CNMV

Annual report

[regarding its actions and the securities markets]

2004

Annual report of the CNMV

2004 regarding its actions and the securities markets.

Acronyms used in the «Annual Report of the CNMV 2004 regarding its actions and the securities markets»

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
APR: Annual Percentage Rate
ASCRI: Asociación española de entidades de capital-riesgo/Spanish Association of Venture Capital Firms
AUD: Aplicación unificada de desglose/Unified disclosure application
AV: Broker
AVB: Broker and market member
BME: Bolsas y Mercados Españoles
BOE: Boletín Oficial del Estado /Spain's Official State Gazette
BTA: Asset-backed bond
BTH: Mortgage-backed bond
CADE: Spanish Government Bond Book-entry Centre
CESR: Committee of European Securities Regulators
CFI: Classification of financial instruments
CNMV: Comisión Nacional del Mercado de Valores
COSRA: Consejo de Autoridades Reguladoras de Valores de las Américas
CPSS: Committee on Payment and Settlement Systems
CSR: Corporate Social Responsibility
EC: European Commission
ECB: European Central Bank
ECLAC: Economic Commission for Latin America and the Caribbean
ECO order: Ministry of Economy Order
ECOFIN: Council of Economics and Finance Ministers of the European Union
ECR: Venture capital firm
EECS: European Enforcers Coordination Sessions
EHA order: Ministry of Finance Order
EPA: Spain's Labour Survey
EU: European Union
FATF: Financial Action Task Force
FC&M: Mercado de Futuros sobre Cítricos y Mercaderías/Citrus and Commodities Futures Exchange
FEFSI: Federation Europeenne des fonds et societes d'investissement
FG: Guaranteed fund
FIAMM: Money market fund
FII: Real estate investment fund
FIM: Securities investment fund
FSAP: Financial Services Action Plan
FTA: Asset securitisation fund
FTH: Mortgage securitisation fund
GAAP: Generally Accepted Accounting Principles
GDP: Gross Domestic Product
IAASB: International Auditing and Assurance Standards Board
IAS: International Accounting Standards
IASB: International Accounting Standards Board
ICSD: International central securities depository
IFRS: International Financial Reporting Standards
IGBM: Índice General de la Bolsa de Madrid/Madrid Stock Exchange General Index
IIC: Collective investment scheme
IIMV: Instituto Iberoamericano del Mercado de Valores
IMF: International Monetary Fund
IOSCO: International Organization of Securities Commissions
ISIN : International Securities Identification Number
LATIBEX: Market in Latin American securities
LIFFE: London International Financial Futures Exchange
LIIC: Collective Investment Institutions Law
MEFF: Mercado español de futuros y opciones financieros/Spanish Market in Financial Futures and Options
MFAO: Mercado de Futuros del Aceite de Oliva/Olive Oil Futures Exchange
MMU: CNMV Market Monitoring Unit
MTF: Multilateral trading facility
MTS: Market for Treasury Securities
NPISH: Non-Profit Institutions Serving Households
NYSE: New York Stock Exchange
OECD: Organisation for Economic Co-operation and Development
PIOB: Public Interest Oversight Board
PTM: Proprietary Trading Member
RD: Royal Decree
ROE: Return on equity
SCLV: Securities Clearing and Settlement Service
SDR: Special Drawing Rights
SENAF: Sistema Electrónico de Negociación de Activos Financieros/An electronic trading platform for Spanish public debt
SEPBLAC: Bank of Spain's money laundering authority
SGC: Portfolio management company
SGECR: Venture capital firm management company
SGFT: Securitisation fund management company
SGIIC: Collective investment scheme management company
SIBE: Sistema de Interconexión Bursátil Español/Spain's electronic market
SICAV: Open-end investment company
SII: Real estate investment company
SIM: Securities investment company
SIMCAV: Open-end securities investment company
SME: Small and medium enterprises
SV: Broker-dealer
SVB: Broker-dealer and market member
UCITS: Undertakings for Collective Investment in Transferable Securities

Table of contents

Introduction

This report describes events in Spain's securities markets in 2004 and the actions taken by the Comisión Nacional del Mercado de Valores (CNMV) during the year, particularly in the area of supervision. The aim of integrating these two areas into a single document is to place the CNMV's supervisory activities within their context and thus facilitate comprehension.

In general terms, the world's securities markets, and those of Spain, saw an increase in prices and trading volumes in 2004. The recovery in world economic growth coupled with sustained moderate interest rates boosted financial market activity. In Spain, significant support from domestic demand and the rising current account deficit increased the overall borrowing requirement, which was met to a notable extent by the securities markets, particularly the market in private fixed-income.

As for equities, the market capitalisation of listed companies increased notably, ending the year at 560.271 billion euro, equivalent to approximately 70% of Spain's Gross Domestic Product (GDP), which places Spain's stock markets (integrated into «Bolsas y Mercados Españoles») among the largest in Europe. Although the gain in market capitalisation was due primarily to appreciation, capital increases also played a significant role, most notably the one to finance the acquisition of UK bank Abbey National. Nevertheless, the number of companies listed on the Spanish stock exchanges (excluding investment companies) declined to 198 at year-end (128 of them listed on the electronic market).

During the year, listed companies continued the process of adapting to the Transparency Law and other supplementary legislation. Most notable among these are the Ministerial Order on disclosure of related-party transactions, and the CNMV Circular detailing the format of the Annual Corporate Governance Report and the content of listed companies' web sites. In addition to these efforts to adapt to the new transparency requirements, companies were also preparing for the entry into force of International Financial Reporting Standards effective January 2005. To enhance its activities in both these areas, the CNMV established a new Directorate of Financial and Accounting Reports.

The primary market in private fixed-income securities was very active: the outstanding balance of private sector fixed-income, which had normally been much lower than the balance of public debt, ended the year at 328.271 billion euro, almost on a par with outstanding public debt, which had scarcely increased due to the good situation of public finances. New issues of long-term private fixed-income securities registered with the CNMV exceeded 115 billion euro, while asset-backed bonds alone exceeded 50 billion euro. Financial institutions were the main issuers in this area, which they used broadly to finance the rapid growth in mortgage lending. Also, the volume of preference share issuance increased notably, although the absolute amount is not so significant.

Spanish mutual fund assets exceeded 240 billion euro, of which 236.088 billion euro were in securities funds, representing close to 30% of Spain's GDP and around 12% of Spanish households' financial assets. The yields on all fund classes were positive in nominal terms, but several categories (including short-term fixed-income and money market funds) yielded less than inflation, mainly due to low interest rates. Fund management companies greatly increased net commission revenues due to the increase in the volume of managed assets, which amply offset the slight reduction in the percentage commissions. Higher revenues boosted earnings and led to high ROE in the fund management sector. The volume of assets managed by foreign collective investment schemes marketed in Spain doubled during the year to nearly 17.785 billion euro, equivalent to 7.5% of the assets of Spanish collective investment schemes.

The entry into force of the Collective Investment Schemes Law early in 2004 accelerated the process of transforming the former fixed-capital investment companies into variable capital investment companies (SICAV), whose assets totalled slightly over 23 billion euro at year-end.

The number of Spanish-owned brokers and broker-dealers was practically stable, but there was a notable increase in the number of foreign investment firms registered in Spain, particularly under the free provision of services. Spanish brokers and broker-dealers increased revenues and earnings, but as the year progressed they lost weight in the market (e.g. in terms of their share of stock market trading volume) due primarily to expansion in this area by Spanish financial institutions, which are steadily taking over the functions previously performed by their brokerage subsidiaries. As in previous years, Spanish credit institutions continued to play a major role in the provision of financial services related to the securities markets: commissions for securities-related services (underwriting and placement, trading, administration and custody, and asset management) accounted for 9.1% of their total commission revenues, and mutual fund marketing commissions accounted for 16.8%.

In the area of financial regulation, 2004 saw the culmination of the Financial Services Action Plan (FSAP) approved in 1999 by the Council of Economics and Finance Ministers of the European Union to foster full integration of the Union's financial markets. In particular, the framework Directives on Takeovers, Markets in Financial Instruments, and Transparency were approved, and the European Commission passed the Regulation implementing the Prospectus Directive. The approval of these directives involved a period of intense work advising the European Commission and coordinating among the European Union's securities market supervisors, integrated into the CESR. The CNMV participated very actively in this work and, through its Advisory Committee, contributed to raising awareness of these developments in Spain. The transposition of this major body of legislation into Spanish law will be a priority in the coming months and years. In the international arena, the CNMV provided assistance to the International Organization of Securities Commissions (IOSCO), whose new headquarters in Madrid were inaugurated by H.M. the Prince of Asturias in February 2004.

During 2004, the CNMV continued to perform extensive work in the areas of supervision, inspection and discipline attributed to it by law, which extend to a very large number of financial intermediaries, securities markets, clearing and settlement systems, and securities issuers, as described in detail elsewhere in this report. Regarding market participants, the CNMV focused particularly on solvency and prudential requirements, codes of conduct, measures and procedures for internal and risk control at brokers and broker-dealers, portfolio management companies, collective investment institutions and their depositories, and securitisation fund management companies. In order to strengthen coordination with the other Spanish supervisors, the CNMV signed cooperation agreements with the Bank of Spain and the Directorate-General of Insurance. During the year, a plan was developed to supervise compliance with codes of conduct in the provision of financial services by credit institutions, which will begin to be implemented in 2005. As for supervising market activity (including investigations of market abuse, such as price manipulation and insider dealing), the CNMV improved its system of electronic alerts.

In addition to this supervision, inspection and disciplinary work, the CNMV was very active in the area of investor protection: as well as overseeing the appointment of ombudspersons at financial institutions, it attended to queries and complaints, provided training and held awareness-raising events, and issued public warnings about unauthorised firms that were offering financial services. To supplement these efforts, the CNMV placed particular emphasis on making prospectuses easier to understand, particularly in the case of complex products such as preference shares, subordinated debt, option purchase/sale contracts, and guaranteed mutual funds.

Within the Commission itself, two new directorates came into operation (Internal Control and Financial and Accounting Reports), practically all of the internal procedures established by the Internal Regulation were approved, and hiring commenced to fill 60 new positions in order to reinforce the CNMV's staff.

Looking to the future, full integration of the European financial market is an opportunity for Spanish financial institutions to expand but will require major efforts to adapt our domestic legislation to the new European Union regulations and close cooperation among supervisors in the various countries, and it will entail greater competition that will not be confined to the traditional rivalry among financial intermediaries but could also have an impact on the configuration and location of the main securities markets. Aware of these challenges, early in 2005 the Spanish government and the CNMV took measures to foster competition in the Spanish fixed-income markets, focusing particularly on expediting registration processes and reducing their cost.

Listed companies must continue to build on the progress they have made in the areas of transparency and corporate governance and, in 2005, fully adapt to International Financial Reporting Standards (IFRS). The CNMV will continue to devote particular efforts to overseeing the transition to the new reporting standards. While maintaining the rigour required in this process, the CNMV and the economic authorities should also foster listing in the equity markets as a source of financing for Spanish companies, and not just for the largest ones.

Finally, Spain's financial institutions have made notable progress in adopting best practices in marketing securities and providing investment services to their customers. Nevertheless, they must continue on this road in order to adapt to the additional requirements in this area under the codes of conduct imposed by the Markets in Financial Instruments Directive.

In the coming years, Spain's securities markets will experience growing competition, financial innovation and change. I am convinced that the economic authorities, the CNMV and the participants, firms and institutions comprising the markets will face these challenges with professionalism, enthusiasm and efficiency.

Manuel Conthe
President of the CNMV

Annual report of the CNMV 2004

Part I

Markets and issuers

[1] Overview

1.1. International situation

In general, world economic performance in 2004 created a favourable climate for the financial markets: economic growth accelerated, unemployment fell, and inflation (which reflected higher oil prices in the fourth quarter[1] was not excessive. Since economic growth was maintained, monetary authorities in some countries began to control or restrict liquidity by raising interest rates. These movements were gradual and financial institutions adapted well to them.

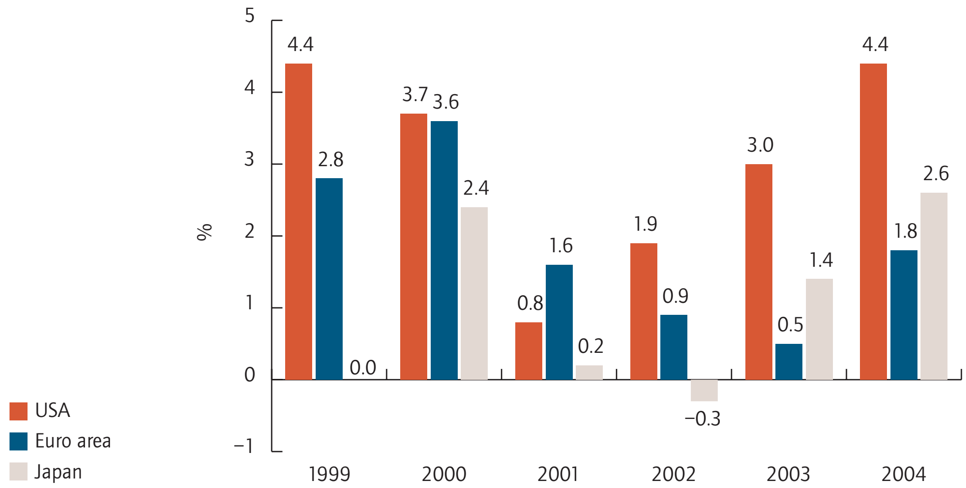
Performance by the main economies[2]

The US economy grew 4.4% in 2004, i.e. 1.4 percentage points more than in 2004 (see figure 1). Household spending and capital expenditure were the growth drivers while the foreign sector provided a very negative contribution, so the current account deficit rose to 5.7% of GDP. Retail prices increased by 3.3% in 2004 (1.9% in 2003) due to the impact of oil prices and the dollar's strong depreciation. The workforce increased by 2.2 million, after several years of stagnation in the job market. The public deficit decreased slightly, from 4.6% of GDP to 4.4%.

The euro area economies grew 1.8% overall, compared with 0.5% in 2003. Despite this increase, the unemployment rate was unchanged at 8.9% due mainly to weakness in Germany, whose GDP rose just 1%. The euro's appreciation against the dollar eliminated most of the inflationary effect of the increase in oil prices but, even so, prices rose by 2.4% in 2004 (four-tenths of a point more than in 2003). The euro area's public deficit increased by one-tenth of a point to 2.9% as a percentage of GDP and some countries are still above the 3.0% cap established in the Stability and Growth Pact. Of the large European economies, only the UK attained over 3% growth, and it maintained inflation under control in a situation of full employment.

Regarding other economies of interest to investors in the Spanish securities markets, there was strong growth in Latin America, where GDP grew 5.5%. Moreover, Latin American economies reduced inflation and stabilised their currencies. In Japan, following deflation in previous years, the economy grew 2.6%, considerably faster than in 2003; however, all the growth was in the first quarter while GDP declined in the other three

Figure 1.1
Annual GDP growth



[1] Oil prices reached a record high (52.1 dollars per barrel) on 12 October 2004. The average daily price in the fourth quarter was 44.3 dollars. Average oil prices were 38.2 dollars in 2004, i.e. 9.3 dollars more than in 2003.
[2] See Annex A.I.1. for more details.

quarters. The weakness of the Japanese economy was reflected in slow retail price growth (0.2% year-on-year in December).

Official interest rates

Changes in financial conditions due to monetary policy were felt more in the US than in Europe as a result of faster growth and greater inflation expectations. The Federal Reserve began to gradually toughen its monetary policy in June and the Fed Funds rate increased 125 basis points (bp) by year-end, from 1% to 1.25% (see figure 1.2). Conversely, the European Central Bank held the base rate unchanged at 2.0% since weakness continued in Europe and because it viewed that the increase in inflation as a temporary phenomenon.

Because of monetary policy bias, bank deposit yields performed differently in the US and the European Monetary Union (EMU). Yields on 1-year deposits in euro rose 5 bp to 2.36% in 2004, while those in dollars increased 164 bp to 3.10%. The curve slope in the euro and dollar rates reflected the different expectations for base rates since the euro rate slope fell while the dollar slope increased[3].

Exchange rates

One factor that clearly influenced monetary policy decisions was the dollar's weak performance against the euro. The dollar depreciated significantly, especially in the fourth quarter (see figure 1.3). At year-end, the exchange rate was 1.36 dollars per euro, 7.8% more than in December 2003. One of the main reasons for the dollar's weakness was the US's strong current account deficit.

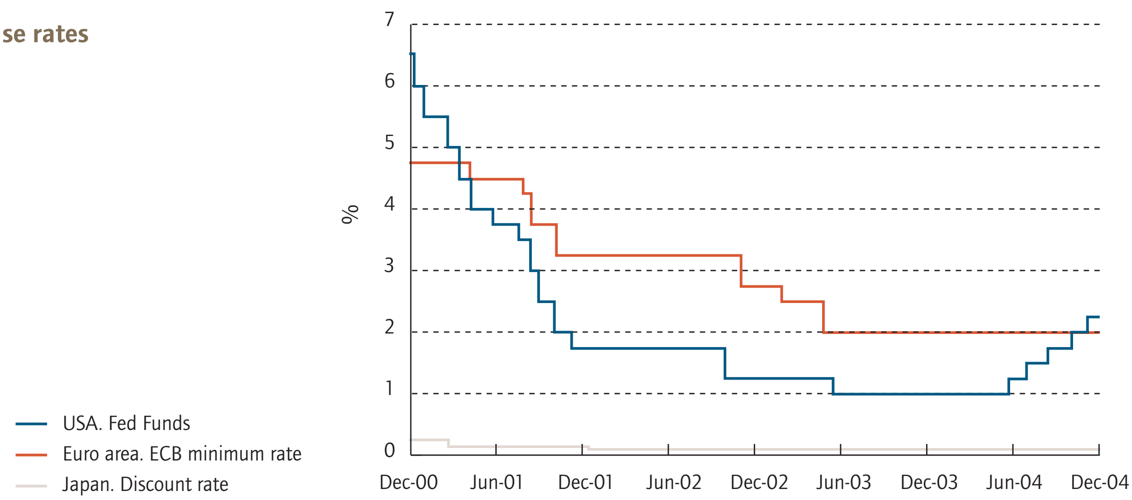
Debt markets

The differences in the US and European economies and in their monetary policies were clearly reflected in their respective public debt market performance (see figure 1.4). The yield on 10-year US public debt, which began the year at similar levels to the European, rebounded considerably in April and May. Although the yield fell subsequently, US debt closed the year with a significantly higher yield than euro area debt. The yield on US 10-year public debt was 4.27% at 2003 year-end, compared with German debt at 4.29%, while they were 4.27% and 3.68%, respectively, at 2004 year-end.

The slope of the debt yield curve fell in the year for both the dollar and euro[4]. Although this reduction was due to an increase in short-term yields in the US, the reason in the EMU was a decrease in long-term yields.

As a result of improved corporate earnings and outlook and the still-low interest rates, the situation remained favourable for issuing activity in the private debt market. In the secondary markets, the yield spread with respect to public debt[5] was

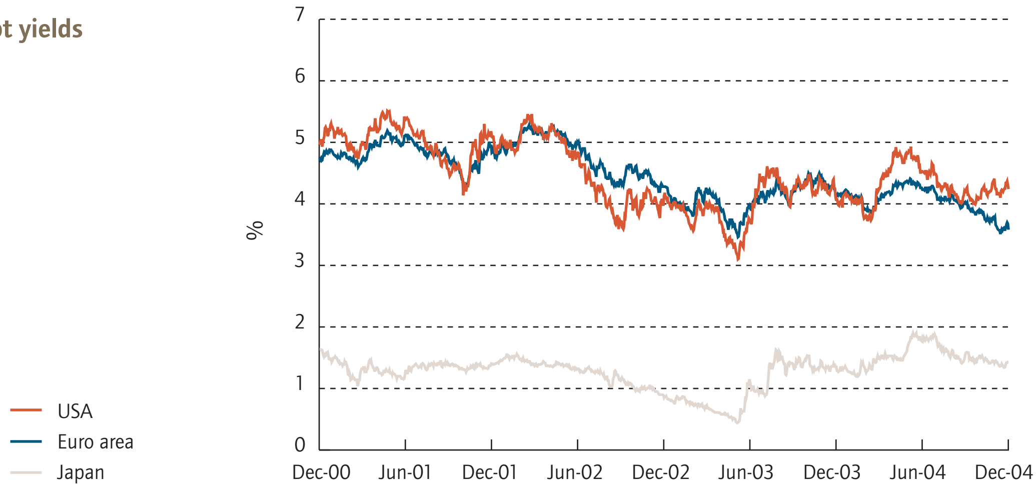
Figure 1.2
Central bank base rates



[3] For the dollar, the difference at year-end between the yield on one-year deposits and on one-month deposits was 68 bp, compared with 34 bp in 2003. For the euro, the difference was 18 bp in 2004, compared with 21 bp in 2003.
[4] In the US, the yield spread between the 10-year debt and 2-year debt narrowed from 184 bp at 2003 year-end to 97 bp at 2004 year-end; in the EMU, this difference decreased from 138 bp to 107 bp, respectively.
[5] This spread reflects mainly the premium associated with the issue's credit risk, which usually depends on the issuer's credit quality.

Figure 1.3
Euro exchange rate against the US dollar and the Japanese yen

Figure 1.4
10-year public debt yields



moderate and there were no significant changes during the year. This moderation was also observed in the spread between the issuers of different credit qualities for private fixed-income issues in euro. However, this was not the case for issues in dollars, where the spread was higher than in Europe for most of the year and fluctuated considerably (see Figure 1.5).

Equity markets

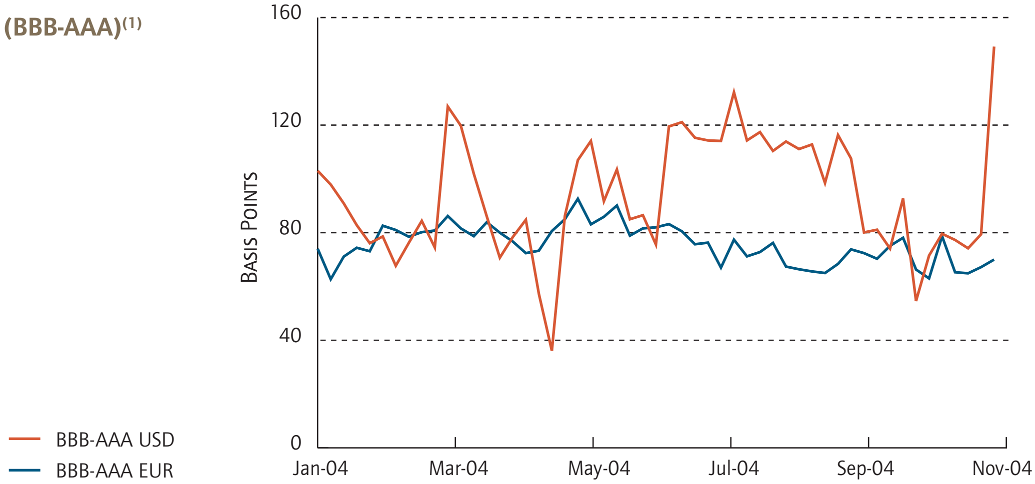
The world's main equity indexes gained in 2004, in an environment characterised by improved corporate earnings and lower volatility. Equity market yields in 2004 were considerably lower than in 2003 (see table 1.1) due to tighter monetary policy in the US and economic weakness in Europe. Moreover, the large gains in 2003, after several years of losses, reduced the scope for additional growth in 2004.

Trading generally increased in all developed markets. However, in many cases, the increases reflected higher prices and the corresponding rise in the unit value of traded assets rather than a net inflow of funds into the market[6].

[6] This can be observed by comparing trading in 2004 and 2003 at constant January 2003 prices, using the market's representative index as the deflator. By this yardstick, in 2004 stock market trading fell 3.8% in Spain and 15.6% in Germany, but increased 10.6% in the UK.

Figure 1.5

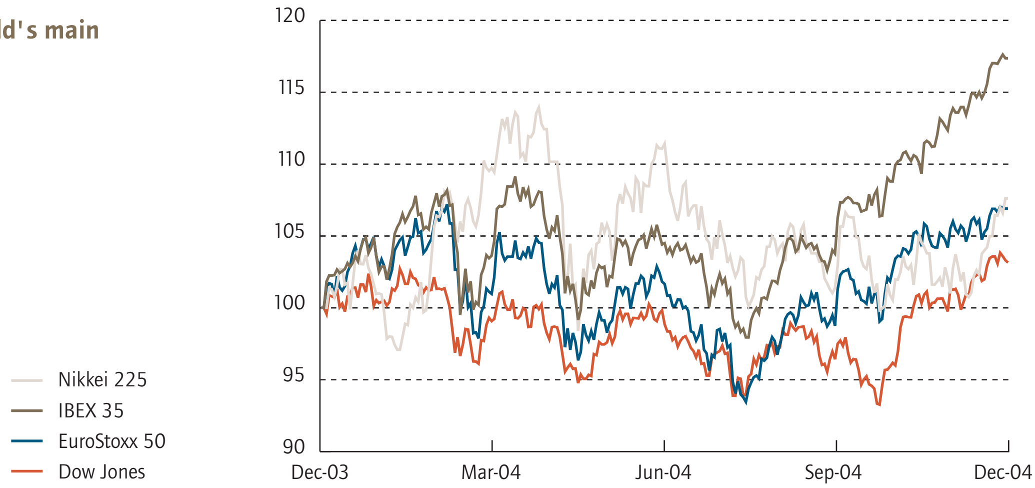
Private debt curve slope (BBB-AAA)(1)



(1) Yield spread between issues with the highest ratings from Standard & Poor' s (AAA, generally sovereign debt) and the lowest rating within investment grade. Bonds lower than BBB are usually called junk bonds.
Source: Reuters.

Figure 1.6

Performance by the world' s main stock indexes



Daily data. Baseline 100: Indexes on 31/12/2003.

In 2004, there were no substantial changes in the organisation of the trading, clearing and settlement infrastructure in the European Union. In recent years, the large European stock markets have pursued different strategies in order to address fiercer competition in these services. The German stock market[7] chose a strategy of vertical integration[8] between the markets and the clearing and settlement systems, particularly after the acquisition of 100% of Clearstream[9] in 2002. Conversely, Euronext has focused mainly on horizontal integration[10] by amalgamating the French, Dutch, Belgian and Portuguese stock

[7] Gruppe Deutsche Börse.
[8] A vertical integration strategy seeks to pool into one company all the services related to buying and selling securities (trading, clearing, settlement, custody, market information, etc.).
[9] Formerly Cedel, an international securities depository domiciled in Luxembourg.
[10] A horizontal integration strategy seeks to create a market that provides the same type of service for securities in several countries. This strategy has been used more frequently in equities, where two or more markets have merged or common trading platforms have been created.

Table 1.1
Equity markets: indexes and trading

	Index			Trading	
Market	Name	Change (%) 2003	Change (%) 2004	Billion euro	Change (%)[1]
Developed countries					
New York	Dow Jones Ind. Av.	25.3	3.1	9,316.7	19.9
Nasdaq	Nasdaq Composite	50.0	8.6	7,021.6	24.0
Tokyo	Nikkei	24.5	7.6	2,591.0	41.8
London	FTSE 100	13.6	7.5	4,149.4	28.2
Euro area[2]	Euro Stoxx 50	15.7	6.9	4,917.1	15.4
Euronext[3]	Euronext 100	12.7	8.0	1,986.4	18.8
Germany	DAX 30	37.1	7.3	1,237.6	8.3
Italy	MIB 30	11.8	16.9	778.4	7.8
Spain	Ibex-35	28.2	17.4	642.1	29.6
Latin America					
Buenos Aires	Merval	104.2	28.3	3.9	56.5
São Paulo	Bovespa	97.3	17.8	83.6	48.5
Santiago	IGPA	46.2	22.1	9.7	62.0
Mexico	IPC	43.5	46.9	36.3	82.2
Lima	IGRA	74.9	52.4	1.2	34.2

(1) In local currency.
(2) Volume traded in euro area stock exchanges.
(3) Refers to the markets integrated into Euronext: Paris, Brussels, Amsterdam, Lisbon and Porto.
Source: Reuters, World Federation of Exchanges and CNMV.

markets and LIFFE. Euronext also owns a large stake in the LCH.Clearnet clearing system and a small stake in the Euroclear settlement system.

Spain and Italy have integrated their various domestic clearing and settlement markets and systems. Italy's main systems are grouped into Borsa Italiana while Spain pooled its systems in 2003 into Bolsas y Mercados Españoles (BME)[11]. In northern Europe, there were many mergers[12] and alliances between the various markets.

1.2. Overview of the Spanish markets

1.2.1. The economic and financial situation in Spain

Spain's economic performance provided financial markets with a reasonably positive context for trading. Spain's economy grew 2.7%[13], clearly faster than the EU average. Internal demand was the Spanish economy's growth driver since it contributed 4.4 percentage points to GDP growth. Conversely, the foreign sector's contribution was negative due to strong import growth (see table 1.2).

Although inflation increased by six-tenths of a point to 3.2% in 2004, low interest rates in the euro area and good performance by public accounts (the deficit was equivalent to three-tenths of a point of GDP) enabled private players to comfortably make their finance and investment decisions.

As a result of higher investments, non-financial companies' borrowing requirements increased (see figure 1.7). The bulk of funds were contributed by the non-resident sector since households (for the first time) and government were net borrowers, while financial institutions maintained a positive,

[11] BME follows the vertical integration model. See Chapter 2.6 for more details.
[12] OMX and the Copenhagen Stock Exchange merged in 2004. OMX resulted from the merger between Swedish market OM and HEX, which includes the Finnish, Estonian, Latvian and Lithuanian markets.
[13] Spanish economic growth data provided in this report come from Spanish National Accounting baseline 1995 (Contabilidad Nacional de España [CNE] base 1995). After this report was drafted, INE published the first data using the CNE baseline 2000, which involves a considerable methodological change.

Table 1.2
Spain's economic indicators

Annual rate of change, unless indicated otherwise	2000	2001	2002	2003	2004
GDP (at constant prices)					
GDP (at market prices)	4.4	2.8	2.2	2.5	2.7
Internal demand(1)	4.7	3.0	2.9	3.3	4.4
Household spending(2)	4.1	2.8	2.9	2.9	3.5
Government spending	5.6	3.5	4.1	3.9	4.9
Gross fixed capital formation	5.7	3.0	1.7	3.2	4.6
Capital goods and other products	5.2	0.4	−2.6	1.7	4.9
Construction	6.2	5.3	5.2	4.3	4.4
Net external demand(1)	−0.3	−0.2	−0.6	−0.8	−1.7
Exports	10.1	3.6	1.2	2.6	4.5
Imports	10.5	3.9	3.1	4.8	9.0
Other indicators					
CPI. December / December	4.0	2.7	4.0	2.6	3.2
Job growth: LFS fourth quarter(3)	5.5	3.1	1.6	3.0	2.7
Unemployment rate: LFS fourth quarter (% of working population)	13.4	10.5	11.5	11.2	10.4
Current and capital account balance of payments (% of GDP)	−2.6	−2.0	−1.3	−1.6	−4.2
Government budget balance (% of GDP)(4)	−0.9	−0.4	0.0	0.4	−0.3

(1) Contribution to GDP growth.
(2) Includes NPISH (non-profit institutions serving households).
(3) Since 2001, the LFS (Labour Force Survey) data conform to the INE' s (Spanish Statistical Institute) new methodology for this survey.
(4) According to the excessive deficit protocol.
Source: INE, Bank of Spain, Economy Ministry and European Commission.

though insufficient, contribution. Consequently, capital imports increased in 2004, as reflected in a larger current and capital account balance deficit.

1.2.2. Individual and household investments in financial assets

In 2004, household investments in financial assets increased by 12.3% on 2003, concentrated mainly on lower-risk assets; in fact, investments in cash and deposits accounted for over half of asset acquisitions and registered the largest increase with respect to 2003 (table 1.3).

Table 1.4 shows the balance and composition of financial assets owned by households at 2004 year-end. The financial assets owned by households amounted to 1,365,410 million euro, i.e. 9.2% more than in 2003. The financial assets owned by households increased from 168% of GDP in 2003 to 171% in 2004[14].

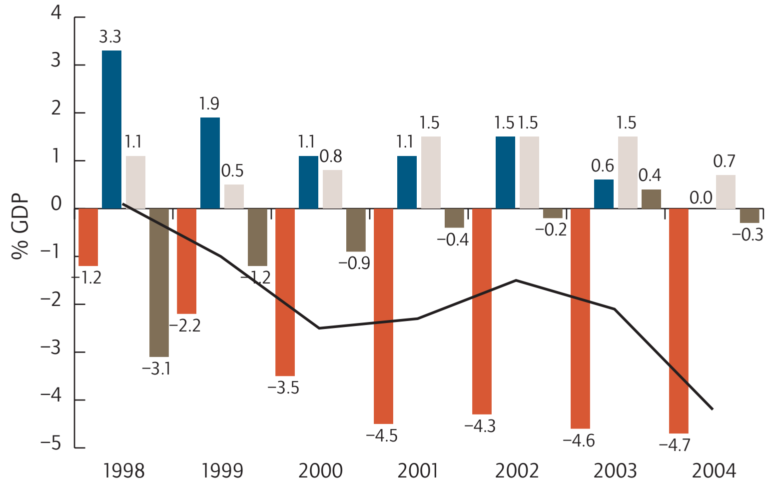
Cash and bank deposits still account for the largest proportion of assets. Nevertheless, the increase in the relative weighting of shares (from 25.9% of total assets to 26.2%) and, to a lesser extent, mutual fund units (from 12.3% to 12.4%) was due to the stock market rally in 2004.

1.2.3. Foreign investment in Spain

The non-resident sector has become one of the biggest investors in Spanish financial assets in recent years. In 2004, non-residents acquired financial assets amounting to 17.8% of GDP (142.156 billion euro) and liabilities totalling 13.6% of GDP (108,417 million euro)[15].

[14] Household financial wealth (total financial assets minus total financial liabilities) amounted to 92% of GDP in the third quarter of 2004, while real estate wealth was more than five times GDP in that period.
[15] In accounting equivalence, this sector's financing capacity matches the Spanish economy's overall borrowing requirement, which was just over 4% of GDP at 2004 year-end.

Figure 1.7
Financing capacity(+)/ borrowing requirements (-) of the various institutional sectors of the Spanish economy. as a % of GDP



Source: Bank of Spain. " Financial Accounts of the Spanish Economy" .

Table 1.3
Net acquisition of financial assets by households(1)

Million euro	2000	2001	2002	2003	2004	Change (%)
Cash and deposits	42,646	29,443	37,017	29,663	46,161	55.6
Securities other than shares	−57	1,115	542	3,569	1,841	−48.4
Loans	–	–	–	–	–	–
Shares and other equities	−10,665	3,627	6,241	22,386	14,143	−36.8
Shares	6,306	−3,541	2,641	3,073	755	−75.4
Other equities	2,919	2,180	2,339	1,907	1,863	−2.3
Mutual fund units	−19,890	4,988	1,262	17,407	11,524	−33.8
Insurance underwriting reserves	21,073	17,520	18,248	14,255	14,796	3.8
Other accounts receivable	5,325	−207	−874	5,146	7,338	42.6
Total	**58,323**	**51,498**	**61,175**	**75,019**	**84,278**	**12.3**

(1) Includes private non-profit institutions.
Source: Bank of Spain, " Financial Accounts of the Spanish Economy" .

Regarding the financial assets acquired by non-residents (see table 1.5), there was a large volume of investment in fixed-income securities (securities other than shares), specifically long-term securities issued by financial institutions, which accounted for over 55% of the total invested in the period[16]. Investments in listed shares by non-residents recovered after negative performance in 2003. Investment in unlisted shares was positive but lower than in 2003.

This investment behaviour changed the composition of the sector's financial asset portfolio, whose value amounted to 1.3 trillion euro at 2004 year-end[17]. Shares continued to account for the largest proportion although this decreased slightly from 29.6% in 2003 to 29.1% in 2004. The fixed-income securities portfolio increased its proportion significantly (from 22.7% to 27.8%). Non-residents have invested very little

[16] There was a matching boom in private fixed-income issues in Spain, especially asset-backed securities (see Chapter 3).
[17] The available balance of payment data, which break down foreign investment into direct and portfolio investment, indicate that in 2004 foreign direct investment in Spain (which includes investment in unlisted shares, other types of equity, financing for related companies and investment in real estate) totalled just over 260 billion euro, i.e. half of the foreign portfolio investment (which includes investment in listed shares and mutual fund units, bonds and debentures, and money market instruments) in Spain in the same period.

Table 1.4

Composition of households' financial assets[1] (%)

	Balance (Million euro)	Cash and deposits	Fixed-income securities	Shares	Mutual fund units	Insurance underwriting reserves	Other
1996	699,409	46.7	3.4	20.2	13.9	10.8	4.1
1997	796,433	40.7	2.8	24.1	17.7	11.3	3.4
1998	937,043	35.7	2.5	28.8	18.7	11.1	3.2
1999	1,032,813	36.3	2.4	29.5	16.5	12.0	3.3
2000	1,053,430	39.6	2.6	26.9	13.6	13.8	3.7
2001	1,117,960	39.9	2.4	27.4	12.6	14.3	3.4
2002	1,092,880	43.3	2.5	22.3	12.1	16.0	3.8
2003	1,250,856	40.0	3.1	25.9	12.3	15.3	3.6
2004	1,365,410	39.8	2.9	26.2	12.4	15.1	3.7
Pro memoria: breakdown of the change in the portfolio value between December 2003 and December 2004							
Change (%)	9.2	8.7	1.1	10.5	10.0	8.1	13.5
Change in absolute terms	114,554	43,562	431	33,803	15,339	15,410	6,009
– asset acquisitions	84,278	46,161	1,841	2,619	11,524	14,796	7,338
– approximate price effect	30,276	−2,599	−1,410	31,184	3,815	614	−1,329

(1) Includes private non-profit institutions.

Source: Bank of Spain " Financial Accounts of the Spanish Economy" , and CNMV.

Table 1.5

Net acquisition of financial assets by non-residents

Million euro

	2000	2001	2002	2003	2004	Change (%)
Cash and deposits[1]	40,849	18,137	30,636	55,994	14,823	−73.5
Securities other than shares	42,975	20,211	31,147	41,651	101,975	144.8
Loans	21,494	26,875	21,612	20,523	6,891	−66.4
Shares and other equities	57,505	30,368	28,925	5,943	14,167	138.4
Shares	54,174	25,835	19,229	−1,543	6,859	–
Other equities	3,860	4,749	6,060	6,991	6,696	−4.2
Mutual fund units	−529	−217	3,637	495	612	23.6
Other accounts receivable	6,585	943	1,306	1,515	4,300	183.8
Total	**169,407**	**96,534**	**113,627**	**125,626**	**142,156**	**13.2**

(1) Includes monetary gold and SDRs.

