficient data with which to judge our performance.

During 2000, the Spanish securities markets operated in an international environment which was less favorable than in previous years, as the market prices of equities declined across the board. Nevertheless, our markets maintained a high level of activity and companies continued to make considerable use of them to obtain finance in the form of bond and equity issues. Growth in securities issuance in recent years is undoubtedly excellent news for the overall development of the Spanish markets, since this area was one of their major shortcomings.

Providers of financial services in the securities markets operate in an increasingly demanding environment. In 2000, we had further proof that the Spanish securities industry is willing to be increasingly more efficient in serving its clients and competing in the international scenario, as evidenced by the initiatives that have arisen in a number of spheres in the market.

The main beneficiaries of the CNMV's work are Spanish investors, to whom we must assure adequate protection. To this end, last year the CNMV focused particularly on improving the quality of information disclosure to the market, and particular efforts were made in the area of auditing and in developing new disclosure requirements relating to remuneration schemes for directors and executives that are linked to the price of the shares of the company where they work. Also, considerable efforts were made to detect and pursue illegal activities by unregistered intermediaries.

Spain enjoys a modern, efficient regulatory and surveillance system, but we must continue working to perfect it. Our regulatory and surveillance system is among the most advanced in the world, and the CNMV is determined to maintain its quality. New trends in the financial markets call for modifications to the regulations. The CNMV is persuaded that the regulations' efficiency can be enhanced by simplifying bureaucratic procedures, and it will proceed in this direction in the coming years, while always maintaining proportionality between the objectives of contributing to market integration and facilitating innovation and competition, on the one hand, and establishing appropriate investor protection, on the other. Maintaining this proportionality defines what could be understood as "good regulation".

Major efforts also need to be made in connection with building a single European securities market. The European Union wants Europe's citizens to enjoy the undisputed advantages of greater integration in Europe's markets as soon as possible, and it is fostering sweeping changes in European regulations to this end. The CNMV is convinced that these advantages can only be fully exploited in a regulatory framework based on high quality standards under a surveillance system which ensures that those standards are applied consistently and uniformly. The CNMV is working in the European forums, in particular, and in international forums in general, to ensure that this viewpoint is taken into consideration.



*Pilar Valiente
April 2001*

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ABBREVIATIONS

AIAF:	Asociación de Intermediarios de Activos Financieros / Spanish Brokers' Association
ANCV:	Agencia Nacional de Codificación de Valores / Spain's National Securities Numbering Agency
ANNA:	Association of National Numbering Agencies
AV:	Agencia de valores / Broker
AVB:	Agencia de valores y bolsa / Broker and market member
CADE:	Spanish government bond book-entry center
CNMV:	Comisión Nacional del Mercado de Valores
DGTPF:	Directorate General of the Treasury and Finance Policy at the Ministry of Economy and Finance
EC:	European Commission
ECR:	Venture capital entity
ECSDA:	European Central Securities Depositories Association
ESI:	Empresas de servicios de inversión / Investment services firm
EU:	European Union
FESCO:	Forum of European Securities Commissions
FIAMM:	Fondo de inversión en activos del mercado monetario / Money market fund
FII:	Fondo de inversión inmobiliaria / Real estate investment fund
FIM:	Fondo de inversión mobiliaria / Securities investment fund
FASP:	Financial Services Action Plan
IIC:	Instituciones de Inversión Colectiva / Collective investment institution
IIMV:	Instituto Iberoamericano del Mercado de Valores
IOSCO:	International Organization of Securities Commissions
IPO:	Initial Public Offering
ISD:	Investment Services Directive

ISIN:	International Securities Identification Number
MEFF:	Spanish market in financial futures and options
MOU:	Memorandum of understanding
SCLV:	Servicio de Compensación y Liquidación de Valores / Securities Clearing and Settlement Service
SENAF:	Sistema Electrónico de Negociación de Activos Financieros / Electronic system for trading in financial assets
SGC:	Sociedad gestora de carteras/ Portfolio management company
SGFT:	Sociedad gestora de fondos de titulización / Securitization fund management company
SGIIC:	Sociedad gestora de instituciones de inversión colectiva / Collective investment institution management company
SIBE:	Sistema de Interconexión Bursátil Español / Spain's electronic market
SIM:	Sociedad de inversión mobiliaria / Securities investment company
SIMCAV:	Sociedad de inversión mobiliaria de capital variable / Open-end investment
SV:	Sociedad de valores / Broker-dealer
SVB:	Sociedad de valores y bolsa / Broker-dealer and market member
UCITS:	Undertakings for Collective Investment in Transferable Securities

Organization structure

The organization structure of the Comisión Nacional del Mercado de Valores (CNMV) has been changed slightly to adapt it to the tasks that the CNMV must undertake in an environment characterized by the integration of European markets and the new market conditions that this entails.

Table 1.1

STRUCTURE OF THE COMISION NACIONAL DEL MERCADO DE VALORES IN 2000

	DIVISION	FUNCTIONS
B O A R D	Directorate-General of Authorization and Registration	Creation and institutional monitoring of investment services firms, collective investment institutions and venture capital companies
	Directorate-General of Primary Markets	Security issues, public offerings and listings Significant holdings and own shares Take-overs Periodic disclosure by issuers
	Directorate-General of Secondary Markets	Supervision of secondary markets Reporting of significant events to the market Exclusion from, and suspension of, trading
	Directorate-General of Supervision	Supervision, inspection and intervention at registered entities
	Directorate-General of Inspection	Proposal and processing of disciplinary proceedings Inspection of non-registered entities Market Monitoring Unit: inside information and price manipulation
	Directorate-General of Legal Department and Secretariat to the Board	Secretariat to the Board and the Advisory Committee CNMV Legal Department CNMV litigation service and relations with the justice system Development of regulations
	General Secretariat	Administration Relations with the public Documentation and Official Registries
	Directorate-General of Development	Institutional relations with ICAC, SCLV, securities market companies and Latibex Accounting advice Monitoring of EU directives Preparation and maintenance of statistical information Office in Catalonia: provision of the CNMV's services in Barcelona
	Directorate-General of Research	Preparation of the Annual Report and Report on the securities markets Analysis of the financial situation and research on securities markets
	Directorate-General of International Relations	Coordination of the CNMV's international relations Participation in IOSCO, FESCO and other international bodies
	Directorate-General of Information Systems	Design, development and implementation of the CNMV's information systems National Securities Numbering Agency
Directorate-General of Communications	Relations with the media	



ORGANIZATION AND MANAGEMENT

Under the new organization structure approved in October 2000, the CNMV Board supervises twelve Directorates-General (D.G.), five of which are line divisions and seven are horizontal. With respect to the organization structure in force on 1 January 2000, the three most significant changes are as follows: (i) the former Directorate-General of Supervision was split in two: prudential supervision of investment services firms (ESI) and collective investment institutions (IIC) is entrusted to the Directorate-General of Supervision, and supervision of secondary markets to the Directorate-General of Secondary Markets; (ii) the tasks of the former Directorate-General of Development were divided between the Directorate-General of Securities Market Entities and the Directorate-General of Development; and (iii) the Directorate-General of International Relations was created in order to coordinate all the CNMV's activities outside Spain, increase the CNMV's participation in international bodies and establish collaboration agreements with other securities market regulators.

Administration

Last year saw considerable activity in the securities markets, both in trading and in primary markets, where certain consolidation was achieved after the notable expansion in 1999. In the case of supervised companies, again a large number of open-end investment companies (SIMCAV) were registered. The number of mutual funds also rose substantially, many of them concentrating on foreign equities. In order to satisfy the increasing demand for services, the CNMV continued its human resources expansion plan and improved its information systems.

Human resources

The workforce expanded by 10 employees during 2000, i.e. a 4.1% increase over 1999. In February 2001, nine company analysis technicians joined the CNMV following the government recruitment process in 2000.

During 2000, the new hires were aimed at reinforcing the CNMV's technical and administrative functions due to the sizeable number of proceedings that were processed by the CNMV, as evidenced by the activity figures contained in this report.

Table 1.2
CNMV STAFF
BY PROFESSIONAL CATEGORY

Category	Number of employees	
	1999 ⁽¹⁾	2000
Services	9	9
Administration	45	51
Technicians	147	152
Trainee technicians	20	17
Management	15	17
Total	236	246

(1) Includes 1999 government recruitment process.

Information systems

In 2000, the CNMV continued to improve its information systems, new applications were developed and old applications were upgraded. Some of the network servers were replaced during the year to provide better performance, especially for Internet/Intranet functions, and workstation

enhancement continued with the addition of large flat screens. Part of the basic software was updated to the latest versions.

The new IT systems deal with the entry into force of new regulations, such as:

- the registration and dissemination of communications regarding options on shares and executive and director remuneration systems or
- the renewal of control over the legality of collective investment institutions (IIC).

New applications were also implemented to monitor disciplinary proceedings and IIC files, and a new version of the in/out register was set up.

Market participants made greater use of CIFRADO/CNMV, the encryption and electronic signature system: 65% of IICs and 40% of broker-dealer firms and broker firms file their periodic disclosures in this way. Issuers can now use this system to disclose quarterly and half-yearly public financial statements and significant events.

In order to increase the number of procedures that can be carried out online via CIFRADO/CNMV and, more specifically, to include the processing of IIC prospectuses via the “virtual window”, a pilot test was implemented under which a document can be signed electronically by both the manager and the depository, each one signing it at a different time and place.

The CNMV’s web site, a very useful channel for disseminating information, was enriched with more content last year. It was also enhanced by the use of on-line updating procedures which make all the information registered at the CNMV available to the sector immediately.

With the same objective of improving the information dissemination policy, a WAP system for the dissemination of significant events that companies must report to the market became operational in early 2001.

Additionally, a paperless office system was implemented to facilitate processing of files within the CNMV itself: the documentation for each file is stored on disk as an image or text file upon arrival and further documentation is added as it arises. Consequently, the file can be transferred between departments without any physical movements of documentation and all the information is perfectly organized and systematized for immediate use by all authorized personnel. The system will be extended to other work areas once it has been found to be effective for one type of files.

Financial data

In 2000, the CNMV’s revenues amounted to 5.3 billion pesetas, of which 4.9 billion pesetas were from fees. Revenues from this source grew by 13.3% with respect to the previous year even though rates remained broadly similar.

Practically all the increase in revenues was due to the 40% rise in market member supervision fee revenues. In this caption, there was an increase in fees collected both from stock exchange members—due to greater market activity—and from members of the Securities Clearing and Settlement Service (SCLV)—due to the inclusion of fixed-income securities in this service. In contrast, revenues from other markets were stable or decreased slightly.

Revenues from prospectus registration and verification grew by 2.5% and those from entity registration by 5%, whereas revenues from supervision of registered entities fell by 1%.

Operating expenses amounted to 2.8 billion pesetas, 10% higher than in 1999. Personnel expenses accounted for 68.6% of that item. Within this heading, wages and salaries grew by 9.6% and the average work force increased by 9%. Overall, the other expense items grew by 5.2%.

Tangible fixed assets amounting to 51 million pesetas were acquired, of which 40 million pesetas related to computer hardware and 11 million pesetas to furniture for the new staff.

The surplus for the year 2000 totaled 2.5 billion pesetas, 31.6% more than in the previous year. In January 2001, the government accepted the proposal by the Board of the CNMV to distribute the 1999 surplus by assigning 1.2 billion pesetas to the State.

National Securities Numbering Agency (ANCV)

Again, there was considerable activity in the database of the ANCV, which expanded by 46% to 13,192 entries in 2000. This dynamism was due to the registration of new open-end investment companies (SIMCAV), the sizeable number of commercial paper and warrant issues, and the redenominations, capital movements and stock splits being undertaken by companies in order to adapt to the euro.

In 2000, the number of direct queries to the ANCV decreased to 3,170 (5,537 in 1999) due to increased use of other channels, such as the web site. Consequently, one of the ANCV's objectives is being fulfilled, i.e. that users have various channels to access ANCV information easily and sufficiently in advance, around the clock and without the need for direct involvement by ANCV personnel.

With the gradual implementation of STP (Straight Through Processing) in securities transactions, ISIN codes are increasingly being used as the universal identification code for financial instruments; 61 countries already form part of the Association of National Numbering Agencies (ANNA), to which the Spanish agency has belonged since its foundation.

Market regulation in 2000 continued to pursue the aim of stimulating competitiveness, transparency and integrity in the securities markets and of facilitating and simplifying registration, authorization and supervision procedures.

Consequently, the amendment to the Securities Market Law (LMV) enabling non-members to become shareholders of the Spanish stock exchanges paves the way for the Spanish markets to be managed more commercially. The solvency requirements for investment services firms have been adjusted to the risk assumed by them, estimated in accordance with the composition of their balance sheet. Development of market regulations continued regarding the obligation to disclose executive and director remuneration with respect to stock options, and new standardized forms were approved that take account of the specific characteristics of the contracts.

Regulations in 2000 that affected the securities markets

Primary market in securities

- *Royal Decree 1370/2000, dated 19 July, amending Royal Decree 377/1991, dated 15 March, on disclosure of significant holdings in listed firms and acquisition by the latter of treasury stock, regarding options on shares and executive and director remuneration systems.* This amendment adapted RD 377/1991 to the new wording of article 53 of the Securities Market Law and to the new Additional Provision Fifteen. Article 53 of the Securities Market Law extends the obligation to disclose and publicize significant holdings in listed companies by requiring directors of listed companies to disclose the acquisition or disposal of options on shares of the company. Additional Provision Fifteen expressly makes it obligatory to notify the CNMV of shares and options on shares received by executives and directors of listed companies under the remuneration systems of these companies.
- *CNMV Circular 4/2000, dated 2 August, establishing forms for disclosing options and remuneration systems for executives and directors of listed companies.*
- *CNMV Circular 3/2000, dated 30 May, amending Circular 2/1999, dated 22 April, which approved certain forms of prospectus for use in issues and public offerings of securities.* This introduces a prospectus form for contracts under which credit institutions do not undertake to return the entire principal unconditionally but in which repayment depends on the performance of one or more listed securities or an index.

Secondary markets in securities

- *Article 69 of Law 14/2000, dated 28 December, on tax, administrative and labor measures.* This article amends articles 47 and 48.1 of the Securities Market Law (LMV), eliminating the requirement that stock exchange members be shareholders of the exchange company, thereby facilitating the recruitment of new members by the exchanges. This law also eliminates the requirement that the stock exchange members be the only shareholders of the exchange companies.
- *Royal Decree-Law 6/2000, dated 23 June, on urgent measures to intensify competition in goods and services markets, amending article 15 of Law*

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MARKET REGULATION

16/1986, dated 17 July, on the defense of competition. This establishes that execution of concentration transactions in Spain via a tender offer for shares is suspended until authorization by the Administration, once the CNMV has authorized the offering.

- *Order dated 10 March 2000, on investments in securities traded in the Latin American securities market (Latibex).* This order recognizes Latibex as suitable for collective investment institutions (IIC) to have up to 90% of their assets invested in it (article 10.1 of Law 46/1984, dated 26 December, on Collective Investment Institutions, and article 17.2 of Royal Decree 1393/1990, dated 2 November, implementing Law 46/1984).

Investment services firms

- *Order dated 13 April 2000, amending the Order dated 29 December 1992, on shareholders' equity and supervision on a consolidated basis of broker-dealer and broker firms and their groups, and Order dated 30 December 1992, on the regulations for the solvency of credit institutions.* In order to foster the competitiveness of investment services firms and credit institutions in the new single currency framework, their solvency requirements for holding various types of assets in their balance sheet are adjusted to their estimated risk, bringing the institutions into line with their European community competitors.
- *CNMV Circular 2/2000, dated 30 May, on standardized forms of contracts for discretionary and personalized management of investment portfolios and other implementations of the Order dated 7 October 1999, implementing the general code of conduct and rules of action for the management of investment portfolios.* This Circular establishes a voluntary standardized form of contract for portfolio management with three purposes: increase transparency, improve investor protection and simplify as much as possible the contract approval process. It also specifies certain aspects regarding the minimum content of standard contracts, financial asset deposits, order supporting archives and the use of omnibus accounts.

Collective investment institutions

- *Royal Decree-Law 6/2000, dated 23 June, on urgent measures to intensify competition in goods and services markets.* This amended Royal Decree 1393/1990, on collective investment institutions, regarding the limits on the management fees of FIM and FIAMM management companies.
- *CNMV Circular 5/2000, dated 19 September, on accounting standards and forms of private and public financial statements of venture capital entities and their management companies, complying with the provisions of Law 1/1999, dated 5 January, regulating venture capital entities.*

Other regulations

- *Law 6/2000, dated 13 December, approving urgent tax measures to stimulate household savings and SMEs.* In order to support new companies, improvements were made in the regime governing venture capital as a means of funding initiatives. The treatment of capital gains and losses under personal income tax withholdings was also changed in three ways: (i) gains or losses arising from the transfer of assets acquired more than one year before were included in the special part of the tax base, thereby reducing the 2-year period previously in force; (ii) the tax rate applicable to this income was reduced from 20% to 18%, in line with the minimum rate applicable to the general tax base; and (iii) in accordance with the new tax rate, the withholding rate applicable to the gains obtained from transfer or reimbursement of shares or participations of collective investment institutions was reduced to 18%.

- *Law 14/2000, dated 28 December, on tax, administrative and labor measures.* This law amended several tax regulations affecting the securities market, specifically, personal income tax, corporate income tax and non-resident taxes. This law also requires airlines with operation licenses to notify the CNMV and the securities market companies about certain changes in their ownership structure. It also recognizes the specific nature of the deadlines set by Royal Decree 1393/1990, dated 2 November, for the authorization to incorporate collective investment companies and funds, and by the Order dated 10 February 1999, on recognition of market makers.

Other regulations in 2000

Comisión Nacional del Mercado de Valores

- *CNMV Board resolution dated 18 October 2000, confirming and consolidating the powers delegated to the President and Vice-President of the CNMV.*

Other

- *Spanish Cabinet resolution dated 20 December 2000 on the long-term program to stimulate entrepreneurship, particularly among SMEs (2000-2005).* The plan is to substantially improve financing for innovative companies, as envisaged by the European Investment Fund's European Technology Facility (ETF) Start-Up Facility, which will acquire shares in specialist venture capital funds which conform to the desired objective.

European Union directives

In 2000, the *Directive 2000/31/EC of the European Parliament and of the Council, dated 8 June 2000, on certain legal aspects of information society services*, in particular electronic commerce in the Internal Market, was approved. The objective of this Directive is to facilitate free provision of services by eliminating the legal insecurity arising from the variety of legislation applicable to e-commerce in Europe. The directive must be transposed into Spanish law before 17 January 2002.

Interpretative letters

In 2000, the CNMV withdrew from its web site all the Interpretative Letters from the President to entities operating in securities markets. The objective of this decision was to end the doubts which they might raise because of their nature and to conform to the instruments of action provided for the CNMV by Spanish law.

In Spanish, Interpretative Letters are called *Cartas Circulares*, which could lead them to be viewed, mistakenly, as actual regulations when, in reality, they are simply interpretations or recommendations by the CNMV President to market participants. In fact, the CNMV's interpretation of the regulations is evidenced by its actions which, therefore, set an administrative precedent.

Accordingly, the Interpretative Letters did not constitute positive law since Securities Market Law 24/88, dated 28 July, envisages only Circulars as the regulations set by the CNMV. Moreover, the CNMV can only issue a Circular if it has been expressly authorized by a Royal Decree or a Ministry of Economy Order.

The difference between Interpretative Letters and Circulars lies in both their procedures and their effects. Circulars are prepared following a procedure that requires a report from the Advisory Committee and approval by the CNMV Board, whereas Interpretative Letters were drafted directly by the President. Also, Circulars are published in the Official State Gazette, whereas Interpretative

Letters were not. Regarding their effects, Circulars are actual regulations and are, therefore, binding; in contrast, Interpretative Letters do not constitute positive law and are not binding.

The withdrawal of the Interpretative Letters does not necessarily imply that the CNMV is departing from the criteria it has followed until now; some of the criteria of the Interpretative Letters have already been embodied in CNMV regulations, and other criteria are being included in draft regulations that are currently being processed⁽¹⁾. In some cases, the criteria of the Interpretative Letters have been revised by the CNMV Board⁽²⁾. In other cases, the CNMV has considered it to be more appropriate to make changes in regulations in order to complete and clarify, as far as possible, various aspects of their regulation⁽³⁾. Other Interpretative Letters simply publicized the existence of agreements between the CNMV and the Ministry of Economy or between the CNMV and the stock exchanges and, logically, the withdrawal of the Interpretative Letters does not affect the validity and enforceability of those agreements.

(1) Interpretative Letter 8/98, on clearing of issues and/or admissions of warrants by the CNMV was included in Circular 2/99. Interpretative Letters 2/97, 1/98 and 3/99, regarding collective investment institutions, were included in Royal Decree 91/2001, dated 2 February, on collective investment institutions.

