



## CONSIDERATIONS ON CERTAIN REPORTING OBLIGATIONS FOR CISMCS AND CLOSED-ENDED CISMCS IN VIEW OF THE SITUATION CAUSED BY COVID-19

27 March 2020

The CNMV is closely monitoring the impact that the situation arising from COVID-19 is having on firms subject to supervision, inter alia, Collective Investment Schemes (CISs) Venture Capital Vehicles (VCVs) and their management companies (CISMCS and closed-ended CISMCS).

In response to various enquiries received related to certain reporting requirements of such firms, the CNMV hereby communicates the following considerations and lines of action:

- 1. Preparation, auditing and approval of annual accounts of CISMCS, closed-ended CISMCS, CISs, VCFs and closed-ended CISs. Submission to the CNMV, public disclosure and delivery to investors**

In accordance with prevailing legislation, CISMCS and closed-ended CISMCS shall prepare their annual accounts no later than three months after the end of the financial year, and shall submit them to the CNMV, together with the management and audit reports, within four months after the end of the financial year, in the case of CISMCS (Rule 6 of Circular 7/2008) and within six months in the case of closed-ended CISMCS (Article 67(8) of Spanish Law 22/2014, of 22 November, on VCFs).

For its part, the CIS Regulation (Article 33(1)) establishes the first three months of each financial year as the deadline for CISMCS and the directors of investment companies to prepare the annual accounts for investment funds and investment companies. The annual accounts thus prepared, together with the management and audit reports, shall be submitted to the CNMV within the first four months of each financial year. Article 29 of the CIS Regulation establishes this same deadline for their publication.

Conversely, VCVs and closed-ended CISMCS have a period of five months to prepare the annual accounts. They shall be submitted to the CNMV during the first six months after the end of the financial year (Articles 67(2) and 67(3) of Spanish Law 22/2014). Finally, EUSEFs (European Social Entrepreneurship Funds), EuVEFAs (European Venture Capital Funds) and ELTIFs (European Long-Term Investment Funds), in accordance with European Regulations governing them, shall submit their audited annual accounts to the competent authority within a period of six months.

The CNMV considers that, following the approval of Spanish Royal Decree-Law 8/2020, of 17 March, on urgent extraordinary measures to confront the economic and social impact of COVID-19, the regime for suspending the deadline for the preparation, auditing and approval of the annual accounts laid down in Article 40 thereof is also applicable to other collective investment vehicles (CISs, VCVs and

closed-ended CISs), both funds and companies, as well as to CISMCS and closed-ended CISMCS.

Accordingly, upon conclusion of the three-month extension period, following the end of the state of alarm, for preparing the accounts laid down in Article 40(3) of Spanish Royal Decree-Law 8/2020, the accounts shall be submitted to the CNMV as soon as possible thereafter, and within a maximum period of one month.

In line with the preceding paragraph, if the accounts were already prepared, they shall be submitted to the CNMV upon conclusion of the two-month extension period for their verification by the auditors provided for in Article 40(4) of said Spanish Royal Decree-Law.

If the annual accounts were not prepared as yet, information related to the impact of the COVID-19 crisis shall be included in section 22 of the Notes to the annual accounts "Events after the balance sheet date". If the information were already prepared, such information shall be included in the subsequent periodic report forwarded to investors.

In accordance with transparency requirements, and coinciding with the submission of the audited annual accounts to the CNMV, these shall be published on the management company's website and on the places indicated in the prospectus for public disclosure. The accounts shall be submitted to unitholders and shareholders as soon as possible thereafter, and no later than one month after they are submitted to the CNMV.

The preceding criteria are not applicable to EUSEFs, EuVECAs or ELTIFs as European Regulations governing such funds allow them to make available their annual accounts to the competent supervisory authorities until 30 June, inclusive (in the event that the financial year coincides with the calendar year). The CNMV shall provide these types of firms with criteria for the submission of annual accounts and auditing, if necessary.