Source: Bank of Spain.

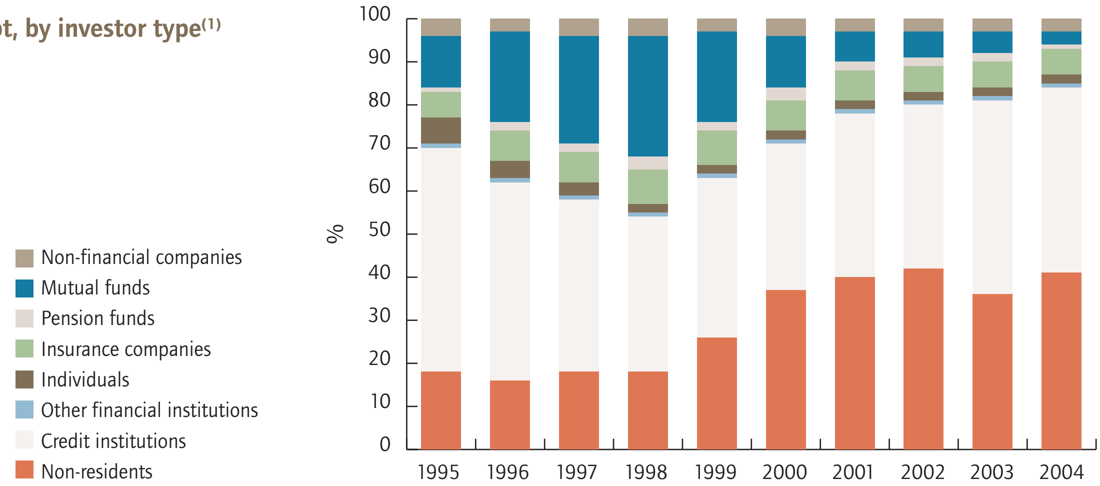
in Spanish mutual funds (just about 1% of their portfolio in recent years).

The non-resident sector has gradually increased its presence in the Spanish equities and fixed-income markets, especially since the euro's introduction. In particular, non-residents have significantly increased their presence in the public debt markets: the percentage of unstripped government debt held by foreign investors practically doubled, from under 20% at the end of the 1990s to over 40% at 2004 year-end (see Figure 1.8).

The non-resident sector's investment in equities increased from nearly 40% of the effective value of trades in the Spanish market in 1998 to 65% between January and November 2004 (see figure 1.9).

Figure 1.8

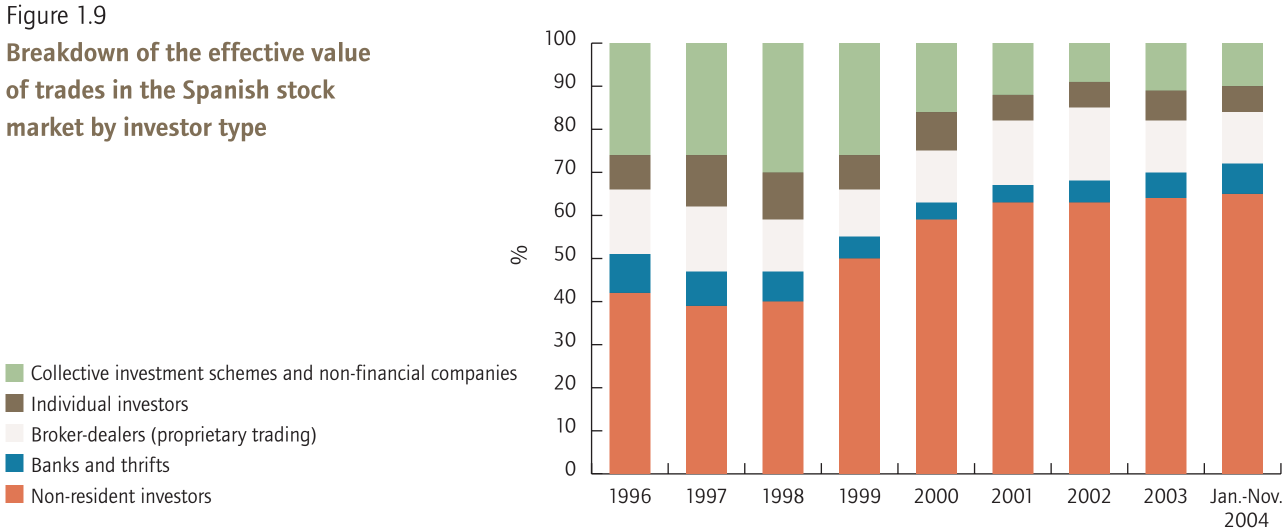
Government debt, by investor type[(1)]



(1) Excluding STRIPS
Source: Spanish Treasury.

Figure 1.9

Breakdown of the effective value of trades in the Spanish stock market by investor type



Source: " 2004 Market Report" . Madrid Stock Exchange.

1.2.4. Spain's securities markets[18]

Equities[19]

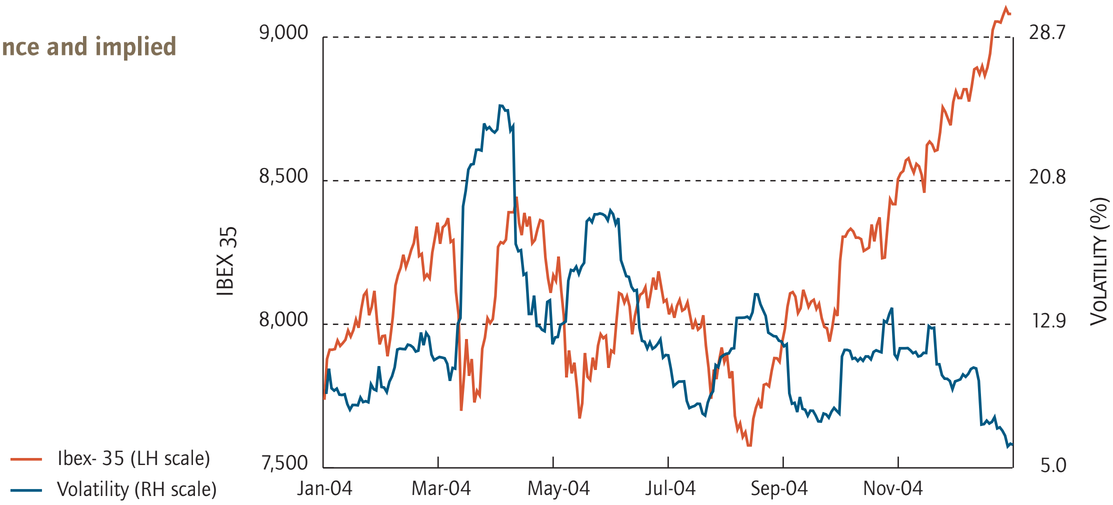
The Ibex-35, Spain's blue chip index, closed 2004 with a gain of 17.4%, after increasing 28.2% in 2003. The sector indices (see Annex A.I.2.) show that share prices increased significantly in nearly all sectors. Share prices rose in a context of less uncertainty, so volatility decreased[20] (see Figure 1.10).

Though it appreciated by less than in 2003, the Spanish stock market outperformed the main European markets due mainly to Spain's better economic situation and to economic growth in

[18] The performance, activities and structure of Spain's securities markets are detailed in subsequent chapters. This section deals with overall performance.
[19] See Chapter 2 for more details.
[20] Implied volatility in the Ibex-35 remained at a low in 2004, averaging 14.8% in the year. Volatility was 23.6% in 2003 and 33.1% in 2002.

Figure 1.10

Ibex-35 performance and implied volatility[1]



1) Implied volatility published by MEFF for the front derivative.

Table 1.6

Pre-tax earnings of IGBM companies

Million euro

Sector	2000	2001	2002	2003	2004[1]	Change (%)
Consumer goods	1,008.3	1,372.1	1,607.6	838.7	1,139.5	35.86
Capital and intermediate goods	1,167.0	685.5	828.6	774.4	1,429.3	84.57
Energy	9,979.8	7,311.3	7,816.2	9,498.0	10,396.4	9.46
Construction	1,478.1	1,816.3	2,141.1	2,226.0	3,069.0	37.87
Financial services	10,160.1	10,635.2	9,580.7	11,406.6	12,656.0	10.95
Communications and information services	2,427.9	2,814.0	−26,480.1	5,179.7	7,308.9	41.11
Market services	1,607.5	1,594.6	1,788.6	2,403.9	3,055.4	27.10
Total index	**27,646.7**	**26,229.0**	**−2,717.2**	**32,327.2**	**39,054.4**	**20.81**
Pro memoria: Ibex-35	25,162.3	22,920.87	−3,874.97	32,012.2	37,702.1	17.77

Source: Madrid Stock Exchange and CNMV

Latin America, where the large Spanish companies have sizeable investments. As a result of increased corporate earnings (see table 1.6), the price-earnings (P/E) ratio decreased from 16 at 2003 year-end to 14.7 in December 2004, despite higher share prices.

Market capitalisation increased by 20.6% and trading by 29.6%; both percentages were larger than those registered in the main equities markets. Capitalisation and trading as a percentage of GDP suggest that the size of the Spanish stock market bears more than a reasonable relation to the size of the Spanish economy when compared with other countries. Both indicators show a similar percentage in the Spanish stock market to that of Euronext and clearly higher than the German and Italian stock markets (see table 1.7). The indicators are higher in the US and London stock markets (the most mature).

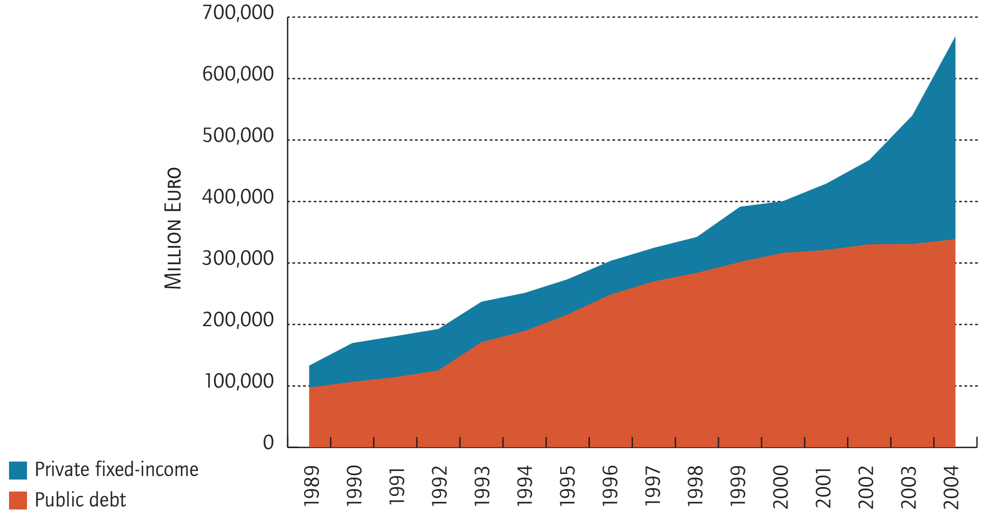
Table 1.7

Market capitalisation and trading in 2004

	Capitalisation / GDP (%)	Trading/ GDP (%)
New York	99.1	98.8
United States[1]	126.7	173.2
Tokyo	69.7	69
London	121.2	242.7
Euronext[2]	71.6	79.2
Germany	40.4	56.8
Italy	43.0	57.6
Spain	70.6	81.0

(1) The numerator is the sum of NYSE and Nasdaq.
(2) The denominator is the sum of GDP in France, The Netherlands, Belgium and Portugal.
Source: World Federation of Exchanges, Eurostat and CNMV.

Figure 1.11
Outstanding balance of fixed-income securities



Fixed-income[21]

In 2004, private fixed-income issues increased by 23% to 189.5 billion euro. Most of the issues were by financial institutions in order to finance their lending activity in the real estate market (see Chapter 3). Government issuing activity was more moderate due to favourable performance by public accounts. Gross government issues grew 4.8% to 83.8 billion euro.

Trading in the secondary market followed a different pattern in the three official fixed-income markets. AIAF, the largest private fixed-income market, was favoured by the sharp increase in issuing activity in this segment. Trading on AIAF increased by 49% to 572 billion euro[22].

Fixed-income trading on the stock exchange grew more moderately, rising 15.7% to 77 billion euro. The bulk of trading was in debt issued by regional governments, especially Catalunya.

Trading in held-to-maturity securities on the public debt book-entry market decreased 2.7% to 2.2 trillion euro. The decrease was concentrated in electronic trading between account holders[23]. Trading in repos and simultaneous contracts increased by 8.5% to 20.6 trillion euro.

Derivatives[24]

There are currently two derivatives markets in Spain: Mercado Español de Futuros y Opciones Financieros (MEFF) and Mercado de Futuros sobre Aceite de Oliva (MFAO). There is also a secondary market in warrants managed by the stock exchanges.

As in previous years, the bulk of trading on MEFF was in contracts on individual shares listed in the Spanish stock market and on the Ibex-35 index[25]; MEFF is the international benchmark market for these assets. The decline in volatility in the cash market reduced trading in contracts on individual stocks, but this was offset by an increase in trading of Ibex-35 contracts. This segment felt the positive effect of the improvements introduced by MEFF, mainly an increase in the number of non-resident members and the incentive programme for participants who provide liquidity. Overall, trading on those two types of underlying decreased slightly (around 1.6%)[26].

MFAO is the world's first olive oil futures market. Trading began in February 2004 and a total of 10,693 contracts were traded in the year.

The primary market in warrants was more active than in 2003. Premiums amounted to 1.5 billion euro, i.e. a 15% increase.

[21] See Chapter 3 for more details.
[22] Third-party trading (i.e. between financial institutions and their customers) has gained in importance on AIAF in recent years compared with proprietary trading (i.e. between financial institutions). In 2004, the former accounted for 75% of the total.
[23] See Chapter 3.1.2 for reasons for this decrease.
[24] See Chapter 6 for more details.
[25] Since the euro's introduction, the proportion of contracts on debt and interest rates has decreased in this market and is now negligible (98 contracts traded in 2004).
[26] See Chapter 6.1 for details of trading in these segments.

The secondary market, which operates via an electronic trading platform within Spain's electronic system (Sistema de Interconexión Bursátil), continued to expand: trading amounted to 1.8 billion euro, i.e. 13% more than in 2003.

Collective investment schemes (IIC)[27]

All collective investment schemes performed well in 2004. Assets managed by securities mutual funds rose by 16.7% to 236 billion euro due mainly to an increase in subscriptions[28]. It was also a good year for open-end securities investment companies (SICAV), whose assets grew nearly 15% to 23.2 billion euro. Real estate funds' assets also grew sharply (over 50%) although the investment is still low compared with securities funds: 4.3 billion euro.

Collective investment is well established among small Spanish savers. For example, since the mid-1990s, mutual funds have always accounted for over 12% of the total financial assets of households and other non-profit institutions[29]. This activity also accounts for a large proportion of Spain's financial industry in terms of both the amount managed (around 263.5 billion euro at the end of 2004) and its importance in generating revenues for financial institutions[30].

International comparisons also evidence the importance of collective investment in Spain. The assets managed by Spanish undertakings for collective investments in transferable securities (UCITS)[31] was equivalent to approximately 29.7% of GDP in December 2004. As show in Table 1.8, that percentage is in line with or greater than other large European countries, except France[32].

Table 1.8

Assets owned by undertakings for collective investments in transferable securities (UCITS) in the main European countries

Million euro

Country	Assets[(1)]	% of GDP[(2)]
France	981,600	60.4
Luxembourg	980,373	3,848.7
Italy	373,410	27.6
UK	361,728	21.2
Ireland	330,907	226.4
Germany	226,579	10.4
Spain	236,088	29.7
Pro memoria:		
Euro area	3,443,431	45.6
Euro area excluding Luxembourg	2,463,058	32.7

(1) Assets at 30/9/2004 except Spain, whose figures correspond to year-end.
(2) GDP at 2004 prices.
Source: EFAMA and Eurostat.

[27] See Chapter 7 for more details.
[28] Seventy-five percent of the increase in assets was due to subscriptions net of reimbursements and the rest to asset appreciation.
[29] Bank of Spain: Financial Accounts of the Spanish Economy.
[30] As detailed in Chapter 9, mutual fund marketing commissions accounted for 15.8% of credit institutions' total commission revenues in 2003. In addition to these services revenues, these institutions also obtain revenues as a result of their stakes in IIC operators, which administer the bulk of the sector's assets.
[31] This is the international standard name for open-ended funds which are marketed publicly that invest in transferable securities and money market assets.
[32] Ireland and, above all, Luxembourg are an exception in Europe in terms of collective investment. Their UCITS assets, which bear no relation to the size of those countries' economies, clearly respond to specialisation as international financial centres.

[2] Stock exchanges

The Spanish stock markets[1] performed positively in 2004 since, in addition to the increase in share prices and the Ibex-35 index rising 17.4% (see Chapter 1), there was strong growth in trading volume, market capitalisation and securities issuance. The main features of stock market performance in 2004 were as follows:

- As a result of higher prices and the influx of new funds into the market, especially via capital increases, the capitalisation of securities listed on the stock exchanges totalled nearly 560,300 million euro, exceeding the previous record, which was set at the end of 2000.
- Stock market trading continued to rise (30% in 2004) due mainly to higher share prices.
- The effective amount of the securities issued in 2004 (18,748 million euro) was considerably higher than in 2003. The largest capital increase was performed by Banco Santander Central Hispano (12,756 million euro) in order to acquire Abbey National Bank.
- The number of listed companies, not including investment companies, decreased from 219 in 2003 to 198 in 2004, confirming the trend observed since 2001. A total of 46 companies were delisted, seven from the electronic market.
- The number of takeover bids and their amount (1,973 million euro) declined on 2003. A large number of takeover bids were aimed at delisting the target company.
- Several European directives were approved, within the Financial Services Action Plan, with a significant repercussion on the securities markets, such as the Markets in Financial Instruments Directive, Transparency Directive and Takeover Bids Directive.

2.1 Market size

The price of securities traded in the Spanish stock markets increased in 2004 and the Ibex-35 index gained 17.4%, slightly higher than other European markets. This share rally was the main reason behind the increase in market capitalisation (20.6%), which outstripped the rise in equity issues.

2.1.1 Listed companies

At 2004 year-end, the number of companies listed on the Spanish stock markets, excluding open-end securities investment companies[2] (SICAV), amounted to 198, i.e. 21 less than at 2003 year-end (see Table 2.1). Of the 198 companies, 128 traded on the electronic market[3], 53 in the open outcry system and 17 in the second market.

In 2004, three companies were listed: Fadesa Inmobiliaria, Gestevisión Telecinco and Cintra Concesiones de Infraestructuras de Transporte. Most of the removals were in the open outcry segment and second market and were due to delistings. Nevertheless, there were also seven delistings in the electronic market[4].

2.1.2 Market capitalisation

At 2004 year-end, the capitalisation of companies listed on the Spanish stock markets amounted to 560,271 million euro, approximately 70% of GDP. Capitalisation increased 20.6% on 2003, when it represented 62% of 2003 GDP. Spanish companies whose shares are traded on the electronic market account for 84.1% of capitalisation, while foreign companies represent 9.8%.

---

[1] Spain has four stock exchanges: Madrid, Barcelona, Bilbao and Valencia. The most liquid assets in the Spanish market are traded via an electronic trading system (Sistema de Interconexión Bursátil Español-SIBE) that interconnects the four stock exchanges. Each exchange also has an open outcry market for shares not listed in SIBE.
[2] A total of 3,034 SICAV were listed at 2004 year-end.
[3] The number of companies traded on the electronic market decreased from 132 in December 2003 to 128 in 2004.
[4] The following companies delisted from the electronic market: Banco Atlántico, European Paper and Packaging Investment Corporation, Aceralia Corporación Siderúrgica, Nueva Montaña Quijano, Centros Comerciales Carrefour, Parques Reunidos and Fastibex.

Table 2.1
Companies listed in the Spanish stock markets

	Total market	Total market exc. SICAV	Electronic market[1] Total	Electronic market[1] Spanish	Electronic market[1] Foreign	Open outcry Exc. SICAV	Open outcry SICAV	Second market
Total no. of companies:								
Listed at 31/12/03	3,208	219	132	126	6	65	2,989	22
Listed at 31/12/04	3,232	198	128	122	6	53	3,034	17
Listed in 2004	**73**	**3**	**3**	**3**	**0**	**0**	**70**	**0**
Newly-listed	73	3	3	3	0	0	70	0
Listed due to mergers	0	0	0	0	0	0	0	0
Change of market	0	0	0	0	0	0	0	0
Delisted in 2004	**49**	**24**	**7**	**7**	**0**	**12**	**25**	**5**
Delisted	42	23	6	6	0	12	19	5
Delisted due to mergers	7	1	1	1	0	0	6	0
Change of market	0	0	0	0	0	0	0	0
Net change in 2004	**24**	**–21**	**–4**	**–4**	**0**	**–12**	**45**	**–5**

(1) Excluding Latibex.

Table 2.2
Capitalisation of equities in the Spanish stock markets[1]
Million euro

	2001	2002	2003	2004	% Chg. 04/03
Total markets	**471,330.6**	**367,313.3**	**464,480.5**	**560,271.7**	**20.6**
Electronic market	444,603.3	339,634.5	433,971.0	525,695.1	21.1
Spanish	396,248.9	302,643.0	384,338.6	470,960.6	22.5
Foreign[2]	48,354.4	36,991.5	49,632.4	54,734.6	10.3
Open outcry[3]	26,401.5	27,295.8	30,139.9	34,284.0	13.7
Madrid	15,960.3	21,121.8	23,146.8	21,278.8	–8.1
Barcelona	6,229.8	4,095.3	5,216.5	8,392.5	60.9
Bilbao	2,099.4	1,727.4	3,467.8	2,472.3	–28.7
Valencia	3,624.8	2,330.5	3,182.3	4,910.8	54.3
Second market	325.8	383.0	369.5	292.5	–20.8

(1) Capitalisation at each year-end. Includes only the capitalisation of companies that were traded in the year.
(2) Excluding Latibex.
(3) Includes open-end securities investment companies (SICAV) and closed-end securities investment companies (SIM).

As a result of higher prices and the influx of new funds to the market, especially via capital increases, the capitalisation of securities listed on the stock market totalled 560,271 million euro, exceeding the previous record registered at the end of 2000.

The increase in capitalisation was widespread across all sectors, except cement and construction materials (see Table 2.3).

The largest increase in capitalisation in absolute terms was in the banking sector due mainly to the capital increase at Banco Santander Central Hispano, which accounted for half the increase in this sector.

The sector with the largest capitalisation continues to be banking (24.3% of the total), followed by transport & communications (22.3%) and energy & water (10.5%). Those

Table 2.3
Listed companies, by sector, at 31/12/2004[1]
Capitalisation in million euro

Sector	Number 2003	Number 2004	Capitalisation 2003	Capitalisation 2004	Chg. (%)
Oil	2	2	26,232.9	31,338.7	19.5
Energy & water	11	11	48,800.4	58,843.7	20.6
Mining & base metals	12	11	12,780.1	15,407.3	20.6
Cement & construction materials	7	6	3,116.0	3,089.8	–0.8
Chemicals	4	4	16,508.9	18,005.1	9.1
Textile & paper	20	20	12,306.2	16,315.3	32.6
Metal-mechanical	16	17	32,366.9	33,009.8	2.0
Food	19	19	11,529.0	15,992.2	38.7
Construction	8	7	18,866.0	24,022.9	27.3
Real estate	31	29	7,377.4	11,561.8	56.7
Transport & communications	7	8	102,773.8	125,008.8	21.6
Other non-financial	27	23	29,503.9	34,931.5	18.4
Total non-financial sector	**164**	**157**	**322,161.5**	**387,526.8**	**20.3**
Banks	16	15	111,181.4	136,265.0	22.6
Insurance companies	3	3	3,048.0	4,063.1	33.3
Portfolio companies	22	17	3,158.2	3,425.7	8.5
SICAV[2]	2,919	3,034	24,931.3	28,991.1	16.3
Total financial sector	**2,960**	**3,069**	**142,318.9**	**172,744.9**	**21.4**
Total	**3,124**	**3,226**	**464,480.5**	**560,271.7**	**20.6**

(1) Excluding companies traded on Latibex. Capitalisation at year-end.
(2) Includes open-end securities investment companies (SICAV) and closed-end securities investment companies (SIM).

Table 2.4
Concentration of capitalisation of equities[1]
No. of companies required to attain a given percentage

	2003				2004			
	25%	50%	75%	100%	25%	50%	75%	100%
Total markets	**3**	**8**	**23**	**3,124**	**3**	**8**	**25**	**3,227**
Electronic market	3	7	18	131	3	7	19	128
Spanish	2	5	17	125	2	6	17	122
Foreign[2]	1	3	3	6	1	2	3	6
Open outcry	14	134	710	2,976	17	148	753	3,084
Second market	2	3	5	17	1	2	5	15

(1) Capitalisation at each year-end. Includes only the capitalisation of companies that were traded in the year.
(2) Excluding Latibex.

three sectors accounted for 57.1% of the total (see Table 2.3 and Annex A.I.4).

At 2004 year-end, the 19 largest companies accounted for 75.5% of capitalisation in the electronic market[5] (see Table 2.4). Capitalisation is especially concentrated in the textile & paper, chemicals, metal-mechanical and food sectors (see Annex A.I.3). On the other hand, capitalisation in sectors such as construction and construction materials is more fragmented.

[5] Those 19 companies represented 70.9% of total capitalisation.

2.1.3 Trading

A noteworthy feature of the Spanish stock market in 2004 was the significant increase in trading volume, which totalled 641,742 million euro, i.e. 30.0% more than in 2003. A total of 99.2% of trading was conducted via the electronic market: 636,527 million euro (see Table 2.5). The increase in trading volume was due mainly to the rise in securities prices.

Table 2.6 details the type of trading. Of the various types of trading in the electronic market, regular session trading increased by 31.6%[6]. Block trading continued to grow significantly.

Market liquidity increased in 2004, as reflected in a higher turnover velocity in the electronic market (from 102.5% in 2003 to 106.5% in 2004, see Figure 2.1) and greater market depth.

The breakdown of trading by sector did not change significantly with respect to 2003 (see Figure 2.2), although the concentration

Table 2.5

Equities trading

Million euro

	2001	2002	2003	2004	% Chg. 04/03
Total markets	**444,243.6**	**444,725.0**	**493,765.3**	**641,742.4**	**30.0**
Electronic market	440,546.7	439,739.8	489,307.3	636,527.4	30.1
Spanish	438,635.7	435,420.8	486,799.0	630,361.7	29.5
Foreign[(1)]	1,911.0	4,319.1	2,508.3	6,165.7	145.8
Open outcry	3,672.1	4,967.3	4,444.7	5,193.7	16.9
Madrid	2,469.6	3,235.3	3,009.8	3,316.0	10.2
Barcelona	660.2	948.6	871.1	1,123.6	29.0
Bilbao	296.7	297.8	147.5	212.7	44.2
Valencia	245.6	485.5	416.3	541.4	30.0
Second market	24.9	17.9	13.3	21.3	59.7

(1) Excluding Latibex.

Table 2.6

Trading in the electronic market, by type[(1)]

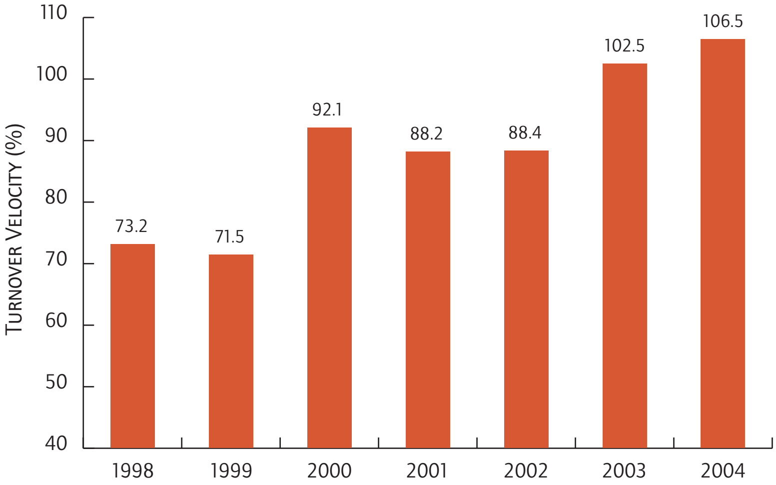
Million euro

	2001	2002	2003	2004	% Chg. 04/03
Regular trading	420,839.8	406,062.2	455,745.8	599,874.2	31.6
– Orders	281,037.4	259,160.7	272,384.1	353,532.0	29.8
– Put-throughs	90,480.9	75,910.0	60,127.7	71,360.1	18.7
– Block trades	49,321.5	70,991.5	123,233.9	174,982.0	42.0
Off-hours	3,738.7	18,685.0	15,947.6	26,037.3	63.3
Authorised trades	856.8	4,822.4	3,009.8	1,367.2	−54.6
Art 36.1 SML trades	382.0	2,116.1	4,704.1	826.0	−82.4
Tender offers	5,361.9	1,571.2	4,823.7	1,698.8	−64.8
Public offerings	3,264.4	1,800.5	417.4	3,057.2	632.5
Declared trades	1,290.5	566.5	747.8	278.5	−62.8
Options	4,805.2	4,096.9	3,911.0	3,388.3	−13.4
Total trading	**440,539.3**	**439,720.8**	**489,307.3**	**636,527.4**	**30.1**

(1) Excluding trading on Latibex.

[6] Average trading per business day amounted to 2,389.9 million euro in 2004, compared with 1,808.5 million euro in 2003.

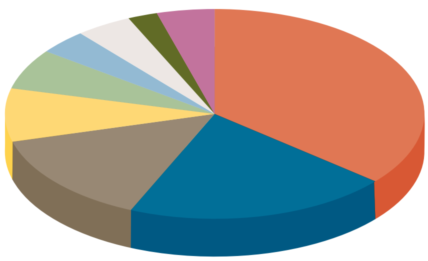
Figure 2.1
Turnover velocity(1) in the electronic market



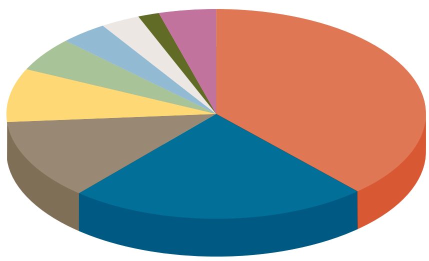
(1) Turnover/average capitalisation in the year.

Figure 2.2
Trading by sector

2003



2004



Banks 36.5%
Transport & communications 20.7%
Energy & water 14.4%
Oil 8.3%
Other non-financial 6.3%
Food 3.8%
Construction 4.4%
Textile & paper 2.3%
Other 4.5%

Bancos 37.8%
Transportes y comunicaciones 22.9%
Energía y agua 12.3%
Petróleo 8.2%
Otros no financieros 5.2%
Food 3.6%
Construction 3.0%
Textile & paper 1.6%
Other 4.3%

of trading in the banking and transport & communications sectors increased in 2004, while it decreased in the energy sector.

Like market capitalisation, a relatively small number of companies concentrated the bulk of trading (see Table 2.7).

Three companies, Telefónica, Banco Santander Central Hispano and Banco Bilbao Vizcaya Argentaria, concentrated over 50% of trading, as in 2003[7].

[7] Trading in Telefónica, Banco Santander Central Hispano and Banco Bilbao Vizcaya Argentaria accounted for 20.6%, 17.7% and 16.0%, respectively, of the total electronic market.

Table 2.7

Concentration of equities trading in Spanish stock markets

No. of companies required to attain a given percentage

	2003				2004			
	25%	50%	75%	100%	25%	50%	75%	100%
Total markets	2	3	8	3,174	2	3	8	3,258
Electronic market	2	3	8	142	2	3	7	134
Spanish	2	3	8	136	2	3	7	128
Foreign	1	1	2	6	1	1	2	6
Open outcry	18	84	272	3,014	23	95	284	3,104
Second market	1	2	3	18	1	1	2	20

Table 2.8

Market members

	2003	2004	% Chg. 04/03
Madrid Stock Exchange	53	56	5.7
Barcelona Stock Exchange	35	36	2.9
Bilbao Stock Exchange	7	9	28.6
Valencia Stock Exchange	18	20	11.1
Total markets(1)	**64**	**68**	**6.3**

(1) Number of different members. Some members are present in various markets, so the actual total is less than the sum of the individual market figures.

2.1.4. Margin trading and security lending

At 2004 year-end, the balance of margin trading, i.e. the credit directly related to the buying and selling of listed securities[8], was higher than at 2003 year-end (see Table 2.9).

Security lending increased significantly in 2004: the net outstanding balance of re-lending[9] amounted to 54,518 million euro at 2004 year-end, i.e. 10.4% of total market capitalisation.

2.2 Issues and public offerings

Thirty-one companies filed 36 equities issues with the CNMV in 2004, compared with 34 companies in 2003 (see Table 2.10). The effective amount of the securities issued in 2004 totalled 18,748 million euro, compared with 3,289 million euro in 2003 (see Table 2.11).

The banking sector was the largest issuer (16.3 billion euro); three banks performed four transactions to finance acquisitions. The amount issued by the banks accounted for 85.7% of the total effective amount issued in 2004. The main transaction was performed by SCH, with an effective amount of 12,756 million euro (see Annex A.I.6), to finance the acquisition of Abbey National Bank.

In 2004, six secondary public offerings were filed, of which five were performed since the offeror of Probitas Pharma, S.A. withdrew the offer[10]. Of those five, three were for the general public and two for institutional investors:

- The following secondary public offerings for investors in general were completed: (i) Fadesa Inmobiliaria, S.A., (ii) Gestevisión Telecinco, S.A. and (iii) Cintra Concesiones de Infraestructuras de Transporte, S.A, which also performed a capital increase via a primary public offering.
- There were just two secondary public offerings for institutional investors. The first one was an offering by Saint Louis Sucre, S.A. of Ebro Puleva, S.A. stock and the second by Lufthansa Commercial Holding GmbH of Amadeus Global Travel Distribution, S.A. stock.

[8] Ministerial Order dated 25 March 1991 on the margin system in stock market transactions.

[9] Lending of borrowed securities.

[10] The issuer withdrew the primary and secondary offerings filed on 14 July 2004 due to the unfavourable market situation.

Table 2.9

Margin trading and security lending

Million euro

	Margin trading(1)				Security lending(2)			
	Outstanding balance(3)		Trading		Outstanding balance(4)		Trading	
	Purchases	Sales	Purchases	Sales	Net	% of electronic market capitalisation	Amount	% of electronic market capitalisation(5)
1999	32.6	6.0	677.2	167.5	10,439.3	2.5	62,098.3	21.7
2000	54.7	4.4	1,121.3	151.4	12,102.0	2.6	87,406.4	17.9
2001	43.1	8.5	534.1	174.1	20,141.4	4.5	89,606.0	20.3
2002	31.5	7.8	382.9	161.2	14,125.3	4.2	106,983.2	24.3
2003	32.8	17.3	346.1	199.8	28,873.1	6.7	161,775.2	33.1
2004	46.7	18.2	401.8	139.2	54,518.5	10.4	306,056.7	48.1

(1) Transactions performed in accordance with Ministerial Order dated 25 March 1991 on the margin system in spot transactions.
(2) Transaction performed outside the scope of the Order dated 25 March 1991, i.e. not related to margin trading.
(3) Amount at year-end.
(4) Total balance minus the amount of re-lending. The denominator of the percentage includes Latibex.
(5) Compared with regular session trading on the SIBE electronic market.

Table 2.10

Capital increases and public offerings(1)

	No. of issuers		No. of issues	
	2003	2004	2003	2004
Capital increases	**34**	**31**	**41**	**36**
of which primary offerings(2)	0	3	0	3
with Spanish tranche	0	3	0	3
with international tranche	0	2	0	2
Secondary offerings	**3**	**6**	**4**	**6**
with Spanish tranche	3	5	4	5
with international tranche	0	2	0	2
Total	**37**	**37**	**45**	**42**
Pro memoria: IPOs:				
Via primary or secondary public offerings	0	3	0	3
Other IPOs(3)	1	0	1	0

(1) Includes all registered operations.
(2) Primary public offering. Public offering of warrants after shareholders waived their preferential subscription rights.
(3) The IPO in 2003 was performed by Antena 3 Televisión when Telefónica distributed 30% as a dividend in kind.

Banco de Sabadell also made a primary public offering among institutional investors in addition to a rights issue as part of the operation to acquire Banco Atlántico. The combined total of both transactions was 1,304.6 million euro.

2.3 Delistings

A total of 46 companies were delisted[11] in 2004 (see Annex A.I.7), of which seven were from the electronic market, 34

[11] Not including the delisting of Companhia Suzano de Papel e Celulose, a Brazilian company that was listed in Latibex.

Table 2.11

Capital increases and public offerings: effective amount

Million euro

	2003	2004	% Chg. 04/03
Capital increases	**3,289.3**	**18,748.0**	**470.0**
of which primary offerings	0.0	1,101.9	n.s.
with Spanish tranche	0.0	537.9	n.s.
with international tranche	0.0	564.0	n.s.
Secondary offerings	**469.5**	**2,987.6**	**536.3**
with Spanish tranche	469,5	1.664,4	254.5
with international tranche	0,0	1.323,2	n.s.
Total	**3,758.8**	**21,735.6**	**478.3**
Pro memoria: IPOs			
Via primary or secondary public offerings	0.0	2,745.0	n.s.
Other IPOs(1)	446.8	–	n.s.

(1) Antena 3 TV was listed after 30% was distributed among Telefónica shareholders as a dividend in kind. The amount provided in this table is the number of distributed shares (16,666,800), valued at the price resulting from the opening auction on its first trading day.
n.s.: not significant.

from the open outcry market[12] and five from the second market. This was a reduction from the 67 delistings in 2003, of which eleven were from the electronic market, 55 from the open outcry market and one from the second market. In relative terms, the second market was the one most affected by delistings in 2004 since 22.7% of traded securities were delisted[13], while 5.3% were delisted from the electronic market and 1.1% from the open outcry segment.