(2) This is the case of Interpretative Letter 3/97 on the requirements for SIMCAV for admission of their shares to listing in the stock market, and of Interpretative Letter 1/97 on investment by Spanish collective investment institutions in shares issued by other collective investment institutions.

(3) Interpretative Letter 9/97 on significant events and their notification, and Interpretative Letter 12/98 on treasury stock order processing.

The world's securities markets are undergoing a restructuring process; as a result, cross-border transactions are growing, financial institutions are expanding into activities outside their core business, and competition among investment services suppliers is rising across the board.

In this context, the securities markets are working to improve the competitiveness and efficiency of their services in two ways. Firstly, trading structures are being improved and electronic trading systems are becoming widespread throughout the main stock markets. Other changes are also taking place, such as the move towards longer trading hours, a broader range of services relating to transaction processing and, generally, greater adaptation to customer needs. Secondly, the process of alliances and mergers between markets is accelerating in order to improve the capability to provide integrated or international services. The integration of European markets aroused great interest in 2000 because of the differing movements: some were successful and others were abandoned.

Spain's markets also participated in these initiatives and in 2000 they defined and consolidated projects to boost their competitiveness. The current processes are aimed at restructuring and at eliminating the existing fragmentation, mainly in the fixed-income markets and in the clearing and settlement systems. One highlight was the creation of the *Nuevo Mercado*, the special trading segment for innovative companies, plus the consolidation of Latibex, a nexus with Latin American issuers.

The advance towards a European single financial services market: development of EU regulations

Since 1998, the European Council has highlighted the importance of creating a single financial market in the European Union (EU). In working towards this objective, ECOFIN (the Council of Economy and Finance Ministers) proposed to undertake the necessary work⁽⁴⁾ to draft a general action plan in order to achieve an integrated capital and financial services market in the EU. The Financial Services Action Plan (FSAP), published in May 1999, endorsed this initiative and established 2005 as the deadline.

The general objective of the FSAP is to attain full integration of the financial services market. In particular, the Plan has a list of specific measures for the securities markets to achieve the following strategic objectives:

- Integration of wholesale markets: to attain this, the main actions proposed are the implementation of a common legal framework, elimination of the obstacles to Europe-wide capital-raising, attainment of a single set of financial reporting regulations for listed companies (see box below), reinforcement of legal security in cross-border transactions, and the creation of a secure and transparent environment for transnational corporate restructuring.
- Open and secure retail markets: the European Commission (EC) considers the following to be a priority: consumers should have clear and comprehensible information, effective mechanisms should be established for resolving disputes over

(4) ECOFIN created three groups to support the FSAP: the Financial Services Policy Group, Group 2005, and six forum groups.

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MARKET DEVELOPMENT

international transactions, and consumer protection regulations should be applied in a balanced way. The EC has also stated the need for an efficient and secure retail payment system and for the development of an appropriate framework for e-commerce.

- Reinforcement of control and supervision: the proposed actions are aimed at converging the legislation on banks, insurance and securities towards more demanding quality standards, taking account of the criteria established by international organizations such as the Basel Committee and FESCO. The control of financial conglomerates and, generally, the initiatives aimed at improving inter-sector cooperation are also addressed.
- Elimination of legal and administration obstacles due to differing corporate governance regulations and tax distortions, which is fundamental in order to develop a single financial market in the EU.

The FSAP will be monitored by the European Commission, which will pass on the proposals for action to ECOFIN; the latter will develop the pertinent legislative initiatives aimed at preparing new EU directives or revising the existing ones (table 3.1).

In July 2000, the Committee of Wise Men was formed to advise and give solutions for the regulation of securities markets with a view to attaining a single financial market, in parallel with the FSAP but independently from it.

Table 3.1
**LEGISLATIVE PRIORITIES ENVISAGED
IN THE FINANCIAL SERVICES ACTION PLAN (FSAP)⁽¹⁾**

	Commission ⁽²⁾	Council and Parliament ⁽³⁾
Wholesale markets	Update the two directives on prospectuses.	Directive on the prudent supervision of supplementary pension funds.
	Legislative follow-up to the EU accounting strategy communication.	Directives on investment fund harmonization.
	Proposed directive on cross-border use of collateral.	European Company Statute.
	Proposed directive on market manipulation.	Directive on the use of reasonable value in consolidated accounts. Directive on take over bids.
Retail services	Communication on an e-commerce policy for financial services.	Directive on distance marketing of financial services.
Prudential rules	Proposal to create a Securities Committee.	Directive on the reorganization and liquidation of insurance undertakings.
	Proposed directive on prudential rules for financial conglomerates.	Directive on the winding-up and reorganization of banks.
	Proposed directive governing the capital framework for banks and investment firms.	Amendments to the money laundering directive.
Broader conditions		Directive on savings tax. Implementing the December 1997 Code of Conduct on business taxation.

(1) According to the "Financial Services Priorities and Progress Third Report by the Commission of the European Communities", COM (2000) 692 final. (2) Pending proposal by the Commission. (3) Directives currently in preparation proposed by the Commission to the Council and European Parliament.

The main conclusion of the Committee's report⁽⁵⁾ is that the current regulatory framework is limited and insufficient to respond adequately to the rapid and profound changes taking place in the securities markets. The Committee also states that the actual workings of the institutional framework do not contribute to creating a single market due to their slowness and ambiguity. It is also unsatisfied with the transposition and application of European directives and with the cooperation between the national supervisory authorities.

The Committee's most important proposal is a four-level regulatory reform: the first two levels affect the preparation of European legislation and the other two refer to the domestic application at that legislation.

- Level 1: The European Commission would propose standards establishing the general principles, which would be subsequently approved by the Council and Parliament. The Committee recommends the use of regulations (not directives) as they do not require transposition at national level.
- Level 2: A Securities Committee (delegated by the Council and Parliament) would be charged with developing the general principles, advised by a Regulators Committee which would analyze the technical details and consult the industry.
- Level 3: Cooperation among regulators. National regulators would ensure consistent interpretation and uniform implementation of the standards.
- Level 4: Enforcement. The European Commission would have primary responsibility for enforcement action, but assistance from member states and the private sector would also be required.

The Committee of Wise Men recommended half-yearly monitoring of the process towards this new framework, which is expected to be operational by 2002, and a full review is envisaged for 2004.

Strategic movements in European organized markets and clearing and settlement services

The fragmentation of Europe's markets is a burden when facing the competitive challenges of the new international financial context, as recognized by the report on the European securities market prepared by the Committee of Wise Men. That report highlights the considerable economic benefits that the integration of Europe's capital markets would have for savers and companies as well as for the European financial services industry and Europe's economy as a whole. In the medium term, a Europe-wide securities market would improve the allocation of financial resources, increase the efficiency of brokerage services and, generally, contribute to attracting greater investment flows into Europe.

During 2000, some of the world's main stock exchanges formed alliances, signed cooperation agreements or merged. This integration process was particularly intense in Europe, where several projects were launched to merge stock exchanges. The failure of some of those projects underlines the difficulties of integrating financial markets where there are significant tax and legal differences and there is no common regulatory approach.

(5) The initial version was published in November 2000 and the final one in February 2001.

European Union financial reporting strategy

Financial reporting by listed companies is essential for investor protection and for the integrity of the securities markets. Moreover, in a context of globalization in the securities markets, common international accounting standards are especially important as a way of ensuring that published financial information meets quality standards and is comparable, investor-oriented and correctly audited.

The EU's accounting regulations, which are contained in the Fourth and Seventh Directives, make it difficult to compare the annual accounts and financial statements of listed companies due to the considerable number of permitted alternatives and the diverse interpretations made by member states. This situation poses a serious obstacle to the development of a single capital market in the EU. In March 2000, the European Council in Lisbon stated that the priority objective was to achieve greater standardization in reporting.

In this context, the Communication^(*) from the European Commission dated June 2000 proposes that a number of accounting standards should be adopted in the EU. This would require that, before 2005, all European companies listed on regulated European markets must prepare and publish consolidated financial statements in accordance with International Accounting Standards (IAS). The report also covers the following areas:

- Modernization of the accounting Directives.
- Control mechanisms required for enforcing and ensuring correct application of the IAS.
- A common drive to foster high-quality auditing.
- Strengthening of coordination in supervision by the competent authorities.

The implementation of these measures requires a transitory period to facilitate the change-over to IAS. With this objective, before the end of 2001 the Commission will present amendment proposals to update the EU accounting Directives, eliminating any possible conflicts with the IAS and including the latest accounting advances. Furthermore, within two years at most, the application of the IAS should be extended to all European companies that issue prospectuses of public offerings of securities for admission to listing. Member states can also require or allow unlisted companies to prepare and publish financial statements in accordance with IAS.

Although the requirement to apply IAS refers to consolidated financial statements, the European Commission recommends that the use of IAS should be fostered and extended to the individual financial statements of European companies, whether or not they are listed in regulated markets, even though the tax and mercantile regulations of the member states may hamper the preparation of individual accounts in accordance with those accounting standards.

(*) "EU financial reporting strategy: the way forward", COM (359), 13.06.2000.

The project for a pan-European stock exchange promoted by eight markets⁽⁶⁾ in May 1999 did not reach fruition due to other integration initiatives between some of those markets. In May 2000, the merger between the Frankfurt (Deutsche Börse) and London stock exchanges was announced under the name of iX (International Exchange). Initially, it seemed that iX would help to create a large pan-European trading core that would also include a memorandum of understanding with the Nasdaq which could be joined by other bourses such as Madrid and Milan at a later date.

(6) The pan-European stock exchange project was promoted by London, Frankfurt, Paris, Brussels, Amsterdam, Milan, Madrid and Zurich.

Negotiations made little progress due to differences in regulations and stock market supervision and to the opposition by the members of the London Stock Exchange. The project was finally thwarted in August when OM Gruppen, the owner of the Stockholm bourse, launched a hostile bid for the London Stock Exchange. That bid ultimately failed, but both the London and Frankfurt bourses decided to abandon their proposed merger.

Another important project proposed in 2000 was the creation of a large 24-hour world-wide stock exchange. In June, ten major stock exchanges (New York, Amsterdam, Brussels, Paris, Hong Kong, Mexico, Sao Paulo, Tokyo, Australia and Toronto) announced their intention of developing a world-wide stock exchange structure called Global Equity Market. The scant progress so far evidences the long-term character of this project.

It was not all failure. In March 2000, the Paris, Amsterdam and Brussels bourses reached a merger agreement, which was materialized in September when the new company, called Euronext, commenced operations. The integration of those exchanges required certain harmonization of their respective regulations, particularly with regard to admission to listing on the three markets, even though the domestic regulations still govern the secondary markets. Also in 2000, the NOREX alliance, created in 1998 by the Copenhagen and Stockholm bourses, was completed with the announcement of cooperation agreements with the Oslo and Baltic⁽⁷⁾ bourses.

The derivatives markets were also involved in the integration processes: the German-Swiss EUREX market has attained a dominant position in Europe, and steady progress was made in the development of the Euro-GLOBEX joint trading platform—the European alliance formed in June 1998 by MEFF (Spain), MIF (Italy), Paris Bourse (France) and the Oporto (Portugal) bourse⁽⁸⁾. In the fixed-income markets, pan-European electronic trading platforms, such as Euro-MTS and EUREX BONDS, were consolidated (the latter began operations in October).

In tandem with these strategic international movements, each market or group is trying to increase its competitiveness by developing business strategies more tailored to customer, investor and issuer needs. Another trend linked to this business approach is the change in stock market ownership structures, accelerating the process of demutualization and severing the linkage between shareholders and members. This enables domestic and foreign non-members to acquire stakes in exchange companies and it liberalizes the transfer of shares, which can even be traded in the exchanges themselves. These changes facilitate integration between markets. At the same time, market management becomes more commercial as the key objective is to offer yields to shareholders.

The Stockholm bourse pioneered demutualization in 1993 and was followed by the bourses of Helsinki in 1995, Copenhagen and Australia in 1996, and Borsa Italiana Spa in 1997. During 2000, they were joined by the London Stock Exchange, the Hong Kong Stock Exchange and the Nasdaq. Other markets have also shown interest in moving in this direction, e.g. Oslo, Madrid⁽⁹⁾, Euronext, Deutsche Börse⁽¹⁰⁾, the New York Stock Exchange and the Toronto Stock Exchange.

The search for more efficient structures was not confined to exchanges; the clearing and settlement services companies were also engaged in Europe-wide concentration processes. The securities industry has long called for a single point of entry into multiple markets to provide flexibility in trans-

(7) The exchanges of Estonia (Riga), Latvia (Tallin) and Lithuania (Vilnius).

(8) At world-wide level, there is a GLOBEX alliance formed by Chicago Mercantile Exchange (CME), Paris Bourse, the Montreal bourse, SIMEX (Singapore) and the Bolsa de Mercaderías y Futuros (BM&F) of Sao Paulo; MEFF joined in June 2000.

(9) Demutualized in February 2001.

(10) As stated in chapter 2, the amendment to the Securities Market Law 24/1988 by article 69 of Law 14/2000 paves the way for the demutualization of the Spanish bourses.

actions with shares and bonds as a way of reducing costs, which would increase the competitiveness of the European market, since it is clearly at a disadvantage with respect to clearing and settlements systems in the US. To date, two large groups have been formed: (i) Euroclear Clearance System plc., linked to Euronext because it is based on the integration between the systems of Paris (Sicovam), Brussels (CIK) and Amsterdam (Negicef); and (ii) Clearstream, associated with Deutsche Börse, formed by the integration of Cedel and Deutsche Börse Clearing. The Spanish clearing and settlement systems have begun establishing operational links with other systems in Europe and Latin America.

Initiatives to promote the competitiveness of Spain's markets

Latibex

In just over one year, Latibex, the Latin American securities market, has become a reference market for trading in euros of securities issued by Latin American industrial and financial companies. The use of the Spanish electronic market's trading platform and rules has proved to be effective for developing Latibex since no significant incidents have occurred either in the trading or the clearing and settlement mechanisms.

Nevertheless, it has been decided to reinforce this market's liquidity and depth and, therefore, a number of initiatives are being evaluated for this purpose.

Nuevo Mercado

On 10 April 2000, the *Nuevo Mercado* commenced operations. This is a special segment of the Spanish market for companies whose main activities are in innovative sectors or businesses, such as new technology, or which have fast growth potential. The *Nuevo Mercado* uses the trading platform of Spain's electronic market system (SIB) and applies its general trading and operating rules, although it has certain peculiarities due to the special characteristics of the securities admitted to listing in this segment, as evidenced by their greater volatility.

The main differences in the trading regulations of the *Nuevo Mercado* lie in the rules about setting the first price when the securities are listed initially on Spain's electronic market system and the maximum fluctuation in price which, as a general rule, is 25% (compared with 15% for securities traded in the traditional segment). There is also the possibility of exceeding these limits under certain circumstances and of extending the trading session on an exceptional basis.

The Sociedad de Bolsas also established rules for specialists in the *Nuevo Mercado* in order to boost and increase its liquidity. It allows members to apply to the Trading and Supervision Commission to register the commitments acquired with the issuers of securities traded in the *Nuevo Mercado*. It also established the limits on specialists regarding order types and market presence, block trading and authorization of special transactions. To date, only one market member, Merrill Lynch, has signed a specialist contract—to boost the liquidity of Jazztel.

Fixed-income markets

On 8 November 2000, AIAF Mercado de Renta Fija, S.A. (AIAF) acquired 60.1% of Sistema Electrónico de Negociación de Activos Financieros, Agencia de Valores, S.A. (SENAF AV). From a strategic standpoint, this acquisition forms part of the restructuring process in Spain's financial markets and it is the necessary response to the challenges of the single currency, globalization and the growing use of new technology in securities trading.

After its acquisition by AIAF, on 23 November 2000 the Board of Directors of SENAF AV adopted a resolution to request, under the terms of article 31.4 of the Securities Market Law, the government's authorization to structure SENAF AV's electronic platform as an organized trading

system for fixed-income and similar instruments (SENAF.SON). This authorization was granted by a Spanish Cabinet resolution on 23 February 2001. The aim of structuring SENAF.SON as an organized trading system was to give this new trading platform greater flexibility in order to compete on an equal footing with other similar European platforms, such as EuroMTS and BrokerTec, two electronic trading systems headquartered in London which trade Spanish government bonds and plan to trade Spanish corporate bonds shortly.

Structuring SENAF.SON as an electronic trading platform for both government and corporate fixed-income securities and similar financial instruments is undoubtedly an important initiative; it is a response to the need for broad integrated markets in order to attain greater operating efficiency and concentrate liquidity so as to prevent trading in Spanish fixed-income securities from moving elsewhere. Furthermore, SENAF.SON's future plans include trading in other European and Latin American government bonds.

Clearing and settlement systems

The process of restructuring the Spanish clearing and settlement systems—currently fragmented in various systems⁽¹¹⁾—formally commenced in June 2000 with the incorporation of Promotora para la Sociedad de Gestión de los Sistemas Españoles de Liquidación, S.A., which uses the trade name IBERCLEAR. That company is owned by Servicio de Compensación y Liquidación de Valores, S.A. (SCLV) (55%) and the Bank of Spain (45%).

IBERCLEAR's priority objective is to unify the clearing and settlement of the government and corporate fixed-income securities that are currently trading in the Book-Entry Office (CADE), the stock exchanges and AIAF. In principle, the aim is to promote the necessary legal and technical reforms to unify the fixed-income clearing and settlement systems of CADE and the SCLV. Since they will converge upon CADE's operating platform, the Bank of Spain and the SCLV have already drafted a Provision of Services Agreement which envisages a list of the securities included in the unified system, the obligations of the parties and the duration of the agreement, among other factors.

As a unified clearing and settlement system for fixed-income securities in Spain, IBERCLEAR will be the sole representative before international bodies (ECSDA⁽¹²⁾, European Central Bank, etc.) and, if the case arises, it will negotiate alliances and connections with other European national or international central depositories.

According to IBERCLEAR's projections, nearly all the fixed-income securities denominated in euros will be included in the unified system by mid-2001. The other fixed-income securities will be added by the end of 2001 at the latest. During 2001, IBERCLEAR could also carry out a preliminary study of including the clearing and settlement system of fixed-income securities traded on the stock exchanges in a specific updated platform.

MEFF

Because of mounting competition in the derivatives markets, the MEFF Group⁽¹³⁾ has adopted a number of measures aimed at boosting its efficiency and competitiveness, which will affect ope-

(11) Historically, there have been six registration, clearing and settlement systems for fixed-income securities and equities in Spain: three regional settlement services (Barcelona, Bilbao and Valencia), one system for equities and bourse-traded fixed-income managed by Spain's Clearing and Settlement Service (SCLV) and two specific systems for fixed-income securities (the SCLV manages a system for fixed-income trading in AIAF and CADE a system for government bonds traded under the book-entry system)

(12) European Central Securities Depositories Association.

(13) The MEFF Group comprises the following companies: MEFF, Sociedad Holding de Productos Financieros Derivados, S. A., MEFF, Sociedad Rectora de Productos Derivados Renta Variable, S. A. (MEFF RV), MEFF, Sociedad Rectora de Productos Financieros Derivados Renta Fija, S. A. (MEFF RF), MEFF Euroservices, S. V., Instituto MEFF and MEFF Services.

rations both in Spain and elsewhere. In Spain, in the early months of 2000, the MEFF Group culminated its management restructuring and unification by concentrating the market areas of the Group's two exchange management companies in Madrid, and the trade clearing and settlement activities in Barcelona. It also moved towards the standardization of various factors, such as the rates applied by MEFF RV and MEFF RF, and provided the means for the members of both markets to coincide.

Regarding traded contracts, the nominal value of Ibex-35⁽¹⁴⁾ futures was reduced in order to increase their use by retail investors. To broaden the product range, futures contracts on equities were launched and commenced trading in January 2001.

MEFF's main move outside Spain was joining the GLOBEX international alliance on 16 June 2000, which expanded the MEFF Group's international objectives (dating from the creation of the Euro-GLOBEX platform in 1999). The electronic interconnection between markets included in GLOBEX⁽¹⁵⁾ will enable the MEFF Group to broaden its product range; it is planned to be operational in 2001. There is also a possibility that MEFF will allow distance trading by financial institutions elsewhere in the European Union.

(14) The multiplier of the Ibex-35 futures contracts was reduced from 10 euros to 1 euro.

(15) The GLOBEX alliance comprises the Chicago Mercantile Exchange, Paris Bourse, the Montreal bourse, SIMEX (Singapore) and Bolsa de Mercaderías y Futuros (Sao Paulo).

During 2000, investment services firms and collective investment institutions tended towards globalization in trading and management. The acquisition of Spanish companies by foreign groups accelerated. Also, there was considerable growth in the number of notifications by both investment services firms (ESI) and collective investment institutions (IIC) registered in other EU states to provide services and market funds in Spain, under the aegis of the “EU passport”. Moreover, a sizeable proportion of the investments in IICs focused on foreign equities.

