PRACTICES TO BE FOLLOWED BY SPANISH MANAGEMENT COMPANIES WHEN INVESTING IN FUNDS MANAGED BY THE SAME MANAGEMENT COMPANY

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In accordance with its 2019 plan, the CNMV has carried out an analysis of the practices followed by the Spanish management companies when their funds are invested in other funds managed by the same management company or by other management companies of the same group.

In this respect, Spanish regulations only specifically stablish the obligation not to exceed the maximum fees reflected in the prospectus of the investment fund (taking into account direct and indirect fees). However, the management companies are required to act in the interest of CISs, which means that they must invest in the cheapest class available to the investment fund.

The result of the analysis has shown that most management companies, when investing in funds managed by them, do so in “portfolio classes” (also called “clean”), which do not include distribution costs, or they refund the part of the management fee that could be attributed to distribution costs when investing in underlyings funds with more expensive classes or in funds without classes. Some management companies even apply methods that are more favourable to unitholders by rebating the entire management fee of the underlying fund or by setting up a class with a “0%” fee (zero class).

However, a small number of management companies have been identified that are not refunding the distribution costs to the investment fund when such costs are included in the class invested in. Although these management companies do not exceed the accumulated fee limits set in the prospectuses of the corresponding funds, this is a less transparent practice than that followed by the rest of the sector, and also differs from that which occurs when investing in non-group CISs (in which case the retrocessions received are always paid to the investment fund). In view of this, the CNMV is considering promoting a modification of the regulations in this respect, since when a management company invests in other funds managed by the same management companies or by entities of the same group, there is no marketing, and therefore these expenses, if they are incorporated in the management fees of the underlying fund, should be refunded to the investment fund.

In any case, until such time as the above-mentioned regulatory amendment is made, it is considered good practice that when a fund of a management company invests in other funds managed by the same manager or by managers of the same group in which there are no classes or there are no classes without a distribution fee ("portfolio" or "clean" classes), the management company should establish mechanisms to ensure that the distribution costs included in the fee of the underlying fund are passed on to the investment fund, bearing in mind that in this type of investment there has been no such distribution or marketing. The aim is to ensure that the investment fund does not bear the distribution fees of the underlying funds, without prejudice to the fact that the management companies establish the direct management fees they consider appropriate, within the maximums permitted by the regulations.