The main reasons for delistings were as follows:

- In 18 cases, the issuer itself requested delisting. Of these, seven did so this directly since they had achieved agreement with all shareholders, five performed an intermediate procedure, and six had to present a tender offer for delisting. The delistings of Banco Atlántico, Nueva Montaña Quijano and Parques Reunidos were preceded by takeover bids subject to independent expert appraisal reports.
- In 13 cases, the delisting was due to the issuer's removal from the official registers: six from the Mercantile Register and seven from the Administrative Register of Securities Investment Companies.
- In six cases, the delisting was due to mergers.
- The CNMV decided to delist four companies: two because they were in the process of liquidation and two because they failed to comply with disclosure obligations. The Catalunya regional government delisted one company which had filed for bankruptcy.

2.4 Takeover bids

In 2004, nine takeover bids were authorised, with a positive outcome in all cases. The potential or maximum amount envisaged for them was 2.048 billion euro but the actual amount was 1.973 billion euro; the largest offer was presented by Banco Sabadell for Banco Atlántico, which accounted for 75% of the total value of takeover bids (see Annex A.I.8). In 2004, there was a substantial reduction in both the number of tender offers and total amount with respect to 2003.

The main characteristics of the authorised takeover bids were as follows:

- *Takeover bids agreed with main shareholders*: The controlling shareholder of Banco Atlántico agreed to sell its

[12] Four were delisted from one or more markets but continued to trade in others.
[13] Compared with the companies listed at the beginning of 2004.

stake to Banco de Sabadell, while the other shareholders were free to accept the offer and at the same price and by the same deadline as the controlling shareholder. The takeover bid for Cementos Molins resulted from the agreement by the family group that controls the company to buy-out the second-largest core shareholder. The transaction was performed by Cementos Molins via a bid for the shares of the company itself, followed by a capital reduction.

- *Delisting offers and other delisting procedures*: Five delisting offers received the CNMV's express authorisation for the prices set by the offerors. The price of a sixth offer, for Nueva Montaña Quijano, was approved with identical criteria to a delisting offer since this was the ultimate goal. In all cases, the valuation reports issued by independent appraisers were examined in detail and checked against the regulatory valuation standards.
- *Delisting after takeover bid*: After the bid for Banco Atlántico was completed, it was delisted. In this case, the bid price resulted from a prior process by which Banco Atlántico's controlling shareholder selected Banco de Sabadell from among other possible buyers. Moreover, an independent expert attested that the takeover price exceeded the applicable valuation criteria.

Table 2.12
Takeover bids
Million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Authorised(1)						
Number	16	19	17	13	9	–30.8
Potential amount(2)	3,059	7,865	5,589	7,535	2,048	–72.8
Performed(3)						
Number	14	18	17	12	9	–25.0
Amount	2,606	4,648	4,318	4,335	1,973	–54.5

(1) Authorised in the year. Does not include three takeover bids filed in December which were authorised in 2005.
(2) Does not include the potential amount of the transactions that were withdrawn.
(3) All those filed in the year, even if they were completed in the following year, not including those which were rejected or withdrawn.

New European takeover regulation

The Takeover Bids Directive[1] was approved in 2004. The deadline for transposing it into national legislation is 20 May 2006. Before that date, the percentage of voting rights that confers control of a company for the purposes of regulating a mandatory takeover bid must be defined.

A mandatory bid must be addressed to all holders of those securities for all their holdings at the equitable price[2], and Member States may draw up a list of circumstances in which this price can be increased or decreased and define the criteria that must be used in these cases. The prospectuses of mandatory bids must contain information about the valuation method used to determine the consideration offered.

When transposing the Directive, each Member State must decide on the following: (i) the application of articles and sections referred to defensive and breakthrough measures[3] regarding takeover bids for domestic companies; (ii) the definition of the term to consider (6-12 months) in order to determine the equitable price; (iii) the requirement of whether or not the price should be in cash, at least as an alternative, in the mandatory bid; (iv) the definition of the term to consider (6-12 months) for prior acquisitions that trigger a mandatory takeover bid with a cash consideration, at least as an alternative; and (v) the regulation of sell-outs and squeeze-outs.

(1) Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on Takeover Bids.
(2) According to Article 5.4 of Directive 2004/25/EC, the highest price paid for the same securities by the offeror, or by persons acting in concert with him/her, over a period, to be determined by Member States, of not less than six months and not more than 12 before the mandatory bid shall be regarded as the equitable price.
(3) Articles 9.2 and 9.3 "Obligations of the board of the offeree company" and Article 11 "Breakthrough" of the 2004/25/EC Directive.

2.5 Latibex

Latibex is the commercial name of the organised trading system[14] for Latin American securities, owned by Bolsas y Mercados Españoles (BME). The shares of around 30 Latin American companies are traded on it, using the Spanish electronic market's trading and settlement platforms. It was authorised[15] in 1999 and it is supervised by the CNMV.

At 2004 year-end, thirty companies were listed on Latibex, i.e. three more than in 2003[16]. Brazil represents the largest number of traded shares, followed by Mexico. Banks are the largest sector.

As a result of the increase in the number of issuers and, especially, higher prices, the capitalisation of Latibex companies amounted to 124,754 million euro, i.e. 30.6% more than in 2003, and accounted for 18.2% of the total equities traded in Spain. Capitalisation was concentrated in a relatively small number of companies: three companies accounted for over 50%, while oil was the largest capitalised sector. Brazil accounts for the largest number of issuers and with the largest weighting since it accounts for 58.8% of total capitalisation.

Trading in this system decreased from 1,728.6 million euro to 366.4 million euro[17]. The highest trading was in the mining & base metals sector, following the sharp decline in water & energy, and the highest relative increases were in the metal-mechanical and chemicals sectors. Trading in Brazilian shares was the highest in this market, accounting for 56.9% of the total.

In 2004, two Latin American intermediaries provided services as remote members of this market: Bradesco Corredora and Banchile Corredores. A third institution, Argentine broker Allaría Ledesma & Asociados applied in November to operate in Latibex.

The recovery of the Latin American economies and the appreciation of the Brazilian currency significantly boosted the yield in euro of the companies traded on Latibex in 2004. The FTSE Latibex All Share index gained 35.6% in 2004, very similar to the 37.3% in 2003.

Table 2.13
Companies listed on Latibex, by country
Million euro, unless indicated otherwise

	No. of companies		Capitalisation			Trading		
Country	2003	2004	2003	2004	Chg. (%)	2003	2004	Chg. (%)
Argentina	2	2	624.2	707.7	13.4	0.0	0.0	1.3
Brazil	13	14	56,228.8	73,388.0	30.5	152.8	208.6	36.5
Chile	4	4	10,202.3	11,041.1	8.2	1,494.4	37.5*	–97.5
Costa Rica	1	1	43.4	38.2	–12.0	0.7	5.1	658.3
Mexico	5	7	27,537.7	38,328.9	39.2	63.0	90.6	43.9
Peru	1	1	66.2	129.0	94.9	0.5	1.7	250.4
Puerto Rico	1	1	846.7	1,121.9	32.5	17.2	22.9	32.8
Total	27	30	95,549.2	124,754.8	30.6	1,728.6	366.4	–78.8

(*) See footnote 17.

[14] Organised trading systems are trading platforms for securities and other financial instruments not recognised as official markets but whose creation also requires the government's express authorisation, subject to a CNMV report (article 31.4 of the Securities Market Law). Spanish organised trading systems are multilateral trading systems regulated by Directive 2004/39/EC of the European Parliament and of the Council of 21 April on markets in financial instruments. Latibex was authorised on 29 October 1999 via the corresponding resolution by the Spanish Cabinet.
[15] Spanish Cabinet resolution dated 29 October 1999 authorised the creation of the Latin American Securities Market as an organised trading system for securities and other financial instruments.
[16] The new companies were Sadia, Grupo Electra and TV Azteca. In 2004, Brazilian company Suzano de Papel e Celulose changed its name to Suzan Bahia Sul Papel e Celulose.
[17] This decline was due to the slump in trading in shares of Chilean energy and water company Enersis, which decreased from 1,466.2 million euro in 2003 to 13.8 million euro in 2004 as a result of a capital increase in 2004. Excluding this company, trading on Latibex increased 34.3% to 352.6 million euro.

Table 2.14

Companies traded on Latibex, by sector

Million euro, unless indicated otherwise

Sector	No. of companies 2003	No. of companies 2004	Capitalisation 2003	Capitalisation 2004	Capitalisation Chg. (%)	Trading 2003	Trading 2004	Trading Chg. (%)
Oil	2	2	25,482	32,459	27.4	42.3	53.0	25.2
Energy & water	4	4	13,564	13,915	2.6	1,497.6	39.6*	–97.4
Mining & base metals	4	4	17,348	24,703	42.4	59.0	86.4	46.4
Chemicals	1	1	812	2,234	174.9	1.4	7.7	436.6
Textile & paper	2	2	1,700	2,016	18.6	9.1	9.0	–0.9
Metal-mechanical	1	1	1,428	2,275	59.3	0.8	14.8	1812
Food	1	2	1,239	2,019	63.0	1.7	7.1	319.4
Transport & communications	3	3	21,780	27,880	28.0	49.0	67.2	37.1
Other non-financial	1	2	1,536	1,579	2.8	3.2	3.8	19.9
Banks	7	7	10,231	13,231	29.3	47.0	56.7	20.5
Financial institutions	1	2	428	2,444	471.0	17.4	21.0	20.6
Total	27	30	95,549	124,755	30.6	1,728.6	366.4	–78.8

(*) See footnote 17.

Figure 2.3

FTSE Latibex All Share

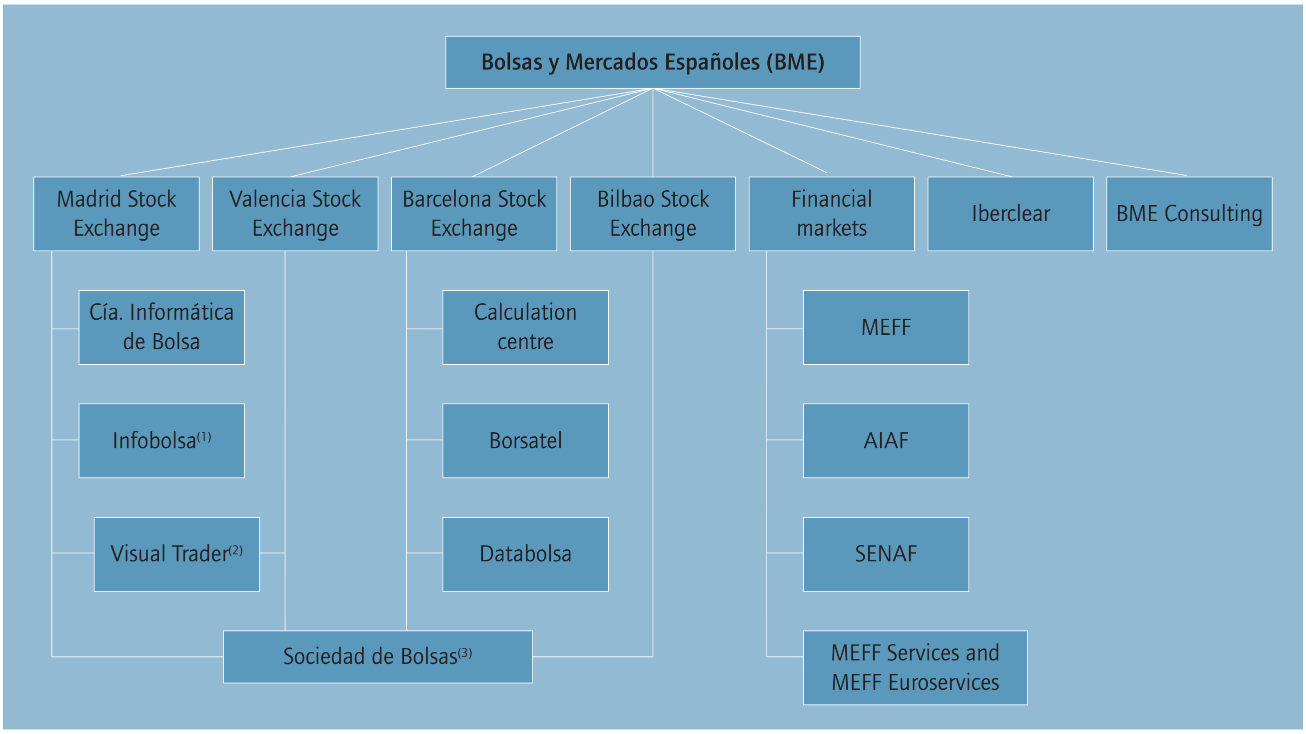
2.6. Organisation of market holding company BME

Following governmental authorisation in 2002 and subsequent integration, Bolsas y Mercados Españoles, Sociedad Holding de Mercados y Sistemas Financieros, S.A. (BME) owns, directly and indirectly, the entire capital of Spain's equities markets and most of its derivatives and fixed-income markets (see Figure 2.4). Only the following are outside the scope of this group of companies: the public debt book-entry market[18],

[18] Nevertheless, trades in this market are settled via Iberclear, wholly-owned by BME.

Figure 2.4

Companies in the Bolsas y Mercados Españoles (BME) group



(1) Borsatel AIAF Visual Trader[2] Databolsa SENAF Sociedad de Bolsas[3] MEFF Services and MEFF Euroservices[1] Infobolsa is owned 50% by the Madrid Stock Exchange and 50% by Deutsche Börse.
(2) Visual Trader Systems is owned 90% by the Madrid Stock Exchange and 10% by the Valencia Stock Exchange.
(3) Sociedad de Bolsas is owned 25% each by the four Spanish stock exchanges.

Market for Treasury Securities Spain (MTS Spain), which manages an organised fixed-income trading system which only trades public debt at the moment, and MFAO (the olive oil futures market).

BME's ownership structure includes the former shareholders of the various markets since they integrated via share swaps. As a result, BME had 128 shareholders at 2004 year-end, all of which were financial institutions (Spanish and foreign). Spanish shareholders include the Bank of Spain, whose holding comes from the integration of Central de Anotaciones de Deuda Pública Española into Iberclear. The 56 investment services companies that are shareholders of BME owned 43.3%.

2.7. Challenges and innovations

2.7.1. New EU regulations

In 2004, in addition to the approval of the Takeover Bids Directive (see section 2.4), the Markets in Financial Instruments Directive and Transparency Directive were approved. All three are pending transposition. A Level 2 Directive implementing the Market Abuse Measures approved in 2003 was approved and transposed in 2003 and 2004. The Prospectus Regulation was also approved. This new regulation is described in more detail in Chapter 11.1 on EU legislation.

Markets in Financial Instruments Directive[19]

The deadline for transposing this directive, which is very important for the Spanish market, is the end of April 2006[20].

[19] Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.
[20] Negotiations are currently under way to postpone the transposition deadline until 2007.

Table 2.15

Ownership structure of Bolsas y Mercados Españoles a 31/12/2004

Main shareholders[1]		Stake
Broker-dealers		**39.7**
	Santander Central Hispano Bolsa, S.V. S.A.	3.3
	Banesto Bolsa, S.V.B. S.A.	3.2
	Ahorro Corporación Financiera S.V.B., S.A.	2.9
	G.V.C. General de Valores y Cambios, S.V., S.A.	2.3
	Renta 4, S.V.B., S.A.	2.0
	Mercagentes, S.A., S.V.B.	1.9
	Mercavalor, S.V., S.A	1.6
	Mercapital, S.V., S.A.	1.5
Brokers		**3.6**
Banks		**31.6**
	Banco Bilbao Vizcaya Argentaria S.A.	10.4
	Banco Santander Central Hispano, S.A.	5.0
	BNP Paribas Securities Services, branch in Spain	3.1
	Société Générale, branch in Spain	1.9
	Banco Urquijo	1.7
Thrifts		**11.3**
	Caixa D' Estalvis i Pensions de Barcelona " La Caixa"	5.6
	Caja de Ahorros y Monte de Piedad de Madrid	1.5
Public Administrations		**9.8**
	Bank of Spain	9.8
Other		**4.0**

(1) Over 1.5%.

The new directive changes the concentration model of trading on regulated markets since it establishes a new regulatory framework in which three basic trading systems coexist: (i) regulated markets; (ii) MTF[21]; and (iii) systematic internalisers (investment firms which, on an organised, regular, and systematic basis, execute client orders against their own books).

This Directive is aimed at boosting competition between those trading systems by maintaining market efficiency and integrity. To achieve this, a system of pre-trade transparency is established, with specific features for systematic internalisers. Additionally, to ensure investor protection, the directive establishes the “best execution” principle.

Transparency Directive[22]

This Directive, which must be transposed before January 2007, will have a significant impact on the organisation of disclosures to the market since it establishes a new system for disclosing relevant information[23]. An issuer may comply with the obligation to provide information either directly, by sending it to the media, or indirectly, via an operator that centralises the information.

The Directive proposes that the storage of all relevant information, information contained in the prospectuses approved for the issuer and mercantile information be interconnected, where there are separate databases, and that the databases of the various countries also be interconnected.

[21] Multilateral Trading Facilities.

[22] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

[23] Relevant information is understood to be information about significant holdings, periodic public information and information about significant events.

Market Abuse Directive

The Level 1 Directive approved in 2003[24] and the Level 2 Directive in 2004[25] will also have an impact on the organisation of disclosures to the market since the concept of relevant information has been developed to determine the existence of transactions with inside information.

The transposition date of both directives was October 2004. Most of the directive approved in 2003 was transposed into Law 26/2003[26]. Its contents include the definition of market manipulation and the establishment of a non-exhaustive list of manipulation signs. According to this, the CNMV has the power to determine whether or not a market practice is accepted for the purposes of article 83.ter of the Securities Market Law.

Prospectus Regulation[27]

In 2004, the European Commission approved the regulation that implements the Prospectus Regulation as regards prospectus format, minimum information requirements, publication method, incorporation by reference, and dissemination of advertisements.

2.7.2. Plan to vitalise the economy and boost productivity

As part of the plan to vitalise the economy, in March 2005 the Spanish government approved various provisions: (i) Royal Decree-Law 5/2005[28] on urgent reforms; (ii) draft legislation on tax reforms, which reduces certain CNMV fees; and (iii) draft legislation to modernise the venture capital law.

Royal Decree-Law 5/2005 regulates some aspects of the securities markets:

- Primary securities market: the regulation has completely changed Title III of the Securities Market Law, which regulates the primary market, by transposing the Prospectus Directive[29] to enable the single passport to be applied to prospectuses. Moreover, some requirements for primary market transactions were removed, such as prior communication, expression in a public instrument and filing with the mercantile registry of the issuance of debentures and other securities that create or acknowledge debt claims.
- Close-out netting and financial collateral arrangements: The new regulation transposed the Directive on financial collateral arrangements[30] and arranged and systematised the regulation in force on close-out netting and financial collateral arrangements. Its main contents are as follows: (i) the financial collateral execution process was shortened to a maximum of one day after the claim, in the case of securities registered in one clearing and settlement system, and to the same day in the case of cash deposited in a credit institution; and (ii) the right was established to replace and dispose of the object that constitutes the financial collateral during the term, and the object of equivalent value to be delivered upon the contract maturity was determined.

Regarding other measures in that plan, the chapter on fixed-income details the reduction in the CNMV fees.

---

[24] Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse).

[25] Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions.

[26] Law 26/2003, dated 17 July, amending Securities Market Law 24/1998, dated 28 July, and the consolidated text of the Spanish Corporations Law, approved by Legislative Royal Decree 1564/1989, dated 22 December, in order to reinforce the transparency of listed companies

[27] Commission Regulation (EC) No. 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in the prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements.

[28] Royal Decree Law 5/2005, dated 11 March, on urgent reforms to boost productivity and improve government procurements.

[29] Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.

[30] Directive 2002/47/EC of the European Parliament and of the Council of 6 June on financial collateral arrangements.

[3] Fixed-income markets

In 2004, the growing trend in fixed-income market activity of the last few years was maintained in both the primary and secondary markets, especially private fixed-income.

Overall gross fixed-income issues amounted to 273,333 million euro, i.e. 17% more than in 2003. Redemptions predominated in public debt as a result of the favourable situation of public accounts, although gross issues increased slightly. Because of the faster growth in private fixed-income issues, they nearly matched the outstanding balance of public debt at year-end (see Table 3.1).

Financial sector issues grew faster in Spain than in the euro area due to intense real estate lending. In recent years, growth in household disposable income, low interest rates and favourable financing conditions have significantly boosted the demand for mortgages to finance real estate and construction.

Growth in bank deposits has been moderate since savers sought other investment alternatives due to low yields. This has widened the gap between lending and deposits, which credit institutions have covered partly by issuing securities.

The financial sector's protagonism reduced the weighting of the non-financial sector: at 2004 year-end, the outstanding balance of the non-financial sector's fixed-income issues accounted for 1.7% of the total in Spain, compared with 6.5% in the euro area.

In the official secondary fixed-income markets, private fixed-income clearly performed differently to public debt in 2004. In the first case, dynamic issuing again boosted trading, especially on AIAF. However, there was a slightly negative trend in trading in held-to-maturity public debt, which offset the increase in trading in repos and sell-buybacks/ buy-sellbacks.

Figure 3.1
Fixed-income issuance in Spain

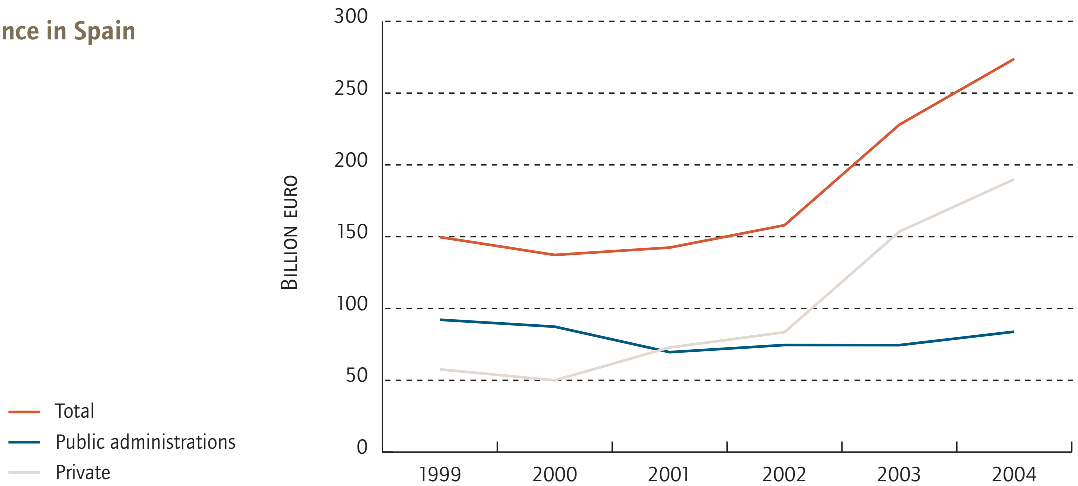


Table 3.1.

Gross issues and outstanding balances: breakdown by issuer

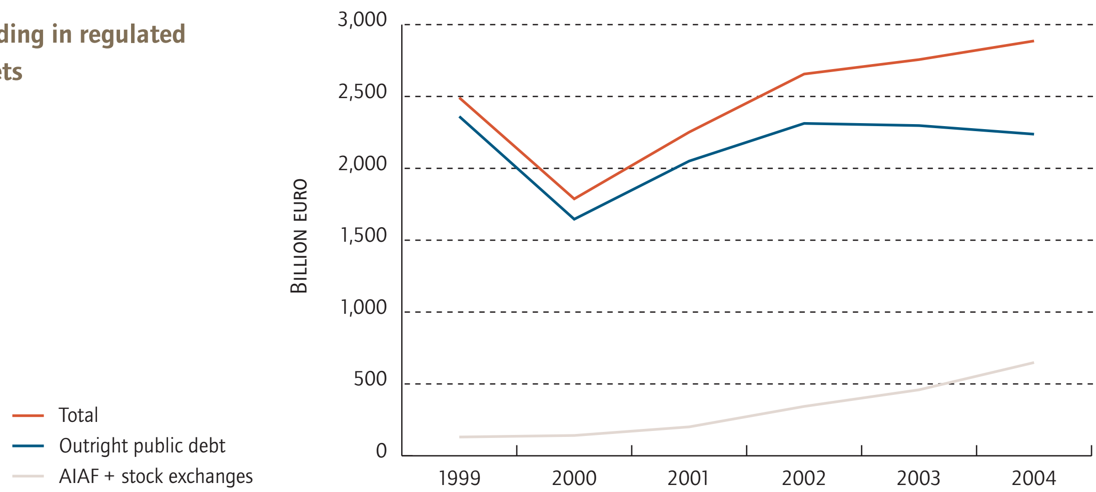
Nominal amount in million euro

	Amount		Change (%)		Pro memoria: Euro area	
	2003	2004	2003	2004	2004	Change (%)
Gross issues	**233,622**	**273,333**	**43.9**	**17.0**	**8,038,300**	**11.6**
Public administrations	79,980	83,827	1.7	4.8	1,537,400	–1.8
Private fixed-income:	153,642	189,506	83.6	23.3	6,500,900	15.3
Financial institutions	140,955	177,067	95.6	25.6	5,474,700	15.7
Non-financial companies	12,686	12,439	9.0	–1.9	1,026,200	12.9
Net issues	**75,473**	**127,633**	**83.0**	**69.1**	**639,700**	**7.9**
Public administrations	2,043	8,080	–81.0	295.5	222,100	2.4
Private fixed-income:	73,430	119,553	140.9	62.8	417,600	11.2
Financial institutions	74,303	119,469	126.8	60.8	403,300	26.5
Non-financial companies	–874	84	–61.7	109.6	14,300	–74.9
Outstanding balance	**540,019**	**666,939**	**15.5**	**23.5**	**9,320,900**	**7.2**
Public administrations	331,024	338,667	0.2	2.3	4,362,400	5.3
Private fixed-income:	208,995	328,271	52.5	57.1	4,958,500	8.8
Financial institutions	197,822	317,013	58.3	60.3	4,357,300	9.9
Non-financial companies	11,173	11,258	–7.4	0.8	601,200	1.6

Source: Bank of Spain, CNMV and ECB.

Figure 3.2

Fixed-income trading in regulated secondary markets



3.1 Public debt

3.1.1. Issues

Budget deficit containment and the favourable situation of the Spanish economy reduced the government's issuing activity in 2004 and led to redemptions and lengthening maturity public debt. The gross and net volume of issues was lower than planned.

Gross issues by public administrations amounted to 83,827 million euro, i.e. 4.8% more than in 2003 (see Annex A.I.9). Net issues in the year totalled 8,086 million euro: 9,509 million euro of long-term securities issued and 1,423 million euro of short term securities redeemed (see Annex A.I.10). This issuing policy led to an increase in average debt maturity.

Table 3.2.
Public debt trading. Overall market.
Outright trades(1), with repos and sell-buybacks/ buy-sellbacks.
Nominal amount in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Treasury bills:	**2,512,543**	**2,723,402**	**2,235,874**	**2,607,855**	**2,273,363**	**–12.8**
Outright	82,165	58,505	40,096	90,195	115,549	28.1
– Spot	79,820	58,116	40,096	89,751	114,951	28.1
– Forward	2,345	389	0	444	598	34.7
Repos	2,037,659	2,186,934	1,994,454	2,076,928	1,770,719	–14.7
Sell-buybacks/Buy-sellbacks	392,719	477,963	201,324	440,732	387,095	–12.2
Government debentures and bonds:	**11,277,791**	**13,517,340**	**16,564,792**	**18,682,471**	**20,558,646**	**10.0**
Outright	1,563,868	2,008,604	2,289,344	2,220,234	2,132,220	–4.0
– Spot	1,543,234	1,983,641	2,270,848	2,157,131	2,021,747	–6.3
– Forward	20,634	24,963	18,496	63,103	110,473	75.1
Repos	5,925,130	6,565,894	8,191,375	9,100,744	10,707,375	17.7
Sell-buybacks/Buy-sellbacks	3,788,793	4,942,842	6,084,073	7,361,493	7,719,051	4.9
Total	**13,790,334**	**16,240,742**	**18,800,666**	**21,290,326**	**22,832,009**	**7.2**

(1) Outright trades comprise spot and forward trades.
Source: Bank of Spain.

The outstanding balance of fixed-income issued by public administrations amounted to 338,667 million euro at 2004 year-end, i.e. 2.3% more than in 2003 (see Table 3.1). Of that total, the outstanding balance of issues by regional governments amounted to 26,400 million euro, 5.6% more than in 2003.

3.1.2. Trading

There are two large trading segments in the public debt book-entry market: trading between market members and trading between registered dealers and third parties. There are two types of trading between market members: via electronic platforms (Senaf, MTS-España, EuroMTS, Brokertec, etc.)[1] and bilateral trading.

Trading between market members and with third parties may be at outright (spot or forward) or temporary (repos and sell-buybacks/buy-sellbacks). Within the electronic platforms, Senaf and MTS-España provide spot trading with government debentures and bonds and Treasury bills; and, in sell-buybacks/buy-sellbacks, with government debentures and bonds. EuroMTS and Brokertec provide mainly spot trading in the main bond and debenture references.

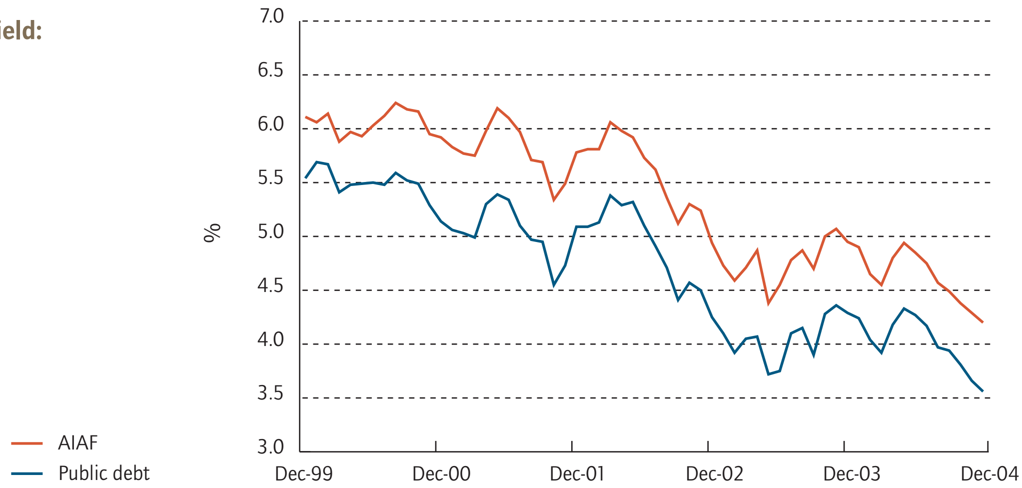
In 2004, trading in the public debt book-entry market increased by 7.2% on 2004 (see Table 3.2). However, outright trades decreased slightly (–2.7%) due to the bond and debentures segment (–4.0%). In particular, outright trades between market members decreased 32.8% (Treasury bills +37.3% and government debentures and bonds -37.6%, see Annex A.I.11).

Outright trades have fallen since 2002 due to a number of factors, including the loss of appeal by the Spanish bond market due to the increasing uniformity with the German bond market and low market volatility that reflects the scant expectations of interest rate changes in the short term.

The decrease in activity between market members was concentrated in trading in government debentures and bonds in the electronic platforms since bilateral trading increased in Treasury bills and government debentures and bonds (see

[1] Senaf and MTS-España are recognised as organised trading systems—a category expressly regulated by the Securities Market Law and supervised by the CNMV. EuroMTS and Brokertec are domiciled in the UK, in accordance with the authorisation and supervision requirements of that country.

Figure 3.3
Long-term fixed-income yield: private and public debt



Annexes A.I.12 and A.I.13). The main reason was probably because traders switched mainly to basis trades[2] whose spot segment is basically conducted via the telephone market. Although the electronic platforms have tried to compete in this segment, they have not been able to participate successfully in this type of trading.

The yield on ten-year government debentures, Spain's benchmark bond, was 3.56% at 2004 year-end, i.e. 73 bp lower than at 2003 year-end. The yield on three-year debt fell 48 bp to 2.44% in the same period. In general, the slope between long and short terms fell slightly.

3.2. Private fixed-income

3.2.1. Instruments

Spain has two private fixed-income markets: AIAF and the stock market. Those markets currently trade in the following products:

- AIAF only: commercial paper and securitised commercial paper[3], mortgage covered bonds (cédulas hipotecarias), territorial covered bonds (cédulas territoriales), mortgage-backed securities (MBS) and asset-backed securities (ABS), preference shares and other securities[4].
- Stock exchanges only: convertible and exchangeable bonds and debentures.
- Both markets: corporate and public nonconvertible bonds and debentures and the former "Matador" bonds.

3.2.2. Issuers, issues and outstanding balances in the stock exchange

In 2004, the number of issuers and issues and the outstanding balance increased in AIAF while all three variables decreased in the stock exchange. There were 351 issuers in the fixed-income market: 25 were listed in both markets, 299 only in AIAF and the other 27 only in the stock market. There were 2,724 issues in both markets: 90% in AIAF and the other 10% in the stock markets. The outstanding balance of the listed securities amounted to 321,911 million euro, 95.5% corresponded to AIAF (see Tables 3.3 and 3.4).

There were 324 issuers in the AIAF market at 2004 year-end, i.e. 54 more than at 2003 year-end. The issues and outstanding balance of securities registered in the market increased by 14% and 56%, respectively, and there was a significant rise in bonds and debentures, including asset-backed securities. *Banks &*

[2] Basis trades consist of the purchase/sale of futures contracts combined with simultaneous spot sales/purchases.
[3] Commercial paper issued by securitisation funds.
[4] Subordinated financial contributions issued by Eroski Sociedad Cooperativa and Fagor Electrodomésticos.

Table 3.3

Issuers, issues and outstanding balances of fixed-income in AIAF

Nominal amount in million euro

	No. of issuers		No. of issues		Outstanding balance		
	2003	2004	2003	2004	2003	2004	% Chg. 04/03
Commercial paper	58	63	1,504	1,593	30,282	45,177	49.2
Bonds and debentures	216	272	581	786	121,972	196,613	61.2
Mortgage covered bonds	9	10	32	41	38,413	57,324	49.2
Territorial covered bonds	2	3	2	5	3,500	5,800	65.7
Matador bonds	21	20	40	34	2,976	2,515	−15.5
Total	**270**	**324**	**2,159**	**2,459**	**197,143**	**307,429**	**55.9**

Table 3.4.

Issuers, issues and outstanding balances of fixed-income in the stock markets

Nominal amount in million euro

	No. of issuers		No. of issues		Outstanding balance		
	2003	2004	2003	2004	2003	2004	% Chg. 04/03
Total	**56**	**52**	**275**	**265**	**14,500**	**14,482**	**−0.1**
Regional government debt	3	3	78	87	6,160	7,198	16.9
Other	53	49	197	178	8,340	7,284	−12.7
Barcelona Stock Exchange	45	41	220	204	11,965	12,111	1.2
Bilbao Stock Exchange	46	42	168	153	5,736	4,904	−14.5
Madrid Stock Exchange	38	34	149	134	4,678	3,846	−17.8
Valencia Stock Exchange	42	38	186	177	6,155	5,159	−16.2

thrifts and *financial institutions* were the largest issuers since they accounted for 86% of issues in the year and 91% of the outstanding balance at 2004 year-end.

The number of issuers in the stock market decreased by four. A total of 265 issues were listed at 200 year-end, i.e. 10% less than in 2003. The outstanding balance[5] was practically unchanged[6] and amounted to 14,500 million euro at 2004 year-end. The Barcelona Stock Exchange was the only one that registered an increase in the outstanding balance (see Table 3.4). Public fixed-income has been gaining in importance in the stock exchanges in recent years—a trend which continued in 2004 (see Table 3.4)[7].

3.2.3. Primary market in private fixed-income

Gross private fixed-income issues registered by the CNMV in 2004 amounted to 189,506 million euro: 39% short-term securities and 61% long-term securities. This issuance volume increased by 23.3% on 2003 due basically to long-term issues since the volume of commercial paper issues declined (see Table 3.5).

Despite the decrease in commercial paper issues, they accounted for 39% of total gross issues, followed by asset- and mortgage-backed securities (27%) and nonconvertible debentures (20%).

[5] The stock exchange outstanding balance does not include issues in the public debt book-entry market, although they may be traded in the electronic market.

[6] It decreased slightly (−0.1%).

[7] Over two-thirds of the outstanding balance of private fixed-income correspond to financial sector issuers.

Table 3.5.
Gross issues registered at the CNMV: detail by instrument
Nominal amount in million euro

	2001	2002	2003	2004	% Chg. 04/03
Long term	**33,507**	**37,889**	**77,656**	**115,153**	**48.3**
Nonconvertible bonds and debentures	9,548	3,557	14,726	38,124	158.9
– of which: subordinated debt	4,197	1,909	4,076	4,395	7.8
Convertible bonds and debentures	456	238	179	63	–64.8
Mortgage covered bonds	7,578	11,674	17,864	19,074	6.8
Territorial covered bonds	–	–	4,200	1,600	–61.9
Backed securities	11,737	18,908	36,740	50,521	37.5
– asset-backed (ABS)	6,010	12,119	31,710	43,507	37.2
– mortgage-backed (MBS)	5,727	6,789	5,030	7,014	39.4
Preference shares	4,060	3,237	3,360	5,542	64.9
Other issues	128	274	586	230	–60.8
Short term	**47,161**	**44,391**	**75,986**	**74,354**	**–2.1**
Commercial paper	47,161	44,391	75,986	74,354	–2.1
Of which, asset-backed	1,144	1,120	1,090	1,100	0.9
Total	**80,667**	**82,280**	**153,642**	**189,506**	**23.3**

Preference share issues increased by 65%. All the issuers were subsidiaries of Spanish financial institutions that took advantage of these products' characteristics since they are booked as equity[8] in their balance sheets.

Financial institutions accounted for over 65% of total gross fixed-income issues in Spain[9].

Annex A.I.15 shows the number of issuers and issues, broken down by financial instrument. Annexes A.I.16, A.I.17, A.I.18 and A.I.19 show the main fixed-income issuers in 2004.

Asset- and mortgage-backed securities

Asset- and mortgage-backed securities were the second-largest category in terms of issue volume, behind commercial paper (see Table 3.5). In particular, the weighting of asset-backed securities (ABS) has increased significantly since 2000 (see Figure 3.4).