Investment services firms and collective investment institution management companies (SGIIC)

In 2000, ten investment services firms (ESI) and four collective investment institution management companies (SGIIC) were registered and a larger number were de-registered (17 ESIs and six SGIICs) mainly because of the numerous merger and restructuring processes that took place during the year.

The year 2000 also saw a considerable increase in the number of foreign ESIs applying for authorization to operate in Spain directly or via branches. Another highlight was the considerable rotation in the number of registered representatives.

Table 4.1
ENTITIES REGISTERED AND DE-REGISTERED IN 2000
NUMBER OF ENTITIES

Type of entity	Registered entities at 31/12/99	Additions	Removals	Registered entities at 31/12/00
Investment services firms				
SV	46	4	2	48
AV	59	4	6	57
SGC	48	2	9	41
ESI branches	2	7	0	9
ESI under European passport	479	115	24	570
Representatives	6,448	585	541	6,492
Collective investment				
FIM	1,964	312	10	2,266
FIAMM	203	2	4	201
FII	5	0	0	5
SIM	211	1	39	173
SIMCAV	883	617	1	1,499
SGIIC	127	4	6	125
Depositories	169	1	3	167
OICVM ⁽¹⁾	137	38	5	170
Venture capital				
FCR	19	6	0	25
SCR	23	17	0	40
SGEGR	11	9	0	20
Securitization				
SGFT	9	0	0	9

(1) OICVM: non-Spanish UCITS (Undertakings for Collective Investment in Transferable Securities).

4

AUTHORIZATION OF ENTITIES

Table 4.2

REGISTERED ENTITIES AND CONTROL GROUPS: ESI AND SGIIC IN 2000

Registrations		De-registrations	
Entity	Control group	Entity	Control group
Broker-dealers (SV)			
Link Securities	Independent (formerly AV)	Nomura	Nomura
Intermoney	CIMD (formerly AV)	Chase Manhattan Valores	Chase
Electronic Trading Sys. Valores	Caja Madrid, Bco Zaragozano		
Multitel Valores	Cable Unión		
Brokers (AV)			
Acacia Inversión, A.V.	Formerly Acacia Inversión, SGC	Gestión Integral de Inversiones	Global Gestión
Gesconsult Valores, AV	CCF (formerly Gesconsult, SGC)	Espaclear	SCLV
Arsfinantiae, AV	Independent	Ficambio	Independent
Twicetrade, A.V.	Planeta Agostini, Bco Urquijo	Intermoney	CIMD
		Link	Independent
		Espinosa Partners	Independent
Portfolio management companies			
Global Index, SGC	Independent	Braganza, SGC	Safei
Kutxa Gestión Privada, SGC	Kutxa	Acacia Inversión, SGC	Independent
		Gesmadrid Gestión de Patrimonios, SGC	Caja Madrid
		Instrumental Mobiliaria, SGC	Independent
		Agepasa, SGC	Independent
		Gesconsult Valores, SGC	CCF
		Duero Gestión de Patrimonios, SGC	Caja Duero
		Argentaria Gestión de Patrimonios, SGC	Argentaria
		Guipuzcoano Valores, SGC	Banco Guipuzcoano
SGIIC			
Banesto Banca Privada, SGIIC	Banesto	Caixasabadell, SGIIC	Caixa Sabadell
Afina Gestión, SGIIC	49% of Commerzbank	Gestotal, SGIIC	Independent
March Gestión de Fondos, SGIIC	March	Bankamerica Gestión, SGIIC	Bankamerica
Gesplusultra, SGIIC	Plus Ultra	Sindigestión, SGIIC	Sindibank
		Rio Trueba Gestión, SGIIC	Independent
		Ega Gestión, SGIIC	Urquijo
SGECR			
Vista Capital, SGECR	BSCH		
Grandville Private, SGECR	Grandville and Safei		
Ged Iberian SGECR	Independent		
Gescaixa Galicia, SGECR	Caixa Galicia		
Avanza, AGECR	Caja Madrid		
Alleph Capital, SGECR	Independent		
Diana Capital, SGECR	Fortis, Banco Guipuzcoano		
Talde Gestión, SGECR	Independent		
Activa Ventures, SGECR	Independent		

Table 4.3
CONTROL CHANGES IN ESI AND SGIIC IN 2000

Entity or group		
Name	Composition	Buyer
1. Take-overs by foreign financial institutions		
Gescapital	AV SGIIC	Banco Espirito Santo
Benito y Monjardín	SVB SGIIC	Banco Espirito Santo
Banco de Inversión	AV SGIIC	Bayerische Hypo Vereinsbank
Siaga	SVB	Conyors
Beta	SVB SGIIC	Meespierson
Gesconsult	SGC SGIIC	HSBC
Robert Fleming	AV	Chase
J. Henry Schroders	SV	Salomon Brothers
Fibanc	AVB SGIIC	Banca Mediolanum
Morgan	SV SGIIC	Chase
Ega	SGIIC	Banco Urquijo (KBL group)
Ibersecurities	AVB SGIIC	Banco Sabadell, Banco Comercial Portugués
2. Take-overs by Spanish entities		
General Gestión	SGIIC	Privat Bank
Gesdiner	SGIIC	Agrupación Mutua
Gescatalana	SGIIC	CIMD
Capital Navarra	SGIIC AV	Independent
3. Mergers		
BBV- Argentaria	SVB SGC SGIIC	BBVA

As shown in table 4.3, foreign financial firms took over certain Spanish groups, including ESIs and SGIICs in nearly all cases. Spanish financial groups also played a leading role in major concentration movements; for example, the take-over of independent firms, and the merger between BBV and Argentaria to create BBVA.

Collective investment institutions

In the area of collective investment institutions, the pace of growth in the number of registered securities investment funds (FIM) was practically the same in spite of the reduction in managed assets. A total of 2,467 FIMs and FIAMMs were on the books at the end of 2000 (table 4.1).

The number of open-end investment companies (SIMCAV) increased considerably again, even faster than in 1999: there were 617 new registrations in 2000 (vs. 523 in 1999). A total of 1,499 SIMCAV were registered at 31 December 2000, i.e. a 315% increase in the last three years. This trend

Table 4.4
NEW FIM, BY INVESTMENT POLICY

Type of FIM	2000		1999	
	Number	% of total	Number	% of total
Short-term fixed-income (RFCP)	15	4.81	13	4.48
Long-term fixed-income (RFLP)	6	1.92	7	2.41
Mixed fixed-income (RFM)	14	4.49	44	15.17
Foreign fixed-income (RFI)	16	5.13	9	3.10
Foreign mixed fixed-income (RFMI)	10	3.21	15	5.17
Mixed equity (RVM)	14	4.49	23	7.93
Spanish equity (RVN)	2	0.64	4	1.38
Mixed foreign equity (RVMI)	15	4.81	20	6.90
Euro equity (RVE)	18	5.77	10	3.45
Foreign equity (RVI)	133	42.63	62	21.38
Guaranteed fixed-income (GRF)	20	6.41	12	4.14
Guaranteed equity (GRV)	28	8.97	50	17.24
Global funds (FGL)	21	6.73	21	7.24
Total	312	100.00	290	100.00

was also accentuated by the growing transformation of SIM into SIMCAV: nearly all the 39 SIM de-registrations were due to their transformation into SIMCAV.

Of the 312 FIM registered in 2000, 133 focus on foreign equities. The other FIM funds fell into the other 12 investment policy categories, none being of special significance. The number of guaranteed equities fund registrations fell.

The number of new types of funds, i.e. funds of funds, master funds and feeder funds, envisaged in the reform of the Securities Market Law increased significantly in 2000. These types are aimed at expanding the product range and making it more flexible. Funds of funds enable Spanish management companies to provide investors with the possibility of investing indirectly in securities traded on foreign markets with a certain level of diversification and without the need to mobilize funds, which is sometimes infeasible or even inefficient. The creation of master and feeder funds is due more to the possibility of selling the same fund using different commission structures and marketing channels (management company and/or depository).

In 2000, 92 funds of funds (FIMF), 10 master funds (FIMP) and 10 feeder funds (FIMS) were authorized and registered. Counting the funds that were transformed, there were 97 FIMF, 10 FIMP and 24 FIMS on the books at 2000 year-end.

Mutual fund mergers

The Second Additional Provision of Law 20/1998, reforming the legal and tax regime of real estate collective investment institutions, envisages the possibility of merging mutual funds. In 1999, only four funds had applied for authorization to merge. In 2000, that figure increased to 40; the growing trend should continue in 2001 since the large number of registered funds implies that the management companies must rationalize their product range, especially those that administer funds from other management companies of the same group following the merger of the parent financial institutions.

Venture capital entities

Since April 1999, the CNMV has the power to authorize and supervise venture capital entities (ECR). This investment formula, of great use for financing new business projects, saw a considerable increase in the number of registrations in 2000: 23 firms, mainly venture capital companies (SCR) and 9 venture capital entity management companies (SGEER). Therefore, there were 65 ECR and 20 SGEER on the books at year-end (table 4.1).

Venture capital entity regulation

Law 1/1999, dated 5 January, regulating venture capital entities and their management companies, gave the CNMV the power to establish and amend the accounting standards and forms of financial statements and the forms of compliance with the established legal coefficients, in consultation with the Accounting and Audit Institute (ICAC).

By virtue of this power, the CNMV published Circular 5/2000* in September, which regulates the accounting standards and forms for the private and public financial statements and statistics of venture capital entities and their management companies, which must adjust their financial statements accordingly. The Circular also establishes the frequency and detail with which the financial statements must be filed with the CNMV or released by the firms themselves.

The Circular includes definitions pertaining to the venture capital business and classifies the stakes and investments in unlisted companies as “seed capital” or “development capital”, depending on whether the investment is for more or less than 3 years.

The Circular also establishes the general valuation criteria for investments and other accounts. The general valuation criteria for unlisted equities are as follows: “seed capital” investments are valued at acquisition cost, and “development capital” investments at adjusted net worth, corrected by the amount of unrealized capital gains or losses.

(*) CNMV Circular 5/2000, dated 19 September, on accounting standards and forms of private and public financial statements of venture capital entities and their management companies.

Securitization fund management companies

In 2000, there was no change in the number of registered entities in this category and all but one were transformed into asset securitization fund management companies in order to extend their activity to securitization of other debt claims and rights apart from mortgages.

Cross-border transactions

Investment services firms

An authorization granted in any EU member state allows an investment services firm to provide services in any other EU country (“European passport”) via branches or directly, the only requirement being notification to the supervisory body in the home country so that the latter can notify the host country. In 2000, 115 investment services firms authorized in other EU member states notified the CNMV of their intention to provide investment services in Spain: a total of 570 firms have performed this process since the Investment Services Directive came into force in January 1996. Only nine investment services firms provide these services via branches in Spain, of which seven notified the CNMV of their intention in 2000, five more than in 1999.

Table 4.5

BREAK-DOWN OF FOREIGN ESI, BY HOME COUNTRY

Country	Number of ESI	% of total
United Kingdom	449	77.55
France	36	6.22
Ireland	19	3.29
Holland	20	3.46
Belgium	12	2.08
Austria	13	2.25
Denmark	7	1.21
Sweden	5	0.86
Norway	4	0.69
Germany	4	0.69
Luxembourg	3	0.51
Portugal	3	0.51
Finland	1	0.17
Italy	3	0.51
Total	579	100.00

Table 4.6

BREAK-DOWN OF UCITS, BY HOME COUNTRY

Country	Number of UCITS	% of total
Luxembourg	118	69.4
France	33	19.4
Ireland	9	5.3
United Kingdom	3	1.8
Germany	5	2.9
Belgium	2	1.2
Total	170	100.00

Only two Spanish securities investment services firms filed for an EU passport: one was to open a branch in Portugal and the other to provide services directly with the aim of becoming a member of LIFFE.

Collective investment institutions

The number of foreign IICs (UCITS) registered at the CNMV for marketing in Spain increased rapidly, at a similar pace to 1999 and considerably faster than in the preceding years. There were 38 registrations and 5 de-registrations (33 and 12, respectively, in 1999). All but one of the newly-registered firms are IICs domiciled in other EU member states; their distribution in Spain is covered by the “European passport” granted by the home country under Directive 85/611/EEC. The other newly registered firm is an IIC domiciled in France whose marketing is aimed exclusively at the employees of a French company’s direct or indirect investees in Spain and whose application to register was not made under the aforementioned Directive, even though distribution will take place as an unpublicized private placement.

The CNMV uses two methods to supervise investment services firms and collective investment institutions: distance supervision and on-the-spot supervision. Distance supervision systematically and periodically analyzes compliance with the regulations via the confidential information filed by entities with the CNMV. On-the-spot supervision is based on exhaustive checks, conducted at entities' headquarters, of their internal documentation (including accounts, certificates of deposit and securities, customer orders and other formal aspects).

In addition to systematic supervision, the CNMV analyzes the specific aspects that it considers appropriate at any given time. In 2000, due to the growing globalization of investments, the CNMV continued to pay particular attention to the monitoring and checking of IIC investments in foreign assets. Because of the increase in ESI and IIC activity via the Internet (see box below), a specific area was created to supervise this new type of investment.

Internal control

Collective investment institutions

- *Compliance with mandatory coefficients.* Derivatives transactions by IICs is an area that received particular attention. Some entities exceeded the limits established by the regulation on using derivatives and they did not file the mandatory notification to the CNMV within the established deadlines. Structured transactions that could include derivatives on credit risk or mutual funds were also analyzed since the regulation does not authorize investment in these instruments.
- *Systematic analysis of yields.* New supervision tools were developed to analyze fund yields in relation to the assumed risks, which helps to identify errors in the calculation of net asset values.
- *Specific checks.* The most noteworthy in 2000 were:
 - *Management fees.* It is increasingly common for mutual fund management fees to be based on yields; therefore, checks were made to ascertain if the calculation of the fees was correct and if the legal limits were respected.
 - *Remuneration of sight accounts at depository entities.* During the revision of the contents of the quarterly reports to participants, the remuneration that the managers obtained from the sight deposits at the depository entities was analyzed. Funds were checked to verify if there was asymmetry where the management company and depository belonged to the same group.
 - *Preference shares.* The relative novelty of this product in the Spanish market and its success among institutional investors led to specific checks. The valuation allocated by the management companies plus their appropriateness for the funds' stated investment policy were analyzed. In general, the secondary market in this type of investment was found to be quite narrow, and, consequently, management companies encounter problems in valuing these investments.
 - *Report on the level of compliance with the internal control rules.* Since the entry into force of Circular 3/97⁽¹⁶⁾, IICs that operate with derivatives are obliged to

(16) CNMV Circular 3/1997, dated 29 July, on requirements to inform shareholders and participants of financial IIC, and specific implementations of Ministerial Order dated 10 June 1997 on the transactions by these institutions with derivatives.

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SUPERVISION OF INTERMEDIARIES AND COLLECTIVE INVESTMENT INSTITUTIONS

draft a report describing their internal control rules and have it approved by the Board of Directors. Additionally, the Board must receive a report each year on the level of compliance with those rules. Supervision of these reports revealed that very few entities operated in derivatives without the internal control required by the regulation and without updating the fund prospectuses in question.

- *Fund marketing via the Internet.* In accordance with the regulation in force, holdings in investment funds may not be marketed unless the corresponding prospectus has been issued beforehand. During 2000, checks were made to ascertain whether the funds offered on financial portals complied with that regulation.
- *Custody of foreign securities.* The globalization of investment in mutual funds led to an analysis of how foreign securities are custodied.
- *Real estate funds.* The recent legal amendments⁽¹⁷⁾ have expanded the scope of operations for real estate funds. In this context, a supervisory system will be implemented that will also encompass real estate appraisal companies.

Supervision of activities via the Internet

During 2000, the entities supervised by the CNMV definitively adopted the Internet. By year-end, three out of four ESIs and SGIICs had web sites for providing financial information and taking orders. Some firms only operate via the Internet. The Internet also saw the widespread presence of investment services firms headquartered in other EU countries.

Both Spanish and European regulations have started to deal with the various aspects of e-commerce. Two EU directives are currently being drafted: one about distance marketing of financial services aimed at consumers^(*) and the other about money laundering. The former is currently being redrafted and there seems to be general agreement regarding the latter. Another directive^(**) on e-commerce has already been approved and must be transposed into national legislation before January 2002. In Spain, the future E-Commerce Law (currently at the draft stage) will establish the guidelines for intermediaries that operate via the Internet. Some aspects have already been included in Royal Decree 14/1999, dated 17 September, regulating electronic signatures.

International supervisors and regulators are defining their lines of action and coordination via forums such as the Electronic Banking Group (Basel Committee), the Contact Group on E-finance (Financial Stability Forum) and the Internet Task Force (IOSCO).

As a result of growth in direct trading via the Internet and the international initiatives to adapt financial supervision to the new channel, the CNMV has assigned a unit within the Directorate-General of Supervision to follow up and monitor this new channel for providing services in order to maintain the required standards and assure market integrity and investor protection.

(*) Proposed Directive on the distance marketing of financial services aimed at consumers and the proposed Directive amending Directive 91/308/EEC, dated 10 June 1991, on prevention of the use of the financial system for the purpose of money laundering.

(**) Directive 2000/31/EC, dated 8 June 2000, on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

(17) Royal Decree 845/1999, dated 21 May, partially amending Royal Decree 1393/1990, dated 2 November, which approves the Regulation of Law 46/1984, dated 26 December, regulating collective investment institutions, in connection with real estate investment companies and funds, and containing other financial measures.

- *Foreign collective investment institutions marketed in Spain.* Although the power to supervise these institutions lies with their home country, the CNMV checks that they comply with the requirements of providing periodic information to investors and that the minimum requirements under Spanish legislation are met.

Investments by IIC in Latibex stocks

The Ministerial Order dated 10 March 2000^(*) allowed IICs to invest in the Latin American securities market (Latibex). In October 2000, eight months after this regulation came into force, investment in Latibex represented only 0.01% of assets and 0.02% of capitalization. Moreover, the investment is concentrated in five of the eleven listed companies. So far, IICs prefer to invest in Latin American stocks through larger and broader markets such as the New York Stock Exchange (NYSE) and Nasdaq, where their investment is nearly eight times as much as in Latibex.

INVESTMENTS BY IICs IN LATIBEX STOCKS

October 2000		December 1999	
Number of IICs	Market value*	Number of IICs	Market value*
35	14,091	11	1,413

* Thousands of euros

INVESTMENTS BY IICs IN LATIBEX STOCKS LISTED IN OTHER MARKETS

October 2000		December 1999	
Number of IICs	Market value*	Number of IICs	Market value*
242	111,671	37	11,372

* Thousands of euros

(*) Ministerial Order dated 10 March 2000, on investments in securities traded in the Latin American securities market.

Investment services firms

- *Supervision of mandatory coefficients.* The results evidence widespread compliance with the various mandatory coefficients; only a few isolated cases were detected that departed from the requirements.
- *Specific checks.* Other areas required actions, in addition to the systematic checks:
 - *Analysis of balances receivable.* Broker firms that had presented anomalies in financing to clients in previous years were inspected, and it was found that significant improvements had been made.
 - *Compliance with internal control systems.* 2000 was the first year of application of the obligation for ESIs to present a report about the degree of compliance with internal control systems. The monitoring of this obligation revealed that some entities had delayed implementation of the internal control systems required by the regulation.

- *Reporting obligation established by the Ministerial Order on portfolio management*⁽¹⁸⁾. The most active ESIs in the field of discretionary and personalized management of portfolios were required to provide aggregated information about potential conflicts of interest. The aim was to verify that the companies were in a position to inform their clients about possible conflicts of interest, in accordance with the Ministerial Order.
- *Investigating complaints*. Supervision is assisted by complaints filed against entities. The most frequent complaints related to the lack of control over representatives' actions, the breach of the obligation to register client orders and the lack of adequate internal control systems.

The requirement of professionalism in Investment Services Firms and Collective Investment Institutions

Some of the main objectives of the Securities Market Law and subsequent implementing rules are that investment services firms should have suitable human and technical resources and that fund managers be sufficiently qualified.

In the procedure of authorizing ESIs, the law pays particular attention to the professional qualification of both shareholders and directors or similar and to the existence of sufficient technical and human resources. The regulation has been implemented mainly in Circular 1/1998, dated 10 June, on internal systems for controlling, monitoring and continuous evaluation of risks, which provides organizational resources, policies and procedures.

One of the authorization conditions established by the IIC Regulation is that all the members of the Board of Directors be of acknowledged commercial and professional standing. The main provision regarding the companies' professionalism and human and technical resources is contained in Circular 3/1997, dated 29 July, which includes the obligations for internal control.

In compliance with its supervision duties, most of the CNMV's efforts, both in periodic controls and visits, are aimed at analyzing the professionalism and ascertaining whether the resources are adequate for performing the authorized activities.

It has been found that companies have made considerable efforts to modify their procedures in order to improve services to clients. Nevertheless, further improvements are needed in certain areas (securities administration and safekeeping, information sent to and received from clients, accounting) in order to avoid unnecessary risks.

