

Investors in the Face of Digitalisation and Commitment to Sustainability Annual ASUFIN Congress 2022

MONTSERRAT MARTÍNEZ PARERA, VICE-CHAIR OF CNMV
25 November 2022

Good morning. Thank you, Patricia Suárez, for your kind introduction and thank you ASUFIN for inviting me to the event. I am thrilled to be a part of it.

Today's conference focuses on two major trends: digitalisation and sustainability, which are precisely the two forces that are transforming the financial sector, along with CNMV's actions. In fact, the promotion of digitalisation and the transition towards a more sustainable economy are objectives that have shaped our lines of action in recent years, which will also be present in our next strategy, to be announced at the beginning of next year.

But, what I find most important and what I particularly enjoy is to tackle these issues from the perspective of the investor, the end-user. Investor protection guides all of CNMV's actions and defines our DNA as a supervisor. In fact, the only way forward is to always consider the well-being of investors and users of financial products, as it is citizens, through their daily activity, who are the true architects of the economic and social development of economies, whether as consumers, savers or investors.

From such perspective, digitalisation and sustainability are two tail winds that can help us boost economic growth, but which, as usual, also have grey areas, extremes that require care. Today I would like to share some thoughts on the latter, starting with sustainability.

Sustainability preferences and the risk of greenwashing

Sustainable financial products have been under development for years, to allow investors to participate in the change. The number of sustainable investment funds has continued to grow, and the supply has almost doubled in Spain and the EU as a whole in the last year. Since the entry into force of the Disclosure Regulation¹, there were 244 investment funds, as per Article 8 (promoting sustainability) registered in Spain, and 14 per Article 9 SFDR (with a sustainable investment objective), with assets under

¹ March 2021. Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector.

management worth more than 100 billion euros, which is close to 34% of total fund assets.

In order for the investor to compare products, the legislator has focused, firstly, on increasing transparency requirements, to bring order and establish homogeneous minimum information among the amalgamation of names, classifications and environmental claims that we have witnessed.

After MiFID II's amendment, we have gone a step further: it is not only about regulating transparency, but, since 2 August, requirements have been established to take into account the sustainability preferences of the retail investor in the investment decision-making process. Specifically, in the suitability assessment process that institutions have to carry out when providing investment advice or when there is discretionary portfolio management, not in mere marketing. ESMA has issued guidelines, which will apply after mid-next year.

This is certainly an important step forward, which leads me to raise two key questions: i) how to ensure that investors' preferences are properly integrated, ii) and, in this context, how to avoid the risk of greenwashing and reduce the gap between investor expectations and real product features.

On the first point, I am aware that attention is paid to how these requirements are being implemented in practice. ASUFIN and other organisations are trying to measure how they are implemented and we welcome any comments on this.

It is not, in any case, a simple process and I urge caution in drawing conclusions at this early stage of implementation. It is one of the elements that CNMV has identified as one of the priorities for action.

Institutions need to be able to ask the relevant questions to their clients in an understandable way, that is in a clear and simple manner, without using technical language, and explaining the different sustainable investment options, as casuistry is extended and varied. Additionally, investors need to be able to understand and receive sufficient explanation and clarification, to avoid feeling lost along the way.

To such purpose, CNMV is working on three areas:

- i) Reviewing compliance with ESMA regulation and guidelines on integration of sustainability preferences, which, as highlighted, are only enforceable when institutions provide advisory or discretionary portfolio management services, and not in the area of marketing alone.
- ii) Provide additional criteria and clarification where necessary.

iii) And, by contributing to the dissemination of investor information material, such as Quick Guides, glossaries and other educational resources, many of which are already available on our website, which I encourage you to read².

Our impression is that Spanish entities, pending the implementation of the ESMA Guidelines, are following similar standards to those in other jurisdictions. In any case, as I mentioned, this is an issue we will give special attention to in the coming year, based on complete analysis and following the CNMV's usual supervisory techniques and practices.

This brings me to the second issue at hand: how to minimise the risk of greenwashing.

I am particularly concerned with this risk. Specific cases of greenwashing, whether intentional or simply the result of a lack of clarity in the regulatory framework, can affect the confidence of the entire sector and jeopardise the work done to date.