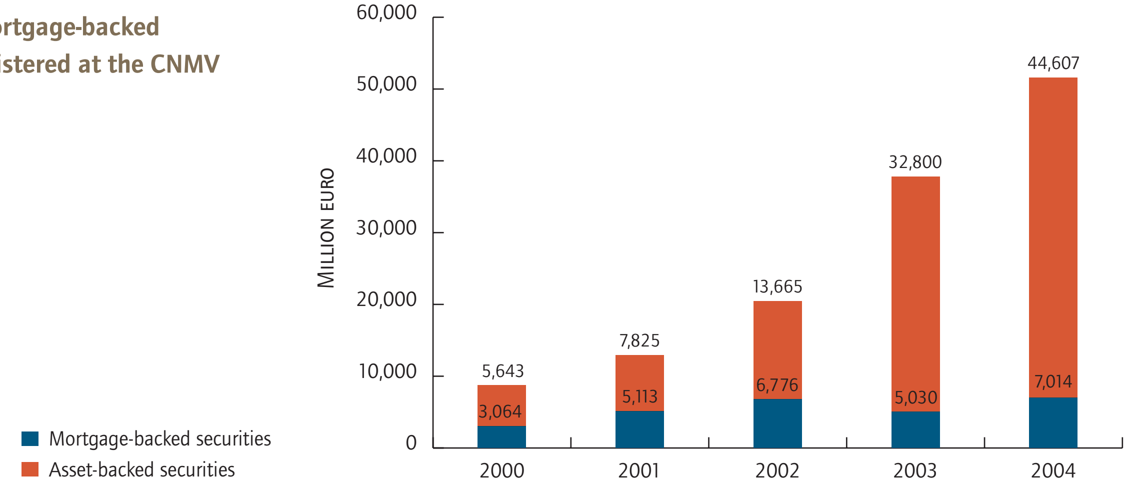
In 2004, just over 70% of the amount of asset-backed securities (ABS) corresponded to special mortgage covered bonds, mortgage participations, and mortgage transfer certificates[10]. Securitisation of loans to SMEs accounted for 20% of ABS, while loans granted to public administrations represented 5% of ABS. In addition to those assets, consumer credit, loans to finance agricultural and livestock operations and the construction of wind farms, originated by financial institutions, were securitised, as well as construction certificates and other receivables originated by construction and services companies.

[8] Law 19/2003 introduced a second additional provision in Law 13/1985, on investment coefficients, equity and disclosure obligations of financial intermediaries, which specifies the conditions that must be met by preference shares issued in Spain or in the European Union in order to qualify as equity of a group or consolidable subgroup of credit institutions, and clarifies the tax system applicable to them. Preference shares must comply with, among others, the following requirements: a) be issued by a credit institution or by an institution resident in Spain or a territory of in the European Union not considered to be a tax haven, and whose voting rights correspond to a credit institution that is the controlling company of a consolidable group or subgroup of credit institutions and whose sole activity or purpose is to issue preference shares; b) entitle holders to receive a pre-set non-cumulative remuneration; c) not give holders political rights, except in the exceptional circumstances that are established in the respective issuance conditions, d) be perpetual; and e) be listed in organised secondary markets.

[9] Issues by the private and public sectors.

[10] In accordance with article 18 of Law 44/2002, dated 22 November, on Measures to Reform the Financial System, mortgage participations corresponding to loans and credits that do not comply with the requirements established in Section 2 of Mortgage Market Law 2/1981, dated 25 March, can be issued and sold under this title.

Figure 3.4
Asset- and mortgage-backed securities registered at the CNMV



The largest individual securitisation operations were in the ABS segment, where five separate issues amounted to 2,000 million euro or more. The two largest issues (4,100 million euro and 3,300 million euro), backed by special mortgage covered bonds originated by several thrifts, were issued by two asset-backed funds (ABF) managed by Ahorro y Titulización. One of the most noteworthy ABS issues was the securitisation of BBVA consumer automobile purchase loans worth 1,000 million euro, issued by an ABF managed by Europea de Titulización. In the area of mortgage-backed securities (MBS), only three issues exceeded one thousand million euro.

Annex A.I.19 shows the largest issuers of securitisation bonds in 2004, all of them exceeding one thousand million euro which, overall, accounted for 74% of total issues of this type.

Securitisation of future receivables

Issues of asset- and mortgage-backed securities have grown significantly in Spain in recent years; Spain has now become Europe's second-largest market in these types of instrument (the UK is the biggest). Although the bulk of issues are mortgage-backed securities, the Spanish securitisation market also has issues backed by other assets, such as bank loans to SMEs, territorial covered bonds, consumer credit and public administration construction certificates.

This broad range of assets that can be securitised is governed by a law[(1)], which has adapted to market innovations and establishes the necessary safeguards to ensure that these transactions can be made in an orderly manner in the Spanish market.

However, in order to reinforce this segment of the market in Spain, a regulation has yet to be implemented for a significant type of securitisation: the securitisation of future receivables. As a result of the interest by both securitisation fund operators and potential originators, and growing international activity in this segment, a regulation has been drafted for this segment[(2)].

Because of their nature, the securitisation of future receivables may be more complex and riskier than other securitisations. A prudent regulation should consider that there may be a mismatch between the value assigned to the receivables when they are sold and their real value in the future and, consequently, it must apply eligibility criteria to receivables that can be securitised so that unquantifiable or unreliable future receivables are not securitised.

(1) The basic regulation is as follows: Law 19/1992, dated 7 July, on the Regime for Real Estate Investment Companies and Funds and for Mortgage Securitisation Funds, and Royal Decree 926/1998, dated 14 May, which regulates asset securitisation funds and securitisation fund operators.
(2) The Draft Ministerial Order to determine which future receivables can be included in asset-backed funds has completed the public consultation phase.

Table 3.6.

Total trading on AIAF[1]

Nominal amount in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Commercial paper	47,342.4	100,812.0	212,701.6	265,603.6	291,902.6	9.9
Bonds and debentures	50,015.5	38,820.0	52,146.3	94,693.9	227,127.0	139.9
Mortgage covered bonds	2,260.4	2,100.1	4,164.0	16,745.2	46,014.4	174.8
Territorial covered bonds	–	–	–	3,939.3	3,356.9	−14.8
Matador bonds	1,140.6	2,000.7	3,458.0	3,107.2	3,628.8	16.8
Total	**100,758.8**	**143,732.8**	**272,469.9**	**384,089.2**	**572,029.7**	**48.9**

(1) Proprietary and third-party trading.

Table 3.7.

Fixed-income trading in the stock exchanges

Nominal amount in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Total	**39,171.5**	**50,828.6**	**64,860.6**	**66,565.9**	**77,016.8**	**15.7**
Regional government debt	37,888.4	49,814.6	63,998.0	64,758.0	76,258.8	17.8
Other	1,283.0	1,014.0	862.6	1,807.9	757.9	−58.1

3.2.4. Secondary markets in fixed-income: AIAF and stock exchanges

In Spain, private fixed-income issues are traded via AIAF and the stock exchanges[11]. In AIAF, trading can be done in two segments: the first one is among market members and the second one is between market members and their clients. Trading with clients is bilateral but trading among members can be bilateral or via an electronic system (Senaf). In the stock exchanges, trading can be done electronically or via the open outcry segment. The electronic trading system[12] interconnects the four stock exchanges; the traditional open outcry segment[13] exists in all the stock exchanges except Madrid.

In 2004, fixed-income trading increased in both AIAF and in the stock exchanges. In nominal terms, the combined amount was 649,000 million euro, of which 572,000 million euro corresponded to AIAF and 77,000 million euro to the stock exchanges (see Tables 3.6 and 3.7).

In AIAF, commercial paper was the most dynamic segment (see Table 3.6), amounting to 291,900 million euro (51% of the total), although its growth (9.9%) was considerably lower than the overall market due to a decline in short-term issuing. In 2004, there was a sizeable increase in trading in mortgage covered bonds and in bonds and debentures. Only trading in territorial covered bonds decreased (−14.8%).

Proprietary trading significantly boosted the trading volume. Annex A.I.20 shows the sizeable increases in mortgage covered bonds and in bonds and debentures.

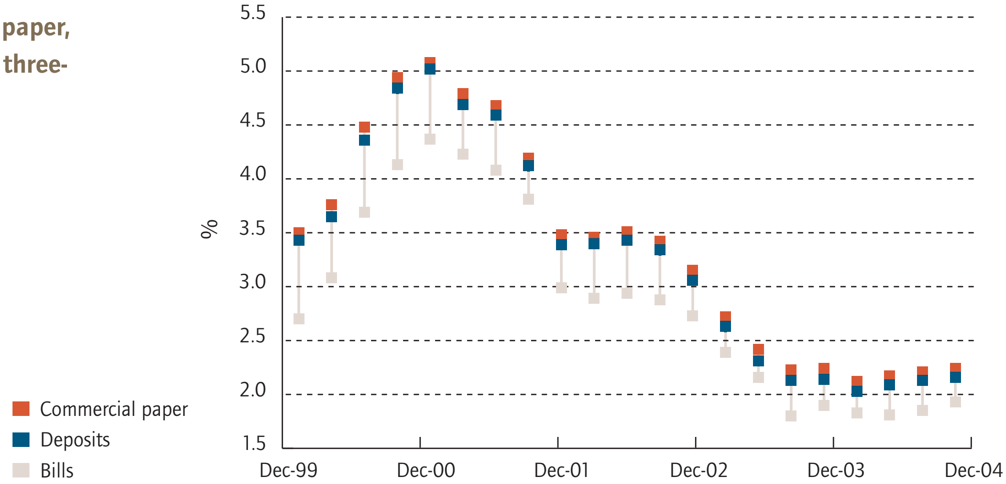
With 71 billion euro, Barcelona Stock Exchange accounted for the bulk of trading (92%) in the stock market segment. Specifically, trading was concentrated in public debt securities issued by the Catalunya regional government amounting to 70.7 billion euro.

[11] Neither of those two markets trade exclusively in private fixed-income.

[12] As SIBE does for equities, the electronic fixed-income market interconnects trading in the four Spanish stock exchanges in real time. This is an order-driven market in which private fixed-income securities and public debt securities are traded electronically via the market members' trading terminals. Securities are traded continuously and electronically, all activity is disclosed in real time, and the market is anonymous in terms of both orders and trades.

[13] In the Barcelona and Bilbao stock exchanges, public debt issued by the corresponding regional government is calculated via open outcry trading although trading is via the telephone.

Figure 3.5
Yields(1) on commercial paper, interbank deposits and three-month repos



(1) Quarterly average.

Private fixed-income yields performed similarly to public debt yields (see Figure 3.3). Average commercial paper yields were quite stable: the yield on three-month commercial paper increased by an average of 1 basis point and that on twelve-month paper by 16 basis points in 2004. For three-month commercial paper, the spread for credit risk with respect to public debt repos was 34 basis points at 2004 year-end, the same as at 2003 year-end, although it had decreased to 20 basis points in March 2004 (see Figure 3.5).

The yield on private debt maturing at over 10 years traded on AIAF was 4.2% at 2004 year-end, i.e. 75 basis points less than at 2003 year-end.

3.3. Plan to make Spanish fixed-income markets more competitive

Early in 2005, the Spanish government fostered various measures related to the securities markets, in the context of the plan to revitalise the economy and boost productivity. The CNMV helped to design such measures.

Standardised prospectuses

At the end of 2004, the CNMV and the AIAF fixed-income market established a work group whose main purpose was to study measures that would enable the CNMV to speed up vetting and registration procedures for fixed-income security issuance prospectuses. Standard prospectuses were designed for the largest possible number of securities, starting with simple fixed-income, which make up the bulk of issues that were registered in 2004.

The standard prospectuses conform to Commission Regulation 809/2004 that implements Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading. Specifically, it standardises the “securities note” and “final terms” for nonconvertible and subordinated bonds and debentures, mortgage covered bonds and territorial covered bonds. Standardisation will be extended in the future to other securities such as asset-backed instruments.

The ultimate purpose is to computerise all the filing, vetting and registration procedures via an “electronic prospectus”.

Possibility of issuing in accordance with the new Prospectus Directive

Part of the new EU prospectus regulation was transposed into Spanish law by amending Securities Market Law 24/1988, dated 28 July, via Royal Decree-Law 5/2005, dated 11 March, on urgent reforms to boost productivity and on public procurements.

Among other measures, that Royal Decree-Law envisages the possibility of issuers availing themselves of the new Regulation 809/2004, which regulates the information in prospectuses[14], enabling issuers to adapt to the new EU prospectus framework.

Public instrument and filing with the mercantile registry

That Royal Decree-Law also eliminated the requirement of drafting a public instrument and filing with the Mercantile Registry for debenture issues. Since the CNMV's administrative records fulfil the function formerly performed by the Mercantile Registry in the securities markets, this eliminates overlapping procedures and unnecessary costs for issuers.

Fees

The Spanish government approved draft legislation on tax reforms, in which Title IV envisages substantial reductions in CNMV fees charged to issuers and financial institutions for vetting and supervisory functions related to their fixed-income activities. This draft legislation envisages the following changes:

- Fees for registering prospectuses:
  - Prospectuses for issuance of securities with maturity or redemption at over 18 months: the minimum flat fee was reduced from 1,626 euro to 975 euro.
  - Prospectuses for securities admitted to trading on a stock exchange: a minimum fee of 975 euro and a maximum of 9,000 euro were set (those limits did not exist before).

- Fees for inspecting and supervising certain institutions:
  - Supervision of the process of vetting the listing requirements for securities in fixed-income secondary markets (AIAF): a minimum fee of 975 euro and a maximum of 9,000 euro were set (those limits did not exist before).
  - Supervision of the activities of members of the securities clearing and settlement service. The fee is currently calculated based on the registered balance[15] with a tax rate of 0.012 per mil, and a minimum of 16.27 euro. The draft legislation proposes that the tax rate for fixed-income securities be halved, i.e. to 0.006 per mil.

[14] See Chapter 11.1.2.

[15] Regarding this fee, the regulation establishes that: "... the taxable base shall be the average of the nominal value of the securities maintained as the balance, for the own account and of third parties, in the aforementioned service or entity in charge of record-keeping on the last day of each month of the calendar quarter. The tax rate shall be 0.012 per mil."

[4] Issuers and corporate governance

4.1. Issuers' disclosure

To ensure market integrity, issuers of listed securities must constantly provide information to investors via the CNMV. This information can be classified into three types: (i) periodic public disclosure; (ii) significant events, whose frequency is unforeseeable; and (iii) other information, such as changes in significant holdings, stock options and own shares.

4.1.1. Annual information, auditors' reports and periodic public disclosure

All issuers of securities listed in any official secondary market that are not subject to public law[1] must file their annual information and auditors' reports with the CNMV. In 2004, the CNMV received 690 audits related to the 2003 financial statements and 50 special auditors' reports.

A total of 89.1% of financial statement audits were unqualified, i.e. 5.2% more than in 2003. The CNMV was satisfied with that increase since it considers that unqualified audits are an essential requirement for market transparency. The mandatory creation of audit committees[2] and the growing importance of corporate governance principles have clearly had a favourable effect.

In accordance with the Securities Market Law, issuers are also legally obliged to publicly disclose periodic information and the contents determined by the Economy and Finance Ministry. Companies listed in a securities market must file information in accordance with the contents established in the pertinent regulation[3]. In contrast, companies with securities listed on the AIAF market need not file such information since the contents are not yet regulated[4].

In 2004, the CNMV checked that all the auditors' reports, financial statements and management reports were complete and that they were available to the public[5] and closely monitored the treatment given to qualifications. Specifically, the CNMV adopted the following measures in 2004 in relation to the 2003 information:

- At total of 115 demands were issued due to failure to file auditors' reports and special auditors' reports[6] in the established periods.
- Thirty-two demands requested issuers to provide an explanation of the audit qualifications (see Annex A.I.21).
- A total of 56 demands requested issuers to provide additional information not contained in the financial statements and/or explanations of discrepancies between the financial statements and the period public disclosures.
- In the case of institutions with a qualified auditors' report which had a negative impact on earnings or net worth, additional information was requested regarding the actions adopted by the audit committee in order to avoid qualifications.
- Audit committees were expressly requested to provide information about how they drafted their report on activities in the year and presented it to the shareholders' meeting,

[1] Article 35 of the Securities Market Law: "[...] The State, the Autonomous Regions, the international organisations of which Spain is a member, and other public law entities to be determined by the Government shall not be required to comply with the provisions of the two preceding paragraphs of this Article. The Government shall establish the annual and quarterly information to be published by those issuers [...]".
[2] Law 44/2002, dated 22 November, on Measures to Reform the Financial System.
[3] Order dated 18 January 1991 on periodic public information of issuers of securities listed in the securities markets.
[4] Nevertheless, many of those issuers file this information since they are listed in the securities markets.
[5] The following information was made available to the public on the CNMV's web site: the full text of financial statements and management reports, issuers' auditors' reports, a summary of auditors' qualifications, the response to requests for the existence of qualifications and for the amplification of the information in the annual report, and special auditors' reports. The CNMV also drafted a report on issuers' audits in 2003.
[6] The purpose of special auditors' reports is to update the information in qualified auditors' reports. The update is done as of the end of the first half of the year after the one to which the qualified auditors' report refers.

Table 4.1

Audits of issuers filed with the CNMV(1)

Percentage of total auditors' reports filed

	2001		2002		2003	
	No.	%	No.	%	No.	%
1. Auditors' reports filed with the CNMV						
Total auditors' reports filed	**657**	**100.0**	**679**	**100.0**	**690**	**100.0**
– Individual financial statements	429	65.3	452	66.6	473	68.6
– Consolidated financial statements	228	34.7	227	33.4	217	31.4
– Special reports under Ministerial Order 30/9/92	70		65		50	
2. Auditors' opinion						
– Unqualified opinion	563	85.7	570	83.9	615	89.1
– Qualified opinion	94	14.3	109	16.1	75	10.9
3. Types of qualifications						
– No. of reports with exceptions	45	6.8	71	10.5	45	6.5
– No. of reports with uncertainties, etc.	49	7.5	49	7.2	43	6.2
– No. of reports with limitations	15	2.3	12	1.8	5	0.7
4. Effects of exceptions						
4.1 On earnings						
– No. of reports with positive effects	18	2.7	18	2.7	18	2.6
– No. of reports with negative effects	19	2.9	44	6.5	21	3.0
4.2 On net worth						
– No. of reports with positive effects	16	2.4	15	2.2	11	1.6
– No. of reports with negative effects	1	0.2	9	1.3	5	0.7
5. Nature of uncertainties, etc.						
– Going concern	8	1.2	10	1.5	14	2.0
– Tax contingencies	8	1.2	17	2.5	10	1.4
– Asset recovery	12	1.8	12	1.8	15	2.2
– Effect of devaluation of the Argentinean peso	11	1.7	2	0.3	0	0.0
– Litigation	7	1.1	15	2.2	10	1.4
– Denial of opinion or adverse opinion	1	0.2	1	0.1	1	0.1
– Other uncertainties	15	2.3	14	2.1	16	2.3

(1) Data from the CNMV' s Public Register of Auditors' Reports. They relate to auditors' reports on financial statements and to special reports filed with the CNMV through 31 December each year. Percentages calculated with respect to the total number of auditors' reports filed.

including a description of the discrepancies between the board of directors and external auditors.

4.1.2. Significant events and other disclosures filed with the CNMV

In 2004, a total of 6,538 disclosures of significant information were filed with the CNMV, i.e. 1.8% more than in 2003. The number of disclosures of *significant events* increased by 6.5% on 2003, whereas the number of disclosures of *other disclosures*[7] decreased by 13.3%.

Among significant events, the number of issuers' *advanced results* increased from 225 in 2003 to 966 in 2004. This increase was due to the CNMV's decision[8] in 2003 to treat

[7] Information which the regulation considers as not significant and filed voluntarily by listed companies.

[8] In accordance with CNMV Circular 2/2002, since 1 July 2003, periodic public information must be filed with the CNMV via the CIFRADOC encrypted system and it is published automatically as a significant event.

Application of the International Financial Reporting Standards as from 2005

In accordance with European Union regulation[1], companies whose securities are admitted to trading on a regulated market and which have to present consolidated financial statements and management report for years starting on or after 1 January 2005 must apply International Financial Reporting Standards (IFRS).

In December 2004, the CNMV released for public consultation a draft Circular on the application of IFRS in the preparation of 2005 periodic financial information since the information in the transition period must also be adapted to this format. That Circular was finally approved on 1 April (Circular 1/2005). Its main contents are as follows:

- The current periodic reporting formats were replaced in order to enable consolidated information to presented in line with IFRS.
- The type and detail of information about transactions with related parties that must be provided every half-year were defined[2].
- Half-yearly information must detail the issues of loans and other securities that generate debt, and a new section was introduced that includes the main characteristics of securities issued by companies obliged to present half-yearly public information or by companies belonging to their consolidated group, and information about issues on which any company in the consolidated group has provided any type of collateral.

(1) Regulation (EC) No. 1606/2002 of the European Parliament and of the Council on the application of international accounting standards, and Commission Regulation (EC) No. 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No. 1606/2002 of the European Parliament and of the Council.
(2) This regulation was prepared by virtue of the authorisation granted to the CNMV by the Economy and Finance Ministry Order EHA/3050/2004, dated 15 September. That Order implements article 35 of the Securities Market Law, by defining related parties and specifying the transactions with related parties that must be disclosed, the way in which to present this information and the level of aggregation that may be used.

Table 4.2
Significant events and other disclosures filed with the CNMV

Type	2003	2004	% Chg. 04/03
Significant events	**4,887**	**5,204**	**6.5**
Acquisitions or sales of holdings	279	87	−68.8
Notices and resolutions of shareholders' meetings	602	582	−3.3
Issuers' advance results	225	966	329.3
Changes in the Board or other governing bodies	264	355	34.5
Audit Committee (Law 44/2002)	431	49	−88.6
Periodical disclosure by asset-backed funds	405	805	98.8
Periodical disclosure by mortgage-backed funds	678	735	8.4
Annual corporate governance report	0	201	–
Suspensions and resumption of trading	154	135	−12.3
Delistings (including prior agreements)	113	74	−34.5
Other	1,736	1,215	−30.0
Other disclosures	**1,538**	**1,334**	**−13.3**
Announcement of coupon and dividend payments	277	288	4.0
Information about issuers' results	557	447	−19.7
Presentations about companies	132	151	14.4
Other	572	448	−21.7
Total	**6,425**	**6,538**	**1.8**

all issuers' periodic public disclosure as *significant events*; previously, only major advances were disclosed in this way.

Companies whose fixed-income securities are listed on the stock markets and AIAF must file significant events in the same way as those with listed equities. Of the significant events filed with the CNMV, one type that increased considerably in 2004 was that related to periodical disclosure by about asset-backed funds which, combined with periodical disclosure by mortgage-backed funds, accounted for nearly one-third of the total significant events filed with the CNMV; they increased by 42.2% in 2004, compared with 1.8% growth in the number of total significant events.

4.1.3. Significant holdings

In 2004, a total of 2,398 disclosures of significant holdings were made[9], i.e. 6.8% less than in 2003. Annex A.I.22 shows the number of significant shareholders of companies in the Ibex-35 index at 31 December 2004, grouped into percentage ranges[10].

Table 4.3

Disclosure of stock options at 31/12/2004

Company	Index/Market	No. of directors
ACS	Ibex 35	4
Altadis	Ibex 35	2
Bankinter	Ibex 35	9
Banco Santander Central Hispano	Ibex 35	5
Construcciones y Auxiliar de Ferrocarriles (CAF)	Electronic market	4
Campofrío	Electronic market	6
Corporación Financiera Alba	Electronic market	3
Grupo Ferrovial	Ibex 35	3
Promotora de Informaciones (Prisa)	Electronic market	7
Iberia, Líneas Aéreas de España	Ibex 35	2
Industrias de Diseño Textil (Inditex)	Ibex 35	8
Indra Sistemas	Ibex 35	12
Inypsa Informes y Proyectos	Open outcry	1
Jazztel	Electronic market	5
Logista, Compañía de Distribución Integral	Electronic market	1
Recoletos, Grupo de Comunicación	Electronic market	3
Service Point Solutions	Electronic market	2
Sogecable	Ibex 35	1
Tele Pizza	Electronic market	9
Telefónica Móviles	Ibex 35	1
Telefónica Publicidad e Información (TPI)	Ibex 35	1
Transportes Azkar	Electronic market	2
Unión Fenosa	Ibex 35	2
Unipapel	Electronic market	1
Total (24 companies)		**94**

[9] In accordance with Royal Decree 377/1991, dated 15 March, on disclosures of significant holdings.
[10] This information is available on the CNMV's web site in the "Participaciones significativas y autocartera" section in the Spanish version. The information available to the public is the final position of the agreement based on the latest communication filed by the company obliged to do so.

Deadlines for disclosing significant holdings, acquisition of own shares and stock options

Royal Decree 377/1991, dated 15 March, on the disclosure of significant holdings in listed companies and of the acquisition by these companies of own shares, establishes, among other provisions, the deadlines for which the parties must disclose significant holdings, acquisition of own shares and stock options:

a) Significant shareholders and directors of listed companies must disclose significant holdings in the seven business days after the contract signature.

b) Listed companies or companies controlled by listed companies must disclose the acquisition of own shares in the seven days after the date of the transaction or acquisition that generates the obligation to disclose.

c) Directors must disclose information about stock options in the seven business days after the granting of the stock options of the listed company of which they are a director.

The aforementioned disclosures must be filed within the periods and on forms specifically approved for this purpose.

The disclosures referred to in sections *a)* and *b)* must be filed in writing on paper by completing the forms specifically approved in CNMV Circular 2/1991, dated 24 April.

The disclosures referred to in section *c)* must be filed in writing on paper by completing the form specifically approved in CNMV Circular 4/2000, dated 2 August.

4.1.4. Stock options

Royal Decree 1370/2000[11] and Circular 4/2000[12] oblige all directors to disclose the acquisition or sale of options on their companies' shares[13]. Table 4.3 lists the companies whose directors had disclosed stock options or other similar rights at 2004 year-end.

4.1.5. Own shares

In 2004, a total of 241 communications were received regarding acquisition of own shares[14], i.e. 16.4% more than in 2003.

In 2004, the CNMV Board resolved to publicly disclose communications of own shares from 1 March 2004; disclosure was already mandatory but not public. The decision, which was adopted on 2 February, is in line with the Transparency Law[15], which envisages the publication of that information in the annual corporate governance report, and with the Transparency Directive[16]. The Transparency Law establishes that the annual corporate governance report must disclose own shares held by the company and any significant changes.

[11] Royal Decree 1370/2000, dated 19 July, amending Royal Decree 377/1991, dated 15 March, on the disclosure of significant holdings in listed companies and of the acquisition by these companies of own shares.
[12] CNMV Circular 4/2000, dated 2 August, which established the method of disclosing the stock options and remuneration systems for directors and managers of listed companies.
[13] For these purposes, warrants, convertible or exchangeable bonds and other securities which grant their owners the right to subscribe to or acquire shares are considered to be equivalent to stock options.
[14] Own shares are governed by additional provision one of the Spanish Corporations Law and Royal Decree 377/1991, dated 15 March, on the disclosure of significant holdings in listed companies.
[15] Law 26/2003, dated 17 July, amending Securities Market Law 24/1998, dated 28 July, and the consolidated text of the Spanish Corporations Law, approved by Legislative Royal Decree 1564/1989, dated 22 December, in order to reinforce the transparency of listed companies (amended by Law 62/2003, dated 30 December, on tax, administrative and labour measures).
[16] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

4.2. Corporate governance

The Transparency Law approved in July 2003[17] established significant measures to foster transparency by issuers of securities listed in the official secondary markets. Listed corporations are obliged to provide information about takeover defences and shareholders' agreements, publish a corporate governance report and have a web site to disseminate significant information to the markets and enable shareholders to exercise their right to information. That law also envisages distance electronic voting in shareholders' meetings.

That law is applicable to corporations whose shares are listed in an official securities market. That law also envisages that a corporate governance report must also be drafted by other companies that issue securities listed in official securities markets (e.g. thrifts).

CNMV Circular 1/2004, dated 17 March, on the annual corporate governance report, implements the Transparency Law (see Chapter 11.2 for more details).

The measures established by this law were reflected in the information filed by issuers with the CNMV in 2004. Several listed companies had approved their annual corporate governance reports prior to the entry into force of CNMV Circular 1/2004, so the contents and format of the reports in the first year were not entirely uniform.

4.2.1. Bylaw restrictions and shareholders' agreements

Bylaw restrictions

CNMV Circular 1/2004 established the obligation for the corporate governance report to disclose any legal and bylaw restrictions regarding voting rights and legal restrictions on the acquisition or sale of shares; supermajorities, other than those required by law, for decisions made by the board of directors and shareholders' meetings; and requirements, other than membership of the Board, for being appointed as chairperson, and golden handshake or takeover defence clauses.

Based on the information provided in the first annual report by issuers and on other mandatory information filed with the CNMV by the companies in the Ibex-35 index:

- Ten companies had legal or bylaw restrictions on voting rights.
- Ten companies had established supermajorities in their bylaws for board of directors decisions.
- Five companies had established supermajorities in their bylaws for shareholders' meeting decisions.
- Three companies had established additional requirements for appointing the chairperson of the board of directors.
- Most companies had established a minimum number of shares in order to attend shareholders' meetings. The minimum ranged between 10 and 600 shares in a total of 28 companies.

Shareholders' agreements

The Transparency Law and the consolidated text of the Spanish Corporations Law established the obligation to publicly disclose any shareholders' agreements that affect a listed company. Shareholders' agreements are defined as those that regulate the exercise of voting rights in shareholders' meetings or restrict the free transfer of shares in listed corporations. Shareholders' agreements affecting a company that controls a listed company are also subject to this disclosure obligation.

The law classifies as serious violations the failure to disclose shareholders' agreement, file with them the Mercantile Registry or publish them as a significant event. Nevertheless, the regulation established a transition period for pre-existing shareholders' agreements and a deadline for disclosing them. In 2004, in compliance with that regulation, disclosures were received about ten listed companies that affected the percentage of capital stated in table 4.4.

4.2.2. Remote voting in shareholders' meetings

The regulations to foster corporate governance practices in listed companies[18] give special importance to shareholders' meetings and encourage shareholders to become more involved in decision-making.

The use of a remote voting system has enormous potential in facilitating this involvement. Through November 2004, of the 196 listed companies analysed, 95 had amended their bylaws to introduce the possibility of remote proxy-granting or voting in shareholders' meetings. In the shareholders' meetings held in 2004, two companies enabled shareholders to grant

[17] Law 26/2003, dated 17 July, which amended Securities Market Law and the consolidated text of the Spanish Corporations Law.

[18] Law 26/2003, dated 17 July, amending the Securities Market Law and the consolidated text of the Spanish Corporations Law, in order to reinforce the transparency of listed companies, and Economy Ministry Order ECO/3722/2003, dated 26 December, on the annual corporate governance report.

Table 4.4
Shareholders' agreements: percentage of capital affected(1)

Company	Market	%	Company	Market	%
Cementos Molins	Open outcry	90.1	La Seda de Barcelona(2)	Electronic market	5.3
Prisa	Electronic market	44.5	Gestevisión Telecinco	Electronic market	65.0
Unipapel	Electronic market	2.7	Tubacex	Electronic market	6.1
Corporación Fin. Alba	Electronic market	62.8	Natra	Electronic market	15.0
La Seda de Barcelona	Electronic market	18.9	Natraceutical	Nuevo Mercado	7.2

(1) Based on information filed with the Registry of Significant Holdings at 2004 year-end.
(2) There are two shareholders' agreements in place at La Seda de Barcelona. One involves two shareholders and the other three shareholders.

proxy and/or vote via telematic means and one company enabled shareholders to grant proxy via remote means.

The following should be considered when fostering the use of remote voting:

- The bylaws must include a detailed regulation of the entire process and the practical aspects must be set out in the shareholders' meeting regulation.
- The identity of the person who exercises his/her right to vote must be adequately guaranteed in order to avoid any risk to the validity of the decisions. Therefore, there must be a list of shareholders with attendance and voting rights. At present, this information is supplied by the corresponding securities clearing and settlement service[19].
- An effective, secure, easy-to-understand and easy-to-use model must be designed for shareholders that addresses any possible risks and maintains suitable levels of confidentiality, authenticity, integrity and access control.
- Companies must devote significant efforts to making minority shareholders aware of their remote voting system.

4.2.3. Listed companies' web sites

The obligation established in the Transparency Law for listed corporations to have a web site to disseminate significant information and enable shareholders to exercise their right to information has been implemented in two regulations regarding the structure and content of the web sites: Economy Ministry Order ECO/3722/2003, dated 26 December, and CNMV Circular 1/2004, dated 17 March. The Circular specifies aspects related to the minimum content of listed companies' web sites (significant events, notice of meetings, financial and corporate information, etc.) and the applicable technical and legal specifications.

Since the entry into force of the Circular, the CNMV has analysed the web sites of 196 companies listed in Spain[20]; it has notified the companies about incomplete or improvable aspects of their web sites and issued orders to those without web sites or without a specific section for investors. The analyses followed a dual approval: one was objective, in which aspects relating directly to the regulation were reviewed; and the other was more subjective, in which investors' perception was prioritised— fast and easy access to the content, a simple, intuitive structure, etc.

Of those analyses, at 2004 year-end, the web sites of 83% of Ibex-35 companies conformed to the CNMV Circular 1/2004 and just 17% had some deficiencies. However, the situation was less favourable in the case of the other companies (161), since just 43% of web sites conformed to the Circular.

[19] In accordance with article 22 of Royal Decree 116/1992, on the representation of securities by book-entries and clearing and settlement of stock market transactions.
[20] This figure does not include companies whose trading has been halted for a long period, those which have started delisting procedures, closed-end securities investment companies (SIM) and open-end securities investment companies (SIMCAV).

[5] Record-keeping, counterparties, clearing and settlement

There are five securities clearing and settlement platforms for Spain's spot markets. Those five platforms are managed by four central securities depositories: Iberclear (with the Iberclear CADE and Iberclear SCLV platforms), SCLBarcelona, SCLBilbao and SCLValencia. Iberclear operates with securities traded nationwide and the other depositories with securities traded only in their respective stock exchanges. Iberclear is also the central registrar for securities traded in Spain's spot market, although the Bilbao, Barcelona and Valencia stock markets keep a record of the securities that are settled there.

Until the Law on Measures to Reform the Financial System was approved in November 2002, counterparty services were limited to the official derivatives market MEFF, and were provided by the market itself. Since 2003, MeffClear has provided counterparty service to other segments, specifically repos on SENAF and bilateral debt trades.

Iberclear is supervised by the CNMV, while the other three central depositories, SCLBarcelona, SCLBilbao and SCLValencia, are monitored by the regional governments of Catalunya, the Basque Country and Valencia, respectively. The CNMV is also in charge of supervising MeffClear.

5.1 Iberclear

Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A. Unipersonal, whose trade name is Iberclear, is in charge of registering, clearing and settling securities in Spain. Iberclear is 100% owned by the Bolsas y Mercados Españoles (BME) holding company and it mainly deals with securities traded in the stock exchanges, public debt market and AIAF. At 2004 year-end, Iberclear had 254 members, seven less than at 2003 year-end (see table 5.1).

Table 5.1

Iberclear members

	2003	2004
Total Iberclear(1)	**261**	**254**
Stock exchanges	106	105
Latibex	91	89
AIAF	92	76
Public debt	217	207

(1) The total is lower than the sum of the number of clearing members in the various markets since many companies are members of more than one market.

The year 2004 was the first full year after the merger of Servicio de Compensación y Liquidación de Valores (SCLV) and Central de Anotaciones de Deuda del Estado (CADE) into Iberclear[1]. In general, the activity indicators of the two platforms managed by Iberclear (Iberclear-CADE, for securities traded in the AIAF fixed-income market and the Public Debt Book-Entry Market; and Iberclear-SCLV, for securities traded in the stock exchanges and Latibex) reflected trading performance in their benchmark markets (see Chapters 2 and 3).

5.1.1. Iberclear - CADE

At 2004 year-end, 2,803 issues were registered in this platform with a nominal value of 638,029 million euro (see table 5.2). Most of them were listed on AIAF, which accounted for 90% of the total number[2]. The number of public debt issues was unchanged with respect to 2003, although the nominal amount increased by 2.9%. AIAF issues increased in both number (12%) and nominal value (54%).

In 2004, Iberclear-CADE settled a total of 9,156,708 trades[3], of which 90.2% were in the Book-Entry Debt Market and the rest in AIAF. The bulk of transactions were repos and sell/buybacks and buy/sellbacks in the Book-Entry Debt Market and outright spot trades in AIAF. In 2004, the number of public

[1] SCLV (in charge of securities in the stock exchanges and AIAF) and CADE (in charge of public debt) were merged on 1 April 2003.
[2] However, AIAF issues accounted for just under half of the total nominal value.
[3] Including 769,597 transfers.

The role of central securities depositories (CSDs) in cross-border transactions

Record-keeping, clearing and settlement of cross-border securities trades are very complex. These types of trades are becoming more popular, especially in Europe, due to growing market integration.

One the one hand, there are cross-border investments and, on the other, securities are issued in one country and listed in a secondary market in another country. For example, in Spain there are foreign issuers, such as Bayer A.G.

There are also Spanish issuers whose securities are listed in foreign markets, such as Telefónica (whose securities can be acquired in the London, Paris, Frankfurt, Tokyo, New York, Lima, Buenos Aires and São Paulo stock exchanges) and Repsol-YPF (which trades in the New York and Buenos Aires exchanges). All those cases require cross-border record-keeping, clearing and settlement.

Financial institutions interested in investing in securities listed in other countries can channel their investment (or that of their clients) in several ways:

- Direct access. The institution becomes a member of the foreign central securities depository. However, this option may not be available since many systems do not admit non-resident companies as members. Furthermore, if an institution is interested in investing in many countries, it may not be feasible or economically viable to become a member of a CSD in each country.
- Indirect access. An institution may use the services of a local member of the settlement system, i.e. become a client of the local agent.
- Global custodian. The institution may establish relations with a global custodian, which will provide access to the central securities depositories of other countries either because one of its branches is a member or because the global custodian is a client of a local member of the foreign settlement system.
- International central securities depository (ICSD). An ICSD, such as Euroclear or Clearstream, which provide services in Europe, can be used. Although ICSDs have relations with some domestic central securities depositories, most operate via indirect access. Both Euroclear and Clearstream provide clients with banking services and the possibility to settle in different currencies.
- Direct links among domestic central securities depositories. These links enable two domestic central securities depositories to interconnect and their respective members to settle cross-border trades between systems.

