



DECISION BY THE CNMV 1) TO EXTEND UNTIL 31 OCTOBER 2012 THE PRECAUTIONARY BAN ON TRANSACTIONS IN SECURITIES AND FINANCIAL INSTRUMENTS THAT CREATE OR INCREASE NET SHORT POSITIONS IN SPANISH SHARES, AND 2) ON THE BASIS OF THE EXCEPTIONAL CIRCUMSTANCES THAT EXIST, TO IMMEDIATELY COMMENCE THE PROCEEDINGS TO NOTIFY ESMA OF ITS INTENTION TO IMPOSE RESTRICTIONS, EFFECTIVE 1 NOVEMBER 2012 FOR A PERIOD OF 3 MONTHS, ON SHORT SALES AND SIMILAR TRANSACTIONS UNDER ARTICLE 20 OF REGULATION (EU) NO. 236/2012

19 October 2012

The Comisión Nacional del Mercado de Valores (CNMV) has evaluated the individual and overall impact on the market of the measures restricting net short positions in Spanish shares adopted in July 2012, taking into account the current exceptional circumstances of the Spanish financial system.

Noteworthy in this respect is the ongoing restructuring process of the Spanish financial sector to cover the banking sector's capital needs. This process is being undertaken in the framework of the Memorandum of Understanding (MoU) signed on 23 July by the European Commission, the Kingdom of Spain and the Bank of Spain. The MoU made the provision of assistance conditional upon fulfilment of a number of conditions, including an assessment of individual capital needs, recapitalisation of the banks, and the segregation of toxic assets into an asset management company.

This process of bank restructuring has not yet concluded, which creates a range of uncertainties with respect to the Spanish financial system that may affect financial stability. In this context, raising the ban on short sales would heighten uncertainty through its likely impact on the market. Conclusion of this process is considered to be absolutely necessary to ensure the stability of the financial system and the Spanish capital market. Moreover, a number of events or circumstances that led to the adoption of the July decision and which may threaten the integrity of the Spanish financial markets are currently persisting.

Therefore, the foregoing factors make it advisable not to lift the temporary restrictions on transactions that create or increase net short positions in Spanish shares.

Consequently, the CNMV has decided:

1. To extend the precautionary ban, adopted on 23 July 2012 under article 85.2.j) of Securities Market Act 24/1988, of 28 July, on transactions in securities and financial instruments that create or increase net short positions in Spanish shares listed on an official Spanish secondary market for which the CNMV is considered a competent authority for the purposes of article 9 of Regulation (EC) No. 1287/2006.

The ban will be extended from 24 October until market close on 31 October 2012, both inclusive.

The precautionary ban affects all transactions in shares and indices, including cash

and derivatives transactions in organised markets and OTC derivatives, which create a net short position or increase an existing one, albeit on an intraday basis. A net short position shall be understood as one where a decline in the share price results in a positive economic outcome.

The ban does not apply to transactions by entities that perform market-making functions, i.e. financial institutions or investment firms which, as a result of executing client orders or of continuously quoting bid and offer prices in their capacity as members of official secondary markets or multilateral trading facilities, temporarily incur net short positions, particularly on an intraday basis.

Article 99.z quinquies) of Securities Market Act 24/1988, of 28 July, defines breach of precautionary measures, including those envisaged under article 85.2.j) of the Act, as a very serious infraction.

2. Additionally, considering that Regulation (EU) No. 236/2012 of the European Parliament and of the Council, of 14 March 2012, on short selling and certain aspects of credit default swaps, will enter into force on 1 November next, the CNMV has also decided:

To immediately commence the proceedings to notify ESMA and the other competent authorities of its intention to impose, on 1 November 2012 and for a period of 3 months, under article 20 of Regulation (EU) No. 236/2012, and having regard to the exceptional circumstances that exist, a precautionary ban on transactions by any natural or legal persons which create a financial instrument or are linked to a financial instrument where the effect or one of the effects of the transaction is to confer a financial advantage on such natural or legal person in the event of a decline in the price or value of shares listed on a Spanish official secondary market for which the CNMV is considered the competent authority for the purposes of article 9 of Regulation (EC) No. 1287/2006. The measure may be lifted before the end of the period if circumstances permit.