Visits to entities

Collective investment institutions

The most notable aspects that were observed, leading to action by the CNMV, were as follows:

- *Adjustment of resources to business expansion*. Some weaknesses were noticed at fast-growing companies that had not expanded resources to ensure effective control.

(18) Order dated 17 October 1999, implementing the general code of conduct and rules of action in the management of investment portfolios.

- *Safekeeping of foreign securities.* Both the management company and the depository must ensure that they hold title, full domain and freedom to dispose of the assets at all times.
- *Independence of management companies.* It was observed that some newly-created management companies were excessively dependent on other companies.
- *Control of new investments.* The expansion of the market and product ranges in which IICs invest makes it difficult to supervise them from a distance. Consequently, during field visits, the CNMV stressed the need for these investments to be correctly valued.

Investment services firms

- *Information to clients.* In some cases, anomalies were detected in entities' reporting to clients.
- *Portfolio management.* Cases were detected of some portfolio management activities being carried out by persons not officially authorized for this purpose.
- *Internal control procedures and codes of conduct.* During visits, some anomalies were detected in cash reconciliations, the application of internal rules, and procedures established with representatives.
- *Verification of the information filed with the CNMV.* The analysis of entities' internal financial statements revealed anomalies, most of which were not significant, in the information filed with the CNMV and in the calculation of provisions for nonperforming assets.

Solvency of collective investment institution management companies and investment services firms

Collective investment institution management companies

Overall, collective investment institutions management companies showed a profit at December 2000, which had increased by 0.42% with respect to the previous year.

These companies are quite solvent: of the 124 companies registered at the CNMV, only 5 did not comply with the solvency coefficient. As in the case of investment services firms, the affected companies were ordered to take the necessary measures to remedy the problem. Overall, computable equity at December 2000 had increased by 3.5% with respect to the previous year.

Investment services firms

In spite of poor market performance in 2000, *broker-dealer firms* and *broker firms* overall increased profits by about 44% with respect to 1999. This improvement was due to the decrease in structural expenses and the increase in commissions for order processing and execution and for issue placement and underwriting. The decrease in structural expenses at sector level was because the atypical situation in 1999 was not repeated (180 million euros of early depreciation was taken at AB Asesores after it was acquired by Morgan Stanley Dean Witter).

Therefore, the capital structure of the *broker-dealer firms* and *broker firms* continues to be good due to the results obtained in recent years. Computable equity increased by nearly 21% with respect to the previous year to total 1.4 billion euros. Compliance with the solvency coefficient has increased in aggregate terms; only two companies did not attain the legally-required equity level.

This situation also applies to the portfolio management companies, which increased profits by 60.2% at 2000 year-end with respect to 1999. As regards the equity requirements, only one of the 41 registered companies did not comply with the minimum requirement and has filed for removal from the registers.

Standardized forms of contracts for discretionary and personalized management of investment portfolios

The Ministerial Order dated 7 October 1999, implementing the general code of conduct and rules of action for the management of investment portfolios, gave the CNMV the power to draft the content of contracts and to approve the standardized forms of contracts. By virtue of this power, Circular 2/2000⁽¹⁹⁾ was issued regarding standardized forms of contracts for discretionary and personalized management of investment portfolios. This Circular establishes a voluntary form of contract with minimum requirements; 74.4% of *broker-dealer firms* and *broker firms*, and 66% of portfolio management companies had adopted it at 31 December.

(19) CNMV Circular 2/2000, dated 30 May, on standardized forms of contracts for discretionary and personalized management of investment portfolios and other implementarions of the Order dated 7 October 1999, implementing the general code of conduct and rules of action in the management of investment portfolios.

Securities issuing continued to increase at a fast pace in 2000. As regards equities issues, the volume of capital increases rose considerably. The fixed-income segment consolidated the fast growth in 1999.

The CNMV again gave priority to ensuring the transparency of issuers' reporting and the quality of their financial statements. Consequently, the supervision of the information sent to the market by the issuers continued to highlight the importance of clean audit opinions.

The reports received in 2000 evidenced the fact that, although the quality of annual accounts continues to improve, it does not yet meet the level required for adequate transparency. To attain this objective, a number of measures were taken, such as implementing the regulation on reporting directors' and executives' remuneration systems linked to the company share price and drafting a standardized form for reporting on the degree of compliance with the Code of Good Governance.

Issues and secondary offerings

The number of issues of securities registered at the CNMV again increased significantly in 2000. The amount of equities issues and secondary offerings in 2000 was more than three times the figure registered in 1999, when there was a decline (table 6.1). The main issues in Spain were the primary offerings by BSCH and BBVA, the initial public offerings of Telefónica Móviles, EADS and Gamesa, and the secondary offering of Amadeus (table 6.2).

However, the number of fixed-income issues decreased overall following the spectacular growth observed in 1999; the exception was commercial paper, where the number of issues was practically the same as in the previous year.

Other issues registered with the CNMV

Although the number of warrant issuers increased to six, three entities (Citibank, Société Générale and Santander Central Hispano Investment) continued to

Table 6.1
ISSUES AND PUBLIC OFFERINGS REGISTERED

Millions of euros

	No. of issues and offerings		Amount ^(*)	
	1999	2000	1999	2000
Fixed-income	184	139	56,198	51,433
Commercial paper ^(**)	49	48	32,555	32,967
Other	135	91	23,643	18,466
Equities	87	130	14,334	46,875
Capital increases	59	93	7,375	25,890
Secondary offerings	22	20	2,556	7,537
Primary offerings	6	17	4,403	13,448
Financial contracts ^(***)	34	72	2,865	3,184
Warrants	164	431	3,083	2,257
Total	469	772	76,480	103,749

(*) Effective amount offered in Spanish tranche only.

(**) The effective amount matches the nominal amount.

(***) Includes issues of certificates.

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ISSUERS' DISCLOSURE

Table 6.2
REGISTERED OFFERINGS

Thousands of euros

Issuer	Amount ^(*)	Initial public offering	Primary/ Secondary offering
RECOL	29,134		Primary
BBVA.....	2,994,200		Primary
AMADEUS	1,180,000		Secondary
DEUTSCHE TELEKOM.....	414,280		Secondary
PRISA.....	910,260	Yes	Secondary
BSCH.....	4,381,800		Primary
EADS.....	2,416,334	Yes	Both
ZELTIA.....	290,408		Both
TECNOCOM.....	42,492		Primary
LOGISTA.....	319,048		Secondary
META 4	55,000		Primary
AMPER Employees	11,499		Secondary
SOS ARANA	58,005		Primary
AZKAR Employees.....	781		Secondary
CABLEUROPA	337,649		Primary
RECOLETOS.....	305,700	Yes	Both
GAMESA.....	306,558	Yes	Secondary
DEUTSCHE POST.....	5,703,100		Secondary
TELEFÓNICA MÓVILES	3,300,000	Yes	Primary
KPN.....	4,237,996		Primary
FCC Employees	4,820		Secondary
Total	27,299,064		

(*) Includes volume offered in Spanish and international tranches.

account for the bulk of this market. The number of issues increased significantly (table 6.1) although the total volume of premiums shrank by 27% with respect to 1999.

Both the number and the total amount of non-standard financial contracts also increased considerably in 2000. These contracts consist of a combination of a time deposit and an option on equities or indices, under which total recoupment of the investment is not guaranteed.

To ensure that the exact characteristics are stated in prospectuses, the CNMV approved its Circular 3/2000⁽²⁰⁾ dated 30 May, which modified the standard prospectus forms in order to provide investors with clearer and simpler information about the products and their associated risks.

Mutual recognition

European Council Directives 80/390 and 89/298 regarding the listing particulars to be published for the admission of securities to official stock-exchange listing and for secondary offerings of securities, respectively, establish a system termed mutual recognition which is aimed at facilitating the integration of Europe's markets by allowing issuers to register a single prospectus in their home country, which is then deemed to be valid for making issues in any member country of the European Community.

A total of eleven placements were made in Spain in 2000 by foreign entities under prospectuses cleared by the competent authorities of other EU countries. The principal operations were second-

(20) Circular 3/2000, dated 30 May, containing the first amendments to Circular 2/1999, dated 22 April, approving certain standard forms of prospectus for use in issues and public offerings of securities.

dary offerings by four entities (Deutsche Post, Koninklijke KPN, EADS and Deutsche Telekom) which were distributed simultaneously in several countries.

FESCO, the Forum of European Securities Commissions, is studying a reform of the mutual recognition system in order to expedite the procedure by implementing a system of automatic recognition in which the host state would not be empowered to require additional information to that which is already registered in the home state.

CNMV encounter with issuers

Aware of Spanish investors' increasing participation in the securities markets in recent years and of the large volume of information made available to them, the CNMV considered it advisable to hold an encounter with issuing entities in order to emphasize the importance of the quality of the information they prepare for investors. The meeting took place in March and was attended by over 200 people.

The encounter focused on improving the information flowing from an issuer to its investors, to ensure that it is punctual, true and complete. The CNMV highlighted the need for the information in prospectuses to be comprehensible, complete, non-redundant and expressed in language addressed to the non-specialist user. It also emphasized the importance of disclosing immediately, via a "significant event notification", any information which is significant or may have a material impact on the company or the share price, so that no investors are discriminated against.

Listing requirements and transparency rules for issuers in the *Nuevo Mercado*

A special trading segment entitled *Nuevo Mercado* was created in 1999 under the Ministerial Order dated 22 December 1999, with listing requirements tailored to the special features of the companies qualifying for listing. This measure increased the level of information and investor protection by establishing additional disclosure requirements on top of those which apply in the traditional equities market.

Issuers in the *Nuevo Mercado* must file a report, approved by their governing body, on the entity's business and financial prospects and its projected earnings performance in the following years. This document must be filed with the information registered with the CNMV and be made available to the public when the related prospectus is registered. Moreover, at least once per year the entity must disclose publicly, in the form of a significant event notification, information detailing its investment and funding plans, its performance and its business prospects.

To implement that Ministerial Order and in compliance with the mandate contained therein, the CNMV approved Circular 1/2000 which addressed the following:

- The type of companies that can be listed in the *Nuevo Mercado*.
- The conditions for admission to listing.
- The issuers' reporting and transparency requirements.
- The special features of the securities listing process.
- The specific trading conditions.

Periodic reporting by listed companies

In 2000, listed companies were offered the possibility of filing their periodic public disclosures with the CNMV by electronic means using the CIFRADOCC/CNMV encryption and electronic signature system.

In order to foster use of the system, a letter was sent to listed companies in June 2000 with the necessary software. The CNMV considers that it is desirable to adopt this new system, at least for companies in the Ibex-35 index, and the preparation of a regulation on the matter would be very useful in this connection.

By the third quarter, a total of 25 companies were using the CIFRADOCC/CNMV system, up from just two in the second half of 1999.

Financial statements and auditors' reports

It is extremely important that issuing companies present clean auditors' reports on their financial statements since this assists investors in forming a full and well-grounded opinion about them. In 2000, the CNMV again reminded issuers of the importance of improving the quality of their financial statements.

These efforts continue to bear fruit (table 6.3) since the number of qualified opinions, disclaimers and adverse opinions has declined. However, the quality of the information released by companies in their financial statements and management reports could still be improved.

In order to remedy the persisting deficiencies in some issuers' financial statements, the CNMV adopted the following main measures in 2000:

- Issuance of demands to companies whose auditors' reports on the 1999 financial statements did not include a clean opinion and where the accounting impact of each qualification was material. A total of 17 demands were issued, and five companies intend to remedy the matter satisfactorily.
- Responding to the increase, for the first time in recent years, in the number of auditors' reports with scope limitations, the CNMV asked the companies in question to supply the auditors with all the information required to perform their work.
- One of the deficiencies in issuers' notes to the financial statements was the failure to disclose the parties that owned more than 10% of the issuer. The nineteen companies involved were ordered to remedy the matter, and most of them responded satisfactorily.
- Regarding auditors' reports with a waiver of opinion, the shares of Grupo Fosforera remained suspended for this reason as the auditor is still unable to express an opinion on its financial statements. Regarding auditors' reports with a waiver of opinion, the shares of Grupo Fosforera remained suspended for this reason as the auditor is still unable to express an opinion on its financial statements.

Table 6.3

AUDITS OF ISSUERS FILED WITH THE CNMV(*)

	1997		1998		1999	
	No.	%	No.	%	No.	%
1. AUDITORS' REPORTS FILED WITH THE CNMV						
– Individual financial statements	420	64.1	406	64.1	397	64.7
– Consolidated financial statements	236	35.9	227	35.9	217	35.3
Total auditors' reports filed	656	100.0	633	100.0	614	100.0
– Special reports under Ministerial Order	93		79		69	
2. AUDITORS' OPINION						
– Clean opinion	550	83.8	547	86.4	541	88.1
– Qualified opinion	106	16.2	86	13.6	73	11.9
3. TYPES OF QUALIFICATION						
– No. of auditors' reports with exceptions	54	50.9	54	62.8	43	58.9
– No. of auditors' reports with uncertainties, etc. .	71	67.0	40	46.5	37	50.7
– No. of auditors' reports with limitations.....	10	9.4	7	8.1	10	13.7
Total qualified auditors' reports	106	100.0	86	100.0	73	100.0
4.1 EFFECTS OF EXCEPTIONS ON EARNINGS						
– No. of auditors' reports with positive effect on earnings.....	17	31.5	15	27.8	16	37.2
– No. of auditors' reports with negative effect on earnings.....	24	44.4	28	51.9	20	46.5
4.2 EFFECTS OF EXCEPTIONS ON NET WORTH						
– No. of auditors' reports with positive effect on net worth.....	16	29.6	23	42.6	22	51.2
– No. of auditors' reports with negative effect on net worth.....	19	35.2	14	25.9	4	9.3
Total auditors' reports with exceptions.....	54	100.0	54	100.0	43	100.0
5. NATURE OF UNCERTAINTIES, ETC.						
– Going concern	26	36.6	18	45.0	14	37.8
– Tax contingencies.....	17	23.9	13	32.5	8	21.6
– Recovery of assets	29	40.8	21	52.5	12	32.4
– Assets revalued under regional regulations	0	0.0	0	0.0	0	0.0
– Litigation	17	23.9	11	27.5	8	21.6
– Denial of opinion or adverse opinion.....	6	8.5	3	7.5	2	5.4
– Other uncertainties	19	26.8	14	35.0	7	18.9
Total auditors' reports with uncertainties, etc.	71	100.0	40	100.0	37	100.0

(*) Auditors' reports on financial statements and Special reports filed with the CNMV through 31 December 2000.

Table 6.4
**DEMANDS ISSUED TO LISTED COMPANIES IN 2000 IN CONNECTION WITH THE AUDIT OF THE 1999
 FINANCIAL STATEMENTS**

Electronic market	Open outcry	Second market
Companies with qualified auditors' reports which have remedied the situation or set a deadline for remedying it.		
ACS	SOS ARANA	
AZUCARERA EBRO AGRÍCOLAS		
CATALANA DE OCCIDENTE		
FUNESPAÑA		
Companies with qualified auditors' reports which, in principle, will not be resolved in the short term.		
GRUPO FOSFORERA (suspended from trading)	CARTEMAR	
GLOBAL STEEL WIRE	INMOBILIARIA ALCÁZAR	
GRUPO PICKING PACK	JUMBERCA	
LA SEDA DE BARCELONA	MINERO SIDERÚRGICA DE PONFERRADA	
NUEVA MONTAÑA QUIJANO		
RADIOTRÓNICA (now AVANZIT)		
SNIACE		
URBAS		
Companies which failed to disclose the companies owning more than 10% of their capital.		
CVNE	ALCINVER	BYADA
URBAS	AYCO GRUPO INMOBILIARIO	
	CÍA. DE INVERSIONES CINSA	
	FINANZAS INMUEBLES CISNEROS	
	FORJAS DE BERRIZ	
	HISPANA HOLDING	
	HISPANA TRES	
	IBÉRICA DE MANTENIMIENTO INDUSTRIAL	
	INCRECISA	
	IND. DEL ACETATO DE CELULOSA	
	INMOBILIARIA ALCÁZAR	
	NAVIERA MURUETA	
	OROZCO	
	TERREVA	
	UNIÓN DE VALORES	
	UNIÓN EUROPEA DE INVERSIONES	

Disclosure of stock options and remuneration system for listed companies' directors and executives

Law 55/1999, dated 29 December, on tax, administrative and labor measures, extended the requirement governing disclosure and publicity of significant holdings to cover the acquisition or disposal of any form of option on shares of a company by its directors. Royal Decree 1370/2000⁽²⁰⁾ and Circular 4/2000⁽²²⁾ completed the regulation on remuneration systems referenced to the share price for directors and executives of listed companies.

Under that regulation, directors were obliged to disclose, before 15 October 2000, any options which they held or controlled as significant holdings. This obligation was extended to cover both directors and executives, requiring them to report, as a significant event, any remuneration systems established in their favor (table 6.5).

(21) Royal Decree 1370/2000, dated 19 July, amending Royal Decree 377/1991, dated 15 March, on disclosure of significant holdings in listed companies and acquisition by them of treasury stock.

(22) CNMV Circular 4/2000, dated 2 August, establishing forms for disclosing options and remuneration systems for executives and directors of listed companies.

Table 6.5
DISCLOSURE OF STOCK OPTIONS

Data at 31/12/2000

Entities	Index/Market	Directors
ACS	lbex	3
ALTADIS	lbex	3
BBVA*	lbex	5
BSCH	lbex	9
CAF	Electronic market	4
CORPORACIÓN ALBA	lbex	3
GRUPO PRISA	lbex	6
IBERDROLA	lbex	2
INDRA	lbex	14
JAZZTEL	Electronic market	1
LOGISTA	Electronic market	1
METROVACESA	Electronic market	1
PICKING PACK	Electronic market	2
REPSOL-YPF*	lbex	1
SOGECABLE	lbex	1
SUPERDIPLO	Electronic market	1
TAVEX	Electronic market	1
TELE PIZZA*	lbex	6
TELFÓNICA	lbex	5
TPI	lbex	1
UNIÓN FENOSA	lbex	6
URALITA	Electronic market	2
VALLEHERMOSO	lbex	3
TOTAL	23	81

* One director of each of these companies disclosed that he/she held options acquired from a third party other than the company.

Law 55/1999, dated 29 December, on tax, administrative and labor measures, added an Additional Provision 16 to the Securities Market Law to the effect that any listed companies which, on the entry into force of the Law, had some form of remuneration system based on the delivery of shares or stock options or any other remuneration system referenced to the share price for its directors or executives must, prior to executing or canceling the remuneration system, register with the CNMV a supplement to their current prospectus or a new specific prospectus disclosing detailed itemized information on the shares or options and the settlements relating to the directors and executives.

In 2000, the following entities filed a specific prospectus or a supplement to their current prospectus in compliance with the requirements of the aforementioned additional provision: Amadeus, BBVA, Grupo Dragados, Metrovacesa, Telefónica, Tubacex, Unión Fenosa and Uralita.

Information about the adoption and implementation of the Code of Good Governance at listed companies

It is recommendable for listed companies to adopt the Code of Good Governance because it contributes to improving management quality, information transparency and, as a result, the company's value. However, the Code is voluntary.

To facilitate disclosure by listed companies to the market about their rules of governance and the degree to which they have applied the Code's recommendations, the CNMV drew up a standard

form setting out the information systematically, homogeneously and in a form comprehensible to investors. This form was provided to companies in computer-readable form in March 2000. Using the resulting information, the CNMV published a report in July whose main conclusions are described in the box below.

In 2000, 86 listed companies reported on the degree of adoption of the Code of Good Governance in 1999; 27 of them belonged to the Ibex-35. Three-quarters of the total completed the form provided by the CNMV, and the remainder disclosed the information in their annual reports.

Main conclusions from the information compiled by the CNMV regarding the adoption of the Code of Good Governance

- The Code of Good Governance is addressed to all entities that raise funds on the capital markets, but it is particularly important for listed companies with a large free float.
- Issuers reported that they have adopted 81% of the recommendations, but only two of them claimed to have adopted the Code in full. A full examination of the Code, which is quite short, could lead to a redraft of some recommendations and/or the proposal of amendments to the regulation to ensure that it is complied with.
- The recommendations which were least applied relate to transparency in remuneration, the age limit for directors, the formal procedure for appointing directors, and the establishment of Board commissions comprising external directors.
- The presence of independent directors is increasing, although the ratio between independent and domanial directors is lower than the ratio between free float and stable capital. This trend is not a result of a change in the structure of boards of directors in which executive and domanial directors are replaced by independent directors; rather, it is the result of an increase in the size of boards of directors, which occasionally are larger than the recommended limit.
- The number of independent directors should be increased, and their independence should be guaranteed by means of regulated procedures of appointment and formal declarations of independence by the candidates. Moreover, they should become more involved in control and supervision functions.
- Privatized companies and companies which were listed after the Code was issued evidence above-average compliance. These companies are aware of the importance of applying the Code in order to improve investor perceptions.