In Spain, foreign investments are registered and settled mainly via indirect access: resident companies that are members of Iberclear act as local agents of foreign investors. Nevertheless, Iberclear has direct connections with European and Latin American central depositories (see table). Those links only enable them to process securities transfers free of payment.

Iberclear's connections with other depositories

	Book-entry public debt market	Stock exchange	Latibex
Germany (Clearstream-Frankfurt)	Bilateral	–	–
Argentina (Caja de Valores)	–	Spanish securities	Argentinean securities
Brazil (CBLC)	–	–	Brazilian securities
France (Euroclear-France)(1)	Bilateral	Bilateral	–
Italy (Monte Titoli)	Bilateral	Bilateral	–
Netherlands (Euroclear-Netherlands)(1)	Bilateral	Bilateral	–

(1) Clearstream-Frankfurt, Euroclear-France and Euroclear-Netherlands act as domestic CSDs in Germany, France and The Netherlands, respectively. Iberclear has links with these companies but not with the corresponding international central securities depositories (ICSDs).
Source: Iberclear.

Table 5.2

Iberclear CADE. Record-keeping activities

Million euro

	Public debt		AIAF		Total		
Registered securities	2003	2004	2003	2004	2003	2004	Change (%)
Number of issues	272	272	2,259	2,531	2,531	2,803	10.7
Nominal amount	313,796	322,755	204,556	315,274	518,352	638,029	23.1

Table 5.3

Iberclear CADE. Number of settled transactions

	Public debt		AIAF		Total		
Type of transaction	2003	2004	2003	2004	2003	2004	Change (%)
Outright trades	267,337	198,828	626,472	702,051	893,809	900,879	0.8
Repos and sell/buybacks and buy/sellbacks	8,333,365	7,419,759	56,768	66,473	8,390,133	7,486,232	−10.8
Outright transfers	399,171	386,161	181,048	127,284	580,219	513,445	−11.5
Temporary transfers	331,290	256,003	1,478	149	332,768	256,152	−23.0
Total	9,331,163	8,260,751	865,766	895,957	10,196,929	9,156,708	−10.2

Table 5.4

Iberclear CADE. Amount of settled trades(1)

Million euro

	Public debt		AIAF		Total		
Type of transaction	2003	2004	2003	2004	2003	2004	Change (%)
Outright trades	2,857,300	2,703,020	175,030	325,410	3,032,330	3,028,430	−0.1
Repos and sell/buybacks and buy/sellbacks	46,058,926	49,444,699	476,190	646,059	46,535,116	50,090,758	7.6
Outright transfers	8,000,301	9,194,687	731,288	1,338,351	8,731,589	10,533,038	20.6
Temporary transfers	979,311	741,970	5,798	607	985,109	742,577	−24.6
Total	57,895,838	62,084,376	1,388,306	2,310,427	59,284,144	64,394,803	8.6

(1) Effective amount for outright trades, repos and sell/buybacks and buy/sellbacks; nominal amount for outright and temporary transfers.

debt trades decreased by 11.5% while AIAF trades rose by 3.5%, although the amount increased in both cases, especially AIAF, due to the larger size of the trades.

5.1.2 Iberclear - SCLV

Including all the Spanish stock exchanges and Latibex, 14,294,266 trades were settled in 2004, with a nominal value of 1,290,283 million euro (table 5.5). The number of settled trades fell 12.2% on 2003, whereas the nominal volume increased 31.9%. This performance is in line with the market, where both the number of orders and trades decreased, but block trades (which are larger) increased significantly in the electronic market.

In addition to settling securities trades, members can transfer securities between their respective Iberclear accounts, provided that they maintain ownership of those securities. Transfers may be free of payment or versus payment. In 2004, the number of free-of-payment transfers decreased 40.7%, but the number of transfers versus payment increased by 4.3% and the effective amount by 24.3%.

A total of 3,513 issues were registered at 2004 year-end, with a nominal value of 90,724 million euro. In 2004, the number of issues increased by 9% but the nominal amount rose by just 1.5% since the bulk of new issues were by open-end securities investment companies, SICAV (see table 5.6).

Table 5.5
Iberclear SCLV. Settled transactions
Million euro

	Stock exchange				Latibex			
	No. of transactions		Amount		No. of transactions		Amount	
Transactions	2003	2004	2003	2004	2003	2004	2003	2004
Purchases and sales	16,248,007	14,255,707	974,800	1,289,545	27,362	38,559	3,451	738
Failed settlements	61,311	39,143	5,795	5,085	320	872	6	14
Buy-ins	629	622	23	37	3	1	0	0
Transfers fop	436,452	258,472	–	–	245	499	–	–
Transfers vp	603,984	629,715	168,515	209,473	45	64	1	1

Transfers fop = transfers free of payment. - Transfers vp = transfers versus payment.

Table 5.6
Iberclear SCLV. Record-keeping
Million euro

	Stock exchange			Latibex		
Registered securities	2003	2004	Change (%)	2003	2004	Change (%)
Number of issues	3,222	3,513	9.0	31	35	12.9
Registered amount(1)	89,371	90,724	1.5	27	36	33.3

(1) Nominal amount for the stock exchange and effective amount for Latibex.

5.1.3. Innovations and improvements

Iberclear Instruction No. 8 came into force on 1 March 2004; it amended two fundamental operating features of the Iberclear-SCLV platform:

- The second multilateral settlement cycle was set back[4] from 13.30 hours to 15.00 hours, thus lengthening the period available to deliver the securities.
- The buy-in period (in which the seller is exonerated from delivering the securities, which are bought in the market against the cash that the seller would have received) was brought forward from T+5 to T+4.

In 2004, Iberclear also worked on a number of projects aimed at taking advantage of the potential cost cuts and efficiency improvements as a result of integration into BME and the concentration of equities and fixed-income settlement activities. The main projects were as follows:

- The CADE platform migrated from the Bank of Spain to Iberclear's IT system[5]. This change had little impact on Iberclear's procedures with its member, but it means that files are now exchanged directly between Iberclear and its members. This project was implemented in January 2005.
- A new Circular regulating bilateral loans of securities, approved in 2004[6]. This was due mainly to the new tax treatment for security loans provided by Law 62/2003, dated 30 December, on fiscal, administrative and labour

[4] Iberclear performs four daily settlement cycles: two are multilateral, which include ordinary stock exchange trades; and one is bilateral, which includes the effective amounts of trades involving two members or one company and Iberclear, such as the arrangement and withdrawal of collateral, fee payments and cash transfers between companies. In each of those three cycles, Iberclear obtains a settlement account listing the net cash amounts that must be debited or credited to the accounts that the companies have with the Bank of Spain. Those accounts are notified to the Bank of Spain around 9.30 hours, 12.30 hours (the bilateral cycle) and 15.00 hours on the day of settlement and the companies have 30 minutes to make payment into the treasury account. Iberclear also has a special fourth cycle at 11.15 hours for economic and financial transactions (dividend and coupon payments, redemptions, capital reductions, etc.).

[5] Established by Iberclear Instruction 7/2004.

[6] Iberclear Circular 4/2004.

measures. That Circular also included the foundations of a new procedure for updating the special register of security loans, which will be implemented in 2005.

- Single communications interface (*ventana unificada de comunicaciones*), a major objective that is broken down into three projects: connectivity, standardisation, and unification of procedures for matching bilateral transactions.
  - The primary goal of the first two projects is to unify the information interchange systems of the CADE and SCLV platforms operated by Iberclear, and to adapt the communications and files exchanged between Iberclear and the member entities involved in Spanish registration, clearing and settlement to international standards, basically ISO 15022. Implementation of these projects commenced in January 2005.
  - The project to unify trade matching procedures will be implemented in three phases during 2005. One will address transfers of securities traded on the stock exchanges, another will deal with bilateral security loans and collateral, and the third will establish a specific matching procedure for trades in securities in the CADE platform.
- Unified disclosure application (*Aplicación Unificada de Desglose* - AUD), a project launched by the stock exchanges involved in BME and Iberclear to rationalise the process of disclosing (which will be centralised) and notifying trades[7]. Relevant features of the computer application were defined in 2004, and the necessary programming was done. Trials commenced in January 2005 and the system is expected to be operational in the third quarter of 2005.
- "Administered" security lending. In this mechanism, Iberclear acts as borrower of the securities and then lends them to the companies wishing to borrow them to cover their sales. Implementing this system will require regulatory and technical changes, including those listed in the preceding paragraphs. The future regulation of this mechanism will include an automatic repurchase mechanism for the event that the borrower does not return the securities on time.

On 19 November 2004, the Spanish Cabinet extended Iberclear's scope of actions by designating it as manager of the National Register of Greenhouse Gas Emission Rights.

5.2. MeffClear

In September 2003, MeffClear began providing central counterparty services for trades in public debt instruments (bilateral trades and the repo segment of Senaf). Its main activity is acting as a single counterparty for market members in trades in securities and financial instruments; i.e. when a trade is registered in MeffClear, the latter acts as buyer vis-à-vis the seller, and as seller vis-à-vis the buyer, thus assuming the counterparty risk. Participants still have the obligation to settle their net position vis-à-vis the counterparty.

In 2004, the counterparty's first full year of operation, MeffClear registered 2,809 trades for a total effective amount of 306,355 million euro[8]. Over 96% of this activity (in terms of both transaction numbers and value) was in SENAF transactions and the remainder related to bilateral transactions. The average term of the transactions was 3.55 days (2.71 days for SENAF transactions and 25 days for bilateral transactions). The trades covered by MeffClear were very concentrated: the two most active members accounted for 39% of the total volume, and the four largest accounted for 61%.

In January 2005, two new members began operating with the central counterparty after joining in December 2003, and a third member made its first trades in February.

Table 5.7
Activity in MeffClear

	2003	2004
SENAF platform: effective trading	115,347	295,949
Bilateral transactions: effective trading	1,953	10,386
Total	**117,300**	**306,335**
SENAF platform: number of transactions[(1)]	830	2,705
Bilateral transactions: number of transactions[(2)]	14	104
Total	**844**	**2,809**
No. of participants	**19**	**19**

(1) Commenced on 15 September 2003.
(2) Commenced on 2 October 2003.

[7] In April 2004, the stock exchanges issued an Information Note to provide information about this project to market members; in June they issued an Operation Instruction.
[8] A daily average of 1,198 million euro.

[6] Spain's derivatives markets

In 2004, trading decreased in the Spanish derivatives markets for the third consecutive year, although the pace of decline slowed. Trading declined slightly on Mercado Español de Futuros y Opciones Financieros (MEFF), and there was a sharp decline in trading via MEFF Euroservices S.V. (EuroMEFF) for the first time since it was created. In contrast, warrant trading on the electronic market continued to rise.

6.1. MEFF

Trading on MEFF declined slightly in 2004. Trading in Ibex 35 futures increased considerably. Trading in futures on individual stocks also increased, but at a slower pace. Conversely, trading in stock options fell by 21.1%.

Lower trading in individual stock options was due to the steady reduction in the volatility of the stocks underlying the main contracts[1]. Nevertheless, performance by the 20 existing contracts was quite varied. Six of them[2] saw trading increase sharply, but their small weighting in the overall trading volume meant that they had little impact on overall trading in this segment. Options on the stocks with the largest capitalisation in the Ibex 35[3], which continued to account for the bulk of trading, saw a 31% average decline in trading.

Trading in futures on individual stocks performed better, as over 10 million contracts were traded and this was the largest segment of MEFF in terms of the number of contracts traded. The addition on 27 February of three new contracts (on Altadis, Gas Natural and Banco Popular) further enhanced trading in this product area, which was launched by MEFF in January 2001[4].

Ibex 35 contracts were the best-performing segment of MEFF. Trading in Ibex 35 Plus futures increased by 29% in 2004 to over 4 million contracts, and open interest at year-end was close to 82 thousand contracts. Trading in Ibex 35 options increased by a more modest 3.8% (in number of contracts). In monetary terms, trading on Ibex 35 futures and options increased by 50%, i.e. by more than trading in the underlying market. This led to a certain recovery in the ratio of trading in Ibex 35 futures and options to trading in the underlying electronic market (Fig. 6.1).

The increase in trading in Ibex 35 products is a result of the addition of new members (mainly non-residents) and the programme to incentivate members that provide liquidity, which triggered an increase in proprietary trading and trading by non-resident customers.

Since the beginning of 2004 there has been a new category of market member – the Proprietary Trading Member (PTM) – a form of market participant that is well-established in international derivatives markets and which plays a vital role in ensuring market liquidity and depth. PTMs can only trade for their own account and cannot execute orders for third parties. MEFF established a number of legal, technical and solvency requirements for admission as a PTM. PTMs must adopt the form of a corporation, which gives them legal status to operate, but they do not have to be investment services firms or credit institutions (in contrast with the other classes of member: traders, clearing members and clearing custodian members). The equity requirements are lower than for other classes of members: the minimum equity for a PTM is 100,000 euro[5].

---

[1] It is interesting to observe the volatility of the Ibex 35: see figure 1.4 in chapter 1.

[2] The options on individual stocks in which trading increased sharply in 2004 are as follows: Acerinox (+229%), Amadeus (+602%), Inditex (+87%), Telefónica Móviles (+252%), TPI (+98%) and Unión Fenosa (+58%).

[3] BBVA, Endesa, Iberdrola, Repsol, SCH and Telefónica.

[4] As a result, it is now possible to trade individual stock futures on MEFF relating to the twelve most liquid stocks in the Ibex 35, which together represent over 79% of its capitalisation.

[5] The minimum capital stock required is 2,000,000 euro for a broker-dealer and between 300,000 and 500,000 euro for a broker. The minimum equity requirement for banks and thrifts is 18.03 million euro.

Table 6.1.
Trading on Spain's derivatives markets*
No. of contracts, except where otherwise stated

	2001	2002	2003	2004	Change (%) 2004/03
MEFF RF	**284,642**	**51,060**	**1,371**	**98**	**–92.9**
Debt futures	284,642	51,060	1,371	98	–92.9
Debt options	–	–	–	–	–
MIBOR future and options	–	–	–	–	–
Euribor futures	–	–	–	–	–
MEFF RV	**30,652,400**	**27,866,867**	**21,746,693**	**21,406,951**	**–1.6**
Ibex 35 futures	4,206,094	3,515,016	3,227,206	4,158,120	28.8
Ibex 35 Plus	4,204,211	3,450,985	3,129,313	4,045,728	29.3
Ibex 35 Mini(1)	1,883	64,031	97,893	112,392	14.8
Ibex 35 options	537,127	441,745	243,844	253,160	3.8
Stock futures	7,389,886	9,630,899	9,768,607	10,281,086	5.2
Stock options	18,505,350	14,278,332	8,507,035	6,714,585	–21.1
S&P contracts(2)	13,943	875	0	–	–
Total MEFF	**30,937,042**	**27,917,927**	**21,748,064**	**21,407,049**	**–1.6**
Total EuroMEFF	**3,238,900**	**4,198,861**	**5,233,561**	**4,600,701**	**–12.1**
European debt futures(3)	2,618,855	2,583,383	2,879,779	2,815,703	–2.2
European index contracts(4)	617,278	1,604,330	2,322,356	1,784,965	–23.1
Other(5)	2,767	11,148	31,427	33	–99.9
Total MEFF and EuroMEFF	**34,175,942**	**32,116,788**	**26,981,625**	**26,007,750**	**–3.6**
Electronic market	**1,635,469**	**1,232,351**	**1,609,679**	**1,825,468**	**13.5**
Warrants(6)	1,635,469	1,232,351	1,609,679	1,825,468	13.5

(*) Trading volume on MEFF and EuroMEFF is expressed in number of contracts. Differences in the value of the underlying instruments prevent direct comparisons between products, but inter-year comparisons are meaningful.
(1) The number of Ibex 35 Mini futures (multiples of 1 euro) was standardised to the size of the Ibex 35 Plus futures (multiples of 10 euro).
(2) Futures and options on S&P Europe 350 and sector indexes (Financial, Technology and Telecommunications). MEFF suspended trading of these contracts on 10 November 2004.
(3) Includes futures on German debt (Bund, Böbl and Schatz) traded on Eurex and futures on the notional 10-year bond traded on Euronext Paris (until the connection was suspended on 30 December 2003).
(4) Includes futures on the DAX 30, DJ Eurostoxx 50 and DJ Stoxx 50 indexes traded on Eurex, futures on the CAC 40, DJ Eurostoxx 50 and DJ Stoxx 50 indexes traded on Euronext Paris (until suspension of the connection on 30 December 2003), and futures and options on the PSI 20 index traded on Euronext Lisbon (until suspension of the connection on 19 March 2004).
(5) Includes futures on Euribor traded on Euronext Paris (until suspension of the connection on 30 December 2003) and futures and options on individual stocks (Portugal Telecom and EDP) traded on Euronext Lisbon (until suspension of the connection on 19 March 2004).
(6) Premiums traded, in thousand euro, in the electronic market.

Figure 6.1
Trading in Ibex 35 futures and options as a percentage of trading on the electronic market

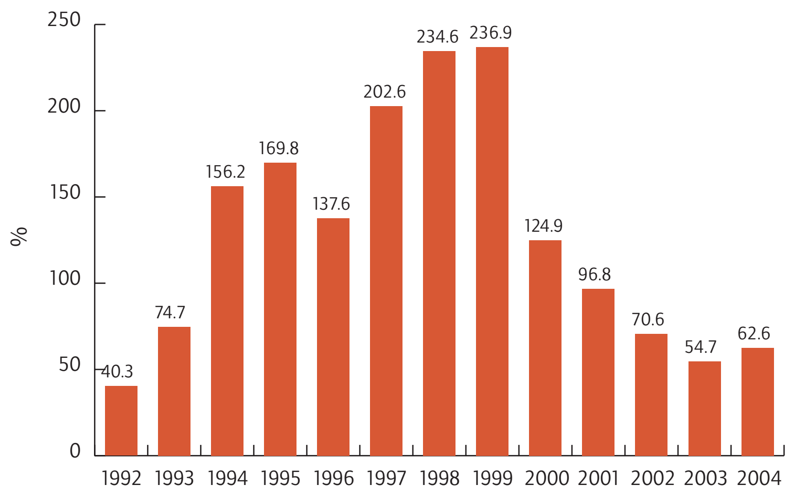


Table 6.2.

Trading in individual stock futures and options on MEFF RV

No. of contracts

	Options			Futures		
	2003	2004	Change (%) 2004/03	2003	2004	Change (%) 2004/03
Abertis[1]	34,121	30,105	–11.8	–	–	–
Acerinox	24,428	80,476	229.4	–	–	–
Altadis	101,542	98,387	–3.1	–	37,425	–
Amadeus	55,302	388,458	602.4	–	–	–
Banco Popular	102,486	62,133	–39.4	–	37,820	–
Bankinter	32,071	25,925	–19.2	–	–	–
BBVA	1,264,074	909,304	–28.1	1,708,074	1,715,030	0.4
Endesa	893,434	437,818	–51.0	495,232	313,076	–36.8
Gas Natural	56,813	45,185	–20.5	–	12,609	–
Iberdrola	370,046	251,768	–32.0	404,427	291,144	–28.0
Inditex	72,684	135,864	86.9	42,856	44,881	4.7
Indra	29,573	22,859	–22.7	–	–	–
Repsol	1,380,338	735,308	–46.7	445,643	681,979	53.0
SCH	1,585,039	1,365,457	–13.9	2,707,548	2,976,413	9.9
Sogecable	62,179	43,220	–30.5	–	–	–
Telefónica	2,172,817	1,852,610	–14.7	3,864,321	4,075,991	5.5
Telefónica Móviles	19,150	67,488	252.4	34,196	51,449	50.5
Terra	162,106	13,323	–91.8	66,310	43,269	–34.7
TPI	22,071	43,724	98.1	–	–	–
Unión Fenosa	66,761	105,173	57.5	–	–	–
Total	8,507,035	6,714,585	–21.1	9,768,607	10,281,086	5.2

(1) Replaced Acesa after the latter merged with Aurea in April 2003.

Additionally, since 1 January 2004, MEFF has admitted non-residents as settling members, as provided by the Securities Market Law.

Trading by MEFF members via EuroMEFF fell 12.1% in 2004, the first decline since this gateway was established in 1999.

Table 6.3.

MEFF membership figures. 2004

MEFF Renta Variable[1]	**86**
Custodian clearing members	33
Clearing members	34
Traders	16
Proprietary Trading members	3
MEFF Renta Fija[2]	**53**
Custodian clearing members	34
Clearing members	13
Traders	6
MFAO	**14**
Custodian clearing members	5
Clearing members	6
Traders	2
Industrial members	1

(1) Contracts on indexes and individual stocks.
(2) Interest rate derivatives.

Trading in financial derivatives was concentrated in Eurex products following suspension of the connections with Euronext Paris and Euronext Lisbon[6]. Trading in equity derivatives through EuroMEFF shrank by 23% in 2004, and 81% of the volume was in futures on the DJ EuroStoxx 50 pan-European index.

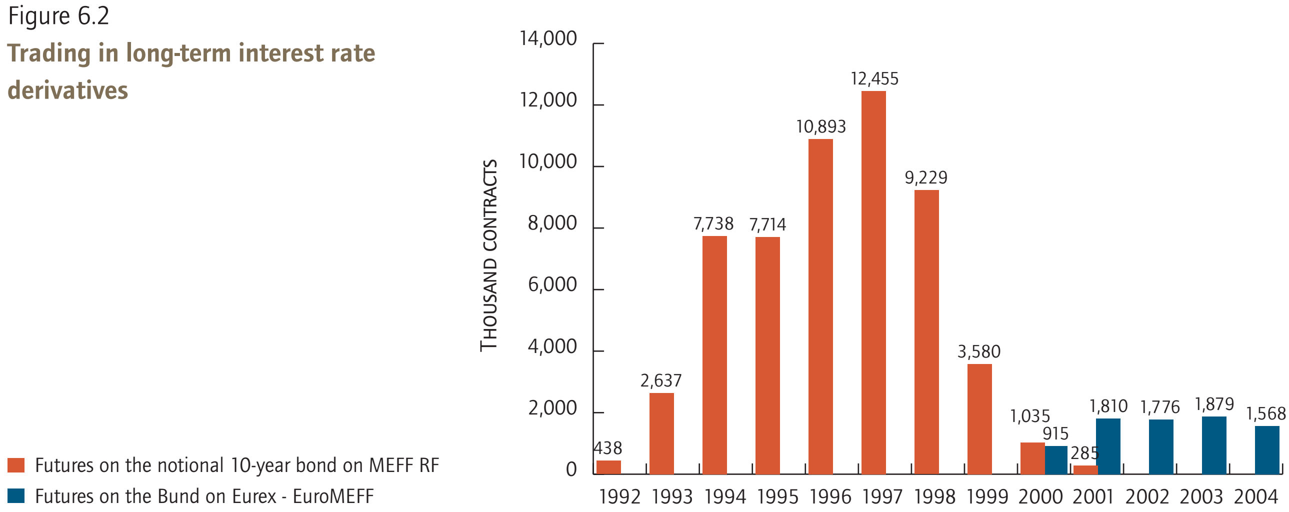
Trading in long-term interest rate derivatives by MEFF members was again concentrated in futures on German debt (Bund, Böbl and Schatz) on Eurex. The practical disappearance of interest rate differentials in the euro area and the greater correlation between the various public debt markets have greatly reduced trading in these products[7] since 1999, in comparison with the trading volume between 1994 and 1998 (see Fig. 6.2).

MEFF made two significant technical improvements in 2004. The main new feature in the trading system was the introduction of the opening auction as a method of commencing continuous trading, and prior to resumption of trading in cases of market suspension. The auction period begins at 8.30 a.m. and ends at 9.00 a.m. plus a random period of at most thirty seconds. Orders may be entered, amended or cancelled, but not executed, during the auction period. Once the auction finalises, MEFF analyses the buy and sell orders and calculates the auction price as the one that enables the largest number of contracts to be sold.

Also, since July 2004, it is possible to trade in options with a maturity of up to 30 months. Previously, the maximum maturity was twelve months. This initiative, like the preceding one, was taken at the suggestion of market participants. Moreover, the possibility of extending that period to five years is being considered.

Finally, trading and record-keeping of contracts on the S&P indexes that were traded on MEFF came to an end on 10 November 2004 as a result of the dissolution of the Globex Alliance[8] of which it had been a member since 2000.

Figure 6.2
Trading in long-term interest rate derivatives



[6] EuroMEFF suspended the connection with Euronext Paris on 30 December 2003. The connection with Euronext Lisbon was maintained until 19 March 2004.
[7] A total of 98 futures contracts on the 10-year notional bond were traded on MEFF in 2004, and open interest at year-end totalled five contracts.
[8] The Globex Alliance sought to enable electronic interconnections between derivatives markets in several countries. MEFF joined the alliance in June 2000; the other members were: Chicago Mercantile Exchange (CME), Paris Bourse (Euronext Paris), Italy's IDEM, Portugal's BDP, Montreal Stock Exchange, Singapore Exchange (SIMEX), and Bolsa de Mercadorías e Futuros de São Paulo (BM&F).

Table 6.4.
Warrant issues registered with the CNMV
Thousand euro

	No. of		Amount(1)			
	Issuers	Issues	Total	Shares	Indexes	Other
2000	6	429	2,558,488	1,465,620	579,560	513,309
2001	11	1,223	5,479,505	3,045,269	2,254,376	179,860
2002	9	1,132	2,338,903	1,652,480	665,619	20,804
2003	7	1,048	1,327,166	753,984	488,956	84,226
2004	7	1,600	1,525,247	929,004	553,758	42,485

(1) Amount of premium.

Table 6.5.
Trading in warrants on the electronic market(1)
Premiums traded, in thousand euro

	Equities						Currencies(2)			
	Indexes		Shares		Total		Total		Total	
	Volume	No.	Volume	No.	Volume	No.	Volume	No.	Volume	No.
1995	1,078	4	0	0	1,078	4	0	0	1,078	4
1996	10,940	5	0	0	10,940	5	5,589	6	16,529	11
1997	78,345	14	72,388	51	150,734	65	40	2	150,774	67
1998	137,328	38	130,273	60	267,601	98	18	1	267,619	99
1999	47,080	69	154,871	119	201,951	188	3,431	9	205,382	197
2000	162,300	118	723,888	329	886,188	447	12,012	28	898,200	475
2001	415,185	233	1,207,676	802	1,622,860	1,035	12,609	45	1,635,469	1,080
2002	406,276	360	817,222	1,483	1,223,498	1,843	8,853	42	1,232,351	1,885
2003	480,781	350	1,094,271	1,383	1,575,053	1,733	34,627	66	1,609,679	1,799
2004	550,716	473	1,236,832	1,612	1,787,549	2,085	37,919	98	1,825,468	2,183

(1) The number refers to the number of issues which were traded in each period.
(2) Includes fixed-income warrants in the years when there was trading in those products.

6.2. Warrants

6.2.1. Issues

The primary market in warrants was more active in 2004 in terms of both the amounts and the number of issues. The amount of premiums on warrant issues registered with the CNMV increased by 15% to 1.5 billion euro (most were warrants on shares). The number of issues was the highest in recent years: 1,600. The number of issuers was unchanged: seven[9].

6.2.2. Trading

The secondary market in warrants continued to expand in 2004. Warrant premiums traded in the stock exchange increased by 13% overall, and the number of warrants traded in the year increased by 21%. Trading increased in warrants on both

[9] The seven warrants issuers in 2004, with their respective number of issues in brackets, were as follows: Banesto Emisiones (64), Bankinter (232), BBVA Banco de Financiación (435), Commerzbank (45), SCH (228), Santander Investment Services, S.A. (124) aOnd Société Générale Acceptance (472).

Table 6.6.
Issues of option purchase/ sale contracts registered with the CNMV
Thousand euro

	No. of		Amount(1)			
	Issuers	Issues	Total	Shares	Indexes	Other
2000	13	66	2,882,139	2,741,383	–	140,757
2001	23	76	2,093,886	2,093,886	–	–
2002	14	28	1,658,450	1,368,452	200,000	89,998
2003	8	41	500,838	474,511	26,327	–
2004	8	31	247,717	195,305	48,662	3,750

(1) Nominal amount of contract.

equities and currencies (see Table 6.5). The consolidation of trading in these products contrasted with the decline in trading of options on individual stocks on MEFF.

Investor interest in these products is supported by their greater flexibility to adapt to investor demand and by the satisfactory operation of the electronic platform that was launched at the end of 2002, enabling end investors to invest in warrants more easily[10]. The most heavily-traded warrants continue to be those on the shares of the Spanish market's large-cap companies and on the Ibex-35 index, although there was an increase in trading in warrants on the Eurostoxx 50 pan-European index[11].

6.3. Other financial contracts

The CNMV's register of option purchase/sale contracts (formerly called "atypical financial contracts") declined again significantly in 2004. A nominal amount of 248 million euro was issued in 2004, contrasting with 501 million euro in 2003 and 1,700 million euro in 2002[12].

6.4. Commodity derivatives markets

Mercado de Futuros sobre Aceite de Oliva (MFAO), the olive oil futures market, commenced operations on 6 February 2004. This is the second commodity derivatives market to be authorised in Spain[13] and the world's first olive oil derivatives market. Trading commenced in futures on virgin olive oil of at least lamp grade. Contracts represent one tonne. Maturities fall six times per year, in odd-numbered months. Settlement on maturity is by physical delivery of the merchandise, and there is a daily settlement by differences with respect to the previous session's settlement price. A distinctive feature of MFAO is that it allows industrial members (i.e. not financial institutions) to operate directly and trade for their own account, provided that they meet certain legal requirements as to integrity, professionalism and solvency[14].

A total of 10,693 contracts have been traded on MFAO since it opened. Open interest at year-end amounted to 2,850 contracts.

After several months of operation, MFAO is considering the possibility of making the requirements more flexible so as to bring them into line with the Proprietary Trading Members (PTM) of MEFF, given their similarities.

Table 6.7.
MFAO membership figures. 2004

Custodian clearing members	5
Clearing members	6
Traders	2
Industrial members	1
Total	**14**

[10] The specialised system on the Spanish stock exchange for trading in warrants and certificates is fully electronic and accepts orders via the Internet. Trading is continuous and information is disseminated in real time. The system's liquidity is guaranteed by the presence of market makers.
[11] Warrants on Telefónica, Repsol, BBVA and SCH together accounted for 53% of total equity warrant trading in 2004. The most heavily-traded index warrants related to the Ibex 35 (17.3% of total equity warrant trading) and the EuroStoxx 50 (10%).
[12] There were complaints about these contracts in 2004. For more details, see chapter 13.
[13] Spain's first commodity derivatives market was the citrus futures market, FC&M, which began operating in September 1995. Trading in its contracts ceased in 1999.
[14] Order ECO 3235/2002, dated 5 December, and CNMV Circular 1/2003.

Annex I

A.I.1

International economic indicators

	GDP(1)			Internal demand(2)			Unemployment(3)		
	2002	2003	2004	2002	2003	2004	2002	2003	2004
OECD	1.6	2.0	3.4	–	–	–	7.0	7.1	6.9
USA	1.9	3.0	4.4	2.6	3.5	5.1	5.8	6.0	5.5
Japan	–0.3	1.4	2.6	–0.9	0.8	1.8	5.4	5.3	4.7
Euro area	0.9	0.5	1.8	0.4	1.2	1.8	8.5	8.9	8.9
Germany	0.1	–0.1	1.0	–1.8	0.5	0.0	9.8	10.5	10.6
Spain	2.2	2.5	2.7	2.9	3.3	4.4	11.4	11.3	10.8
France	1.1	0.5	2.4	1.5	1.3	3.5	9.0	9.7	9.9
Italy	0.4	0.4	1.0	1.3	1.3	0.9	9.0	8.7	8.1
UK	1.8	2.2	3.1	3.0	2.5	4.0	3.1	3.1	2.8
Latin America	–0.5	1.9	5.5	–	–	–	10.8	10.7	10.0

	Inflation(4)			Budgetary balance(5)			Current account balance(5)		
	2002	2003	2004	2002	2003	2004	2002	2003	2004
OECD	2.6	2.5	2.5	–3.2	–3.7	–3.5	–1.2	–1.1	–1.2
USA	2.4	1.9	3.3	–3.8	–4.6	–4.4	–4.5	–4.8	–5.7
Japan	–0.3	–0.4	0.2	–7.9	–7.7	–6.5	2.8	3.1	3.5
Euro area	2.3	2.0	2.4	–2.4	–2.8	–2.9	0.7	0.4	0.7
Germany	1.2	1.1	2.1	–3.7	–3.8	–3.9	2.1	2.3	3.3
Spain	4.0	2.6	3.2	–0.1	0.4	–1.1	–2.4	–2.8	–4.2
France	2.3	2.2	2.1	–3.3	–4.1	–3.7	1.0	0.4	0.2
Italy	2.8	2.5	2.0	–2.4	–2.5	–2.9	–0.8	–1.4	–0.5
UK	2.9	2.8	3.5	–1.7	–3.5	–3.2	–1.7	–1.9	–2.2
Latin America	12.2	8.5	7.7	–1.4	–1.2	–1.0	–0.8	0.5	1.1

(1) Annual rate of change, in real terms (%).
(2) Contribution to annual growth (%).
(3) Annual average (% of active population).
(4) CPI. Annual rate of change at December (%). For the OECD, annual average rate of change.
(5) Surplus (+) or deficit (–) as a % of GDP. Source: OECD.
Source: OECD Economic Outlook No. 76, ECLAC' s Preliminary Overview 2004, and national statistical institutes.

A.I.2

Sector indices in the Madrid and Barcelona stock exchanges

Change on previous period (%)	2001	2002	2003	2004	1Q	2Q	3Q	4Q
Madrid stock exchange								
Consumer goods	−3.6	−1.0	−4.1	35.0	12.4	1.4	4.8	13.0
Capital & intermediate goods	19.2	−8.4	29.6	26.3	8.6	7.0	2.6	6.0
Energy	−1.6	−20.3	25.0	19.8	5.2	4.1	−1.2	10.7
Construction	17.3	4.2	25.4	26.8	7.5	0.2	3.0	14.4
Financial services	−10.5	−26.3	31.5	8.0	−2.6	−0.6	−2.9	14.9
Communications & information services	−12.4	−41.6	44.5	20.7	7.2	−1.1	0.2	13.6
Market services	−3.2	−7.3	21.3	33.4	10.2	3.3	6.9	9.6
Madrid General Index	**−6.4**	**−23.1**	**27.4**	**18.7**	**4.1**	**1.1**	**0.0**	**12.7**
Barcelona stock exchange								
Electricity	2.7	−27.1	29.4	17.1	2.3	5.1	−2.6	11.8
Banks	−13.6	−29.4	31.1	5.7	−3.7	−1.4	−4.1	16.0
Chemicals	−2.2	−21.6	23.1	23.4	8.7	6.5	−1.6	8.4
Cement, construction & real estate	17.2	8.6	20.9	29.9	10.7	0.1	4.9	11.7
Metallurgy	40.8	−8.2	13.4	28.5	6.1	9.8	0.6	9.7
Food, agriculture & forestry	9.8	−4.3	30.4	27.8	11.4	2.1	1.8	10.4
Textile & paper	4.9	−6.7	24.8	33.2	18.1	2.4	2.2	7.8
Commerce & finance	−15.3	−7.8	−16.5	33.6	15.6	1.0	4.9	9.0
Miscellaneous services	−13.5	−39.3	39.1	23.0	6.7	−0.9	0.9	15.4
Barcelona General Index	**−9.6**	**−31.2**	**32.0**	**17.6**	**3.5**	**0.2**	**−0.8**	**14.3**

A.I.3

Concentration of capitalisation by sector[1]

No. of companies required to attain a given percentage

	2003				2004			
Sector	25%	50%	75%	100%	25%	50%	75%	100%
Oil	1	1	2	2	1	1	2	2
Energy & water	1	2	3	11	1	2	3	11
Mining & base metals	1	1	2	13	1	1	2	11
Cement & construction materials	1	2	3	7	1	2	3	6
Chemicals	1	1	1	4	1	1	1	4
Textile & paper	1	1	1	20	1	1	1	20
Metal-mechanical	1	2	2	17	1	1	2	17
Food	1	1	3	19	1	1	3	19
Construction	2	3	4	8	2	3	4	7
Real estate	2	3	5	30	2	3	5	29
Transport & communications	1	1	2	7	1	1	2	8
Other non-financial	2	5	8	28	3	5	9	23
Banks	1	2	3	16	1	2	3	15
Insurance	1	1	2	3	1	1	2	3

(1) Includes only the capitalisation of companies that were traded in the year. Excluding Latibex.

A.I.4

Percentage of capitalisation by sector and largest companies with respect to the overall market[1]

Sector	% sector/ market[2]	Companies with the largest capitalisation in the sector[3]	% company/ market[4]
0. Oil	5.6	Repsol YPF	4.2
		CEPSA	1.4
1. Energy & water	10.5	Endesa	3.3
		Iberdrola	3.0
		Gas Natural	1.8
2. Mining & base metals	2.7	Arcelor	2.0
		Acerinox	0.6
		Befesa Medio Ambiente	0.1
3. Cement & construction materials	0.6	Cementos Portland	0.2
		Uralita	0.1
		Cementos Molins	0.1
4. Chemicals	3.2	Bayer Aktiengesellschaft	2.9
		Zeltia	0.2
		Faes Farma	0.1
5. Textile & paper	2.9	Inditex	2.4
		Tafisa	0.1
		Grupo Empresarial Ence	0.1
6. Metal-mechanical	5.9	EADS	3.1
		Volkswagen Aktiengesellschaft	1.6
		Zardoya Otis	0.7
7. Food	2.9	Altadis	1.7
		Ebro Puleva	0.3
		Sociedad Anónima Damm	0.2
8. Construction	4.3	ACS	1.1
		Grupo Ferrovial	1.0
		FCC	0.8
9. Real estate	2.1	Metrovacesa	0.4
		Testa Inmuebles En Renta	0.3
		Inmobiliaria Colonial - Icsa -	0.3
10. Transport & communications	22.3	Telefónica	12.3
		Telefónica Móviles	7.2
		Abertis Infraestructuras	1.6
11. Other non-financial	6.2	Amadeus Global Travel Distribution	0.8
		Sogecable	0.7
		Gestevisión Telecinco	0.7
12. Banks	24.3	Banco Santander Central Hispano	10.2
		Banco Bilbao Vizcaya Argentaria	7.9
		Banco Popular Español	2.0
13. Insurance	0.7	Corporación Mapfre	0.5
		Grupo Catalana de Occidente	0.2
		Banco Vitalicio de España	0.1
14. Portfolio companies	0.6	Corporación Financiera Alba	0.3
		NH Hoteles	0.2
		Unión Europea de Inversiones	0.0
15. SICAV[5]	5.2	Morinvest	0.2
		Keblar de Inversiones	0.2
		Alazán Inversiones 2001	0.1

(1) Capitalisation at year-end.
(2) Capitalisation of companies in a sector as a percentage of total market capitalisation.
(3) The three largest companies in terms of capitalisation in each sector.
(4) Company capitalisation as a percentage of total market capitalisation.
(5) Includes open-end securities investment companies (SICAV) and closed-end securities investment companies (SIM).