## **2. Disclosure and submission to unitholders and shareholders of the quarterly CIS report for the first quarter of 2020**

Article 18(2) of the Spanish Collective Investment Scheme Act requires the submission of the quarterly report to unitholders solely if it is expressly requested by them, and no later than one month after the reporting period. The quarterly report shall also be published elsewhere, as indicated in the prospectus and the KID.

Under the current scenario, the obligation of preparing, publishing and submitting the quarterly report to the CNMV remains in force. Notwithstanding the foregoing, in light of the inconveniences and the difficulties arising from the current situation, in the course of its supervisory activities, the CNMV shall pay special attention to potential events that justify the delay in the delivery of the information referred to in this paragraph. Firms shall report these types of issues to the CNMV as soon as possible.

Regarding the physical delivery, under the current scenario, and while the state of alarm continues, the CNMV, in view of the circumstances, shall consider the suspension of such delivery by CISMCS as justified, in general, providing the latter make their best efforts to individually inform investors, who have requested the

delivery of a hard-copy of the quarterly report, about the possibility of consulting it on the firm's website.

Conversely, management companies shall include in the detailed Annex to the quarterly report (section 9) information on the impact of COVID-19 on the investments of CISs, as well as on the investment decisions made, including their considerations on market perspectives and potential portfolio management activities.

### **3. Submission of confidential information statements on CISs and VCVs and statistical information statements on assets and liabilities of EU collective investment schemes (statements of other financial institutions, OFI statements) to the CNMV**

The fulfilment of these requirements remains in force within the deadlines laid down in prevailing legislation, as no exceptions have been established and the information provided is necessary to perform the supervisory functions assigned to the CNMV. These are essential to protect the general interest and for the basic functioning of the services entrusted to the CNMV under paragraph one of the Resolution of the Spanish National Securities Market Commission's Board, of 20 March 2020, on the suspension of administrative deadlines under Spanish Royal Decree 463/2020, on the state of alarm.

Notwithstanding the foregoing, in light of the inconveniences and the difficulties arising from the current situation, in the course of its supervisory activities, the CNMV shall pay special attention to potential events that justify the delay in the delivery of the information referred to in this paragraph. Firms shall report these types of issues to the CNMV as soon as possible.

### **4. AIF reporting and reporting under Regulation (EU) 2017/1131 on money market funds**

The duty of submitting the information required under the Alternative Investment Fund Managers Directive (AIF reporting) is still in force. This is also the case of that related to money market funds under the European Regulation on money market funds, which shall be submitted for the first time in the near future. In this regard, the same considerations related to deadlines and potential delays referred to in the paragraphs above shall be applicable.

In any case, since this information is forwarded by the CNMV to ESMA, any potential statements issued by ESMA with regard to these reporting requirements should be borne in mind.

### **5. Internal audit report**

Regarding the internal audit report, Rule 6 of CNMV Circular 6/2009, on the internal control of management companies, establishes the submission thereof to the CNMV within a period of four months.

Even though this deadline continues to be in force, in view of the current situation, it is understood that reasonable delays in the submission of such report could be admitted, if the firm gives substantiated notice in advance to the CNMV.

## **6. Enforcement**

With regard to CISMCS, closed-ended CISMCS and self-managed CISs, the fulfilment of the **requests for information/enforcement** within the deadline indicated for each of these, under the Resolution of the Spanish National Securities Market Commission's Board, of 20 March 2020, on the suspension of administrative deadlines under Spanish Royal Decree 463/2020, on the state of alarm, is still applicable.

However, in light of the current situation, in the event of facing difficulties in fulfilling a requirement within the deadline, an extension of the deadline may be requested, to which the CNMV, in general, shall give favourable consideration.

In any case, the CNMV is taking into account the situation both when it decides to submit the request and when it establishes the deadlines for the reply.

## **7. Reporting of relevant issues**

Finally, if relevant issues were to arise in the course of the daily activities of any firm, in particular related to the calculation and the publication of the net asset value of managed CISs, or in terms of subscriptions or redemptions or in the event of doubts arising in relation to the appropriate course of action under the current circumstances, such issues should be reported to the CNMV as soon as possible.