Tender offers have become a frequent instrument in corporate restructuring processes. They have proliferated worldwide due, among other reasons, to the liberalization of major sectors of the economy, the advance of globalization and economic growth. Spain has not been immune to the trend. The last year saw an increase in the number and, above all, the potential amounts of tender offers. This increase is shown partly in Table 7.1, which lists the tender offers that were authorized in 2000.

Table 7.1
TENDER OFFERS

Millions of euros

	1996	1997	1998	1999	2000
Filed in the year ⁽¹⁾					
Number	20	14	18	13	16
Potential amount ⁽²⁾	1,758	648	4,683	711	3,059
Performed ⁽³⁾					
Number	19	13	18	13	14
Amount	1,614	575	4,411	601	2,606

(1) Authorized in the year.

(2) Does not include the potential amount of offers which were withdrawn.

(3) All those filed in the year, even if they concluded in the following year, not including those which failed or were withdrawn.

Aspects of particular relevance for supervision

Spanish regulation on tender offers provides a specific framework for orderly handling of operations aimed at gaining control or acquiring large packets of shares in listed companies. It has two basic objectives. One is to create a system of transparency which provides shareholders with the essential information they need to make a well-founded decision. The other is to ensure equitable treatment for all shareholders by requiring that the control premium be distributed among them on a non-discriminatory basis. In some cases, for example when the controlling shareholder wishes to delist the company, the regulation also requires an assurance that the minority shareholders be offered the opportunity to sell their shares at a fair price.

The CNMV carefully examines all proposed tender offers to ensure that they comply strictly with the regulatory requirements. Regulatory action in 2000 focused on two areas in particular:

- *Setting a fair price in tender offers aimed at delisting.* In this area, the prices offered initially in certain transactions were raised by the bidder following the CNMV's review of the pricing process.
- *Ensuring equitable treatment of all classes of shareholder,* particularly in tender offers addressed simultaneously to different classes of shares issued by the target company and in those involving agreements of different types between the bidder and some of the target company's shareholders or directors.

7

THE MARKET IN CORPORATE CONTROL: TAKE-OVERS

Main features of the tender offers processed in 2000

During 2000, the CNMV authorized a total of 16 tender offers for a total potential amount of three billion euros. The goals pursued by these offers are summarized below:

- Seven offers aimed at acquiring own shares; in six cases, the goal was to delist the company, and the seventh case sought to reduce capital by amortization of the shares to be acquired.
- Six offers aimed at acquiring over 50% of the target company in order to obtain control.
- Two offers were made by the controlling shareholder: one to increase its stake to 100% and the other to comply with the regulations governing indirect or supervening acquisitions of a significant holding.
- The other offer was made to increase the main shareholder's stake to between 25% and 50%.

Competing offers

The tender offers processed in 2000 were more complex than in previous years, particularly because of the impact of the corporate restructuring processes, which now take place in a more competitive environment. This pressure led bidders to take maximum advantage of the scope for strategic behaviour afforded by the regulation, most notably in the tender offers to acquire Hidroeléctrica del Cantábrico and Inmobiliaria Zabálburu.

In the former case, US group Texas Utilities presented a bid for all of the shares which was conditional upon removal by the target's Shareholders' Meeting of certain measures which hindered effective control. The offer was withdrawn before the CNMV could pronounce on the matter when another electricity company, Unión Fenosa, presented an offer which was supported by a commitment on the part of several shareholders to remove those obstacles and, additionally, improved upon the economic conditions of the first offer. The CNMV authorized the latter offer but it was ultimately withdrawn as the Spanish government opposed the operation because of the negative effect on competition of the resulting business concentration.

In the case of Inmobiliaria Zabálburu, three applications to present tender offers were filed. During the period of acceptance of the first offer, which was made by Inmobiliaria Bami, the target company applied for authorization of a tender offer to delist. That application was withdrawn before the CNMV had made a decision, at the same time as a competing bid was filed by property company Fadesa with a number of financial institutions. Ultimately, Bami improved upon its initial bid and obtained majority control of Inmobiliaria Zabálburu.

Other outstanding features of the tender offers filed in 2000

The following were noteworthy features of the tender offers presented during the year:

- *Inclusion of a note by the CNMV.* In the tender offer made by Unipapel to reduce its capital by amortizing own shares, a note by the CNMV was included in order to facilitate comprehension and analysis on the part of shareholders.
- *Largest transaction.* The largest transaction in terms of amount was the offer by Koninklijke Ahold, NV for Superdiplo, S.A., in which shares with a market value of close to 1.3 billion euros changed hands. However, if Unión Fenosa's offer for Hidroeléctrica del Cantábrico had materialized, it would have totaled 2.7 billion euros.

- *Tender offers by foreign groups.* Three tender offers were filed for a total of close to 1.6 billion euros which ultimately totaled 1.5 billion euros.
- *Offers of stock to be issued by the bidder.* Unión Fenosa's offer for Hidroeléctrica del Cantábrico, which did not materialize, offered cash but allowed accepting shareholders to choose to receive up to one-third of the value in newly-issued stock of the bidder. Also, the offer by Koninklijke Ahold NV for Superdiplo, S.A. involved a consideration which differed from all other stock deals to date in that it envisaged an adjustment of the initial share exchange ratio on the basis of the market price of the offering company's shares, which are listed on Euronext Amsterdam.

Table 7.2
TENDER OFFERS IN 2000

Target	Bidder	Purpose	% of capital covered by the offer	Actual cash amount (millions of euros)	Outcome as % of shares initially targeted
Fasa Renault	Fasa Renault	Delisting	7.78	79.8	95.77
Corporación Banesto	Corporación Banesto	Delisting	1.40	5.3	87.82
Transfesa	Transfesa	Delisting	11.45	7.8	51.73
Omsa Alimentación	Campofrío Alimentación	Acquisition of control	68.72	49.3	81.18
Mapfre Vida	Mapfre-Caja Madrid Seguros	Increase stake	28.36	271.0	91.62
Hidroeléctrica del Cantábrico	Unión Eléctrica Fenosa	Acquisition of control	100.00 (min.=80)	Offer withdrawn	Offer withdrawn
Inmobiliaria Zabálburu	Bami Inmobiliaria de Construcciones y Terrenos	Acquisition of control	100.00 (min.=39.99)	291.8	94.98
Befesa Medioambiente	Asa Environment & Energy Holding AG	Acquisition of control	92.56 (min.=50.01)	282.8	89.23
Inmobiliaria Zabálburu "Competing bid"	Fadesa Inmobiliaria and other entities	Acquisition of control	61.70 (min.=10)	Rejected	Rejected
Filo	Deutsche Bank AG	Increase stake	35.97 (maximum)	37.9	61.42
Centros Comerciales Continente	Carrefour Nederlanden BV	Increase stake (supervening)	10.00 (maximum)	201.6	99.99 (prorated)
Ferrovial Agroman	Ferrovial Agroman	Delisting	0.67	10.2	80.41
Vidriera Leonesa	Vidriera Leonesa	Delisting	17.37	8.3	95.14
Banco Herrero	Banco Herrero	Delisting	1.10	6.3	69.35
Unipapel	Unipapel	Capital reduction	50.00 (maximum) (min.=40)	60.5	100.00 (prorated)
Superdiplo	Koninklijke Ahold NV	Acquisition of control	100.00 (min.=69.16)	1,293.7 ^(*)	97.64

(*) The actual amount was calculated by assigning to each Superdiplo share a price of 25.98 euros, obtained from the share swap equation: 37 shares of Koninklijke Ahold for every 50 shares of Superdiplo, based on the average share price of Koninklijke Ahold as defined in the tender offer prospectus, i.e. 35.12 euros.

- *Offers for the purpose of delisting.* These involved the delisting of the following companies: Fasa Renault, Corporación Banesto, Transfesa, Ferrovial Agroman, Vilesa and Banco Herrero.

Government authorization of corporate concentration processes: effects on tender offers

The regulations on takeovers stipulate that CNMV clearance of a tender offer is dependent, where appropriate, by authorization of the operation by the competition authorities⁽²³⁾. In order to intensify competition between companies, Royal Decree-Law 6/2000⁽²⁴⁾, issued in 2000, establishes as the general rule that certain concentration transactions are suspended until authorized by the government. Accordingly, once a tender offer is approved by the CNMV, the related public announcements are not published and the period for acceptance does not commence until government approval has been obtained. As an exception to the general rule, the Ministry of Economy may lift the suspension if the Competition Defense Service makes a proposal in this connection at the request of the company which filed for the concentration process.

(23) Royal Decree 1197/1991, dated 26 July, on the regime for tender offers for the acquisition of securities.

(24) Royal Decree-Law 6/2000, on urgent measures to intensify competition in goods and services markets.

8

SECONDARY MARKETS

The stock markets declined worldwide in 2000. This change in trend with respect to previous years reflected both fears of a hard landing by the US economy and worsening earnings expectations for new technology companies. This development was exemplified by the severe correction suffered by Nasdaq. Because of the sharp increase in oil prices and the persistent recession in Japan, the slide in share prices affected both developed and emerging countries.

Spain's securities markets were also affected by this phenomenon and its main indexes fell considerably although trading volume remained high.

Additionally, important initiatives were taken in the Spanish market to improve its workings and enhance its competitiveness. These include the changes made in SIBE and the creation of Iberclear as the entity destined to register, clear and settle all the securities currently settled by both the SCLV and the Bank of Spain's Central de Anotaciones.

Surveillance of activity in the markets

Following five years of substantial appreciation, the Spanish bourses experienced a severe correction in 2000. The change came in March; up to that point, the markets maintained the intense upward trend which had commenced in the fourth quarter of 1999, and the market indexes reached record highs. From March onward, a bear market set in and persisted in the remainder of the year. The change in trend was accompanied by intense volatility, which became one of the main characteristics of the year.

Trading increased by 71% with respect to 1999, with an even greater concentration in the large cap stocks. The *Nuevo Mercado* also had a major impact on trading volume; since it was opened in April, it represented approximately 10% of total trading in the electronic market (see box).

Fixed-income yields generally increased at all maturities. Trading on AIAF increased moderately (15.7%) with respect to 1999, favored by increased business in the commercial paper segment and in repos relating to the Eurosystem auctions. Moreover, the number of trades nearly tripled with respect to 1999, and trading in preferred stock accounted for more than one-third of the total.

Trading in derivatives on MEFF continued with the previous year's trend. MEFF *Renta Fija* saw a decline in total trading volume, contrasting with an increase in MEFF *Renta Variable* due to options on shares and on European indexes. Within its strategy of seeking new business lines, in 2000 MEFF established interconnections with EUREX, the Swiss-German derivatives market, in addition to its existing interconnections with French markets MONEP and MATIF. MEFF's participation in those markets remains negligible for the moment. Early in 2001, it launched futures on equities and, on 11 January, trading commenced in contracts on the five most liquid stocks (Telefónica, Endesa, Repsol, BSCH and BBVA).

Delistings

A total of 46 companies were delisted in 2000 (compared with 34 in 1999), the most frequent cause being an application by the issuer itself. The delisting procedures were processed in a variety of ways: eight were processed by the Basque government,

five by the Catalan government, six via tender offers for delisting, two by an intermediate process and two by the CNMV. Concentration processes led to the technical delisting of seven companies as a result of mergers. Two companies were delisted on deregistering as SIMs and another five ceased to trade on one or more of the markets on which they were listed but continued trading on at least one other market.

Temporary suspensions of trading

There were 68 cases of temporary suspension of trading in 2000, which affected 44 issuers. The most frequent cause of suspension was the disclosure of significant events relating to possible takeovers and to mergers. A large number of temporary suspensions were also triggered by the presentation of tender offers at the CNMV.

Table 8.1
TEMPORARY SUSPENSIONS OF TRADING

	1999	2000
Number of issuers suspended	45	44
Number of suspensions	67	68
Presentation of tender offer	14	14
Release of price-sensitive information	36	41
Technical reasons	7	0
Expiration of period for acceptance of tender offers	8	6
Other	2	7

New features in the markets

The main new features in the market were the creation of the *Nuevo Mercado* (see box) and the introduction of a number of changes in the working of the electronic market (SIBE) to adapt it to market needs and harmonize it with the other European markets. This process is being implemented progressively. The main features of the first phase, which commenced on 1 June 2000, are as follows:

- (i) Creation of a new order type, called “market order”, which is characterized by not having a price limit and is executed at the auction price or at the best price when it is entered, if this occurs when the session is open. In addition to market orders, SIBE accepts limit orders and best-price orders.
- (ii) The time during which orders remain live in the system was extended to 90 calendar days from the date of introduction (previously, the limit was until the end of the month).
- (iii) Modification of the pre-opening auction and establishment of a closing price by auction. The pre-opening system is practically unchanged: however, under the new mechanism, the system only shows the price at which the orders would be filled if trading were to begin immediately, and the total amount which would change hands, and the auction ends at random within a 30-second period. The main new feature with respect to the end of session is that the closing price is set in a five-minute auction which is similar in characteristics to the opening auction and also ends at random within a 30-second period.
- (iv) For situations of high volatility during the session, it is also possible to hold auction periods for individual securities provided that they reach the maximum permitted variation and the stock remains at that level for a certain period of time.

In April, the Sociedad de Bolsas regulated the regime governing the *Nuevo Mercado*, which specifies the following distinctive features:

- (i) Requirements for admission: registration of commitments made to issuers with regard to fostering the liquidity of their securities.
- (ii) Order types: limit orders, maximum validity of one day.
- (iii) Criteria for remaining in the market: minimum effective amount of buy and sell positions and maximum range between them, both in auction periods and in open session.
- (iv) Situations allowing temporary waiver of obligations: high volatility or accumulation of a certain volume of buy or sell orders in the session.

Other moves were aimed at creating and regulating the figure of specialist, i.e. a market member which undertakes to maintain liquidity in stocks in the *Nuevo Mercado* or Latibex. Specialists began to operate in Latibex in January 2001. The aim, in addition to ensuring the existence of bid and ask prices, is to improve arbitraging with the stocks' home markets and avoid an increase in price volatility due to a mismatch in price formation with respect to the general market trend.

Two major initiatives were made in AIAF in 2000. AIAF acquired a majority stake in Sistema Electrónico de Negociación de Activos Financieros, A.V., S.A. (SENAF)⁽²⁵⁾, which paves the way for integration of the government and corporate bond markets. AIAF also implemented an Internet platform which facilitates the dissemination of information to market members and to issuers, and it plans to integrate a trading system into this platform in the near future.

Nuevo Mercado

The *Nuevo Mercado*, a special segment for trading in securities issued by companies in innovative high-technology sectors or other sectors that offer major future growth prospects, although with higher levels of risk than traditional sectors, commenced operations on 10 April 2000.

Ten stocks were included in the *Nuevo Mercado* initially: Abengoa, Amper, Amadeus, Befesa, TecnoCom, Indra, Avanzit (formerly Radiotrónica), TPI, Terra Lycos and Zeltia. Two stocks joined this segment at a later date: Grupo Picking Pack (30 October 2000) and Jazztel (18 December 2000).

From its creation until year-end, the IBEX-Nuevo Mercado index fell by 66%, in line with similar markets elsewhere in Europe. Several stocks depreciated very significantly: Terra Lycos (85.2%), TecnoCom (72.1%) and TPI (62%). Only one stock gained ground: Befesa appreciated by a modest 3.9%.

In its first year of operation, trading on the *Nuevo Mercado* totaled 35 billion euros, which was 10.2% of total trading on the electronic market. In terms of capitalization, this segment represented 5% of the electronic market's total.

(25) SENAF is a broker firm created in 1999 by the four independent broker firms that formerly operated Infomedas, an anonymous electronic trading system for government securities.

Latibex

Latibex, the market in Latin American securities, commenced operations on 1 December 1999 with a total of five stocks. Another seven stocks were added during 2000. Nine additional stocks are expected to join the market in 2001, when its capitalization is expected to amply exceed 100 billion euros (6 billion euros when it commenced).

During 2000, Latibex fell by 26.5%, in line with the Ibex-35 performance. The only noteworthy event was the suspension of trading in one stock for a few hours during the market session to enable disclosure of price-sensitive information.

Trading volume on Latibex was clearly lower than that in the home markets and in the New York Stock Exchange.

Stock	Markets where traded	Shares traded ('000)		
		Latibex	Home market	New York
Aracruz	Sao Paulo and Nueva York	384.6	212,998.0	52,340
BBVA Francés	Buenos Aires and New York	922.0	33,452.6	54,813
Banco Río de la Plata	Buenos Aires and New York	615.3	25,795.2	46,826
Santander Bancorp	New York	604.1		3,710
BBVA Bancomer	Mexico	4,406.8	705,976.4	
Vale do Rio Doce	Sao Paulo	90.9	86,008.4	
Telmex	Mexico, New York, Toronto and Frankfurt	2,711.6	3,573,014.0	9,211,000
Globo Cabo	Sao Paulo and Nasdaq	591.2	1,354,000.0	428,330
Electrobras	Sao Paulo	7,960.0	28,089,300.0	
Suzano	Sao Paulo and Lima	67.2	2,335.0	
Volcán	Lima	715.8	9,916.1	

Source: Latibex.

Note: Does not include trading in Electrobras preferred stock.

Securities Clearing and Settlement Service (SCLV)

The total volume of settlements increased considerably in 2000 due to the growth in securities market trading. The growing percentage of investment by non-residents accentuated the process of concentrating settlement at members of the SCLV that specialize in this type of business. In conformity with the new wording of the Securities Market Law, some of them become stock exchange members, which reinforced their position in the market by enabling them to offer a comprehensive trading and settlement service.

As regards operations, the period for covering short sales was reduced in two stages from seven to five business days from the trade date. This move aimed to boost the system's efficiency and competitiveness by reducing the margins deposited by SCLV members. The greater rigor and discipline required by this move did not affect the SCLV's operations since there were no significant incidents.

In addition to the measures taken as part of the process to restructure Spain's clearing and settlement systems (see chapter 3), in 2000 the procedure was developed for requesting and removing a freeze on book-entry securities held in the accounts of third parties at a member entity as a result of the creation or cancellation of pledges to MEFF, and the modification of the method for calculating member entities' deposits as a result of the implementation of the *Nuevo Mercado*.

Spain's securities markets are protected by high-quality regulations in the area of transparency, conduct of business rules and prudential requirements. Moreover, the regulations are effective and are habitually complied with.

Supervisory efforts have played a decisive role in fostering the Spanish markets' integrity. The CNMV has developed an effective supervision system based fundamentally on prevention. The vast majority of its actions are aimed at avoiding illicit situations or conduct and at hampering their occurrence. However, the CNMV also imposes penalties where it detects conduct outside the bounds of the rules. Penalty proceedings are conducted with full respect for the presumption of innocence and the right to a defense.

It is essential to combine preventive measures and disciplinary action so as to prevent and pursue violations in the area of insider trading. The CNMV is working on implementing, in greater detail and precision, the principles enshrined in the Securities Market Law (SML) in this connection (see box in this chapter). The proposed measures require issuers and financial institutions to impose greater safeguards on the non-public information which their activities generate so as to make it more difficult for their employees and directors to make illicit use of inside information.

As usual, the pursuit of unauthorized intermediaries was a prominent part of the CNMV's disciplinary action in 2000. The CNMV also investigated the acquisition of significant holdings in listed companies. Take-overs and corporate restructuring transactions have proliferated and are becoming increasingly complex due to the fact that there are often opposing bids. It is essential that these operations are conducted with the maximum respect for the transparency rules and for shareholder rights.

Market Monitoring Unit

The Market Monitoring Unit (MMU) focuses basically on preventing and detecting insider trading and price fixing. Prevention is vital since the MMU's investigations can detect organizational deficiencies at issuers and financial institutions that might facilitate illicit conduct in certain circumstances. Many investigations conclude with the report to the affected entities requesting that measures be taken to remedy such deficiencies. On other occasions, the detection of sound evidence of illicit conduct leads to the opening of disciplinary proceedings.

Increased market activity and the growing complexity of market transactions led to a significant increase in MMU investigations in 2000 compared with 1999 (Table 9.1). In particular, the MMU increased the number of visits to issuers and financial institutions that were under investigation. The visits made it possible to identify organizational problems at these entities and to propose the most appropriate and effective solutions. The increased number of visits made it possible to reduce the number of subpoenas for information.

Outcome of MMU investigations

The investigations conducted in 2000 led to the remittal of 13 notifications to entities where organizational deficiencies had been detected. The content of these notifications is summarized below:

- Securities market members. A notification was sent to one entity recommending that trades in derivatives for the entity's own account and for clients' account should be conducted by separate traders to avoid conflicts of interest between the entity and its clients.