A.I.5

Capitalisation and trading of Ibex 35 companies

Million euro and percentage of market total in 2004

	Capitalisation(1)			Trading		
Company	2003	2004	% Total(2)	2003	2004	% Total(2)
Telefónica	57,686.6	68,688.7	12.3	94,041.8	130,822.4	20.4
Banco Santander Central Hispano	44,775.3	57,101.7	10.2	83,271.2	112,947.0	17.6
Banco Bilbao Vizcaya Argentaria	34,994.6	44,250.6	7.9	74,544.3	101,530.4	15.8
Telefónica Móviles	35,857.0	40,100.9	7.2	2,099.3	4,300.5	0.7
Repsol YPF	18,874.5	23,391.7	4.2	38,655.3	52,101.0	8.1
Endesa	16,146.0	18,305.8	3.3	31,460.4	34,591.2	5.4
Iberdrola	14,127.3	16,859.0	3.0	24,479.2	26,978.0	4.2
Inditex	10,035.6	13,526.3	2.4	10,657.7	9,357.4	1.5
Arcelor	7,282.4	11,292.0	2.0	1,301.0	3,159.2	0.5
Banco Popular Español	10,755.4	11,028.2	2.0	17,614.3	18,375.5	2.9
Gas Natural	8,306.2	10,191.4	1.8	5,946.8	5,169.7	0.8
Altadis	6,535.6	9,544.6	1.7	17,268.5	20,437.3	3.2
Abertis Infraestructuras	6,297.4	8,934.0	1.6	3,098.8	4,249.9	0.7
Banco Español de Crédito	6,596.1	7,297.4	1.3	763.0	1,383.9	0.2
ACS	4,587.0	5,928.3	1.1	3,211.0	7,002.3	1.1
Unión FENOSA	4,536.7	5,895.5	1.1	4,351.5	6,562.7	1.0
Grupo Ferrovial	3,896.6	5,515.2	1.0	3,007.6	4,308.2	0.7
Banco de Sabadell(3)	3,470.1	5,263.3	0.9	375.7	4,545.3	0.7
FCC	3,817.8	4,626.0	0.8	2,768.9	2,565.0	0.4
Amadeus Global Travel Distrib.	3,038.5	4,466.3	0.8	3,744.9	7,482.4	1.2
Acciona	3,066.3	4,137.1	0.7	2,593.4	3,132.2	0.5
Sogecable	3,485.3	4,115.3	0.7	4,497.8	7,758.4	1.2
Promotora de Informaciones	2,516.3	3,417.9	0.6	923.8	2,142.0	0.3
Sacyr Vallehermoso(4)	2,949.7	3,233.8	0.6	3,228.7	2,180.2	0.3
Acerinox	2,459.6	3,108.4	0.6	3,809.8	5,941.2	0.9
Bankinter	2,472.0	3,011.8	0.5	1,994.8	1,994.4	0.3
Enagás	2,053.1	2,912.6	0.5	1,574.5	2,416.2	0.4
Corporación Mapfre	2,039.0	2,589.7	0.5	1,865.3	2,112.1	0.3
Telefónica Publicidad e Inform.	1,601.8	2,511.4	0.4	1,024.3	2,447.1	0.4
Gamesa Corporación Tecnológica	2,115.9	2,506.0	0.4	1,709.9	4,478.6	0.7
Metrovacesa	1,559.5	2,422.7	0.4	3,464.0	2,231.6	0.3
Iberia Líneas Aéreas de España	2,095.4	2,390.5	0.4	1,943.2	4,132.9	0.6
Red Eléctrica de España	1,758.5	2,232.0	0.4	2,397.5	2,108.2	0.3
Indra Sistemas	1,570.2	1,940.8	0.3	2,380.3	2,846.4	0.4
NH Hoteles	1,088.9	1,166.6	0.2	2,020.1	1,418.8	0.2
Zeltia	1,124.1	1,033.7	0.2	1,505.9	1,005.6	0.2

(1) Capitalisation at 31/12/2004.
(2) With respect to total market.
(3) Banco de Sabadell was included in the Ibex 35 on 1/7/2004.
(4) Sacyr Vallehermoso was removed from the Ibex 35 on 1/7/2004.

A.I.6

Equity issues filed with the CNMV in 2004

Effective amount in million euro

Company	Effective amount	Instrument[1]	Company	Effective amount	Instrument[1]
Abertis Infraestructuras	0.0	2	Jazztel, Plc.	48.9	1
Arcelor	1,172.9	1	La Seda de Barcelona	15.0	1
Avanzit	31.6	1	Metrovacesa	0.0	2
Banco Bilbao Vizcaya Argentaria	1,998.8	1		0.0	2
Banco de Sabadell	552.3	1	Miquel y Costas & Miquel	0.0	2
	752.3	3	Natra	15.0	1
Banco de Valencia	0.0	2	Natraceutical	20.0	1
Banco Pastor	215.5	1	Papeles y Cartones de Europa	0.0	2
B. Santander Central Hispano	12,756.0	1	Prim	0.0	2
Cintra Concesiones de Infraestructuras de Transporte	349.6	4	Probitas Pharma	0.0	4
Cía. Española de Viviendas en Alquiler	0.0	2	Sacyr Vallehermoso	0.0	2
				159.3	1
Corporación Mapfre	500.5	1	Service Point Solutions	1.6	1
Dogi International Fabrics	28.9	1		0.4	1
European Aeronautic defence and Space Company Eads, N.V.	36.3	1	Sociedad Gr. Aguas de Barcelona	1.5	1
Faes Farma	0.0	2	SOS Cuétara	91.6	1
Inmobiliaria del Sur	0.0	2	Unipapel	0.0	2
Inypsa, Informes y Proyectos	0.0	2	Zardoya Otis	0.0	2
	0.0	2			

(1) Instrument:
1. Rights issue.
2. Bonus issue.
3. Primary public offering.
4. Joint primary and secondary public offering.

A.I.7
Delistings in 2004

Company	Market[1]	Reason. Procedure	Date
Banco Atlántico	Electronic	At the request of the issuer itself. Intermediate procedure.	1/7/04
Nueva Montaña Quijano	Electronic	At the request of the issuer itself. Intermediate procedure.	14/9/04
Parques Reunidos	Electronic	At the request of the issuer itself. Intermediate procedure.	29/3/04
Aceralia Corporación Siderúrgica	Electronic	Because the takeover bid by the company itself was settled, in accordance with article 7.4 of Royal Decree 1197/1991.	2/3/04
Centros Comerciales Carrefour	Electronic	Because the takeover bid by the company itself was settled, in accordance with article 7.4 of Royal Decree 1197/1991.	19/8/04
European Paper and Packaging Investment Corporation (in liquidation)	Electronic	By a CNMV Board resolution.	1/7/04
Fastibex (in liquidation)	Electronic	By a CNMV Board resolution.	30/7/04
Unión de Valores	Open outcry	At the request of the issuer itself.	11/5/04
Obras y Servicios Públicos	Open outcry	At the request of the issuer itself.	23/1/04
Renta Variable	Open outcry	At the request of the issuer itself.	26/3/04
El Sardinero	Open outcry	At the request of the issuer itself. Intermediate procedure.	2/1/04
Cementos Alfa	Open outcry	At the request of the issuer itself. Intermediate procedure.	25/11/04
Smurfit Navarra	Open outcry	Because the takeover bid by the company itself was settled, in accordance with article 7.4 of Royal Decree 1197/1991.	7/4/04
Compañía de Transportes e Inversiones	Open outcry	Because the takeover bid by the company itself was settled, in accordance with article 7.4 of Royal Decree 1197/1991.	24/9/04
Compañía Inmobiliaria Valenciana	Open outcry	Because the takeover bid by the company itself was settled, in accordance with article 7.4 of Royal Decree 1197/1991.	24/9/04
Pmrk Investment	Open outcry	At the request of the issuer itself. Delisted by the Basque government.	28/5/04
Jumberca	Open outcry	After filing for bankruptcy. Delisted by the Catalunya government.	24/9/04
Ibérica de Mantenimiento Industrial	Open outcry	Failed to comply with the obligation to file and publish information. By a CNMV Board resolution.	27/5/04
Sansemisa	Open outcry	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	2/2/04
Inversiones de Valores Industriales (in liquidation)	Open outcry, SIM	Due to removal from the Mercantile Registry. Technical.	16/12/04
Arelguia	Open outcry, SIM	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	26/11/04
Gallego 1 Cartera, SICAV[2]	Open outcry, SICAV	Listed in one or more markets. Continues to be listed on other markets.	18/10/04
Zestao de Inversiones, SICAV[3]	Open outcry, SICAV	Listed in one or more markets. Continues to be listed on other markets.	20/2/04

A.I.7

Delistings in 2004 *(Continued)*

Company	Market[1]	Reason. Procedure	Date
Kitzbuhel Inversiones, SICAV[4]	Open outcry, SICAV	Listed in one or more markets. Continues to be listed on other markets.	24/2/04
Cartera Integral, SICAV[5]	Open outcry, SICAV	Listed in one or more markets. Continues to be listed on other markets.	27/1/04
Lucel Inversiones SICAV	Open outcry, SICAV	Due to removal from the Mercantile Registry. Technical.	3/5/04
Alfaval 2000 Inversiones SICAV	Open outcry, SICAV	Due to removal from the Mercantile Registry. Technical.	7/12/04
Afina Darwin Systems	Open outcry, SICAV	Due to removal from the Mercantile Registry. Technical.	10/3/04
Fofilado SICAV	Open outcry, SICAV	Due to removal from the Mercantile Registry. Technical.	13/5/04
Banesto Ceuta y Melilla, SICAV (in liquidation)	Open outcry, SICAV	Due to removal from the Mercantile Registry. Technical.	30/12/04
Lynx Capital	Open outcry, SICAV	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	2/6/04
Cartera Musa, SICAV	Open outcry, SICAV	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	4/11/04
Inversiones Casau, SICAV	Open outcry, SICAV	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	5/7/04
Inversiones Geresa, SICAV	Open outcry, SICAV	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	11/5/04
Fazyx Inversiones Mobiliarias, SICAV	Open outcry, SICAV	Due to removal from the Administrative Registry of Securities Investment Companies. Technical.	29/12/04
BBVA Aragón, SICAV	Open outcry, SICAV	Due to merger. Technical.	20/12/04
BBVA Ceme Inversiones, SICAV	Open outcry, SICAV	Due to merger. Technical.	20/12/04
BBVA Privanza 25 Cartera, SICAV	Open outcry, SICAV	Due to merger. Technical.	20/12/04
BBVA Privanza 50 Cartera, SICAV	Open outcry, SICAV	Due to merger. Technical.	20/12/04
BBVA Privanza 75 Cartera, SICAV	Open outcry, SICAV	Due to merger. Technical.	20/12/04
BBVA Mix 100, SICAV	Open outcry, SICAV	Due to merger. Technical.	21/12/04
Saarema Inversiones	Second market	Because the takeover bid by the company itself was settled, in accordance with article 7.4 of Royal Decree 1197/1991. Delisted by the Basque government.	13/12/04
Esteban Espuña	Second market	At the request of the issuer itself. Delisted by the Catalunya government.	11/5/04
Intereconomía Corporación	Second market	At the request of the issuer itself. Delisted by the Catalunya government.	19/5/04
Gesticit	Second market	At the request of the issuer itself. Delisted by the Valencian government.	18/11/04
Aegis España	Second market	Failed to comply with the obligation to file and publish information. By a CNMV Board resolution.	5/4/04

(1) If the company is a collective investment scheme, the information is included in the column.
(2) Delisted from the Barcelona Stock Exchange, but still listed on the Madrid Stock Exchange.
(3) Delisted from the Valencia Stock Exchange, but still listed on the Barcelona Stock Exchange.
(4) Delisted from the Bilbao Stock Exchange, but still listed on the Madrid Stock Exchange.
(5) Delisted from the Valencia Stock Exchange, but still listed on the Madrid Stock Exchange.

A.I.8

Takeover bids authorised in 2004

Million euro

Offeree	Offeror	Purpose	% of capital covered by bid	Actual cash amount	Result[1]
Aceralia Corporación Siderúrgica	Aceralia Corporación Siderúrgica	Delist	4.97	85.1	80.65
Banco Atlántico	Banco de Sabadell	Take control	100.00 Min. 67.0	1,479.8	98.66[2]
Smurfit Navarra	Smurfit Navarra	Delist	5.85	2.3	73.33
Nueva Montaña Quijano	Coal Trade	Increase stake	55.16	4.2	55.55
Española del Zinc	Metainversión	Acquire stake[3]	Max. 10.26	2.4	99.86 pro rata
Centros Comerciales Carrefour	Centros Comerciales Carrefour	Delist	2.82	127.3	89.14
Cía. Inmobiliaria Valenciana	Cía. Inmobiliaria Valenciana	Delist	44.91	3.8	85.73
Cía. de Transportes e Inversiones	Cía. de Transportes e Inversiones	Delist	25.65	3.1	88.43
Cementos Molins	Cementos Molins y C. Molins Industrial	Reduce capital	43.04	265.0	95.05
Total amount				**1,973.1**	

(1) Outcome as a % of securities initially targeted.
(2) Over 1.26% sold indirectly to the offeror outside the scope of the takeover bid in the same conditions.
(3) The declared purpose of the takeover bid was to acquire a stake as it was considered a financial investment opportunity for the long term without any other interest or objective. The offeror' s intention was to have a seat on Española del Zinc' s Board of Directors and collaborate with its current management.

A.I.9

Gross issues by the public administrations

Nominal amounts in million euro

	Amount		Change (%)	
	2003	2004	2003	2004
State	**73,089**	**77,416**	**8.5**	**5.9**
Short term	36,208	36,964	12.3	2.1
Long term	36,881	40,453	5.0	9.7
Regional governments	**6,790**	**6,101**	**–37.9**	**–10.2**
Short term	2,765	3,122	–54.9	12.9
Long term	4,025	2,978	–16.3	–26.0
Local governments	**102**	**310**	**–72.4**	**204.6**
Short term	–	–	–	–
Long term	102	310	–72.4	204.6
Total public administrations	**79,980**	**83,827**	**1.7**	**4.8**

Source: Bank of Spain.

A.I.10

Net issues by the public administrations

Nominal amounts in million euro

	Amount		Change (%)	
	2003	2004	2003	2004
State	**328**	**6,650**	**–95.7**	**1,929.0**
Short term	2,935	–1,654	1,088.6	–
Long term	–2,608	8,304	–	–
Regional governments	**1,753**	**1,454**	**–41.6**	**–17.1**
Short term	–154	231	–	–
Long term	1,907	1,223	–35.0	–35.8
Local governments	**–38**	**–18**	**–**	**–**
Short term	0	0	–	–
Long term	–38	–18	–	–
Total public administrations	**2,043**	**8,086**	**–81.0**	**295.7**

Source: Bank of Spain.

A.I.11

Public debt trading by account holders

Outright trades(1), repos and sell/ buybacks and buy/ sellbacks

Nominal amounts in million euro

	2000	2001	2002	2003	2004	Chg. (%)
Treasury bills:	**430,163**	**491,981**	**223,431**	**508,880**	**472,518**	**-7.1**
Outright	23,571	21,790	14,770	62,075	85,222	37.3
– Spot	21,839	21,631	14,770	61,662	84,833	37.6
– Forward	1,732	159	0	413	389	-5.8
Repos	42,673	22,191	9,206	7,030	1,990	-71.7
Sell/buybacks and buy/sellbacks	363,919	448,000	199,455	439,775	385,306	-12.4
Bonds and debentures:	**3,918,461**	**5,175,151**	**6,239,665**	**7,217,134**	**7,308,083**	**1.3**
Outright	519,619	792,774	997,196	901,582	562,626	-37.6
– Spot	506,833	775,417	982,836	882,483	552,417	-37.4
– Forward	12,786	17,357	14,360	19,099	10,209	-46.5
Repos	112,806	62,686	88,078	58,550	94,254	61.0
Sell/buybacks and buy/sellbacks	3,286,036	4,319,691	5,154,391	6,257,002	6,651,203	6.3
Total	**4,348,624**	**5,667,132**	**6,463,096**	**7,726,014**	**7,780,601**	**0.7**

(1) Outright trades consist of spot and forward trades.
Source: Bank of Spain.

A.I.12

Treasury bills trading between account holders

Breakdown by trade type

Nominal amounts in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Outright(1):	**23,571**	**21,790**	**14,770**	**62,075**	**85,222**	**37.3**
– Senaf	–	–	0	27,093	36,350	34.2
– MTS-España	–	–	191	13,103	13,580	3.6
– EuroMTS	–	–	0	0	180	–
– Brokertec	–	–	–	–	–	–
Bilateral trades	23,571	21,790	14,579	21,879	35,112	60.5
Repos(2):	**406,592**	**470,191**	**208,661**	**446,805**	**387,296**	**-13.3**
– Senaf	–	–	1,866	30,527	18,211	-40.3
– MTS-España	–	–	–	243	0	-100.0
– EuroMTS	–	–	–	–	–	–
– Brokertec	–	–	–	–	–	–
Bilateral trades	406,592	470,191	206,795	416,036	369,085	-11.3
Total	**430,163**	**491,981**	**223,431**	**508,880**	**472,518**	**-7.1**

(1) Outright consist of spot and forward trades.
(2) Repos include sell/buybacks and buy/sellbacks.
Source: Bank of Spain and Directorate-General of Treasury and Financial Policy.

A.I.13

Government bonds and debentures trading between account holders

Breakdown by trade type

Nominal amounts in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Outright(1):	**519,619**	**792,774**	**997,196**	**901,582**	**562,626**	**-37.6**
– Senaf	218,550	319,000	440,628	253,653	69,758	-72.5
– MTS-España	–	–	105,175	183,208	85,265	-53.5
– EuroMTS	53,952	116,162	105,031	111,705	47,503	-57.5
– Brokertec	1,121	7,344	6,403	2,137	337	-84.2
Bilateral trades	245,996	350,268	339,959	350,879	359,763	2.5
Repos(2):	**3,398,842**	**4,382,377**	**5,242,469**	**6,315,552**	**6,745,457**	**6.8**
– Senaf	–	–	26,217	436,455	277,358	-36.5
– MTS-España	–	–	–	7,501	388	-94.8
– EuroMTS	–	–	–	–	–	–
– Brokertec	–	–	–	–	–	–
Bilateral trades	3,398,842	4,382,377	5,216,252	5,871,596	6,467,712	10.2
Total	**3,918,461**	**5,175,151**	**6,239,665**	**7,217,134**	**7,308,083**	**1.3**

(1) Outright trades consist of spot and forward trades.
(2) Repos include sell/buybacks and buy/sellbacks.
Source: Bank of Spain and Directorate-General of Treasury and Financial Policy.

A.I.14

Public debt trading with third parties:

Outright trades(1), repos and sell/buybacks and buy/sellbacks

Nominal amounts in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Treasury bills:	**2,082,380**	**2,231,421**	**2,012,443**	**2,098,975**	**1,800,845**	**-14.2**
Outright	58,594	36,715	25,326	28,120	30,327	7.8
– Spot	57,981	36,485	25,326	28,089	30,118	7.2
– Forward	613	230	0	31	209	574.2
Repos	1,994,986	2,164,743	1,985,248	2,069,898	1,768,729	-14.5
Sell/buybacks and buy/sellbacks	28,800	29,963	1,869	957	1,789	86.9
Bonds and debentures:	**7,359,330**	**8,342,189**	**10,325,127**	**11,465,337**	**13,250,563**	**15.6**
Outright	1,044,249	1,215,830	1,292,148	1,318,652	1,569,594	19.0
– Spot	1,036,401	1,208,224	1,288,012	1,274,648	1,469,330	15.3
– Forward	7,848	7,606	4,136	44,004	100,264	127.9
Repos	5,812,324	6,503,208	8,103,297	9,042,194	10,613,121	17.4
Sell/buybacks and buy/sellbacks	502,757	623,151	929,682	1,104,491	1,067,848	-3.3
Total	**9,441,710**	**10,573,610**	**12,337,570**	**13,564,312**	**15,051,408**	**11.0**

(1) Outright trades consist of spot and forward trades.
Source: Bank of Spain.

A.I.15

Number of issuers and issues filed with the CNMV: detail by instrument

	No. of issuers		No. of issues	
	2003	2004	2003	2004
Long term	**97**	**116**	**146**	**192**
Non-convertible bonds and debentures	42	50	71	95
– of which: subordinated debt[1]	33	36	39	39
Convertible bonds and debentures	2	1	2	1
Mortgage covered bonds	8	9	15	17
Territorial covered bonds	3	2	4	2
Securitisation bonds	37	48	37	48
– asset-backed	31	39	31	39
– mortgage-backed	6	9	6	9
Preference shares	8	12	12	26
Other issues	4	2	5	3
Short term	**63**	**58**	**73**	**62**
Commercial paper	63	58	73	62
Of which, asset-backed	2	3	2	3
Total	**137**	**154**	**219**	**254**

(1) Issuer numbers are not exclusive: one issuer may have issued more than one type of instrument.

A.I.16

Main fixed-income issuers[1] in 2004

Amounts in million euro

	Nominal amount issued		
Issuer	Total	Short term[2]	Long term
Banco Bilbao Vizcaya Argentaria	15,500	–	15,500
Bankinter	10,050	8,000	2,050
BBVA Banco de Financiación	10,000	10,000	0
Caja de Ahorros y Monte de Piedad de Madrid	9,230	2,000	7,230
Banesto Banco de Emisiones	8,500	6,000	2,500
Banco de Sabadell	6,000	3,500	2,500
Banco Santander Central Hispano	5,500	–	5,500
Santander Consumer Finance	5,000	5,000	–
Banco Español de Crédito	4,750	–	4,750
Banco Popular Español	4,200	4,200	–
AYT Cédulas Cajas VIII, Fondo de Titulización de Activos	4,100	–	4,100

(1) Issuers which filed over 4 billion euro in issues in 2004.
(2) Commercial paper: issues and shelf registrations.

A.I.17

Main fixed-income issuers[1] in 2004. Detail by instrument

Amounts in million euro

Asset	Issuer	Amount[2]
Non-convertible bonds and debentures	BBVA	6,500 (1,000)
	Caja Madrid	5,230 (250)
	BPE Financiaciones	3,600 (100)
	Santander Central Hispano	3,5
	Banco Popular Español	2,5
	Banesto Banco de Emisiones	2,500 (300)
	Bankinter	2,050 (50)
	B. Crédito Local	1,75
	Caixa d'Estalvis de Catalunya	1,704 (300)
	Banco de Sabadell	1,300 (300)
	RTVE	1,2
	Bancaja	1,2
	C. de Ahorros del Mediterráneo	1,075
	Banco Español de Crédito	1
	Caixa d'Estalvis de Terrassa	1,000 (70)
	Repsol International Finance	1
Mortgage covered bonds	BBVA	9
	Banesto	3,75
	BSCH	2
	Caja Madrid	2
	Banco de Sabadell	1,2
	La Caixa	1
Territorial covered bonds	Banco de Crédito Local	1,6
	Dexia	1,6
Preference shares	Santander Finance Capital	1,9
	BBVA Capital Finance	1,625
	Caja Madrid Finance Preferrred	1,14
Commercial paper[3]	BBVA Banco de Financiación	10
	Bankinter	8
	Banesto Banco de Emisiones	6
	Santander Consumer Finance	5
	Banco Popular Español	4,2
	Banco de Sabadell	3,5
	Repsol YPF	3
	Banco de Andalucía	2,69
	Caixa de Estalvis de Catalunya	2,1
	Endesa	2
	Telefónica	2
	Banco Pastor	2
	Bancaja	2
	C. de Ahorros del Mediterráneo	2
	C. de A. y M.P. de Madrid	2
	C.A. y Pensiones de Barcelona	1,5
	M.P. y C.A. de Ronda[4]	1,5
	Iberdrola	1
	Caixanova	1
	Caja de Ahorros de Galicia	1
	Santander Central Hispano Titulización[5]	1

(1) Issuers that issued over 1 billion euro of the corresponding financial instrument in 2004.
(2) Amounts in brackets correspond to subordinated debt issues.
(3) Amount of issue or shelf registration.
(4) Monte de Piedad y Caja de Ahorros de Ronda, Cádiz, Almería, Málaga y Antequera.
(5) Securitisation commercial paper.

A.I.18

Commercial paper issuers: outstanding balances at 31 December 2004

Amounts in million euro

Issuer	Amount	% of total
Banesto Emisiones	6,000	12.6
BBVA Banco de Financiación	5,479	11.5
Banco Popular	3,249	6.8
Santander Consumer Finance	3,132	6.6
Bankinter	2,862	6.0
Banco Sabadell	2,727	5.7
Santander Investment Services	2,499	5.2
Caixa de Catalunya	2,038	4.3
Caja Madrid	1,814	3.8
Banco Pastor	1,122	2.4
Banco de Andalucía	1,111	2.3
FTA Santander I	1,000	2.1
Caixanova	977	2.0
La Caixa	969	2.0
Telefónica	957	2.0

A.I.19

Main securitisation bond issuers[1] in 2004

Amounts in million euro

Issuer	Amount	Securitised assets
AYT Cédulas Cajas VIII, Fondo de Titulización de Activos	4,100	Mortgage covered bonds
AYT Cédulas Cajas VI, Fondo de Titulización de Activos	3,300	Mortgage covered bonds
IM Banco Popular FTPYME 1, Fondo de Titulización de Activos	2,000	SMEs
IM Cédulas 1 Grupo Banco Popular, Fondo de Titulización de Activos	2,000	Mortgage covered bonds
Cédulas TDA 3, Fondo de Titulización de Activos	2,000	Mortgage covered bonds
Bancaja 7, Fondo de Titulización de Activos	1,900	Mortgage transfer certificates
Santander Hipotecario I, Fondo de Titulización de Activos	1,875	Mortgage transfer certificates
Fondo de Titulización de Activos Santander Público 1	1,850	Loans to the public sector[2]
Fondo de Titulización de Activos FTPYME Santander 2	1,800	SMEs
AYT Cédulas Cajas VII, Fondo de Titulización de Activos	1,750	Mortgage covered bonds
Cédulas TDA 4, Fondo de Titulización de Activos	1,500	Mortgage covered bonds
Cédulas TDA 5, Fondo de Titulización de Activos	1,500	Mortgage covered bonds
IM Cédulas 2, Fondo de Titulización de Activos	1,475	Mortgage covered bonds
TDA CAM 3, Fondo de Titulización de Activos	1,200	Mortgage participations and mortgage transfer certificates
Bankinter 8, Fondo de Titulización de Activos	1,070	Mortgage participations and mortgage transfer certificates
IM Cédulas 3, Fondo de Titulización de Activos	1,060	Mortgage covered bonds
BBVA-3 FTPYME Fondo de Titulización de Activos	1,000	SMEs
BBVA Autos 1 Fondo de Titulización de Activos	1,000	New car loans

(1) Issuers that issued over 1 billion euro in 2004.
(2) Includes a small amount of mortgage securities.

A.I.20

Proprietary trading on AIAF

Nominal amounts in million euro

	2000	2001	2002	2003	2004	% Chg. 04/03
Commercial paper	3,856.34	5,853.41	5,636.99	2,945.58	9,440.17	220.50
Bonds and debentures	38,630.74	24,509.29	32,498.27	48,875.51	122,989.44	151.60
Mortgage covered bonds	4.52	142.80	204.04	184.20	5,949.50	3,130.00
Territorial covered bonds	0.00	0.00	0.00	3.94	4.00	1.50
Matador bonds	597.88	1,726.86	3,274.73	2,992.04	3,519.30	17.60
Total	**43,089.48**	**32,232.36**	**41,614.03**	**55,001.27**	**141,902.41**	**158.00**

A.I.21

Demands issued to listed companies in 2004 in connection with audit qualifications on the 2003 financial statements

Companies with qualifications which remedied the situation or have established a plan for doing so

Issuer	Market/Segment[1]
Antena 3 de Televisión	Electronic market
Dogi International Fabrics	Electronic market
Federico Paternina	Electronic market
Hullas del Coto Cortés	Electronic market
Parques Reunidos	Electronic market
Service Point Solutions	Electronic market
Amper	Nuevo Mercado
Avanzit	Nuevo Mercado
Bodegas Bilbaínas	Open outcry
Fletamentos Marítimos	Open outcry
Intereconomía Corporación	Second market
Banco de la Pequeña y Mediana Empresa	AIAF

Companies with qualifications whose resolution depends on future events or which will not be resolved in the short term

Issuer	Market/Segment[1]
Española del Zinc	Electronic market
Funespaña	Electronic market
Lingotes Especiales	Electronic market
Mecalux	Electronic market
Nueva Montaña Quijano	Electronic market
Sniace	Electronic market
Sociedad Española del Acumulador Tudor	Electronic market
Tableros de Fibras	Electronic market
Urbanizaciones y Transportes	Electronic market
Vidrala	Electronic market
Natraceutical	Nuevo Mercado
Carroggio de Ediciones	Open outcry
Compañía de Inversiones Cinsa	Open outcry
Industrias del Acetato de Celulosa	Open outcry
Industrias del Curtido	Open outcry
Minero Siderúrgica de Ponferrada	Open outcry
Promociones y Conciertos Inmobiliarios	Open outcry
Gesticit	Second market
Saarema Inversiones	Second market
Recol Networks	Not listed

(1) The selected market/segment is that in which the issuers' securities were listed at the date on which the financial statements were authorised.

A.I.22

Number of shareholders with a significant holding[1] in Ibex 35 companies[2]

	Stake			
Company	5%-10%	10%-25%	25%-50%	>50%
Abertis Infraestructuras	2	2	–	–
Acciona	–	–	–	1
Acerinox	1	2	–	–
ACS	2	1	–	–
Altadis	2	1	–	–
Amadeus Global Travel Distribution[3]	1	–	2	–
Banco Popular	3	1	–	–
Banco de Sabadell	–	1	–	–
Banesto	–	–	–	1
Bankinter	3	–	–	–
Banco Bilbao Vizcaya Argentaria	1	–	–	–
Corporación Mapfre	1	–	–	1
ENAGAS	6	–	1	–
Endesa	3	–	–	–
Fomento de Construcciones y Contratas	–	1	–	1
Grupo Ferrovial	–	–	–	1
Gamesa Corporación Tecnológica	1	1	1	–
Gas Natural SDG	2	–	2	–
Iberdrola	3	–	–	–
Iberia, Líneas Aéreas de España	4	1	–	–
Industrias de Diseño Textil (Inditex)	2	–	–	1
Indra Sistemas	–	2	–	–
Metrovacesa	4	2	–	–
NH Hoteles	5	1	–	–
Promotora de Informaciones (Prisa)	1	–	1	–
Red Eléctrica de España (REE)	1	–	1	
Repsol YPF	1	2	–	–
Banco Santander Central Hispano	2	–	–	–
Sogecable	1	3	–	–
Telefónica	3	–	–	–
Telefónica Móviles	–	–	–	1
Telefónica Publicidad e Información (TPI)	–	–	–	1
Unión Fenosa	1	1	–	–
Zeltia	1	1	–	–
Total shareholders	**57**	**23**	**8**	**8**

(1) Holdings over 5%. Royal Decree dated 15 March, on the disclosure of significant holdings in listed companies and acquisition of own shares by listed companies, states that significant holdings are those above 5% in general and above 1% if the investor is domiciled in a tax haven.
(2) For reasons of uniformity, Arcelor is not included because it is governed by different legislation since its registered offices are in Luxembourg.
(3) A takeover bid was presented for this company which may affect its ownership structure.

Annual report of the CNMV 2004

Part II

Financial institutions and investment services

[7] Collective investment schemes (IIC)

The main developments in the area of collective investment schemes (IIC) in Spain in 2004 were as follows:

- In 2004, assets managed by securities investment funds grew by 12.1%, boosted by a recovery in the main financial markets, which consolidated the trend that commenced in 2003. The number of investors and schemes increased moderately. Real estate investment funds continued to expand.
- Assets managed by open-end securities investment companies (SICAV) increased by 14.95% and the number of investors grew by 6.62%, in line with the widespread recovery in IIC activity. The new IIC law[1] obliges closed-end securities investment companies (SIM) to change into open-end securities investment companies (SICAV)[2]. In 2004, there were 24 transformations.
- IIC operators also performed well in 2004, with significant increases in managed assets and earnings, although the number of IIC operators filed with the CNMV decreased.
- Assets managed by foreign IICs marketed in Spain practically doubled in 2004 due to sizeable investments by Spanish funds and other institutional investors.
- In 2004, work continued on drafting the regulation that will implement the Collective Investment Scheme Law 35/2003, dated 4 November.

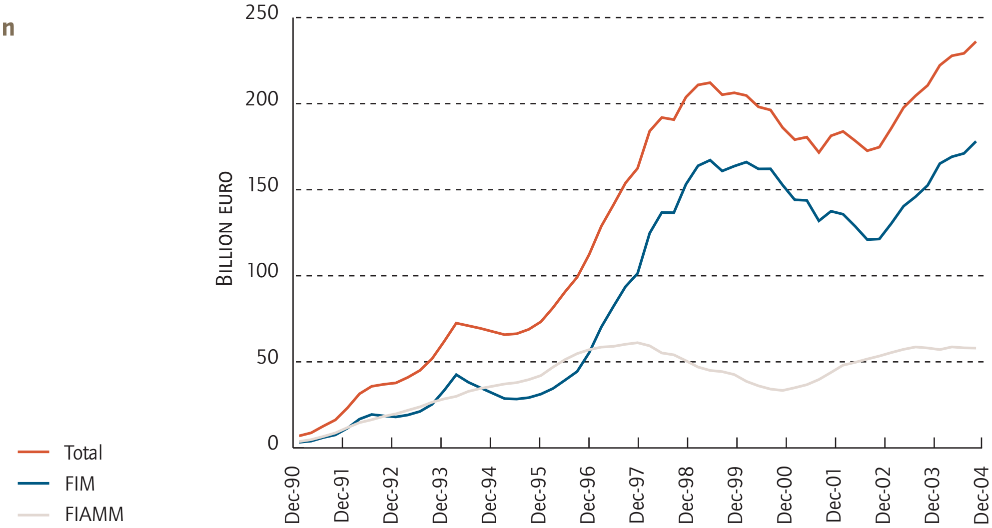
The supervision of IIC is detailed in Chapter 12.2.3.

7.1. Mutual funds

7.1.1. Assets

Assets managed by securities investment funds totalled 236.088 billion euro at 2004 year-end, i.e. 12.1% more than at 2003 year-end (see figure 7.1 and table 7.1). This sector's

Figure 7.1
Mutual fund assets in Spain



[1] Collective Investment Scheme Law 35/2003, dated 4 November.
[2] The transformation deadline is February 2006.

Table 7.1
Mutual fund assets: detail by category
Amounts in thousand euro

Category	Assets	Change (on Dec. 2003) %	Absolute[1]	Net subscriptions	Net yield
Short-term fixed-income (RFCP)	48,008,950	19.0	7,655,130	6,879,419	775,711
Long-term fixed-income (RFLP)	12,414,699	11.5	1,277,753	889,276	388,476
Mixed fixed-income (RFM)	6,676,640	4.8	303,631	15,362	288,269
Mixed equity (RVM)	7,013,176	–5.1	–378,456	–841,644	463,187
Spanish equity (RVN)	8,042,056	40.4	2,312,760	1,129,985	1,182,775
Foreign fixed-income (RFI)	2,095,780	11.9	222,662	191,940	30,722
Foreign mixed fixed-income (RFMI)	5,128,667	–5.5	–299,359	–455,838	156,479
Foreign mixed equity (RVMI)	2,371,354	–6.0	–150,818	–256,731	105,913
Euro equity (RVE)	4,750,495	9.1	395,317	16,595	378,722
Guaranteed fixed-income (GRF)	13,840,598	18.6	2,167,086	1,832,627	334,459
Guaranteed equity (GRV)	39,772,657	7.3	2,710,402	1,236,515	1,473,887
Global funds	18,114,731	85.4	8,342,732	8,028,924	313,808
Foreign equity Europe (RVIE)	3,726,659	19.3	603,415	339,448	263,967
Foreign equity Japan (RVIJ)	608,156	40.3	174,758	173,119	1,639
Foreign equity USA (RVIU)	961,013	–12.2	–133,543	–130,426	–3,117
Foreign equity emerging countries (RVIM)	637,211	56.3	229,551	136,832	92,720
Other foreign equity (RVIO)	3,936,721	2.4	93,795	–24,138	117,933
Total FIM	**178,099,563**	**16.7**	**25,526,816**	**19,161,265**	**6,365,550**
Total FIAMM[2]	**57,988,791**	**–0.1**	**–65,626**	**–739,270**	**675,677**
Total securities funds	**236,088,354**	**12.1**	**25,461,190**	**18,421,995**	**7,041,227**
Total real estate funds	**4,300,846**	**51.4**	**1,460,146**	**1,303,775**	**156,371**

(1) Does not include changes due to change of fund category.
(2) The change in total FIAMM assets does not coincide with the sum of net subscriptions and net yields since 2.033 billion euro in distributed gross earnings (dividends) were booked separately in 2004.

assets are equivalent to nearly 30% of Spain's GDP and have become a stable option for households, representing 12%-13% of household financial assets in the last five years (see Chapter 1). Assets managed by securities investment funds (FIM) grew by 16.7% to 178.099 billion euro, while those managed by money market funds (FIAMM) totalled 57.988 billion euro, very similar to 2003.

The large volume of net subscriptions accounted for over 75% of the increase in total assets managed by FIM, while the rest (25%) was due to portfolio appreciations (see table 7.1). The inflow of funds was especially large in global funds, particularly in the first quarter of 2004, and in short-term fixed-income, where the subscription volume increased steadily throughout the year. There were also significant subscriptions of guaranteed funds (attractive to more risk-averse investors) and Spanish equity funds (whose proportion increased due to favourable performance by the Spanish stock market). As in previous years, a large part of the asset increase in FIMs was due to investments by other mutual funds[3]. Funds invested in Spanish equities appreciated considerably, especially in the fourth quarter of 2004.