I want to clarify that we have no identified malpractices in the Spanish market. Nonetheless, I believe it is urgent to make progress on the development of clear criteria for the use of ESG terms in the naming of investment funds at an European level. That is, understand that terms such as "sustainable", "ESG", "green", or "impact" can only be used if they fit the characteristics of the fund, which criteria must be the same whether the fund is a fund registered here, in France or in Luxembourg.

We already follow ESMA's recommendation in this area, and Spanish funds reflect this. I welcome the consultation that ESMA³ has just published to go one step further and establish minimum investment percentages for the use of ESG terms in the fund name. Thus, ESG-related words would require that at least 80% of investments have environmental or social characteristics. If the fund includes the word "sustainability", at least 50% of these investments have to be centred on environmental or social features or objectives.

Anything that helps us to move forward in harmonising criteria and clarifying the characteristics of sustainable funds is a step in the right direction.

Digitalisation and challenges for investors

The second major trend to be discussed today is related to digitalisation. At CNMV we navigate a constant balance between promoting innovation and technological development on the one hand and maintaining market integrity and investor protection on the other.

Let me explain. There is no doubt that digitalisation and new investment platforms are increasing investment options, bringing several benefits.

² [Investors and Financial Education](#)

³ [Consultation Paper on Guidelines on funds' names using ESG or sustainability-related terms](#)

But when innovation is misused, it leads to the development of excessive division of investment, which, through techniques seen in video games, guarantee secure returns in the short-term. We already know this is not sustainable, especially in the world of crypto-assets, where there are no controls or regulation. This lack of control is precisely behind events such as the recent massive collapse of FTX exchange or the fact that the crypto-asset sector's market capitalisation has fallen 70% from last year's maximum rate.

We need clear rules, and Europe has been negotiating for some time now for a regulation, known as the MiCA Regulation, which will establish a comprehensive legal framework for the issuance and service providers of crypto-asset

As long as we do not have a clear regulatory framework, I am forced to continue to request the utmost caution and to take the time to learn the risks. As investors, we have access to all information, but information is not the same as knowledge. The value is, precisely, knowing how to differentiate one thing from another and avoid falling for the hoaxes and frauds there are. That is, not to get lost in the world of social media and fin-influencers who promise to make you rich in a video lasting less than a minute.

Particularly when it comes to crypto-assets. Although investment in these products remains low in Spain, with less than 7% of investors having ever invested in them, there is a tendency to underestimate the risks of investing in such assets, especially among younger investors, who also invest the most in these products⁴.

On the other hand, CNMV is very active in joining forces against financial fraud, as it is one of the crimes with the highest growth rates in recent years in Spain, Europe and other parts of the world. That is why we are promoting the Action Plan against Financial Fraud⁵ which is already bearing fruit. Moreover, CNMV has worked hard to limit the advertising of financial boiler rooms on the internet. Platforms such as Google and YouTube will verify that the entities have the required authorisation to provide investment services and will also verify that they do not form part of CNMV's list of "financial boiler rooms" by consulting its database.

In fact, the Draft Law on Securities Markets and Investment Services includes the obligation for internet search engines, social networks and the media to verify in advance that advertisers of financial instruments have the corresponding authorisation from the CNMV and that they are not included in lists of entities warned by supervisors.

⁴ Reference to BT study

⁵ Among these are the Ministry of Economic Affairs, the Public Prosecutor's Office, the State Security Forces, banking and investment associations, associations of media companies, supervisors and regulators and professional associations.

As mentioned, all these precautions do not prevent us from promoting innovation and the development of technology with potential, such as blockchain. One example is a safe testing space, known as a sandbox⁶, which allows companies to test their technology projects in a controlled environment from which we all learn. Projects such as the tokenisation of investment fund shares or the implementation of DLT technology in securities clearing and settlement, among others, are promising.

Our Fintech portal also serves as a communication and informal space for start-ups and innovation departments from the financial sector. Such interaction has allowed us to develop and publish a question and answer document⁷ to help other interested companies.

In short, it is important to always seek the above-mentioned balance.

I am convinced that you will enjoy interesting debates on both sustainability and digitalisation for the rest of the day. I hope you enjoy the rest of the day.

⁶ Initiative on which the Ministry of Economic Affairs and the Bank of Spain are collaborating.

⁷ [Questions and Answers intended for FinTech companies on activities and services that may be related to the CNMV.](#)