9

MARKET INTEGRITY

- Issuers. Notifications were issued to twelve securities issuers containing a number of recommendations, which can be grouped in two major categories: (i) addition to their internal code of conduct of rules governing operations with own shares, to ensure a neutral impact on price-formation; and (ii) establishment in the internal code of conduct of a method for treating confidential information and a policy of disclosing price-sensitive information, in the latter case to avoid undesirable leaks of the information prior to its disclosure to the markets.

Additionally, proposals were made to commence disciplinary proceedings in three cases arising from the detection of conduct codified as a violation: two for breach of the rule governing disclosure of significant holdings in listed companies and the third for inappropriate record-keeping with regard to client orders.

Table 9.1

ACTION BY THE MARKET MONITORING UNIT

	1999	2000
Investigations conducted	40	56
Inside information	20	29
Price manipulation	8	15
Other	9	9
"Client first" principle	3	3
Subpoenas	706	550
Requests for assistance from foreign institutions	5	4
Visits	21	30
Depositions	39	27
Notifications/proposals for disciplinary proceedings	28	17
Notifications	21	13
Prior notification of violation	5	1
Opening of file	2	3
Cooperation with foreign institutions	3	5

Cooperation with foreign institutions

A significant proportion of trading in Spain's securities markets is done by foreign financial institutions operating on behalf of clients, even though the transactions are registered in the financial institution's name. When such a case arises in the course of an investigation, the MMU often requests the assistance of foreign regulators to ascertain the identity of the transaction's ultimate owner. In 2000, requests in this connection were made to the Swiss Federal Banking Commission, the Financial Services Authority (United Kingdom), the Commission des Opérations de Bourse (France) and the Securities Board of the Netherlands.

Reciprocally, the MMU assisted the French, Dutch, Brazilian and Chilean market supervisory bodies, mostly in ascertaining relevant details of corporate transactions. In one case, the MMU's assistance included obtaining a deposition from an Internet chat room participant whose messages suggested that he might be in possession of inside information.

Action by the Inspectorate

The CNMV's disciplinary action in 2000 was reflected in 18 new proceedings and the conclusion of 29, most of which had commenced in 1999. A total of 52 penalties were imposed, all of them in the form of fines, for a total of 16 million euros (approximately 2.7 billion pesetas) (see Tables 9.2, 9.3 and 9.4).

Table 9.2
NUMBER OF VIOLATIONS

	1999	2000
Violations leading to opening of a file	28	18
– Very serious	17	12
– Serious	10	6
– Minor	1	–
Violations on which proceedings concluded	31	29
Very serious violations	20	16
• Proceedings dating from 1998	16	–
• Proceedings dating from 1999	4	12
• Proceedings dating from 2000	–	4
Serious violations	11	12
• Proceedings dating from 1998	9	–
• Proceedings dating from 1999	2	8
• Proceedings dating from 2000	–	4
Minor violations	–	1
• Proceedings dating from 1999	–	1

Table 9.3
TYPE OF VIOLATIONS INVESTIGATED

	Opened		Closed	
	1999	2000	1999	2000
Very serious violations:	17	12	20	16
I. Failure to disclose significant holdings	2	2	1	3
II. Forbidden activities	9	8	7	8
III. Simulated transfers	–	–	1	–
IV. Inside information	–	–	5	–
V. Breach of coefficients	–	–	1	–
VI. Concealment of price-sensitive information	1	–	–	1
VII. Violation of Companies Law	1	–	–	1
VIII. Violation of general securities market regulations	1	–	1	1
IX. Accounting offenses	1	–	1	1
X. Obstruction of inspection	1	–	1	1
XI. Unregistered issues	1	–	1	–
XII. Breach of authorization requirements	–	–	1	–
XIII. Evasion of tender offer	–	2	–	–
Serious violations	10	6	11	12
I. Chinese walls	–	–	2	–
II. Accounting offenses	–	1	–	1
III. Violation of the “client first” principle	1	–	–	1
IV. Violation of regulation on orders and transaction records	1	1	–	2
V. Forbidden activities	1	1	1	1
VI. Breach of coefficients	1	–	1	1
VII. Violation of general securities market regulations	2	2	4	3
VIII. Price manipulation	–	–	1	–
IX. Breach of code of conduct	4	1	2	3
Minor violations	1	–	–	1
I. Breach of code of conduct	1	–	–	1

As in previous years, a large number of the files which were opened related to illicit activities by unregistered entities. In these cases, the precautionary measures provided by regulation were taken and were publicized via the CNMV's web site and other media. The pursuit of this type of activities is always a priority for the CNMV. To make this work more efficient in the context of the Internet, in 2000 new IT tools were developed which facilitate on-line investigation.

Additionally, an increasing number of unregistered entities are being detected which, though based in Spain, focus on attracting investors resident in other countries, to whom they offer trading on foreign markets, in particular. International cooperation between supervisors is very useful in preventing the harm that these activities can cause to investors. Last year, with the cooperation of the UK's Financial Services Authority (FSA), the CNMV commenced its first case of disciplinary proceedings against an entity of this type⁽²⁶⁾.

Table 9.4
PENALTIES IMPOSED

	1999			2000		
	Number	Amount ⁽¹⁾	Period	Number	Amount ⁽¹⁾	Period
Fines	42	129,250.7	-	52	16,351.7	-
Disqualification of directors	8	-	66 years ⁽²⁾	-	-	-
Reprimands	2	-	-	-	-	-
Withdrawal of authorization	1	-	-	-	-	-
Total	53	129,250.7	-	52	16,351.7	-

(1) Thousands of euros.

(2) Total.

Criteria of interest in the resolution of disciplinary proceedings

Violation of the "client first" principle

In order to protect investors' interests and maintain confidence in the markets, it is necessary that relations between intermediaries and their clients be conducted in an atmosphere of propriety, honesty and transparency. In this connection, the Securities Market Law establishes a basic framework of obligations for investment services firms and, generally, for all the entities and persons that provide financial services in the securities markets.

These include, most notably, the obligation to inform clients appropriately, to behave with diligence with respect to their interests, to avoid conflicts of interest, to give priority to clients' interests, and not to give one client privileged treatment in comparison with any other. These obligations, defined as general principles of action, are then expressed in the form of more specific duties regarding, for example, the content of contracts and of orders relating to securities, the system for publication and application of rates, the information to be supplied to clients about their transactions, respect for client instructions, and the establishment of general rules for prorating or allotting executed orders when they relate to more than one client.

Strict compliance with these rules is particularly important in the area of portfolio management because of the trust which clients place in managers. Last year, the CNMV penalized a credit institution and a broker-dealer firms for violations of the "client first" principle in the management

(26) Thibault International Financial Advisory Corporations, S.A.

of client portfolios⁽²⁷⁾. In the former case, the credit institution did not inform the client appropriately about a situation of sizeable losses in his portfolio nor did it obtain new instructions in this connection. In the latter case, discrimination among clients was detected in the distribution and allotment of securities bought and sold under overall orders.

Violation of the transaction record-keeping rules

In order for investment services firms to perform their work correctly and effectively, it is essential that they keep an archive of order tickets and the obligatory record of transactions. The order ticket archive must contain full details of client orders, and the transaction record must indicate accurately the actual conditions in which those orders and any transactions for the firm's own account were executed. Accordingly, these archives and records can be used to effectively supervise the quality with which client orders were executed and also for prudential supervision purposes.

In 2000, the CNMV penalized two investment services firms for violations in this area⁽²⁸⁾. One was penalized for failing to record the time of arrival of the orders relating to certain transactions which, in appearance at least, were detrimental for some clients. This prevented both verification that these transactions were properly performed and documentary cross-checking of the version of events offered by the manager of the clients involved. The penalty imposed on the second firm was due to its failure to identify separately and correctly in the records the client transactions executed under a generic mandate and those ordered for its own account; this made it impossible to ascertain whether the firm had behaved properly in connection with conflicts of interest.

Violation of the rules requiring directors of issuers to disclose significant holdings

The directors of a listed company are obliged to disclose their holdings in the company's capital. This duty is essential for market transparency and integrity. The fact that directors own capital in the company, and the amount, constitute important information for investors since they can help them form a judgment as to the direction of Board policy and the directors' confidence in, and commitment to, the company.

This legal obligation to disclose is particularly important for market transparency in periods when a company is preparing a significant transaction or when it is involved in confidential discussions with third parties which are potentially relevant for the future. In these cases, failure to notify the market of directors' transactions in company shares or in instruments referenced to them would raise suspicions as to their honesty, even where no misuse of inside information could be proven.

In this connection, the CNMV proposed the imposition of penalties on three directors of listed companies due to failure to notify the CNMV of transactions with those companies' shares.

(27) CNMV Board resolutions dated 9 February and 27 June 2000, respectively.

(28) CNMV Board resolutions dated 30 May and 27 June 2000, respectively.

Table 9.5

OUTCOME OF DISCIPLINARY PROCEEDINGS IN 2000

Reference	Resolution
(1/00)	<u>Ministerial Order dated 3 January 2000</u> Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the Securities Market Law). The company and its sole administrator were fined 84 million pesetas and 50 million pesetas, respectively.
(2/00)	<u>CNMV Board Resolution dated 9 February 2000</u> Resolution on the alleged performance by a financial institution of three serious violations of the rules governing relations with clients: "client first" principle (art. 100.n of the SML), breach of disclosure requirements (art. 100.m of the SML), and unjustified refusal to execute orders (art. 100.i of the SML), as well as a minor violation under art. 101 of the SML for managing portfolios without having a standard contract. Fines were imposed for a total of 16 million pesetas.
(3/00)	<u>CNMV Board Resolution dated 23 February 2000</u> Resolution to suspend penalty proceedings commenced in connection with a violation by a company of the obligations established by the Companies Law in connection with the acquisition of own shares pending a final decision by the criminal court, since the matters covered by the two proceedings coincide.
(4/00)	<u>Ministerial Order dated 8 March 2000</u> Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). A fine of 240 million pesetas was imposed on the company and fines of 25 million pesetas were imposed on each of its two directors.
(5/00)	<u>Ministerial Order dated 8 March 2000</u> Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). A fine of 380 million pesetas was imposed on the company and a fine of 50 million pesetas was imposed on its sole administrator.
(6/00)	<u>Ministerial Order dated 8 March 2000</u> Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). A fine of 559,722,590 pesetas was imposed on the company and a fine of 50 million pesetas on its sole administrator.
(7/00)	<u>Ministerial Order dated 8 March 2000</u> Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). A fine of 18,364,955 pesetas was imposed on the company and a fine of 15 million pesetas on its sole administrator.
(8/00)	<u>CNMV Board Resolution dated 30 May 2000</u> Resolution on alleged provision of deceitful information and failure to notify a price-sensitive event at an issuer (art. 99.n of the SML). The alleged violation was declared to be non-existent.
(9/00)	<u>CNMV Board Resolution dated 30 May 2000</u> Resolution on the alleged breach by an a broker firm of the regulations governing the transaction record (art. 100.c of the SML). The entity was fined 3 million pesetas.
(10/00)	<u>CNMV Board Resolution dated 27 June 2000</u> Resolution on the alleged performance by a broker-dealer firm of five serious violations in the area of codes of conduct and other areas of the securities market regulation. The entity was fined 28 million pesetas and three of its directors 45.6 million pesetas.
(11/00)	<u>CNMV Board Resolution dated 13 July 2000</u> Resolution on the alleged performance by a portfolio management company of three very serious violations relating to resistance to inspection by the CNMV (art. 99.t of the SML), lack of adequate internal control (art. 99.l of the SML), and accounting irregularities. One violation was declared non-existent and the other two were downgraded to serious. The company was fined a total of 7 million pesetas and two of its directors were fined 3 million pesetas.
(12/00)	<u>CNMV Board Resolution dated 19 September 2000</u> Resolution on the alleged performance by a broker firm of three serious violations due to various breaches of the general securities market regulations (art. 100.o, 100.g and 100.c of the SML). The entity was fined a total of 3 million pesetas.

Table 9.5 (Cont.)
OUTCOME OF DISCIPLINARY PROCEEDINGS IN 2000

Reference	Resolution
13/00)	Ministerial Order dated 27 October 2000 Resolution on the alleged failure by an individual to notify the CNMV of significant holdings in a listed company (art. 99.p of the SML). A fine of 250,000 pesetas was imposed.
(14/00)	Ministerial Order dated 27 October 2000 Resolution on the alleged failure by an individual to notify the CNMV of significant holdings in a listed company (art. 99.p of the SML). A fine of 2.5 million pesetas was imposed.
(15/00)	Ministerial Order dated 12 December 2000 Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). The company was fined 421,113,340 pesetas and its authorized signatory was fined 50 million pesetas.
(16/00)	Ministerial Order dated 12 December 2000 Resolution on the alleged failure by an individual to notify the CNMV of significant holdings in a listed company (art. 99.p of the SML). A fine of 1.5 million pesetas was imposed.
(17/00)	Ministerial Order dated 12 December 2000 Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). The company was fined 265,372,170 pesetas and each of its three authorized signatories was fined 50 million pesetas.
(18/00)	Ministerial Order dated 12 December 2000 Resolution on the alleged habitual performance by a company of the activities reserved for investment services firms without obtaining the necessary authorization or being registered in the related administrative register (art. 99.q of the SML). The company was fined 194,320,260 pesetas and its sole administrator was fined 50 million pesetas.

Penalty proceedings: procedures and guarantees

The CNMV's ordinary supervisory and inspection work detects events and circumstances which apparently violate the rules on market organization and discipline. Once this is found to be the case, penalty proceedings are commenced to ascertain whether or not there are violations and liabilities which merit disciplinary action.

The specific disciplinary proceeding applicable under the CNMV's penalizing power is set out in Royal Decree 2119/1993⁽¹⁾, and the general procedure set out in Royal Decree 1398/1993⁽²⁾ is applicable on a supplementary basis. The term for processing and issuing a resolution is one year, which may be extended to 18 months. The proceeding is structured in the following phases: resolution of commencement, drafting of charges, presentation of pleadings against charges, evidence period, proposal of resolution and hearing of the accused, pleadings against proposed resolution, and resolution.

The regulation governing the procedure contains the general principles to which the Administration's penalizing power is subject, the principles which govern the penalty proceeding and the rights of citizens under those principles, among which the presumption of innocence is paramount. Additionally, persons subject to a penalty proceeding also have the following guarantees:

- Principle of objectivity and neutrality: the investigation and the penalty phase are separate and conducted by different bodies; it is also possible to recuse the investigators at any stage of the proceeding.

(1) Royal Decree 2119/1993, dated 3 December, on penalty proceedings applicable to parties operating in the financial markets.

(2) Royal Decree 1398/1993, dated 4 August, approving the Regulation governing the exercise of penalizing power.

- Right to information: the party under investigation is entitled to be notified of the alleged actions, the violations which they constitute, the applicable penalties, the identity of the investigator and the competent authority, and has the right to be informed of the stage of the proceedings and to have access to the related documentation.
- Right to a defense: the right to file pleadings and provide documentation prior to the hearing phase, and the right to present the evidence they see fit.

The resolution which terminates the penalty proceeding is also subject to a number of requirements. It must state the grounds, it may not be based on facts other than those determined in the investigation phase, it must include an assessment of the evidence obtained, and it must decide upon the matters raised by the accused. It is approved by a resolution of the CNMV Board, in the case of minor or serious violations, and by the Ministry of Economy, in consultation with the CNMV Advisory Committee, in the case of very serious violations; if the penalty involves revocation of authorization, the decision must be made by the Cabinet.

In the case of minor and serious violations, an appeal may be made to the Ministry of Economy to overturn the resolution; in the case of very serious violations, an appeal may be filed for review by the CNMV itself or an appeal may be filed in the contentious-administrative sphere.

Judicial review of disciplinary resolutions

In 2000, the Comisión Nacional del Mercado de Valores was notified of twelve court decisions resolving on the same number of contentious-administrative appeals filed by persons or entities that had been penalized for violations of the securities market legislation. Of these twelve, eight confirmed the penalties and three partly granted the appeals by canceling part of the penalties or reducing the amounts of the fines. The other ruling accepted the appeal in its entirety and cancelled all the penalties which had been imposed.

The rulings cited a number of reasons for partly or fully granting the appeals. In one case, the penalty imposed on a Board of Directors member was cancelled on the grounds that he had not attended the Board meetings which discussed the decisions and the accounts which led to the penalties. In another case, the National Court based its decision on a lacuna in the regulations, since article 35 of the Securities Market Law, invoked in the penalty, grants powers to issue regulations specifying the information which must be filed, but not to specify the penalty type as the appealed resolution had done. Another ruling reduced the penalty to the minimum since the possibility of a repeat offense by the appellant was not proven, nor was material damage proven, nor, in short, were any of the circumstances considered in the light of the principle of proportionality enshrined in article 131 of Law 30/1992. Finally, the National Court justified a reduction in the penalty imposed on a company on the grounds that the violation was not imputable to it during the period of time in which there was no evidence of violation by any individual.

Table 9.6

COURT JUDGMENTS HANDED DOWN IN APPEALS AGAINST PENALTIES IN 2000

No.	Date	Court	Appeal no.	Appealed order
1	10/2/2000	Supreme Court	456/1996	Cabinet resolution 9/6/1995
	Confirmed the penalties imposed on the president and managing director of a broker firm for a number of violations under article 99.q of the Securities Market Law (habitual performance of activities governed by article 71 of the SML by unauthorized entities or persons), article 99.e (breach of consolidation obligations and defective or irregular accounting which made it impossible to ascertain the entity or group's net worth and financial position), article 99.i (breach of the obligation on broker-dealer firms and broker firms to have an organization and personal and material resources that are technically appropriate), and article 99.m (breach by a broker firm of the obligation to have its individual and consolidated financial statements and directors' report audited). For these violations, the appellant was fined, removed from office and disqualified from acting as a director or executive at any other financial institution of the same type for a period of two years.			
2	17/2/2000	Madrid HCJ*	1120/1997	CNMV resolution 13/11/1996
	Confirmed the fines imposed on a broker and market member firm and on each of its directors for the following violations: a serious violation of article 100.c of the SML due to failure to obtain purchase or sale orders from clients prior to executing transactions in all cases, and for violation of the regulations on archival of order tickets, and a serious violation of article 100.g of the SML in connection with article 73, due to breach of the liquidity coefficient established for broker-dealer firms and broker firms.			
3	29/02/2000	Madrid HCJ*	2566/1995	CNMV resolution 5/04/1995
	Confirmed a CNMV Board resolution fining a corporation, formerly a broker-dealer firm, for two serious violations under article 100.g of the SML (breach of liquidity coefficient) and article 100.h (insufficient equity for a period of more than two months but less than six months).			
4	14/03/2000	National Court	72/1997	Ministry of Economy Order 5/12/1996
	Confirmed the penalties consisting of removal from office and disqualification from acting as a director or executive at any other financial institution of the same type for a period of one year, imposed on the members of the board of directors of a portfolio management company due to a very serious violation under article 99.q of the SML, in connection with article 71 of that law, consisting of habitual performance of the activities covered by that article without being duly authorized.			
5	24/5/2000	National Court	23/1997	Ministry of Economy Order 24/10/1996
	Partly granted an appeal by the directors and general manager of a corporation by canceling the two fines imposed on one of the directors and confirming the fines on the other appellants for two very serious violations of article 99.n of the SML consisting of breach of the obligation contained in article 82 and of supplying inaccurate information to the CNMV.			
6	24/5/00	National Court	1302/97	Ministry of Economy Order 1/8/97
	Confirmed the penalty imposed on a director of a limited company consisting of a fine of 500,000 pesetas for a very serious violation under article 99.q in connection with article 71 of the SML (receipt and transmission of orders for the purchase of securities without the appropriate legal authorization).			
7	14/6/00	National Court	332/97	Ministry of Economy Order 27/1/97
	Cancelled the penalty imposed on the directors of a corporation by the CNMV (and confirmed by the appealed Order, which also annulled another penalty imposed by the CNMV) consisting of a fine of 1.5 million pesetas each for a serious violation of article 100.j of the SML (breach of disclosure obligations).			
8	27/9/00	National Court	420/98	Ministry of Economy Order 14/1/98
	Partly confirmed the penalty imposed on the president of the board of a corporation by canceling a 35 million pesetas fine and replacing it with a 1 million pesetas fine (for a very serious violation under article 99.n of the SML, i.e. failure to comply with the reporting requirements which the law imposes on issuers of securities listed on securities markets).			
9	5/7/00	Madrid HCJ*	753/96	CNMV resolution 6/9/95
	Confirmed the penalties imposed on the managing director of a broker-dealer firm consisting of two fines of 1 million pesetas each for two serious violations under article 100.g of the SML (breach of the liquidity coefficient and exceeding the limit on risk concentration).			
10	2/11/00	Madrid HCJ*	1.479/96	CNMV resolution 6/3/96
	Confirmed the penalties imposed on directors of a broker firm, consisting of fining each of them 1 million pesetas, 1.5 million pesetas and 500,000 pesetas, for violations of articles 100.c, 100.g and 100.h of the SML (breach of article 86 of the SML regarding the rules governing accounting of transactions and formulation of financial statements; violation of the rules governing equity; and violation of the minimum equity requirement).			