FIAMM assets continued to be significant but their low yield (due to low short-term interest rates) continue to limit their

[3] Of the increase of 25,526.8 million euro in FIM assets, nearly 4,000 million euro were invested by funds of funds and feeder funds. Those investments were mainly in global funds and, to a lesser extent, short-term fixed-income FIMs.

Table 7.2

Registration and removals in 2004

Type of scheme	Schemes registered at 31/12/03	Registrations	Removals	Schemes registered at 31/12/04
Collective investment:	**6,056**	**374**	**211**	**6,219**
Mutual funds	2,559	211	142	2,628
FIM	2,386	207	137	2,456
FIAMM	168	2	5	165
FII	5	2	0	7
Investment companies	3,003	133	37	3,099
SIM	108	1	25	84
SICAV	2,894	131	12	3,013
SII	1	1	0	2
SGIIC	119	5	8	116
Depositories	142	2	6	138
UCITS(1)	233	23	18	238

(1) Undertakings for collective investments in transferable securities (non-Spanish).

Guaranteed funds

Once again, financial institutions focused on funds guaranteed on maturity as a way of capturing savings, and they were among the products preferred by investors. Despite better performance by the main financial markets in 2004, guaranteed funds captured over 3 billion euro in net subscriptions, behind only short-term fixed-income funds and global funds. At 31 December 2004, guaranteed funds accounted for 22.6% of total FIM and FIAMM assets, of which 5.9% corresponded to fixed-income guaranteed funds and 16.8% to equity guaranteed funds (where the final yield is tied to indexes, equities, exchange rates, etc.).

The largest number of guaranteed funds were those guaranteed at maturity tied to indexes, equities or a securities basket, with 41 guaranteed products more than in 2003, while the number of fixed-income guaranteed funds was stable. In fixed-income, in addition to the traditional funds that guarantee a certain yield upon maturity, there were funds that guaranteed periodic yields, instrumented via reimbursements, as well as the recovery of the initial investment upon maturity. Those reimbursements can be a fixed or variable amount depending on interest rate performance. A number of new fund types were created which, though classified as global funds and able to invest in any type of asset depending on the operator's criterion, guarantee an amount of principal upon maturity and try to obtain an additional yield that is not guaranteed.

One of the CNMV's main objectives regarding guaranteed funds was to foster transparency in products that are sometimes very complex. Accordingly, the CNMV worked on the information that is provided to investors through prospectuses. In particular, efforts were made to ensure that terminology and descriptions of guarantees were clear and to expand the information about these funds' portfolio structure and expenses. In general, a large percentage of the portfolio is invested in fixed-income assets whose yield is used to cover the fund's expenses and/or recover the initial investment upon maturity, and a small percentage was used to acquire derivatives in order to meet the variable yield target. Warnings about the risk of reimbursements before guarantee maturities were also included.

In 2004, fixed-income guaranteed funds yielded 2.5% and those of equities 3.9% (see table 7.4).

appeal, and they registered net outflows throughout 2004, except in the second quarter.

Assets managed by real estate funds amounted to 4,300.8 million euro, i.e. 51.4% more than in 2003. Nearly 90% of this increase was due to net subscriptions while the rest was due to portfolio appreciations.

7.1.2. Investors and schemes

As a result of good performance by this sector, the number of investors grew by 262,000 to 7.9 million at 2004 year-end (6 million in FIM and 1.9 million in FIAMM). Global funds acquired the largest number of investors (302,000), followed by guaranteed equity funds (51,000) and Spanish equity funds (51,000), in line with asset performance.

There was a net increase in the number of FIM filed with the CNMV (70), compared with a net decrease of FIAMM (3), so the total net number of funds increased by 67 to 2,621 (2,456 FIM and 165 FIAMM; see table 7.2).

Two new real estate funds were registered, bringing the total to seven. There were over 113,000 investors, compared with 88,500 in 2003.

7.1.3. Investment policy

In 2004, the funds' investment policy was as follows (table 7.3):

- The proportion of Spanish securities increased as a percentage of total FIM and FIAMM, especially in the latter. At 2004 year-end, Spanish securities accounted for 44.6% of total assets at FIMs and 59.7% at FIAMMs[4].
- FIMs increased investments in shares, mutual fund units and private fixed-income, especially in Spanish securities. Regarding foreign securities, there was growth in fixed-income investments denominated in euro, although the relative importance with respect to other investments decreased[5].
- FIAMMS increased investments in private fixed-income and repos in Spanish securities. Investments in fixed-income denominated in euro decreased in absolute and relative terms[6].

Mutual funds continue to be the biggest investors in Spanish securities markets (see Annex A.II.1). Investment increased from 9.9% of the outstanding balance of fixed-income in 2003 to 11.1% in 2004. Funds hold nearly 5% of the capitalisation of the Spanish stock markets on a steady basis. Conversely, the relative weighting of mutual funds in the public debt markets decreased in both long and short term.

7.1.4. Yields and commissions

For the second consecutive year, nominal yields in mutual funds were positive in all fund types but lower than in 2003 due to more modest gains in the stock markets and lower short-term interest rates (see table 7.4). Nevertheless, in real terms (i.e. after deducting annual inflation, 3.2% in 2004), the yield was negative in some fund types, such as FIAMM, fixed-income funds, global funds and foreign equity USA funds, which were affected by the dollar's depreciation.

The yield in emerging country equity funds was 22.86%, higher than the yield on Spanish equity funds (19.51%). As a result of the decrease in short-term interest rates, the yield was 1.78% in short-term fixed-income funds and 1.18% in FIAMM, while other types of fixed-income funds with longer portfolios were favoured by lower long-term interest rates in the year.

Guaranteed fund yields continued to be modest (2.5% in fixed-income and 3.9% in equities) although they increased moderately with respect to 2003. The yield in global funds, which have received a strong influx of funds in recent years, was a modest 2.3% in 2004. The yield obtained in real estate funds (6.7%) was slightly lower than in 2003 but significantly higher than that of securities funds overall. Real estate fund yields reflect the effect of Spain's property boom in recent years.

There was a very slight decrease in management commissions charged to both FIM and FIAMM funds based on daily average assets (see Annex A.II.2). In the case of FIM, these commissions, which represented 90% of expenses charged by operators, decreased from 1.19% of daily average assets of funds in 2003 to 1.16% in 2004. In the case of FIAMM, the decline was from 0.9% to 0.87%.

[4] In 2003, 42.4% of FIM and 50.7% of FIAMM.
[5] Fixed-income investments in euro accounted for 36.3% of total assets, compared with 10.3% of investments in shares and mutual fund units.
[6] Fixed-income investments in euro accounted for 38.3% of FIAMM total assets in 2004 (46.4% in 2003).

Table 7.3

Fund assets

Amounts in million euro, at market prices

	FIM			FIAMM		
	2003	2004	Change (%)	2003	2004	Change (%)
Cash	6,015	5,280	−12.2	1,742	1,227	−29.6
Portfolio investments	147,003	173,383	17.9	56,366	56,830	0.8
Spanish securities	64,679	79,442	22.8	29,405	34,617	17.7
Shares and mutual fund units	19,832	26,361	32.9	–	–	–
Public fixed-income	14,459	12,690	−12.2	5,458	3,167	−42.0
Private fixed-income	9,370	17,884	90.9	10,123	16,087	58.9
Repos	20,975	22,349	6.5	13,825	15,358	11.1
Other	44	157	257.1	–	–	–
Foreign securities	82,324	93,941	14.1	26,961	22,213	−17.6
Euro	74,891	85,480	14.1	26,960	22,203	−17.6
Other	7,433	8,461	13.8	1	10	781.9
Net balance (debtors - creditors)	−445	−563	26.4	−54	−68	27.2
Assets	**152,573**	**178,100**	**16.7**	**58,054**	**57,989**	**−0.1**

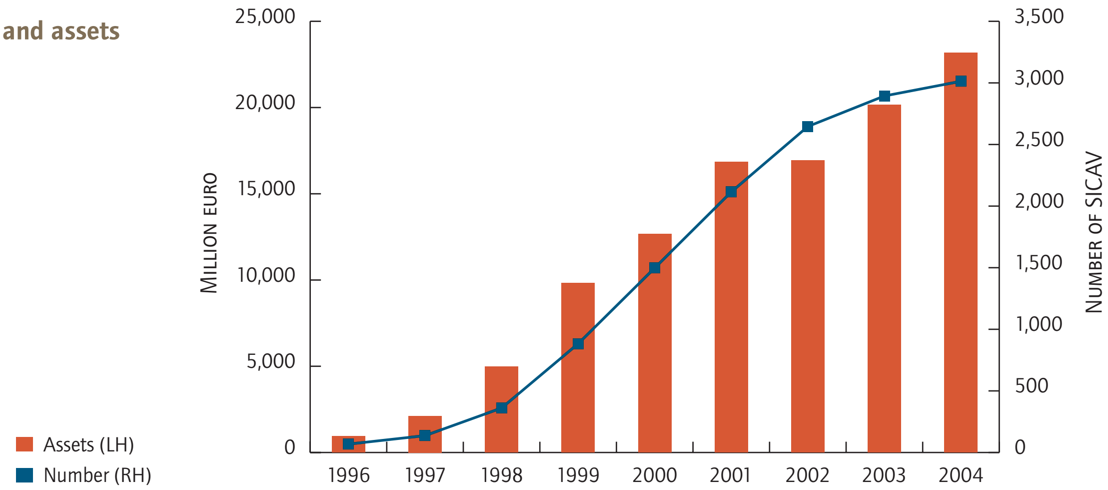
Table 7.4

Mutual fund yields: detail by category

%

Category	2000	2001	2002	2003	2004
Short-term fixed-income (RFCP)	3.05	3.84	2.72	1.89	1.78
Long-term fixed-income (RFLP)	4.05	4.02	4.34	2.58	3.40
Mixed fixed-income (RFM)	0.68	−0.50	−3.84	5.14	3.95
Mixed equity (RVM)	−6.45	−6.61	−15.92	11.34	6.87
Spanish equity (RVN)	−16.67	−8.80	−26.91	29.02	19.51
Foreign fixed-income (RFI)	7.46	2.89	−0.64	1.66	1.82
Foreign mixed fixed-income (RFMI)	−1.20	−1.33	−2.42	2.39	2.98
Foreign mixed equity (RVMI)	−6.78	−8.61	−17.96	7.55	4.29
Euro equity (RVE)	−6.09	−19.03	−33.45	16.91	9.23
Foreign equity (RVI)	−16.98	−20.85	–	–	–
Guaranteed fixed-income (GRF)	3.78	4.42	4.46	2.39	2.50
Guaranteed equity (GRV)	−1.09	0.24	0.37	2.66	3.92
Global funds	−6.77	−10.44	−12.42	5.79	2.31
Foreign equity Europe (RVIE)	–	–	−33.78	13.36	8.61
Foreign equity Japan (RVIJ)	–	–	−25.41	11.84	5.94
Foreign equity USA (RVIU)	–	–	−34.25	10.03	0.37
Foreign equity emerging countries (RVIM)	–	–	−24.53	26.48	22.86
Other foreign equity (RVIO)	–	–	−35.16	11.77	4.70
Total FIM	**−2.81**	**−2.91**	**−5.62**	**5.16**	**4.15**
Total FIAMM	**2.91**	**3.55**	**2.42**	**1.50**	**1.18**
Total securities funds	**−1.73**	**−1.56**	**−3.31**	**4.02**	**3.36**
Total real estate funds	**7.73**	**7.49**	**7.87**	**6.89**	**6.70**

Figure 7.2
Number of SICAV and assets



7.2. Open-end securities investment companies (SICAV)

Since the entry into force of the Collective Investment Scheme Law 35/2003, dated 4 November, on 5 February, only open-end securities investment companies (SICAV) are considered as collective investment schemes (IIC). Consequently, closed-end securities investment companies (SIM) must transform into SICAV within two years from the entry into force of that law or will be removed from the CNMV register[7]. As a result, 25 SIM were de-registered in 2004, although there were still 84 at year-end. Of those 25, 24 became SICAV.

The number of SICAV increased to 3,013, i.e. 119 more than at 2003 year-end (table 7.2). Their invested assets increased by 14.95% to 23.176 billion euro (see figure 7.2 and table 7.5).

7.2.1. Shareholders and assets

The number of shareholders increased to 359,151 at 2004 year-end (see table 7.5).

7.2.2. Portfolio investments

The pattern of investment in Spanish and foreign securities was similar to 2003 (see table 7.5) Spanish securities accounted for 53% of assets (52% in 2003) and foreign securities for 44% (the same as in 2003).

Within the Spanish portfolio, the weighting of investments in shares increased from 15% in 2003 to 17% and in mutual fund units from 2.6% to 3.2%, although the largest investment volume continues to be in repos which, nevertheless, decreased slightly as a proportion of the total (from 27.2% to 26.6%). Within the foreign portfolio, investments in euro grew as a percentage of the total (from 29.7% in 2003 to 31.4% in 2004), while investments in other currencies decreased (from 14.1% to 12.7%).

7.3. IIC management companies (SGIIC)

SGIIC managed the bulk of IIC registered at 2004 year-end. IICs not managed by SGIIC are managed by portfolio management companies (35 SICAV), other financial institutions (71 SICAV and 2 SIM) or they are self-managed (7 SICAV and 20 SIM).

There were 116 SGIIC registered with the CNMV at 2004 year-end, i.e. three less than at 2003 year-end (see table 7.2). This number is the result of five registrations and eight removals. Three SGIIC were removed definitively; of the others, three were absorbed by their controlling groups (BBVA Gestinova, B.Z. Gestión and Gesindex), Cajasur Gestión transferred management of its IIC to the Ahorro Corporación group, and Interfondos changed its form to become a broker. Three of

[7] Until the entry into force of the new IIC law, SIMCAV was the term for what are now called SICAV.

Table 7.5
Breakdown of SICAV assets by type
Thousand euro

	2003	2004	Change (%)
No. of shareholders	**336,865**	**359,151**	**6.62**
Assets	**20,163,057**	**23,176,470**	**14.95**
Spanish securities	**10,489,785**	**12,243,419**	**16.72**
Shares	3,159,667	4,055,235	28.34
Mutual fund units	533,006	735,735	38.04
Public money market assets	63,232	89,241	41.13
Other public fixed-income	857,414	709,828	−17.21
Private money market assets	143,893	140,080	−2.65
Other private fixed-income	245,119	328,776	34.13
Spanish warrants and options	2,891	6,873	137.74
Repos	5,483,929	6,177,592	12.65
Unlisted securities	634	59	−90.96
Foreign securities	**8,830,739**	**10,218,647**	**15.72**
Euro	5,989,052	7,268,327	21.36
Other	2,841,687	2,950,320	3.82
Cash	**683,320**	**579,288**	**−15.22**
Net balance(1)	**159,213**	**135,116**	**−15.14**

(1) Difference between the other debtor and creditor accounts.

the management companies that registered were independent[8] (see Annexes A.II.3 and A.II.4).

7.3.1. Managed assets and schemes

Despite the slight decrease in the number of SGIIC, the number of IIC and the volume of assets managed by them increased (see tables 7.6 and 7.7). Specifically, assets under management increased by 13%. This rise was due mainly to FIM and SICAV, but was offset partly by a decrease in assets managed by FIAMM and SIM. As in 2003, securities investment funds (FIM and FIAMM) still accounted for 90% of assets under management, securities investment companies (SIM and SICAV) for 9% and real estate investment funds and companies for the rest.

7.3.2. Earnings

The increase in managed assets boosted net commissions by 16.23% in 2004 (see table 7.8).

Pre-tax earnings rose 14.98%. Since 2002, earnings have decreased substantially compared with managed assets (see figure 7.3). Nevertheless, the rise in earnings in 2004 increased the sector's ROE after taxes to 57% in 2004 (+33% in 2003). The number of loss-making SGIICs continued to fall, from 21 to 17 in 2004.

7.4. IIC depositories

Depositories are entrusted with the deposit and custody of the securities, cash and other assets of IICs, and with monitoring the actions of SGIIC and other IIC managers[9]. Depositories not only guard the assets, they also have a monitoring role, which is essential for investor protection. IIC depositories include banks, savings banks, credit cooperatives, broker-dealers and brokers[10].

[8] Management companies not controlled by a financial or industrial group.
[9] Article 57 of Collective Investment Scheme Law 35/2003, dated 4 November.
[10] This activity is registered at the CNMV.

Table 7.6

Number of portfolios managed by SGIIC: detail by IIC type

	31/12/2003	31/12/2004	Change (%)
Total	**5,323**	**5,592**	**5.05**
FIAMM	168	165	−1.79
FIM	2,386	2,456	2.93
SIM	85	62	−27.06
SICAV	2,678	2,900	8.29
Real estate investment funds	5	7	40
Securities investment companies	1	2	100

Table 7.7

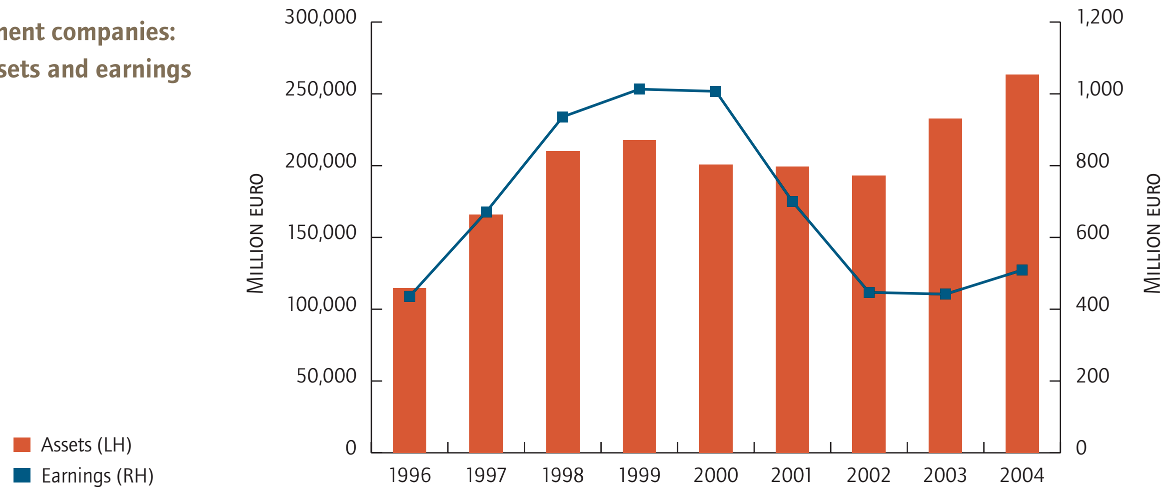
Assets managed by SGIIC: detail by IIC type

Thousand euro

	31/12/2003	31/12/2004	Change (%)
Total	**232,915,327**	**263,369,310**	**13.08**
FIAMM	58,054,417	57,988,791	−0.11
FIM	152,572,747	178,099,563	16.73
SIM	1,457,762	1,314,316	−9.84
SICAV	17,980,283	21,609,354	20.18
Real estate investment funds	2,840,700	4,300,846	51.4
Securities investment companies	9,418	56,440	499.28

Figure 7.3

IIC management companies: managed assets and earnings



At 2004 year-end, the IIC sector had 138 depositories, four less than at 2003 year-end, after two registrations and six removals in the year. Accordingly, the reduction in the number of companies observed in recent years continued due mainly to mergers and acquisitions in the banking sector, in which depositories were absorbed.

The market share of the various IIC depositories shows that banks are the leading providers of this service. At 31 December 2004, the banks provided this service to 58% of funds and 86% of investment companies and guarded 70% of assets, while thrifts provided this service to 35% of funds and 10% of investment companies and guarded 27% of total assets. The

Table 7.8
SGIIC: income statement
Thousand euro

	2003	2004	Change (%)
Financial income	34,887	27,138	−22.21
Net income from securities	−335	2,816	n.m.
Net commission revenues	**660,591**	**767,831**	**16.23**
Commission revenues	2,360,451	2,733,081	15.79
IIC management	2,306,585	2,672,345	15.86
Subscription and reimbursement	47,945	54,332	13.32
Other	5,921	6,404	8.16
Commission expenses	1,699,860	1,965,250	15.61
Total net revenues	**695,143**	**797,785**	**14.77**
Operating expenses	228,654	265,378	16.06
Personnel expenses	122,884	127,232	3.54
General expenses	105,770	138,146	30.61
Operating income	**466,489**	**532,407**	**14.13**
Depreciation and other charges	17,171	16,776	−2.3
Other gains and losses	−3,952	−3,542	−10.37
Earnings before taxes	**445,366**	**512,089**	**14.98**
Taxes	155,771	178,336	14.49
Earnings after taxes	**289,595**	**333,753**	**15.25**

n.m.: the rate of change is not meaningful since the amounts differ in sign.

remainder corresponds to investment services firms and credit cooperatives (see figure 7.4).

7.5. Foreign IICs marketed in Spain

The total volume of funds managed by foreign IICs marketed in Spain increased by 94.2% to 17,785,559 thousand euro in 2004 (see table 7.9). This figure is equivalent to 7.5% of Spanish IICs' total assets, compared with 3.9% in 2003. This performance reflects the sizeable investments by Spanish funds and other institutional investors in foreign IICs in the year as well as equity appreciation. There was significant growth in assets under management at both funds (+104.6% to 3.498 billion euro) and investment companies (+91.8% to 14.287 billion euro).

At 2004 year-end, 238 foreign IICs were operating in Spain; the increase was almost entirely in investment companies. There were 321,805 investors, 84% in investment companies and the rest in investment funds. The largest increases in foreign IICs marketed in Spain were by those domiciled in France (4) and Ireland (2), although the bulk of schemes that operate in Spain are registered in Luxembourg.

Figure 7.4
IIC depositories: assets under custody (%)

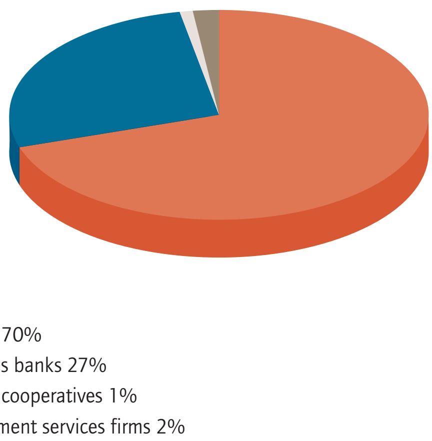


Table 7.9

Foreign IICs marketed in Spain

	31/12/2003	31/12/2004	Change (%)
Investment volume (thousand euro)	**9,158,738**	**17,785,559**	**94.2**
Investment funds	1,709,815	3,498,117	104.6
Investment companies	7,448,923	14,287,442	91.8
No. of investors	**225,214**	**321,805**	**42.9**
Investment funds	30,577	51,364	68.0
Investment companies	194,637	270,441	38.9
No. of schemes(1)	**233**	**238**	**2.1**
Investment funds	97	93	−4.1
Investment companies	136	145	6.6
Home state			
Luxembourg	165	164	−0.6
Ireland	32	34	6.3
France	21	25	19.0
Germany	10	11	10.0
UK	4	3	−25.0
Netherlands	1	1	0.0

(1) Many of these schemes are structured in various sub-funds (compartments). Those compartments are sometimes guaranteed.

[8] Investment services firms

In 2004, investment services firms, a category which groups broker-dealers, brokers and portfolio management companies (SGC), performed as follows:

- Earnings of broker-dealers and brokers increased significantly, especially those broker-dealers which are market members and of brokers which are not market members. This increase was driven by revenue recovery from third-party trading (following the decrease in the last few years), containment of operating expenses and lower depreciation and amortisation charges.
- Conversely, portfolio management companies' earnings decreased significantly. The moderate increase in commission revenues was offset by lower net trading income, higher expenses and poor extraordinary results performance.
- The integration of investment services into bank parent companies was one of the main developments in the sector, in addition to the increase in the number of representatives and the growing presence of foreign investment services firms in Spain under the free provision of services regime.

This chapter deals with the general features of investment services firms. The supervision of investment services firms is detailed in Chapter 12.2.1.

8.1. Broker-dealers and brokers

The total number of broker-dealers and brokers increased once again in 2004, after decreasing in 2003. The increase was due to the growing presence of foreign investment services firms. The number of Spanish investment services firms was practically the same as at 2003 year-end (see table 8.1). Nevertheless, Spanish investment services firms significantly increased the number of representatives, from 6,432 at 2003 year-end to 6,793 at 2004 year-end, because some investment services firms which are not part of banking groups used representations as a means of expanding their commercial network.

The influx of foreign capital into the sector was mainly via notifications of intent to provide investment services in Spain under the free provision of services regime[1]. The number of branches by foreign investment services firms was stable with respect to 2003, and there were no cases of foreign financial institutions taking control of Spanish broker-dealers or brokers.

Tables 8.2 and 8.3 show the registrations, removals and changes in control of investment services firms in 2004.

Broker-dealers and dealers traded in a favourable context in which both stock market trading and issuing increased. However,

Table 8.1.
Firms registered and removed

Type of firm	Firms at 31/12/03	Registrations	Removals	Firms at 31/12/04
Spanish investment services firms	105	6	8	103
Broker-dealers	46	2	0	48
Brokers	59	4	8	55
Foreign investment services firms	762	101	40	823
Investment services firms with branch	19	3	3	19
Investment services firms under the free provision of services regime	743	98	37	804

[1] See Chapter 8.3 for more details about foreign investment services firms with the single passport.

Table 8.2

Registration of investment services firms and their controlling group. 2004

Spanish broker-dealers and brokers	Controlling group
Registrations	
Botavara Blanca, Agencia de Valores, S.A.	Independent(1)
Gestiohna Diseño Patrimonial, Agencia de Valores, S.A.	Hermandad Nacional de Arquitectos
Nervión, Agencia de Valores, S.A.	Independent(1)
Skandia Multigestión, Agencia de Valores, S.A.	Skandia
Removals	
Gescartera Dinero, Agencia de Valores	Independent(1)
Afina Valores, Agencia de Valores, S.A.	Commerzbank
Multigestores, S.A., Agencia de Valores y Bolsa	Commerzbank
Prudential Bache Securities, Agencia de Valores, S.A.	Prudential Bache
Winterthur Inversiones, Agencia de Valores, S.A.	Winterthur
SENAF, Agencia de Valores, S.A.	Grupo Bolsas y Mercados

EU investment services firms	Controlling group
Registrations	
Invesco Gestión, S.A., branch in Spain	Invesco
NIBC Petercam Derivatives, N.V., branch in Spain	NIBC Petercam
Robeco Institucional Asset Management B.V., branch in Spain	Robeco
Removals	
KBC Financial Products Brussels, S.A., branch in Spain	Kredietbank
Self Trade, branch in Spain	Boursorama
Invesco Asset Management, Ltd., branch in Spain	Invesco

(1) Firms not controlled by financial or industrial groups.

Table 8.3.

Changes in control at investment services firms. 2004

Institution or group	Type	Buyer
Estubroker	Broker	Gaesco
All Trading Brokers Europe	Broker	Independent(1)
A.T. Equities Spain	Broker	Independent(1)
HSBC Intermediarios	Broker	Inversis

(1) Individuals.

competition from credit institutions reduced their market share and prevented the improvement from being reflected in the sector's income statements. For example, the proportion of Spanish equity trading by broker-dealers and dealers declined from 86% in 2003 to 77% in 2004, and placement and underwriting revenues fell sharply (55%) in a year in which IPOs recovered and private fixed-income issues increased substantially.

8.1.1. Analysis of the income statement

In 2004, pre-tax earnings of broker-dealers and brokers grew significantly in aggregate terms, rising 37% to 341.8 million euro. Earnings performance was mixed as a result of the different business structures (see tables 8.4 and 8.5).

The disparity within each group is evidenced by the different degree of concentration of commission revenues. Broker-dealers

Table 8.4.

Broker-dealers: income statement

Thousand euro

	Members		Non-members	
	2004	Change (%)	2004	Change (%)
Financial income	74,495	68.7	3,940	10.7
Net income from securities trading	−44,773	n.m.	458	−78.9
Net commission revenues	**477,737**	**6.3**	**61,417**	**32.5**
Commission revenues	618,833	2.6	81,228	28.8
Brokering	425,179	15.5	23,888	67.0
IIC subscription and reimbursement	62,937	5.8	41,972	7.3
Placement and underwriting	39,904	−55.3	0	–
Portfolio management	11,139	64.0	3,002	226.7
Other	79,674	0.7	12,366	41.9
Commission expenses	141,096	−8.1	19,811	18.6
Total net revenues	**507,459**	**−1.5**	**65,815**	**26.4**
Operating expenses	331,312	−0.6	34,849	45.9
Personnel expenses	205,409	0.0	23,981	65.0
General expenses	125,903	−1.5	10,868	16.2
Operating income	**176,147**	**−3.4**	**30,966**	**9.8**
Depreciation and other charges	32,737	−14.5	1,444	50.3
Other gains and losses	136,340	163.4	−1,288	n.m.
Earnings before taxes	**279,750**	**42.9**	**28,234**	**2.0**
Taxes	82,092	21.5	9,989	5.4
Earnings after taxes	**197,658**	**54.2**	**18,245**	**0.2**

n.m.: the rate of change is not meaningful since the signs are different.

and brokers that are stock exchange members have a high dependency on order processing and execution in the Spanish equity markets. A large proportion of ordinary revenues of broker-dealers that are not market members comes from IIC subscription and reimbursement, while brokers that are not market members have a more diversified revenue structure. Moreover, in each group, a small number of large firms co-exist with a large number of small firms. The next section deals with the earnings performance by each type of firm.

In 2004, broker-dealers that are stock exchange members increased earnings by 42.9% due to a sharp rise in "other gains and losses"[2], a decrease in depreciation and amortisation charges, and containment of operating expenses. The increase in net commission revenues was moderate but proprietary derivatives trading registered significant losses. Therefore, ordinary income was lower than in 2003.

Broker-dealers that are not market members reported the opposite. Net commission revenues increased considerably, but operating expenses and depreciation and amortisation charges rose faster. Therefore, pre-tax earnings fell 2% in the year.

Brokers that are stock exchange members posted lower earnings than in 2003. Although ordinary revenues increased somewhat, this was offset by higher operating expenses and, above all, higher depreciation and amortisation charges. Conversely, brokers that are not market members posted considerably higher earnings than in 2003 due to favourable ordinary income performance and lower operating expenses.

[2] The increase in "other gains and losses" is due partly to the earnings of two firms: Merrill Lynch Capital Markets España, S.A., SVB for "exchange gains", and Espirito Santo Investment, S.A., SVB for "gains on the sale, recovery and provision of the permanent portfolio".

Table 8.5.
Brokers: income statement
Thousand euro

	Members		Non-members	
	2004	Change (%)	2004	Change (%)
Financial income	2,992	43.7	4,685	1.5
Net income from securities trading	114	–91.5	508	179.1
Net commission revenues	**28,783**	**2.9**	**128,579**	**19.4**
Commission revenues	34,604	2.2	156,487	19.7
Brokering	28,318	10.4	59,850	0.6
IIC subscription and reimbursement	1,152	–1.3	25,300	51.7
Placement and underwriting	181	105.7	1,174	–53.2
Portfolio management	564	–15.7	13,183	18.9
Other	4,389	–30.1	56,980	39.2
Commission expenses	5,821	–1.2	27,908	21.1
Total net revenues	**31,889**	**1.6**	**133,772**	**18.9**
Operating expenses	25,645	1.3	96,592	–5.4
Personnel expenses	14,192	–3.2	59,762	–3.2
General expenses	11,453	7.5	36,830	–8.8
Operating income	**6,244**	**2.7**	**37,180**	**258.7**
Depreciation and other charges	1,519	58.4	7,565	42.3
Other gains and losses	411	–51.7	–933	n.m.
Earnings before taxes	**5,136**	**–14.0**	**28,682**	**41.7**
Taxes	2,215	8.1	10,840	31.4
Earnings after taxes	**2,921**	**–25.5**	**17,842**	**48.8**

n.m.: the rate of change is not meaningful since the signs are different.

Figure 8.1
Broker-dealers: ROE before taxes

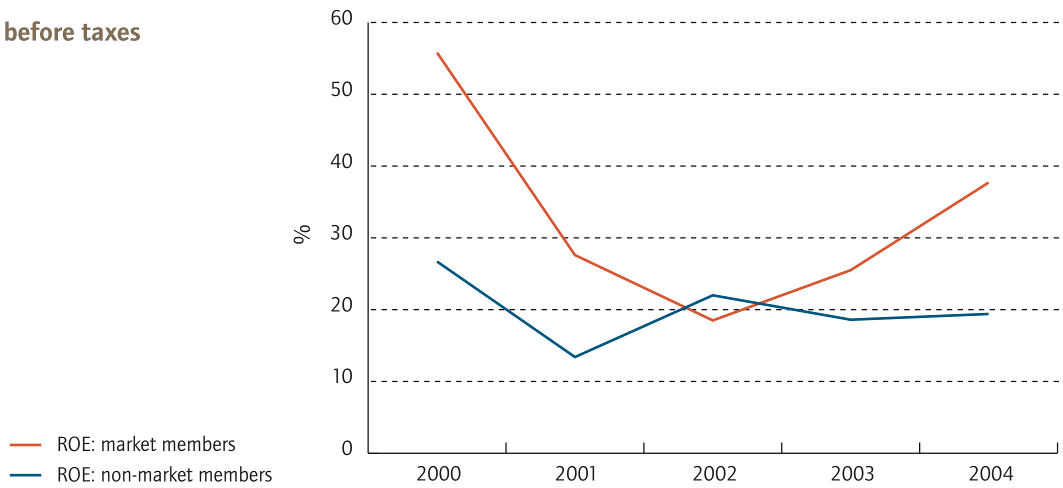


Figure 8.2
Brokers: ROE before taxes

In 2004, the return on equity (ROE) performed in line with earnings (see figures 8.1 and 8.2). Broker-dealers that are stock exchange members posted the highest average ROE before taxes (38%). Broker-dealers and brokers that are not members increased average ROE to around 20%. Conversely, average ROE decreased slightly at brokers that are members, to 13%. There were no significant changes in the number of loss-making firms in the sector; again, most of them were brokers that are not market members[3].

8.1.2. Detail of commission revenues

In 2004, ordinary revenues increased by 7.3% at broker-dealers and brokers, after the fall registered in 2003 (see table 8.6). Gross commission revenues increased in all services, especially portfolio management. The exception was placement and underwriting commissions, which decreased by 55.1% due to the significant decline in the volume of fixed-income issues underwritten by broker-dealers that are market members, despite a significant increase in private fixed-income issues in the year.

Gross brokerage revenues rose 14.9% in 2004, after falling 12% in 2003, due to an increase in equity brokerage commissions, which grew from 331 million euro to 408 million euro. Conversely, brokerage commissions in the fixed-income and derivatives markets were lower than in 2003[4].

The bulk of brokerage revenues in the equity markets came from brokering on Spanish stock exchanges by broker-dealers that are market members. These commissions rose 20% due to a 17% absolute increase in the brokered volume and a slight rebound in average effective brokerage fees, from 0.40 per mil in 2003 to 0.41 per mil in 2004 (see figure 8.3). Nevertheless, in relative terms, the share of broker-dealers that are stock exchange members in the trading volume of the Spanish stock markets continued to fall in 2004, mainly because credit institutions gained market share. In fact, broker-dealers that are stock exchange members saw their share of the trading volume on Spanish stock markets fall from 80.3% in 2003 to 69.3% in 2004. Conversely, credit institutions increased their share from 13.6% in 2003 to 22.6% in 2004.

8.2. Portfolio management companies (SGC)

In 2004, the number of portfolio management companies continued to decrease, though by less than in 2003. This decline was due generally to the competitive pressure from banks, broker-dealers and brokers, since these firms can also provide portfolio management services to individuals. Some of the deregistrations of portfolio management companies in recent years are due to the closure of subsidiaries by credit

[3] The following firms posted losses in 2004: five broker-dealers (four members and one non-member) and twenty-two brokers (five members and seventeen non-members).
[4] Gross brokerage revenues amounted to 86.8 million euro in the derivatives markets (−2% vs. 2003) and 42.6 million euro in the money and fixed-income markets (−11%).

Table 8.6.

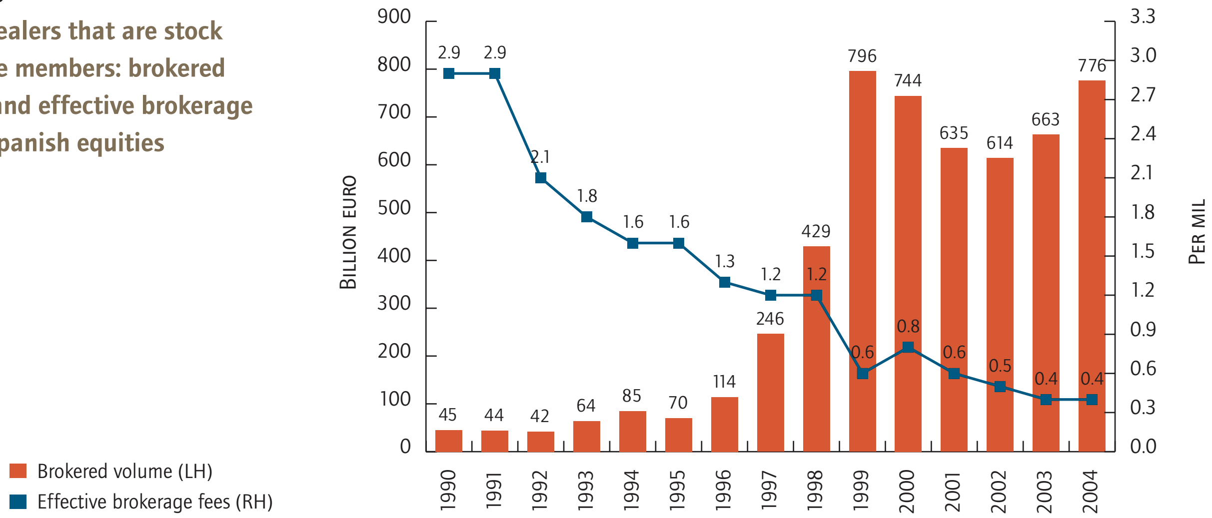
Broker-dealers and brokers: gross commission revenues

Thousand euro

	2001	2002	2003	2004	Change (%) 2004/03
Type of service					
Brokering	640,392	533,901	467,762	537,235	14.9
IIC subscription and reimbursement	138,339	121,224	116,477	131,361	12.8
Placement and underwriting	54,982	49,287	91,890	41,259	–55.1
Portfolio management	19,544	17,530	19,465	27,888	43.3
Other	139,315	129,525	135,027	153,409	13.6
Total	**992,572**	**851,467**	**830,621**	**891,152**	**7.3**
Type of firm (%)					
Broker-dealers–members	74.2	70.9	72.6	69.4	–4.3
Broker-dealers–non-members	6.3	7.5	7.6	9.1	20.1
Brokers–members	6.9	6.5	4.1	3.9	–4.8
Brokers–non-members	12.6	15.1	15.7	17.6	11.6
Total	**100.0**	**100.0**	**100.0**	**100.0**	–

Figure 8.3

Broker-dealers that are stock exchange members: brokered volume and effective brokerage fees in Spanish equities



institutions, which concentrated all the portfolio and large account management business in the private banking segment.