Table 9.6 (Cont.)

COURT JUDGMENTS HANDED DOWN IN APPEALS AGAINST PENALTIES IN 2000

No.	Date	Court	Appeal no.	Appealed order
11	13/11/00	Madrid HCJ*	2.568/95	CNMV resolution 5/4/95 Confirmed the penalties imposed on the president and directors of a corporation (which had been a broker-dealer firm at the time of the violations), consisting of two fines of 250,000 and 500,000 pesetas, for two violations under articles 100.g and 100.h of the SML (breach of the liquidity coefficient and violation of the rules on equity, respectively).
12	4/12/00	National Court	488/98	Ministry of Economy Order 14/1/98 Partly granted an appeal by a corporation by canceling a fine of 175 million pesetas and replacing it by one of 120 million pesetas (for a very serious violation under article 99.ñ of the SML, i.e. breach of the reporting requirements imposed by the law on issuers of securities listed on securities markets).

* Madrid High Court of Justice

Direct services to investors are a vital part of the CNMV's activities. Investors contact the CNMV to obtain information of many types, to make queries about certain aspects of their transactions or to present complaints, principally against issuers and financial intermediaries. In all cases, the CNMV tries to provide the best possible services as it is aware that this forms part of its obligations in the area of market transparency and investor protection.

The Internet is playing an increasingly important role in the CNMV's services to the public. Using the net, investors can readily gain access to information in the official records, to warnings about the activities of unauthorized intermediaries, to recommendations of interest and to the legislation governing the securities markets. The number of visits to the CNMV web site increased spectacularly in 2000: the number of sessions rose from 496,000 to 894,000 and the number of page views from 6,781,000 to 14,162,000.

The CNMV is currently making major improvements to the content and presentation of its web site. It is now possible to use a WAP (wireless access protocol) enabled mobile phone to obtain information of particular importance for market transparency, such as the disclosure of price-sensitive events and the list of securities suspended from trading.

Despite the increasing use of the Internet, the CNMV continues to handle a large number of queries by more traditional means (see Table 10.1). These queries generally relate to transactions or processes in the securities market which do not necessarily involve retrieving data from official records. There was generally a reduction in the number of queries of this type in 2000, the exception being those received by e-mail. The number of complaints increased considerably, but this was commensurate with the increase in market activity.

Table 10.1
QUERIES AND COMPLAINTS HANDLED BY THE CNMV

	1999	2000
Queries by telephone	23,948	21,330
Electronic mail	2,015	2,825
Fax and written queries	259	143
On-site queries	5,490	3,900
Complaints	961	1,169
Total.....	32,673	29,367

Complaints department

The CNMV received 1,171 complaints in 2000, a 22% increase with respect to 1999. This large number of complaints was a reflection of the increased activity in the markets but it also reveals the level of participation in the markets by small investors and the progress made in financial knowledge. Small investors are increasingly aware of the market rules and are making more use of the instruments available to defend their interests.

10

INFORMATION, QUERIES AND COMPLAINTS

Despite the considerable increase in the number of complaints, they were handled smoothly within the same average response times as attained in previous years. The agility with which they were processed was due in no small measure to considerable improvements in computer systems, which provide greater control over individual complaints.

The complaints related to a broad variety of items, with no item outstanding in terms of frequency. As usual, most complaints were made against financial institutions and issuers. There were a large number of complaints against unregistered intermediaries, but the number was lower than in 1999.

Table 10.2
RESPONDENTS IN COMPLAINTS

	No. of complaints		%	
	1999	2000	1999	2000
Market management companies and supervisory bodies.....	5	9	1	1
Financial institutions.....	608	962	63	82
Unregistered intermediaries	91	70	9	6
Securities issuers	256	125	26	11
Other	1	3	0	0
Total	961	1,171	100	100

Table 10.3
FINANCIAL INSTITUTIONS AND UNREGISTERED INTERMEDIARIES AGAINST WHICH COMPLAINTS WERE FILED IN 2000

Entities with more than two complaints against them	Complaints	Of which	
		Resolved by mutual agreement	Decision in favor of the complainant
Banks and savings banks	760	99	107
BANCO BILBAO VIZCAYA ARGENTARIA	224	36	35
BANCO BSN BANIF, S.A.	15	2	3
BANCA CATALANA, S.A.	4		2
BANCAJA	5		1
BANCO ATLÁNTICO, S.A.	3		
BANCO DE ANDALUCÍA	3		
BANCO DE FINANZAS E INVERSIONES, S.A. Fibanc	8	3	1
BANCO DE LA PEQUEÑA Y MEDIANA EMPRESA, S.A.	5	2	
BANCO DEL COMERCIO	6		2
BANCO ESPAÑOL DE CRÉDITO, S.A.	34	3	2
BANCO HERRERO	3		1
BANCO PASTOR	8		2
BANCO POPULAR ESPAÑOL, S.A.	4		
BANCO SANTANDER CENTRAL HISPANO, S.A.	176	32	27
BANCO URQUIJO, S.A.	7		
BANCO ZARAGOZANO, S.A.	5		2
BANKINTER, S.A.	32	2	4
BARCLAYS BANK, S.A.E.	3		

Table 10.3 (Cont.)

**FINANCIAL INSTITUTIONS AND UNREGISTERED INTERMEDIARIES AGAINST
WHICH COMPLAINTS WERE FILED IN 2000**

Entities with more than two complaints against them	Complaints	Of which	
		Resolved by mutual agreement	Decision in favor of the complainant
BILBAO BIZKAIA KUTXA	5		1
CAJA DE AHORROS DE CATALUÑA	3	1	
CAJA DE AHORROS DE GALICIA (CAIXAGALICIA)	3		1
CAJA DE AHORROS DEL MEDITERRÁNEO	7	3	
CAJA DE AHORROS Y PENSIONES DE BARCELONA La Caixa	22		4
CAJA DE AH. Y MONTE DE PIEDAD DE MADRID Cajamadrid	53	4	4
CAJA DE A. Y M.P. DE CÓRDOBA	3		
CAJA DE AHORROS DE SALAMANCA Y SORIA	5	1	
CAJA ESPAÑA DE INVERSIONES	8		1
CAJA GENERAL DE AHORROS DE GRANADA	4		3
CAJA RURAL DE VALENCIA S. COOP. CTO.	3		
CITIBANK ESPAÑA, S.A.	6		
CREDIT LYONNAIS ESPAÑA, S.A.	3		
DEUTSCHE BANK, S.A.E.	13	1	
IBERCAJA	7	1	2
OPEN BANK, S.A.	13	2	3
SOCIETE GENERALE Sucursal en España	7	2	
SOLDBANK SDB, S.A.	3		
UNICAJA	5	1	2
OTHERS	26	3	1
Broker-dealers and brokers	163	17	25
ADEPA AVB, S.A.	3		
AGENTES DE BOLSA ASOCIADOS AVB, S.A. - ABA	8	1	5
BENITO Y MONJARDÍN, SVB, S.A.	10		2
CONSORS ESPAÑA SV, S.A.	5		3
GAESCO BOLSA, SVB, S.A.	17	2	2
GENERAL DE VALORES Y CAMBIOS SVB, S.A. – GVC	26	4	2
GESTIÓN DE PATRIMONIOS MOBILIARIOS, AVB, S.A.	41	1	4
HERMES BOLSA SVB, S.A.	7	1	1
IBERAGENTES ACTIVOS SV, S.A.	6	2	
MORGAN STANLEY DEAN WITTER SVB, S.A.	14	4	1
RENTA 4, SVB, SA	4	1	1
OTHERS	22	1	4
SGIIC, SGC and SIM	39	6	2
GRUPO BBVA.	14	6	
GRUPO BSCH	13		
OTHERS	12		2
Unregistered firms	70	Not applicable	23
AGRUPACIÓN DE CAPITALES, S.A.	1		1
BLEVINS FRANKS	1		
CAPITAL INTERMEDIATE SERVICES	1		
DATACORP FINANCIAL LIMITED, S.L.	1		

Table 10.3 (Cont.)

**FINANCIAL INSTITUTIONS AND UNREGISTERED INTERMEDIARIES AGAINST
WHICH COMPLAINTS WERE FILED IN 2000**

Entities with more than two complaints against them	Complaints	Of which	
		Resolved by mutual agreement	Decision in favor of the complainant
DIAGONAL DIVISAS, S.A.	1		
DINÁMICA DIRECTIVA, S.L.	8		3
EUROPA MARKETING, S.L.	2		
EURORESERVE TRUST	1		
EXCOTRA	1		
FIRST CAPITAL SECURITIES	1		1
FOREX GESTIÓN, S.A.	1		1
FORNBY LIMITED	1		1
GLOBAL ANALYSIS	1		
GOODMAN HART ASSOCIATES	2		
HENRY WOODS I.M.	1		1
HYPRAFFOUND LIMITED	1		
IBÉRICA DE INFORMACIÓN/JOG FINANCE	4		4
INPROLINKS, S.L.	1		
INSTINET (MADRID)	1		
INTERNATIONAL ASSET MANAGEMENT	1		1
IPB EUROPA, S.L.	1		1
MARCO POLO MARKETING LTD.	1		1
NCR CAPITAL MANAGEMENT	1		
OFFSHORE FINANCIAL & INSURANCE CENTRE	1		
PERICIA, S.L.	2		1
PETRÓLEOS Y CARBONES, S.A.	1		
PORT KENNY HOLDING, S.A.	4		4
PROMARKET INTERNATIONAL BUSINESS	3		2
RECOLETOS SERVICIOS DE ASESORÍA, S.L.	2		1
RICHARD FIRTH & ASSOCIATES, S.L.	1		
THIBAUT CAPITAL MARKETS LTD	16		
THIBAUT INTERNATIONAL LTD	3		
TRIDENT TRANSACTIONES	1		
VANGUARD EQUITIES LTD/ STERLING EQ. GROUP	1		1

(*) Figures at 31 December 2000.

There were two outstanding features with regard to the outcome of complaints in 2000: in many cases the CNMV considered the complaints to be groundless, and this number increased significantly with respect to 1999. Firms should take note of the factors which generate investor complaints and remedy them appropriately. The increase in the number of complaints that are resolved by mutual agreement, before the CNMV issues its opinion, is also positive. This confirms the trend observed in previous years and evidences an increasingly receptive and conciliatory attitude to complaints by the public on the part of the entities involved, mainly financial institutions. The CNMV has always emphasized the need to develop mechanisms for reconciliation between intermediaries and their clients and it promotes reconciliation in most complaints.

Table 10.4
OUTCOME OF THE COMPLAINTS FILED IN 2000

	Number		%	
	1999	2000	1999	2000
Complaints in which there was a pronouncement or resolution	516	735	54	63
Mutual agreement	84	167	9	14
Favorable report by CNMV ⁽¹⁾	238	161	25	14
Unfavorable report by CNMV ⁽²⁾	191	400	20	34
Complaint withdrawn ⁽³⁾	3	7	0	1
Complaints not requiring pronouncement	443	424	46	36
Deficient ⁽⁴⁾	26	15	3	1
Information provided to complainant ⁽⁵⁾	402	389	42	33
Outside CNMV jurisdiction ⁽⁶⁾	15	20	1	2
Pending	2	10		1
Total	961	1,169	100	100

(1) Favorable report: The complainant was in the right.

(2) Unfavorable report: The complainant was in the wrong.

(3) Withdrawn: The complaint was withdrawn.

(4) Deficient: The complaint was made anonymously or no return address was given, which prevented it from being processed.

(5) Information provided to complainant: The information which the CNMV provided to the complainant resolved the matter.

(6) Outside CNMV jurisdiction: The complaint fell under the jurisdiction of another agency.

Some particularly significant complaints

Unregistered firms

The activities of unregistered intermediaries generally account for a large proportion of the total complaints received by the CNMV. In some cases, the complaints are the first indication of operations by those entities and they enable the CNMV to commence proceedings to terminate their activities. In all cases, these complaints provide additional information about unregistered intermediaries' modus operandi and provide invaluable data for the investigation during the penalty proceedings. In 2000, the CNMV issued seven public warnings about seven unregistered firms in order to prevent investors from dealing with them, and it reminded the public that those entities are not authorized to raise capital from the public or to intermediate in investment services.

Mutual funds

Three types of complaint predominated among those related to the operation and marketing of mutual funds in 2000:

- Breach of the marketing entity's obligation to deliver the fund's prospectus and management regulation. In these cases, the CNMV reminded the party concerned that the information contained in those documents may be completed but never replaced by verbal information or advertising brochures.

- Complaints about FIAMM yields, based on the mistaken belief that these funds could not suffer losses in any case because of their portfolio composition. These complaints generally reflect the difficulties which some investors have in comprehending the risk which they are assuming, although in some cases they may reveal deficient provision of information by the marketer.
- Incidents in the renewal of holdings in guarantee funds after the guarantee period had expired. Some investors believed, mistakenly, that the investment would be refunded without them having to request it. Since they failed to do so, a new guarantee period commenced and they were unable to apply the exemption from back-end charges provided for these cases.

Right of separation granted to investors in funds marketed by BBVA

Following the merger between BBV and Argentaria, the resulting bank group decided to restructure the two banks' collective investment institutions management companies and depositories and to modify a number of features of certain funds' commission and investment policies, which empowered the affected investors to exercise their right to withdraw as provided by law. In view of the delays in the formalities involved in this process, some investors which had manifested their wish to exercise their right to withdraw complained to the CNMV about the uncertainty surrounding the reimbursement value which would ultimately be applied to them—that on the day in which the modifications were registered with the CNMV, according to the regulations—and the delay in recovering their investments. At the instances of the CNMV, BBVA announced publicly to those who had applied to withdraw that it would reimburse the investments to anyone who requested it without charging the established back-end commission and without requiring them to wait until the modifications were finally registered.

Irregular action by representatives of broker-dealer and broker firms

Some complaints related to actions by representatives of broker-dealer and broker firms who had overstepped their brief and committed a number of irregularities. Complainants were able to recoup most of the losses as the financial institutions assumed the liability for the actions of their representatives. Nevertheless, where pertinent, the CNMV pursued the liabilities for violation of the regulations.

Marketing of preferred stock: illiquid trading in AIAF

Some investors complained to the CNMV about problems of liquidity in trading of preferred stock in AIAF. Preferred stock is a relatively new investment instrument in Spain, although there have been sizable issues in recent times. The complaints basically reveal that investors were not sufficiently aware of these instruments' risks. The CNMV believes that investors should be made aware beforehand of the characteristics of the products in which they invest and that, for this purpose, it is vital that financial intermediaries know their clients and inform them appropriately, without ever recommending investments which might be contrary to their interests or inappropriate for their risk profile. Accordingly, in the future the CNMV will demand greater clarity in prospectuses for preferred stock and in the advertising by marketing entities when placing these instruments.

Order saturation of the SIBE on 14 February 2000.

An unusual influx of orders led to widespread delays in the operation of the SIBE on 14 February 2000. The problems mainly affected two stocks -BBVA and Zeltia- making it necessary to

suspend trading in them for half an hour and then widen the price fluctuation band. Some investors felt that their interests had been impaired by these incidents and presented complaints against their brokers. The CNMV believes that it is not right that investors should bear the brunt of the losses in situations like this and it asked the entities to try to reach compensatory agreements with their clients which were in line with the circumstances in each case.

Complaints relating to tender offers

Tender offers aimed at delisting regularly lead to a number of complaints about the price. Last year was no exception, and the CNMV received many complaints of this type, mainly applications to the CNMV to review the offer price and, where appropriate, demand that the offering party increase it. There were also a number of other complaints relating to tender offers.

Primary and secondary public offerings

Primary and secondary public offerings also generally lead to complaints about various aspects of their performance. Last year saw a new development, complaints about an offering conducted simultaneously in several countries: that of European aeronautics consortium EADS. The complaints arose due to a slight delay in the delivery of the securities on the day they were first listed. These incidents were duly resolved. In 2000, the CNMV received further complaints about the allotment of shares in the Terra IPO, which took place late in 1999. These complaints were handled by applying the criteria described by the CNMV in its report on complaints for 1999.

Orders relating to securities listed on foreign markets

Investors presented a number of complaints to the CNMV relating to transactions with securities traded in foreign markets and processed via intermediaries that are subject to CNMV supervision. In these cases, the actual execution of the order in the foreign market is outside the CNMV's jurisdiction, but it does have authority over the way in which the Spanish broker receives and forwards the order. The latter must act with diligence and provide the client with all relevant information about the transaction; this is complied with in most of the cases that are examined.

Recommendations arising out of the complaints presented in 2000

As shown in the section of this chapter on particularly significant complaints, the complaints by investors to the CNMV occasionally relate to matters of interest to all investors. The following recommendations for investors and financial institutions are inspired by the complaints received in 2000.

To investors:

- Always place your orders through authorized entities. Good investment service professionals can only be found at entities that are legally authorized to provide such services.
- Examine the features of the product in which you are going to invest, particularly the possibilities and costs of recovering your investment. For this purpose, use the information channels available at the firm itself and in the CNMV's public register.
- Always read the content of investment orders before signing them. Ensure that you understand the scope, and that the content matches what you want to do with your investment. Never sign a blank document.
- If you respond to public offerings, be aware that the placement conditions vary, as do the results. Make a detailed study of the specific features of each individual offering.
- Beware of information posted on the Internet by unidentified sources. Never invest on the basis of rumors. Weigh up investment decisions carefully.
- If you trade using your broker's web site, make sure that it guarantees the authenticity, integrity and confidentiality of the process.

To financial institutions:

- Ensure that your network has the appropriate forms for arranging the transactions you offer.
- Clearly inform clients of the time required to execute an order.
- Remember that the quality of services to clients is measured in terms of how well you comply with the promises you make to them and of the attention you provide to them both when they arrange for the service and thereafter.
- Diligently correct any errors that may arise in processing client orders.
- Be particularly careful with the information to be provided to clients, and keep your IT systems up to date.

The CNMV's official registers and web site

In 2000, the CNMV continued to give priority to improving the information which it supplies and to developing new facilities for public access to that information.

The use of the Internet as a means of accessing the CNMV's information is a top priority. We first launched the web site in 1998, and it is now possible to retrieve a large volume of information of all types there (see Tables 10.5 and 10.6).

New features in the area of content include the publication of an electronic book which is a compilation of court rulings on appeals against disciplinary resolutions by the CNMV and the Ministry of Finance. In parallel with this publication, which rounds out the legal information already available on the Internet, a new updated compilation of securities market regulations has been published in book form.

Regarding access mechanisms, alerts on the latest price-sensitive information and suspensions of trading can now be obtained via WAP-enabled mobile phones, and other important information will be made available by this channel in the future.

Table 10.5
INFORMATION AVAILABLE IN THE CNMV'S OFFICIAL REGISTERS
First year available in each register

	Direct queries at the CNMV				Diskette and CD-ROM
	Paper	On screen	Optical disk	Internet	
Advance notifications	1989	1989	1994	1989	
Issues	1989	1989	1990	1989	
Listings	1989	1989	1990	1989	
IIC prospectuses	1989	1989	1998	1989	
Registration of broker-dealer and broker firms	1989	1989	1998	1989	1998
Audits:					
Issuers	1986	1986	1986	1986	1990
IICs	1989	1989	1993		
Market subjects	1988	1988	1993		
Market subjects and groups	1993	1993			
Market management companies	1989	1989			
Special reports	1991	1991			
Financial information					
Issuers	1989	1989		1985	(*)
IICs	1991	1991	1993	4 quarters	
Tender offers	1989	1989	1998	1989	
Book-entry deeds	1989	1989	1998	1994	1994
Broker fees	1993	1989		1994	
Significant holdings	1990	1990		1990	(**)
Significant events	1990	1989		1990	
Broker standard contracts	1996	1989			1996

(*) ASCII and Windows formats

(**) ASCII format.

Table 10.6
CNMV WEB MAP

About the CNMV	What's new?
<ul style="list-style-type: none"> > Introduction > Organization chart > Advisory Committee > Code of Conduct > Outsourced services and employment opportunities > CNMV services <ul style="list-style-type: none"> • Services to investors • IT services for relationships with the CNMV 	<ul style="list-style-type: none"> > Press releases > Price-sensitive information > Tender offers and issues open to subscription > Delistings and temporary suspension of trading > Discussion drafts of policy documents > Recent regulation <ul style="list-style-type: none"> • Legislation • Bulletins from Directors > Latest developments in DELFOS
Investor page	Official filings
<ul style="list-style-type: none"> > Do's and don'ts for investors > Investor guide > CNMV recommendations > Warnings to investors > Complaints department > Investor services 	<ul style="list-style-type: none"> > Search by company name > Price-sensitive information > Issuers <ul style="list-style-type: none"> • Registered companies • Tender offers • Auditors' reports and financial statements • Periodic financial reports • Significant holdings > Issues and listings <ul style="list-style-type: none"> • Advance notifications • Issue and public offering prospectuses • Listing prospectuses • ISIN codes • Book-entry deeds > Collective investment institutions <ul style="list-style-type: none"> • Registered entities • Prospectuses • Periodic reports to investors • Price-sensitive information > Venture capital entities <ul style="list-style-type: none"> • Venture capital companies • Venture capital funds • Venture capital entity management companies > Investment services firms <ul style="list-style-type: none"> • Brokers and dealers • Portfolio management companies • Foreign investment services firms > Fee information > Form contracts
Legislation, recommendations and agreements	
<ul style="list-style-type: none"> > What's new > Legislation > Bulletins from Directors > EU regulations > Electronic book on case law > Advisory opinions of the CNMV > MOUs > Protocols and agreements > Form contracts 	
Publications	
<ul style="list-style-type: none"> > Speeches > Reports > Legislation and case law > Statistics > Content of the registers > ANCV 	
DELFOS	
<ul style="list-style-type: none"> > DELFOS guide > Foreign supervisory bodies and international organizations > Trends in the securities markets > Regulations and case law > Documentary data bases > Links 	
Information of interest	ANCV
	<ul style="list-style-type: none"> > ANCV activities > News > Updates to the agency's data base > ISIN codes > ISIN code queries
	Contact information and e-mail

The volume of international investment flows, companies' increasing tendency to look abroad for financing, and the existence of large global financial intermediaries all make it indispensable for national supervisory authorities to cooperate with each other to ensure financial stability and investor protection. Within Europe, moreover, there is an additional motive for fostering cooperation between supervisors: the trend towards a single market. There is already a considerable degree of integration in certain areas. The Investment Services Directive and other major Directives that affect the securities markets require the securities commissions in the various Member States to cooperate in a large number of areas. This cooperation must be even broader and, above all, more effective, if the trend towards integration is to be accompanied by a quality regulatory framework that ensures appropriate protection of investors' interests.

The CNMV has always viewed international relations as a priority area. Since the early 1990s, the CNMV has participated as fully as possible in the International Organization of Securities Commissions (IOSCO), a non-governmental organization grouping practically all the national authorities with supervisory powers over securities markets. In recent years, IOSCO has worked intensively to attain a consensus among its members on very sensitive areas of regulation and it has participated actively, with banking and insurance supervisors, in drafting international standards applicable to the financial system as a whole.

Within Europe, the CNMV is a member of the Forum of European Securities Commissions (FESCO). Like IOSCO, FESCO is a non-governmental organization which, in this case, groups the supervisory agencies within the European Economic Area. FESCO concentrates basically on establishing close cooperation between its members in information and assistance with investigations, and on developing common standards under European regulations. Its proposals have often been used by the European Commission as a basis for drafting EU legislation and interpreting current regulations. Aware of the importance of this forum, the CNMV participates actively in all its expert groups. At present, the CNMV is a member of FESCO's permanent General Secretariat, whose functions include coordinating and assisting the expert groups.

The CNMV's international activities are not confined to participation in the bodies of supervisory authorities; it also attaches particular importance to bilateral agreements with other securities commissions on information exchange and technical assistance. The CNMV also participates in initiatives proposed by the Organization for Economic Cooperation and Development (OECD), and it has assisted the Bank of Spain and other Spanish institutions in the development of specific initiatives of the European Union. CNMV staff have also participated as experts in consulting programs for developing countries under the auspices of international organizations.

An area of increasing importance within the CNMV's international activities is cooperation with Latin American securities commissions. The creation of the Instituto Iberoamericano del Mercado de Valores (IIMV) in 1999 increased activity in this area by providing a forum for the development of initiatives of mutual interest. The creation of Latibex, the Spanish market in Latin American securities, further heightened interest in cooperation with Latin American supervisors and markets. The CNMV has participated and assisted in the organization of numerous courses and seminars in Spain and Latin America and it has cooperation agreements with many securities commissions in the region.



INTERNATIONAL ACTIVITY

FESCO

FESCO has two primary objectives. One is to establish a more effective framework for cooperation among national supervisors in the area of information exchange and assistance with investigations. This objective is pursued basically by Fescopol, an expert group involving specialists from securities commissions' inspection area. FESCO's other objective is to promote a consensus among its members in the process of harmonization of European regulation, basically through six specialized expert groups, which are described below after the section on Fescopol.

Fescopol

The exchange of information and assistance in investigations between FESCO members in the context of their supervisory activities are based on a multilateral agreement signed in 1998⁽²⁹⁾. During 2000, Fescopol continued to develop this agreement in order to maximize the efficiency of cooperation in these areas. Among other initiatives, the working party took the first steps towards extending cooperation to investigations of cases of market abuse with cross-border implications, in line with the specific working party (Market Abuse Group) which is studying the development of a common approach to these violations within the European Union.

Primary market practices

This expert group focused on problems relating to price stabilization and the criteria for allotting securities, both in the context of public offerings. There has been a large volume of these transactions in recent years, and participation by small individual investors has been considerable. Moreover, some offerings now have a clearly pan-European dimension, which requires regulators and supervisors to focus on these problems at a Europe-wide level also.

In September 2000, this group issued its conclusions in the form of a discussion draft entitled "*Stabilization and Allotment – A European Supervisory Approach*". The conclusions include a proposal that regulators define "safe harbors", i.e. criteria for action with regard to price stabilization following public offerings of securities which, if adhered, grant the assurance that there will not be accusations of price manipulation. The group also emphasized the need to inform investors in this type of transaction. As regards securities allotment, the group made recommendations regarding cases of oversubscription and highlighted the need to inform potential investors about both the allotment procedure and the outcome of the process.

The Group expects to complete its task in 2001 once it has received and examined the markets' opinions on its proposals.

Investor protection

In March 2000, FESCO approved the document entitled "*Implementation of article 11 of the Investment Services Directive (ISD): Categorization of investors for the purpose of Conduct of Business rules*", which reflects this group's work on defining the category of "professional investor". This is an important matter for the supervision of cross-border investment services since article 11 of the ISD envisages the possibility of exempting services aimed at professional investors from compliance with the host State's conduct of business rules, but a precise definition of the term had been lacking. FESCO's position has been broadly adopted by the European Commission, which in November 2000 issued a Communication about the interpretation of that article.⁽³⁰⁾

(29) Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance of Securities Activities.

(30) Commission communication on the application of conduct of business rules under Article 11 of the investment services directive (93/22/EEC).

Also in 2000, this expert group issued a discussion draft entitled “*The harmonization of core conduct of business rules for investor protection*” which makes recommendations in this connection. This is a vital document for European regulation at present since there are considerable differences between the European Union’s Member States in this area. Harmonization of conduct of business rules is vital to enable the integration of securities markets to advance under rules which are neutral with regard to competition between investment services providers and which provide appropriate protection for investors. The final document is expected to be published early in 2001.

Accounting

Accounting standardization is a necessary requirement in order for European market integration to proceed more rapidly. The European Commission recognizes this and attaches priority to this area in the Financial Services Action Plan (FSAP). FESCO’s accounting group was formed in 2000 and its discussions have not reached the public phase. This group’s contribution may serve as a reference for harmonization initiatives within the European Union.

Market abuse

The term “market abuse” refers generally to price manipulation and improper use of inside information. In this area, the FSAP envisages the drafting of a Directive specifically providing a common treatment of price manipulation to complement the existing Directive on inside information. FESCO’s market abuse group could provide initiatives for future European regulation. Its work in 2000 focused particularly on developing preventive measures in several areas, such as market micro-structure, the duties of listed companies, the duties of authorized intermediaries (internal codes of conduct), the regulations on the dissemination of information about trading and restrictions, and the definition of “safe harbors”.

Alternative trading systems

FESCO is developing standards in this area which can be used as a reference for future European regulations, since the European Commission explicitly envisaged this possibility in its November 2000 Communication on Upgrading the Investment Services Directive. The boom in alternative trading systems in the US and their increasingly active presence in Europe require an appropriate regulatory response. FESCO’s work, which is still at the initial phase, should provide standards about transparency requirements, investor protection and technical capacity of ATs, without prejudice to the need to reach a consensus first about the definition of ATs and about distinguishing them from organized markets.

European public offerings

This group’s primary objective is to develop proposals to foster effective mutual recognition of issue and public offering prospectuses so as to enhance corporate financing transactions at a Europe-wide scale. This area is particularly important for European financial integration and, as such, is highlighted in the FSAP. The Group’s work in 2000 culminated with the approval, in December, of a document entitled “A ‘*European passport*’ for issuers”. Among its main conclusions, the Group recommends the adoption of a single format for prospectuses throughout Europe, based on IOSCO disclosure standards and on the principle that responsibility for vetting the prospectus should lie solely with the authorities in the home state of the issuer or offerer.

IOSCO

One of the main events of 2000, from a Spanish viewpoint, was the installation of IOSCO’s permanent secretariat in Madrid, in compliance with a decision made by the organization in 1999. The CNMV had the support of the Spanish authorities in presenting Madrid’s candidature, which had to contend with other major financial cities. Because of this international forum’s importance,

the establishment of its headquarters in Madrid will imply regular visits to the city by supervisors and experts from the world's leading securities markets, which will undoubtedly contribute to enhancing the Spanish markets' international profile.

The CNMV is one of the sixteen members of IOSCO's Technical Committee, in which the supervisory authorities of the most developed markets are represented, and it participates actively in the organization's five permanent working groups: (i) cross-border offerings of securities and accounting, (ii) secondary markets, (iii) intermediaries, (iv) collective investment schemes, and (v) supervision and information exchange. The CNMV also participates in other specific working groups created at the initiative of the technical committee.

Cross-border offerings of securities and accounting

This group focuses on three areas of great importance for securities market regulation: accounting, auditing and prospectuses. In the field of accounting, IOSCO's encouragement and support for the development and application of accounting standards through the International Accounting Standards Committee (IASC) are well known. This is a laborious process because of the diversity of national accounting standards and the difficulty of developing criteria that are applicable to a variety of sectors; nevertheless, considerable progress has been made. In 2000, this group continued to seek compromises, particularly with other international organizations in the financial sector, in order to overcome persisting difficulties.

The area of auditing concentrated the group's efforts in 2000 and it is expected to become more important in the future. The group addressed three general areas: audit procedures, auditor independence, and quality control. The first relates to the drafting of international auditing standards and follows similar lines to the work on accounting standards. In particular, it was resolved to ask the International Accounting Practices Committee (IAPC), which develops international accounting standards, to admit a member of the group to the Committee as an observer. Regarding auditor independence, the group drafted and sent to the International Federation of Accountants (IFAC) a document regarding its proposal to modify the auditors' code of ethics in this area, containing most notably an express mention of the incompatibility between the audit function and the preparation of the financial statements. Regarding quality control, the group has accepted that audit standards should be based generally on the International Standards on Auditing (ISAs) and highlighted the need to distinguish between quality control, strictly speaking, and effective surveillance of compliance with regulations, the latter being the responsibility of professional associations.

Regarding prospectuses, the group drafted a document which adapts the international standards for disclosure on cross-border securities offerings, approved in 1998, to shelf registrations. This document, which will be submitted to the members of IOSCO for consideration, aims at expediting issuing procedures and facilitating companies' access to the capital markets.

Secondary markets

In 2000, the group published a report entitled "Principles for the oversight of screen-based trading systems for derivative products" which updates the work performed in 1990 in this area. The spectacular growth in screen-based trading in derivatives and the volume which cross-border transactions have attained since then made it essential to review the pre-existing work and update the principles of surveillance.

Intermediaries

IOSCO's work regarding securities markets intermediaries has traditionally focused on identifying the risks in this activity and establishing healthy prudential rules, internal control guidelines and surveillance criteria. In 2000, progress continued to be made in this direction, which is vital for financial stability and investor protection. In particular, the intermediaries group issued a document

entitled “*The management of credit risks by securities and derivatives firms and recommendations to firms and regulators*”, which describes the credit risks assumed by securities firms, particularly those arising from transactions with derivatives. The document made recommendations to firms aimed at prudent management of those risks, and to supervisors regarding effective surveillance in this area.

The group also examined other risk areas, such as operating risk, liquidity risk, technological risk and external providers risk; work is being performed on these areas. The group assisted other international forums in the financial sector in the development of common areas for supervision of financial intermediaries.

Collective investment schemes (CIS)

During 2000, this IOSCO group worked intensively on the conflicts of interest that can arise from the actions of collective investment scheme operators. Its work in this field was expressed in a document “*Conflicts of interests of CIS operators*” which updated some of the principles for regulating CIS that were approved by IOSCO in 1994. The document particularly emphasized the need to clearly identify situations where conflicts of interest may arise, and it drafts principles and standards for good business practices that are applicable to operators’ decisions, so as to foster effective investor protection.

The group also continued work on other areas of interest, such as the delegation of functions by operators and investor education, leading to documents which will be released shortly. Work also commenced in areas such as the use of abridged prospectuses, advertising, and risk assessment. Within this group, as well as participating in discussions of all the matters under consideration, the CNMV also made a major additional contribution by drafting a report on the decision-making infrastructure of CISs, entitled “*Summary of responses to the Questionnaire on Principles and Best Practice Standards on Infrastructure for Decision Making for CIS Operators*», which compiles existing standards and practices in this area in the countries represented in IOSCO.

Surveillance and exchange of information

The Internet became increasingly important for this group’s work in 2000. The development of international financial trading via the net makes it necessary for supervisors to cooperate more closely and effectively in order to identify, investigate and, if appropriate, penalize market manipulation. The Internet offers considerable advantages for users of financial services, but it can also become a vehicle for fraud if supervisors do not adopt the necessary control measures and users do not take appropriate precautions.

As part of its efforts to foster appropriate surveillance of securities business via the Internet, the surveillance and exchange of information group organized an “Internet Surf Day” on 28 March 2000, which involved a trial intensive search on the net to detect possible irregularities in the provision of services, particularly services provided by unauthorized intermediaries. Supervisors from 21 countries participated in the initiative and over 10,000 web pages were analyzed. The CNMV played an active role and was the only supervisory authority to use a bot program for mass searches on the net. This enabled it to analyze over 3,500 pages on a first pass, of which 22 were selected for subsequent detailed analysis. The Internet Surf Day experience marked the beginning of a new level of cooperation between securities supervisors which promises to be fruitful.

Other specific groups created at the instances of the IOSCO Technical Committee

In addition to its permanent working groups, IOSCO occasionally creates specific working groups to focus on matters of current interest in the area of regulation. Three such groups operated in 2000, in the area of clearing and settlement, the “new economy” and the Internet. The clearing and settlement group also involved the G-10 central banks’ Committee on Payment and Settlement Systems

(CPSS), and its conclusions are set out in a document entitled “*Recommendations for Securities Settlement Systems*”, which details the minimum requirements to be set by securities settlement systems, regardless of the type of securities and whether they are national or international systems. The second group focused on aspects of the “new economy” which have an evident impact on the securities markets, such as public offerings of “new economy” securities, the valuation of these companies and the risks for investors. The group has already presented its conclusions to the IOSCO Technical Committee. The group dealing with the Internet is still working and will report its conclusions to the organization in the future.

OECD-World Bank initiative on corporate governance

Investors are increasingly focusing on the characteristics of corporate governance because of its influence on the value of a company’s securities (fundamentally shares). As a result, several countries (including Spain) have issued voluntary codes of corporate governance. Some international bodies have expressed interest in studying the consequences of these codes and in proposing international standards for harmonizing their content and facilitating their dissemination. The OECD and the World Bank sponsored the creation of the Global Corporate Governance Forum, whose main purpose is to draft good corporate governance practices. In 2000, the CNMV joined this Forum as a full member.

Cooperation with Latin America

Instituto Iberoamericano del Mercado de Valores (IIMV)

During 2000, the CNMV cooperated actively with the IIMV in promoting the Latin American securities markets and disseminating regulation and surveillance standards. The IIMV fostered contacts between experts in markets and regulation in its member countries, disseminated articles about these markets through its publications, facilitated the development of technical assistance programs for supervisors and organized training courses in Spain and Latin America. The CNMV has ongoing efforts to assist in these initiatives by providing human resources and logistics facilities. Particularly noteworthy was the participation by CNMV staff in technical assistance programs and in courses and workshops in Spain and Latin America.

Latibex

Latibex is another reason for strengthening the ties between the CNMV and the Spanish markets and their Latin American counterparts. Latibex acts as a bridge between Latin American companies and European investors. Its success is beneficial to both sides and to the Spanish market as a whole. Aware of the importance of this initiative, during 2000 the CNMV fostered contacts and the necessary procedures with the Latin American supervisory authorities to facilitate the addition of new companies to Latibex. The specific features of this market’s regulations require close contact between the CNMV and the Latin American supervisors in question. The CNMV has long had effective channels for collaboration with its Latin American counterparts and, consequently, contacts relating to Latibex are very effective.

Other international activities

Bilateral agreements with other securities commissions are an important component of the CNMV’s international activities. These agreements, in the form of Memoranda of Understanding (MOU), can address technical assistance and/or the provision of information. To date, the CNMV has signed MOUs with 17 supervisors in North America, Latin America and Asia, in addition to the multilateral agreement signed within FESCO with the other supervisors in that forum. No additional MOUs were signed in 2000, but contacts continued with a view to doing so in the future with countries in Central Europe and Asia.

In 2000, the CNMV received visits from numerous delegations from securities commissions throughout the world; among the most notable were those relating to the provision of technical assistance to the Latin American countries, and those from Central European countries which are in line to join the European Union - Hungary and Poland. Technical assistance was also provided by a number of routes to countries in Eastern Europe and Africa.

Responding to the recommendation by the European Commission, the CNMV has held discussions with the Bank of Spain and the Junta Nacional Arbitral de Consumo about the possibility of implementing a European network for out-of-court resolution of complaints in the area of financial services.

Annex 1

COMPOSITION OF THE CNMV BOARD

President:	Dña. Pilar Valiente Calvo ⁽³¹⁾
Vice-president:	D. Juan Jesús Roldán Fernández ⁽³²⁾
Commissioners⁽³³⁾:	Dña. Gloria Hernández García ⁽³⁴⁾ D. Gonzalo Gil García ⁽³⁵⁾ Dña. Soledad Plaza i Jabat ⁽³⁶⁾ D. Félix de Luis y Lorenzo ⁽³⁷⁾
Secretary:	Dña. Sol Bourgón Camacho ⁽³⁸⁾

(31) Since 7 October 2000, the position was held by D. Juan Fernández-Armesto until 4 October 2000.

(32) Since 7 October 2000, the position was held by D. Luis Ramallo García until 4 October 2000.

(33) D. José Manuel Barberán López's appointment as commissioner ended on 27 December 2000.

(34) Director General of Treasury and Finance Policy.

(35) Deputy Governor of the Bank of Spain. D. Miguel Martín Fernández held the position until 16 July 2000.

(36) Appointed on 25 October 2000 in place of Dña. Pilar Valiente Calvo.

(37) Appointed on 9 February 2001 in place of D. José M^a Roldán Alegre, whose appointment ended on 13 October 2000.

(38) Since 1 February 2001, the position was held by D. Antonio Alonso Ureba until 31 January 2001.

Annex 2

COMPOSITION OF THE CNMV ADVISORY COMMITTEE⁽³⁹⁾

President: D. Juan Jesús Roldán Fernández

Secretary: Dña. Sol Bourgón Camacho⁽⁴⁰⁾

REPRESENTATIVES

Issuers: D. Carlos Jiménez Zato
D. Enrique Carretero Gil de Biedma
D. Ramón Cerdeiras Checa

Investors: D. Emilio Polo Ghezzi
D. Enrique Ureña Francés

Stock Exchange Members:

D. José Antonio de Bonilla y Moreno
D. Sebastián Albella Amigo
D. Jaime Aguilar Fernández-Hontoria
D. Gregorio Arranz Pumar

Consumers and Users Council:

D. Jorge Caminero Rodríguez

Autonomous Regions:

Valencian Government:

D. José Manuel Uncio Lacasa

Catalan Government:

D. Francesc Xavier Ruiz del Portal i Bravo

Basque Government:

D. Juan Miguel Bilbao Garai

ALTERNATIVE REPRESENTATIVES

Issuers: D. Diego Lozano Romeral
D. Saturnino Polanco Prieto
D. Fernando Isidro Rincón

Investors: D. Tomás Galán Ortega
D. Carlos Puerta Forolla

(39) In force since the CNMV Board Meeting on 28 March 2000.

(40) Appointed on 1 February 2001 in place of D. Antonio Alonso Ureba.

Stock Exchange Members:

D. José M.^a Ramírez Núñez de Prado

D. John Siska

D. Antonio López Sellés

D. Ignacio Santillán Fraile

Consumers and Users Council:

D. Manuel Prados Vicente

Autonomous Regions:

Valencian Government:

D. Julián Fernando Talens Escartí

Catalan Governement:

D. Jaume Pera i Lloveras

Basque Government:

D. Miguel Bengoechea Romero