Table 8.7.
Registration of portfolio management companies and their controlling group. 2004

Portfolio management companies	Controlling group
Registrations	
MG Wealth Manager, S.G.C., S.A.	Independent
Los Andes Capital, S.G.C., S.A.	Independent
Removals	
BBVA Gestión de Capitales, S.G.C., S.A.	BBVA
Financial Markets Advisors, S.G.C., S.A.	Independent
Gesconsult Carteras, S.G.C., S.A.	Independent
Serfiex Gestión, S.G.C., S.A.	Independent
Gesmusini Carteras, S.G.C., S.A.	Mapfre

There were 21 portfolio management companies registered with the CNMV at 2004 year-end, three less than at 2003 year-end. In 2004, two portfolio management companies were registered and five were removed (see table 8.7).

Although the total number of portfolio management contracts decreased 15.43%, total managed assets increased 6.92% to 2.647 billion euro (see table 8.8). Despite the increase in managed assets, portfolio management companies' earnings have decreased as a proportion of these assets have decreased in the last two years (see figure 8.4).

The sector's commission revenues grew with respect to 2003 (see table 8.9). However, pre-tax earnings declined 28.78% on 2003 due to a 71.25% decrease in financial income. This fall was mainly because BBVA Gestión de Capitales, which accounted for nearly half the sector's financial income in 2003,

Table 8.8.
Assets managed by portfolio management companies
Amounts in thousand euro

	31/12/2003	31/12/2004	Change (%)
Total			
Number of portfolios	4,557	3,854	−15.43
Assets	2,475,980	2,647,314	6.92
Breakdown by portfolio type			
SIMCAV			
Number	46	35	−23.91
Assets	229,617	215,044	−6.35
Other managed portfolios			
Number	4,511	3,819	−15.34
Assets	2,246,363	2,432,270	8.28

Figure 8.4
Portfolio management companies: managed assets and pre-tax earnings

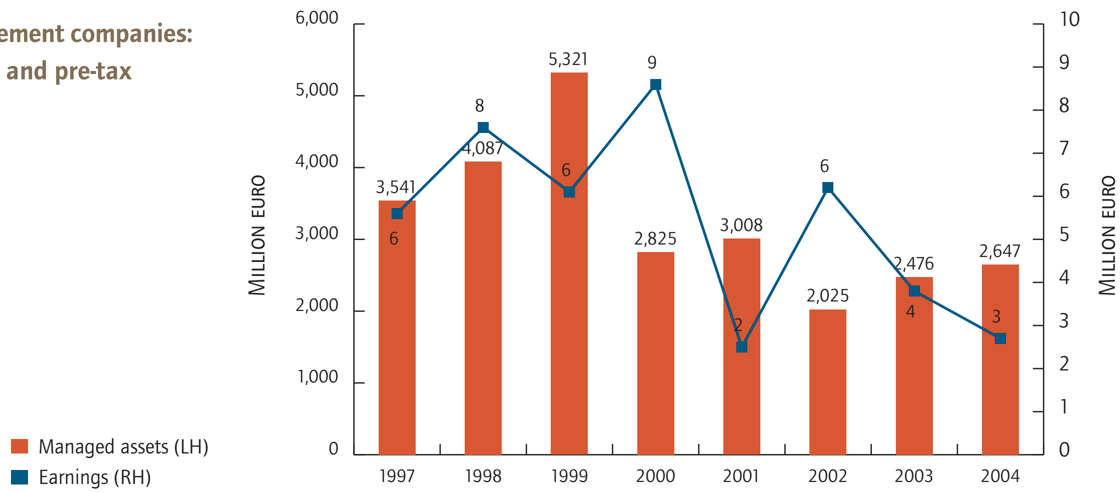


Table 8.9.
Portfolio management companies: income statement
Thousand euro

	2003	2004	Change (%)
Financial income	1,913	550	–71.25
Net income from securities trading	–181	89	n.m.
Net commission revenues	**13,941**	**15,155**	**8.71**
Commission revenues	13,941	15,868	13.82
Portfolio management	7,820	10,450	33.63
Advice	3,299	3,265	–1.03
Other	2,822	2,153	–23.71
Commission expenses(1)	0	713	–
Total net revenues	**15,673**	**15,794**	**0.77**
Operating expenses	11,183	11,266	0.74
Personnel expenses	6,500	6,679	2.75
General expenses	4,683	4,587	–2.05
Operating income	**4,490**	**4,528**	**0.85**
Depreciation and other charges	519	985	89.79
Other gains and losses	–135	–811	500.74
Earnings before taxes	**3,836**	**2,732**	**–28.78**
Taxes	1,562	1,002	–35.85
Earnings after taxes	**2,274**	**1,730**	**–23.92**

n.m.: the rate of change is not meaningful since the signs are different.
(1) " Commission expenses" were included in " operating expenses" in 2003.

was deregistered early in 2004. The reduction in the sector's pre-tax earnings was also influenced by lower financial income at the SCH portfolio management subsidiary and poorer extraordinary items[5] than in 2003.

In line with the earnings decrease, portfolio management companies' return on equity (ROE) declined from 7.80% in 2003 to 6.17%.

8.3. Cross-border activity

8.3.1. Cross-border actions by Spanish investment services firms

The internationalisation of the financial activity, especially the financial integration process in Europe, provides Spanish financial brokers with new business opportunities abroad. Spanish investment services firms still have a small international presence although the sector appears to be interested in increasing this. Firms must request CNMV authorisation if they wish to provide services in non-EU countries or if they wish to operate via branches in other EU member states. If firms decide to operate without a physical presence in other EU member states, they must notify the CNMV beforehand[6] and the CNMV will notify the host country.

Spanish broker-dealers and brokers operate abroad mainly under the free provision of services regime, i.e. they do not open branches in host countries. In 2004, 31 Spanish firms used this type of cross-border regime (nine more than in 2003) to operate mainly in Germany, Portugal, the UK, France and Italy (see Annex A.II.5). Conversely, only two Spanish firms had a branch abroad (four in 2003).

[5] Extraordinary items at investment services firms comprise: (i) exchange gains/losses; (ii) results from trading in own shares and bonds; (iii) results from trading with the permanent portfolio; (iv) gains/losses on tangible fixed assets; (v) prior years' results; (vi) results on use of the collective collateral to the market; and (vii) other gains and losses.
[6] Articles 43, 44 and 45 of Royal Decree 867/2001, dated 20 July, on the legal regime for investment services companies.

8.3.2. Actions by foreign investment services firms

Foreign firms are increasingly providing investment services in Spain. CNMV authorisation is required when the firm is registered in a non-EU state. Investment services firms from other EU member states can provide services in Spain provided that the supervisory authority of the firm in question notifies the CNMV of the activities they will provide, whether via a branch or under the free provision of services regime[7].

In 2004, foreign investment services firms considerably expanded their presence in Spain; in particular, firms authorised in the UK, where the bulk of foreign firms operating in Spain are registered, operated under the free provision of services regime (see Annex A.II.6). The list of home states was extended in 2004 to two new EU countries: Cyprus and Slovenia. At 2004 year-end, just 19 firms had chosen to operate via branches, the same number as in 2003, following three registrations and three removals.

[7] Articles 41 and 42 of Royal Decree 867/2001, dated 20 July, on the legal regime for investment services companies.

[9] Provision of investment services by credit institutions

9.1. Authorisation and registration

Even if credit institutions are not investment services firms, they can provide all the activities envisaged in article 63 of the Securities Market Law (investment services and complementary activities), provided that this is envisaged in their legal regime and bylaws and that they have specific authorisation from the regulator[1].

Based on the information supplied by the Bank of Spain[2], 207 deposit institutions (banks, thrifts and cooperatives) registered with the Bank of Spain at 2004 year-end did not have any restrictions in their bylaws or in their authorisation regime with regard to providing investment services, so they were also registered in the CNMV's Official Register of Spanish credit institutions that provide investment services.

Foreign credit institutions authorised to operate in Spain may also provide investment services, provided that these activities are envisaged in their authorisation regime[3]. The latter is more simple for institutions authorised in other EU member states since they can use the single passport envisaged in European banking legislation. However, credit institutions authorised in non-EU countries must obtain express authorisation from the Spanish authorities in order to operate in Spain. In both cases, foreign credit institutions can operate in Spain through a physical establishment (branch) or without one.

At 2004 year-end, 48 of the 62 foreign credit institutions with branches in Spain were authorised to provide investment services. Forty were institutions authorised in other EU countries, especially France (11), the UK (7), Portugal (5) and The Netherlands (4). Eight were authorised in non-EU countries, the US accounts for the largest number (3).

A total of 237 foreign credit institutions that operated in Spain without a physical establishment were authorised to provide investment services, i.e. 66% of the institutions of this type registered with the Bank of Spain. All except four had already been authorised in other EU member states, especially France (55), the UK (52), Germany (29), The Netherlands (25) and Ireland (24).

9.2. Securities trading by credit institutions

Activities related to the securities markets are a major revenue source for credit institutions. In total, placement and underwriting, trading and asset administration, custody and management provided 9.1% of this sector's gross commission revenues in 2004 (see table 9.1). Mutual fund marketing commissions were the largest single item: 16.8% in 2004.

Except securities trading, credit institutions have a larger market share of commission revenues for the main investment services than broker-dealers and brokers (see table 9.2). For example, credit institutions market most of the mutual funds and administer and custody most of the securities. In the latter activity, the market value of the securities deposited at credit institutions was 1.407 billion euro at 30 June 2004, compared with just 36.9 billion euro at broker-dealers and brokers.

[1] Article 65.1 of the Securities Market Law.

[2] The Bank of Spain notifies the CNMV of the Spanish and foreign credit institutions that can provide investment services in Spain so that the CNMV can maintain its administrative records up-to-date.

[3] Foreign credit institutions that provide investment services in Spain are subject to Royal Decree 1245/1995, dated 14 July, on the creation of banks, cross-border activity and other matters relating to credit institutions' legal regime.

Table 9.1.

Credit institutions: commission revenues for providing securities services and marketing non-banking financial products

Million euro

	2001	2002	2003	2004	% of total commissions in 2004
Securities services	**1,155**	**1,083**	**1,054**	**1,074**	**9.1**
Placement and underwriting	301	238	189	123	1.0
Trading	293	229	273	305	2.6
Administration and custody	499	562	542	588	5.0
Asset management	63	54	49	58	0.5
Marketing of non-banking financial products	**1,946**	**2,080**	**2,310**	**2,813**	**23.9**
Mutual funds	1,477	1,544	1,658	1,977	16.8
Pension funds	165	183	202	231	2.0
Insurance	276	326	422	574	4.9
Other	29	26	29	31	0.3
Pro memoria:					
Total commission revenues	**9,154**	**9,831**	**10,517**	**11,762**	**100**

Source: Bank of Spain and CNMV.

Table 9.2.

Commission revenues for providing investment services in 2004: comparison between investment services firms and credit institutions

Million euro

	Broker-dealers and brokers	Portfolio management companies	Credit institutions	Total	Credit institutions/ total (%)
Placement and underwriting	41	–	123	164	74.9
Buying and selling	537	–	305	842	36.2
Asset management	28	10	58	96	60.2
Administration and custody	17	–	588	605	97.3
Mutual fund marketing	131	–	1,977	2,108	93.8

Source: Bank of Spain and CNMV.

Table 9.3.

Securities deposited(1) at credit institutions at 31 December

Billion euro

	2001	2002	2003	2004(2)	Change 04/03 (%)
Fixed-income	**583.6**	**656.6**	**742.0**	**809.8**	**9.1**
Debt securities	498.6	581.6	670.5	747.8	11.5
Commercial paper and notes discounted	85.0	75.0	71.5	62.0	−13.3
Equities	**582.8**	**469.9**	**579.1**	**597.2**	**3.1**
Listed shares	511.4	416.3	541.6	553.1	2.1
Unlisted shares	71.4	53.6	37.5	44.0	17.5
Total	**1,166.4**	**1,126.5**	**1,321.1**	**1,407.0**	**6.5**

(1) Listed securities are recorded at their market value and unlisted securities at their nominal value.
(2) At 30 June.
Source: Bank of Spain and CNMV.

[10] Venture capital firms

10.1. Legal framework

Law 1/1999[1] established the legal regime for the authorisation and registration of venture capital firms (ECR), granted the CNMV the power to supervise, inspect and penalise them, and granted tax benefits to firms that are incorporated in accordance with that law.

Nevertheless, the differences observed between the capital and investment figures handled by market operators (see below) and the firms registered with the CNMV show that many firms are not incorporated in accordance with Law 1/1999.

In order to increase venture capital firms' presence in Spain, in March 2005 the Spanish government approved draft legislation that forms part of the Plan to Vitalise the Economy and Boost Productivity. The reform in this new venture capital law respects the basic structure of Law 1/1999 and is based on two cornerstones:

- The administrative regime was expedited and the CNMV, as the supervisor of venture capital firms, received most of the powers to authorise them.
- Investment rules were made more flexible: new financial concepts were introduced (such as participation loans), the advisory scope was expanded, firms can now invest in companies that are listed on the main market in order to delist them, and they can invest in other venture capital firms.

10.2. Venture capital firms registered with the CNMV

Since the entry into force of Law 1/1999, the number of registered firms has increased considerably, having tripled by 2004 year-end. In 2004, three venture capital funds and seven venture capital companies filed with the CNMV, so there were 38 funds and 70 companies at year-end (see table 10.1). In particular, six venture capital firm management companies were registered[2], all but one belong to independent groups; there were 36 operators registered at year-end.

The registered firms are mainly concentrated in Madrid and Catalunya (around 70% of the total). Spanish financial groups control 30% of those firms. Foreign financial groups have a small presence, controlling only ten firms.

Table 10.1
Registration and removal of venture capital firms in 2004

	Situation at 31/12/2003	Registrations	Removals	Situation at 31/12/2004
Firms	**132**	**16**	**4**	**144**
Venture capital funds	35	3	0	38
Venture capital companies	66	7	3	70
Venture capital firm management companies	31	6	1	36

[1] Law 1/1999, dated 5 January, regulating venture capital firms and their operators, subsequently amended by Law 44/2002 on Measures to Reform the Financial System.

[2]

Registrations	*Controlling group*
Inveralia Private Equity, SGECR, S.A.	Independent
Ibersuizas Gestión, SGECR, S.A.	Independent
Valcapital Gestión, SGECR, S.A.	Independent
Going Investment, SGECR, S.A.	Independent
Capital Grupo Santander, SGECR, S.A.	Santander Central Hispano
Altamar Capital Privado, SGECR, S.A.	Independent

Public institutions control 26% of venture capital companies and 43% of venture capital funds. Local and regional governments use these instruments to finance projects in their respective areas.

Based on the sector's overall figures, at 31 December 2004 the members of ASCRI (Spanish Association of Venture Capital Firms) managed 9.264 billion euro, while the venture capital firms registered with the CNMV managed 2.488 billion euro. In 2004, gross investment totalled over 1.9 billion euro, 47% more than in 2003. Net investment amounted to 1.47 billion euro, 667 million euro in venture capital firms registered with the CNMV. Therefore, only a part of venture capital activities is currently performed by venture capital firms incorporated in accordance with Law 1/1999.

Annexes II

A.II.1

Funds' portfolio as a percentage of the outstanding balance of Spanish securities

%

	2000	2001	2002	2003	2004
Listed equities[1]	**2.8**	**2.6**	**2.9**	**4.8**	**4.7**
Private fixed-income[2]	**16.9**	**14.4**	**10.6**	**9.9**	**11.1**
Short term	21.4	28.6	21.2	16.0	18.2
Long term	14.8	7.8	5.2	6.4	7.1
Public fixed-income	**15.5**	**9.5**	**7.9**	**7.0**	**5.4**
Short term[3]	23.7	14.2	18.9	16.7	12.0
Long term	13.9	8.8	6.3	5.5	4.5

(1) Realisation value. The outstanding balance data relate to the capitalisation of Spanish securities in the electronic market and open outcry market.
(2) Nominal amounts for fixed-income.
(3) Excluding repos.
Source: CNMV and Bank of Spain.

A.II. 2

Mutual funds' expenses

	2003		2004		
	Million euro	% of daily average assets	Million euro	% of daily average assets	% Chg. 04/03
FIM					
Management fees	1,622.8	1.19	1,949.5	1.16	20.1
Depository fees	140.4	0.10	164.6	0.10	17.3
Other operating expenses	29.1	0.02	44.4	0.03	52.6
Total expenses	**1,792.3**	**1.31**	**2,158.4**	**1.28**	**20.4**
FIAMM					
Management fees	508.2	0.90	501.7	0.87	−1.3
Depository fees	65.3	0.12	64.7	0.11	−0.9
Other operating expenses	3.6	0.01	3.9	0.01	6.6
Total expenses	**577.2**	**1.02**	**570.3**	**0.99**	**−1.2**

A.II.3

Changes in the register of SGIIC and controlling groups. 2004

IIC management companies	Controlling group
Registrations	
Nmas 1 Gestión, S.G.I.I.C., S.A.	Independent(1)
Nordkapp Gestión, S.G.I.I.C., S.A.	Independent(1)
Cajamar Gestión, S.G.I.I.C., S.A.	Cajamar
NBC Petercam Gestión, S.G.I.I.C., S.A.	NIBC Petercam
Dux Inversores, S.G.I.I.C., S.A.	Independent(1)
Removals	
BBVA Gestinova Capital, S.G.I.I.C., S.A.	BBVA
Cajasur Gestión, S.G.I.I.C., S.A.	Cajasur
B.Z. Gestión, S.G.I.I.C., S.A.	Barclays
Gesindex, S.G.I.I.C., S.A.	Capitalia
Habitat de Valores, S.G.I.I.C., S.A.	Grupo Inmobiliario Habitat
Star Inmogestión, S.G.I.I.C., S.A.	Inmobiliaria Bami(1)
Gescartera Gestión, S.G.I.I.C., S.A.	Independent
Interfondos, S.G.I.I.C., S.A.	Skandia

(1) Not controlled by financial or industrial groups.

A.II.4

Changes in control at SGIIC. 2004

Firm or group	Type	Buyer
Takeovers by Spanish financial institutions		
Atlántico Fondos	SGIIC	Sabadell
Seguros Bilbao Fondos	SGIIC	Catalana Occidente
Takeovers by foreign financial institutions		
Espirito Santo Gestión (formerly Gescapital)	SGIIC	Espirito Santo
Lusogest	SGIIC	Espirito Santo

A.II.5

Spanish investment services firms with EU passport, by host country[1]

Country	No. of investment services firms	
	2003	2004
Free provision of services		
Germany	16	19
Portugal	11	14
UK	12	12
France	10	12
Italy	7	10
Netherlands	8	9
Belgium	8	9
Luxembourg	6	9
Ireland	9	8
Austria	5	5
Sweden	5	5
Greece	5	5
Denmark	5	5
Finland	5	5
Iceland	2	3
Norway	2	3
Liechtenstein	1	1
Branches		
UK	1	1
Portugal	2	1
Germany	1	0
France	1	0
Total investment services firms with cross-border transactions[2]		
Free provision of services	22	31
Branches	4	2

(1) Countries stated in the notifications of free provision of services and in the authorisations to open branches.
(2) Number of Spanish investment services firms that provide services in other countries; one firm can provide services in more than one country.

A.II.6

Foreign investment services firms with EU passport, by home country[1]

Country	No. of investment services firms 2003	2004
Free provision of services	**743**	**802**
UK	534	579
France	54	57
Netherlands	33	38
Ireland	27	25
Austria	22	22
Germany	12	15
Belgium	12	12
Luxembourg	8	8
Norway	7	8
Sweden	9	8
Greece	7	7
Denmark	6	6
Finland	5	5
Italy	4	5
Portugal	3	5
Cyprus	0	1
Slovenia	0	1
Branches	**19**	**19**
UK	14	13
France	2	2
Germany	1	1
Belgium	1	1
Portugal	1	1
Netherlands	0	1
Total	**762**	**821**

(1) Countries stated in the notifications from investment services firms from EU member states and authorisations of investment services firms from non-EU states.

Annual report of the CNMV 2004

Part III

Regulation and supervision of the securities markets

[11] Financial regulation

11.1. European legislation

The Financial Services Action Plan (FSAP) culminated in 2004. This initiative was launched in 1999, at the request of the Council of the European Union's Economy and Finance Ministers (ECOFIN), in order to foster financial market integration in the European Union. The 42 legislative measures envisaged in the Plan have been practically completed. At the start of 2004, six measures were still pending: the Markets in Financial Instruments Directive, the Takeover Bids Directive, the Transparency Directive, the update of the Capital Adequacy Directive, and the update of the 10th and 14th Company Law Directives. Before the European Parliament was dissolved in May, the Transparency Directive (2004/109/EC), the Markets in Financial Instruments Directive (2004/39/EC) and the Takeover Bids Directive (2004/25/EC) were approved in the year. Therefore, the only security market regulation that is pending is the update of the Capital Adequacy Directive. The latter was discussed by ECOFIN in December 2004 and will foreseeably be approved by the European Parliament upon first reading in 2005.

In April 2004, the European Commission submitted its second Communication for public consultation to the Council and to the European Parliament on clearing and settlement in the European Union entitled «The way forward». In it, the Commission proposed the adoption of a number of measures to eliminate the obstacles to the efficiency of cross-border clearing and settlement activities, as stated in the Giovannini Group reports[1]. The main initiatives include proposing a framework Directive, setting up a permanent advisory group to monitor clearing and settlement, and setting up two specific expert groups to consider, respectively, the legal and tax-related barriers to integration.

The FSAP has been implemented since 2001 in line with the «Lamfalussy process». The purpose of the «Lamfalussy process» is to design a new regulatory method to accelerate the legislation process in order to achieve a completely integrated financial market. That method comprises a four-level regulatory approach:

- Level 1, formed by framework legislation adopted by the Council and Parliament.
- Level 2, formed by measures implementing Level 1 legislation, whose approval is delegated to the European Commission via the «comitology» procedure.
- Level 3, which focuses on coordinated implementation of EU law and supervisory convergence. The CESR (Committee of European Securities Regulators) groups all the EU's securities market supervisors. The CESR is in charge of implementing Level 3 measures and advising the Commission on the preparation of Level 2 measures.
- Level 4, where the European Commission (and, potentially, the European Court of Justice) monitors enforcement by member states of EU securities market legislation.

The steps envisaged in the FSAP have been reflected in Level 1 and 2 measures. However, those measures will not be fully effective if they do not involve adequate implementation and a degree of harmonisation of practices by EU securities market supervisors. Therefore, cooperation between supervisors (Level 3) is very important for the Spanish securities market. This is why the CNMV attaches such importance to the consultation, examination and definition processes in Level 3 measures and to the need of having the financial sector's and end investors' opinions and contributions.

The European regulations that were implemented in 2004 are classified in table 11.1 in line with the Lamfalussy process. Sections 11.1.1 and 11.1.2 describe their content while section 11.1.3 deals with the European Commission's mandates to the CESR for the implementation of Level 2 measures. Section 11.1.4 deals with the CESR's Level 3 initiatives. Section 11.1.5 contains other actions by the CESR's work groups. Section 11.1.6 deals with the CNMV's initiatives to divulge EU legislation and

[1] First Report of the Giovannini Group, «Cross-border clearing and settlement arrangements in the European Union» (November 2001); Second Report of the Giovannini Group, «Clearing and settlement arrangements in the European Union» (April 2003).

Table 11.1.
Regulations implemented in 2004 in line with the FSAP

Level 1 measures
Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids.
Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.
Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements.
Level 2 measures
Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC(1) of the European Parliament and of the Council as regards accepted market practices.
Commission Regulation (EC) No. 809/2004 of 29 April 2004 implementing Directive 2003/71/EC(2) as regards information contained in prospectuses.

(1) Directive 2003/6/EC of the European Parliament and of the Council of 28 January on insider dealing and market manipulation (market abuse).
(2) Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading.

foster greater participation by Spanish companies, financial institutions and investors in the consultation processes prior to approval.

11.1.1. Level 1 legislation

The following legislation was approved by the European Parliament and Council in 2004:

- **Directive 2004/25/EC** of the European Parliament and of the Council of 21 April 2004 on **takeover bids.** The main purpose of this Directive is to ensure that all minority shareholders of a company listed in any EU securities market are equally protected in the event of takeover bids. The main measures established were the «equitable price» of a bid, transparency, the sell-out right (whereby minority shareholders can force the majority shareholder that has made the bid enabling it to acquire over 90% of capital to buy their shares at a fair price) and the squeeze-out right (whereby the majority shareholder can force minority shareholders to sell it their shares). The deadline for transposing this Directive is 20 May 2006.
- **Directive 2004/39/EC** of the European Parliament and of the Council of 21 April 2004 on **markets in financial instruments (MiFID)** amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC. This Directive is aimed at reinforcing the EU legislative framework for investment services and regulated markets in order to strengthen investor protection and market integrity by establishing harmonised requirements for the activities of intermediaries. This Directive focuses on the «single passport» and on harmonising the authorisation and operating requirements for investment firms. The concept of «home country» was established not only for authorisations but also for supervision and control, and the establishment of effective cooperation mechanisms between supervisors is encouraged. The deadline for transposing this Directive is 30 April 2006.

The MiFID regulates not only investment firms but, as stated in Chapter 2.7.1, also the various trading systems (regulated markets, multilateral trading facilities and systematic internalisers) in order to preserve market efficiency and integrity in a context of competition between those systems.

A systematic internaliser is an investment firm which, on an organised, frequent and systematic basis, deals on own account by executing client orders. The MiFID regulates this activity expressly because the orders are executed outside regulated markets and multilateral trading facilities[2]. Since systematic internalisers compete with the other trading systems, it is reasonable to require from them transparency and other obligations to facilitate investor protection and

[2] In Spain, the official markets and the organised trading systems regulated by the Securities Market Law are recognised as regulated markets and multilateral trading facilities regulated by the MiFID, respectively.

price formation. As stated in article 27 of the MiFID, systematic internalisers are required to make public their quotes during normal trading hours and are bound to a number of conditions regarding the update and withdrawal of their quotes, and to other obligations. The MiFID also takes into account that systematic internalisers put their capital at risk because they operate against their own account. Accordingly, Article 27 of the Directive provides some reasonable safeguards for their operations in order to avoid excessive risk.

The MiFID also substantially modified the «best execution» obligations, which had been interpreted until then as the obligation to ensure that investment firms execute client orders at the best possible price. That price-oriented interpretation easily adapted to the territorial quasi-monopoly held by stock exchanges and other traditional markets-a situation that facilitated the concentration of order flows in a single trading system. However, the market situation envisaged in the MiFID is completely differently because securities can be traded in various trading systems (regulated markets, multilateral trading facilities and systematic internalisers). For this reason, the Directive adopts a more demanding interpretation of the best execution principle, where qualities such as speed, likelihood of execution and best price are considered.

- **Directive 2004/109/EC** of the European Parliament and of the Council of 15 December 2004 on the **harmonisation of transparency requirements** in relation to information about issuers whose securities are admitted to trading on a regulated market, which was approved previously by the ECOFIN Council on 11 May 2004. This Directive amended Directive 2001/34/EC on the admission of securities to official stock exchange listing and on the information to be published on those securities. The Directive regulates, among other factors, the content of the information that must be supplied to the market, the mechanisms to be established in order to ensure that issuers give equal treatment to all their shareholders and bondholders, and disclosure procedures for regulated information. It has a dual purpose: to facilitate regular, standard information flow and to make sure that disclosure mechanisms ensure that information reaches all investors rapidly and in equal conditions, regardless of their country. The deadline for transposing this Directive is 20 June 2007.

11.1.2. Level 2 legislation

In 2004, the European Commission approved the following Level 2 regulations under the Lamfalussy process:

- **Commission Directive 2004/72/EC** of 29 April 2004 implementing Directive 2003/6/EC[3] of the European Parliament and of the Council-known as the Market Abuse Directive-as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions. This Directive defines four fundamental factors in market abuse: it establishes the criteria that the competent authorities of the various members states must consider when assessing whether a particular market practice is acceptable; it defines inside information in relation to derivatives on commodities; it envisages that issuers draw up of a list of insiders and notify the competent authorities of transactions conducted by persons discharging managerial responsibilities or by persons closely associated with them; and it refers to the suspicious transactions that must be notified to the competent authorities.
- **Commission Regulation (EC) No. 809/2004** of 29 April 2004 implementing Directive 2003/71/EC[4], as regards **information contained in prospectuses** as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements. This Directive provides certain flexibility to adapt prospectuses to the variety of issuers and securities that can be issued, simplifies the drafting of prospectuses, and establishes the prospectus publication guidelines.

11.1.3. European Commission mandates to the CESR for implementing Level 2 measures

The CESR (Committee of European Securities Regulators) was created by a European Commission decision[5], following the recommendation of the Lamfalussy Report, in order to enhance co-operation among EU securities regulators, advise the

[3] Directive 2003/6/EC of the European Parliament and of the Council of 28 January on insider dealing and market manipulation (market abuse).
[4] Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading.
[5] Commission Decision of 6 June 2001 establishing the Committee of European Securities Regulators.

Commission, and ensure consistent and timely implementation of European regulations.

The CNMV has always participated very actively in all the CESR's activities, including the many expert and working groups described in the following paragraphs. The hectic pace of activity made very strenuous demands on the CNMV's experts.

In 2004, the CESR received advisory mandates from the European Commission in relation to the following Level 2 regulations:

- **Directive 2004/39/EC on markets in financial instruments.** Under the aegis of that Directive, the CESR developed a work plan divided into two sets of mandates. On 20 January 2004, the first set of mandates was received from the European Commission with a final approval date set for 31 January 2005.
  To deal with the first set of mandates, the CESR divided them into three large blocks on which the following expert groups are working and in which the CNMV has participated actively:
  1. Expert group on markets. This group handles the mandates on the admission of financial instruments to trading, the pre-trade and post-trade transparency requirements in regulated markets and MTF[6], and post-trade publicity by investment firms.
  2. Expert group on intermediaries. This group deals with the mandates on the organisational requirements of investment firms, conflicts of interest, conduct of business in the provision of investment services, the best execution principle and client order handling.
  3. Expert group on enforcement and cooperation. This group deals with the mandates on cooperation and exchange of information between the competent authorities and on transaction reporting.

  A permanent group was established to ensure coherency and consistency in the technical proposals drafted by those three expert groups. The group comprises the three chairpersons of the working groups under the chairmanship of the president of the CESR.

  In February 2005, the CESR submitted its technical advice on the first set of 17 mandates covered by the three working groups:

  – Compliance and personal transactions.
  – Obligations related to internalisation systems, resources and procedures at investment firms.
  – Record-keeping obligation. Record of orders.
  – Conflicts of interest.
  – Fair, clear and not misleading information.
  – Information to clients. The timing and form of provision of information by investment firms.
  – Reporting financial transactions to competent authorities, including the concept of «relevant markets» and the minimum content of transaction reports.
  – Obligation to cooperate and exchange information between supervisors. The purpose is to establish a general framework for cooperation between the competent authorities.

  The second set of mandates was received on 29 June 2004 and final approval date was set for 30 April 2005. This second set refers to the following issues:

  – A list of the financial instruments to be established in line with article 4 of the Markets in Financial Instruments Directive. In particular, what commodities derivatives must be included in the list of financial instruments and, therefore, clarify the scope of the Directive.
  – Definition of investment advice (article 4 of the Directive).
  – Conduct of business rules, referring especially to the «know your customer» principle, provision of investment advice and execution of orders (article 19 of the Directive).
  – What undertakings can act as eligible counterparties (article 24); i.e. perform transactions in which the client protection rules envisaged in the Directive's conduct of business rules are not applicable.
  – Article 22 (client order handling rules).
  – Pre-trade transparency in systematic internalisers (article 27 on the concept of systematic internaliser in article 4. 1. 7 of the Directive).

- **Transparency Directive 2004/109/EC.** On 29 June 2004, the European Commission issued a formal mandate to the CESR for technical advice on possible implementing measures concerning Directive 2004/109/EC (Transparency Directive), to be delivered by June 2005. The CESR was invited to provide advice on the following priority issues:

[6] Multilateral trading facilities.

- Information about major holdings.
- Dissemination and storage of regulated information. This includes drafting a progress report on the role of the officially appointed mechanism responsible for storing regulated information, the creation of a European electronic network of information about issuers, and electronic filing of that information.
- Half-yearly financial reports. The European Commission asked the CESR for technical advice on the nature of the auditors' reviews of half-yearly reports, the minimum content of these accounts where they are not prepared in accordance with international accounting standards, and reporting of major related parties transactions.
- Equivalence with third countries. The principles that must be contained in third countries' legislation will be established in terms of regulated information in order to consider this equivalent information in line with the Transparency Directive requirements.
- Procedural arrangements related to the Home Member State.

As a result of the European Commission mandate, the CESR commenced an analysis of equivalence of the IFRS to the existing accounting standards in Canada, Japan and the US, and described the supervision mechanisms existing in each of those three jurisdictions. Accordingly, the CESR published a framework report[7] which was submitted for public consultation until the end of 2004 and which provides the concepts and methods used by the CESR to analyse the equivalence.

11.1.4. CESR actions relating to Level 3

Another CESR function is to ensure consistent implementation of European regulations, as part of Level 3 of the Lamfalussy process. In 2004, the CESR implemented the following Level 3 measures:

- Directive 2004/72/EC[8] is implemented basically by the CESR-Pol permanent group in order to facilitate harmonised transposition. In October 2004, a document on accepted market practices was submitted for consultation, listing practices that constitute market manipulation and forms for reporting suspicious transactions.
- In order to draft the recommendations on the implementation of Commission Regulation (EC) 809/2004 as regards information contained in prospectuses, the CESR approved a document in June 2004 and submitted it to market participants for consultation.
- In 2004, the CESR worked in two directions in the scope of EU legislation on undertakings for collective investments in transferable securities (UCITS). Firstly, it advanced on the discrepancies that arose between European supervisors on the effective entry into force of some issues contained in Directives 2001/107/EC and 2001/108/EC[9]. The CESR drafted a Level 3 document that expresses the consensus of its members regarding those directives. The CESR also worked on determining what investment assets are eligible for UCITS-a matter that is indispensable for standard application of EU legislation in this field. To advance in this direction, the CESR created two subgroups in the working group on investments, whose tasks must be completed before the end of 2005.

11.1.5. Other CESR actions

In addition to participating in EU regulatory processes, the CESR performed other activities aimed mainly at fostering more efficient cooperation between European supervisors.

The CESR through with permanent and ad hoc expert groups to deal with specific issues and both are supervised by the Presidents Committee. The permanent groups worked on the following in 2004:

- **Working Group on Exchange of Information and Surveillance of Securities Activities: CESR-Pol**
  In addition to the aforementioned measures to implement Directive 2004/72/EC, CESR-Pol continued to work on the mandates from 2003: (i) operational analysis and functioning of the CESR's Multilateral Memorandum of Understanding; (ii) analysis of problems in international cooperation; (iii) supervision of securities market activities through the Internet; and (iv) analysis of the systems and/or criteria used to prioritise fund allocation to research.

[7] Concept Paper on equivalence of certain third countries GAAP, CESR/04-509.
[8] Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions.
[9] At the time, those directives amended Council Directive 85/611/EEC, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). Directive 107/2001 amended the regulations of management companies and simplified prospectuses and Directive 108/2001 amended the regulations of investments by UCITS.

- **Working Group on Financial Reporting: CESR-Fin**
  In 2004, the Working Group on Financial Reporting continued to focus on the issues relating to the transition to IFRS and to appropriate coordination between European regulators regarding the supervision of financial information supplied by listed companies. The outcome of that study was the publication of «CESR Standard No. 2 on Financial Information-Coordination of Enforcement Activities»[10] and an Implementation Guidance[11], continuing with the work that commenced with the publication of «Standard No. 1 on Financial Information»[12]. The CESR adopted the following principles of Standard No. 2:
  - Principle 1: All EU national enforcers will be expected to take account of existing precedents when adopting a new enforcement decision. Where possible, multilateral and/or bilateral pre-consultation with other EU national enforcers should take place.
  - Principle 2: Within a reasonable time after decisions are taken by an EU national enforcer, details of these decisions should be made available to the other EU national enforcers. The CESR believes that the most practical way to share information is by creating a database.
  - Principle 3: The EU national enforcers should follow a confidentiality regime consistent with that applicable to CESR members.
  - Principle 4: In order to achieve a high level of harmonisation, all EU national enforcers of standards, being CESR members or not, will hold regular sessions aimed at discussing and analysing decisions taken at national level. A group was created to include all of them, called the European Enforcers Coordination Sessions (EECS).

Of the aforementioned general principles, the main issues dealt with in the CESR-Fin's implementation guidance were as follows:

- The EECS's functions were specified. In addition to the aforementioned functions, the EECS will also identify issues which not covered by the reporting standards or may be affected by conflicting interpretations in order to open a dialogue with standard-setting or interpretive bodies.
- The fields and minimum content of each decision to be included in the database were detailed.
- The basic criteria that each national enforcer must consider when deciding whether or not it is worth including their decisions in the database were established.

Additionally, a new audit task force was created to monitor and participate in developments in the area of audit in the European Union, especially the amendments by the European Commission of the 8th Directive on statutory audit of annual accounts and consolidated accounts.

- **Review Panel**
  In 2004, a panel was created to review the implementation of EU regulation and directives and European Commission recommendations. A procedure was developed for this purpose, divided into several phases: (i) self-assessment; (ii) a common review of the responses; (iii) report by the Review Panel to the CESR; (iv) approval or rejection of the report; (v) decision on whether or not the report should be posted on the CESR's web site; and (vi) a period open to comments by the public. In 2005, the first practical application of this methodology will be made in connection with cold calling or any other unsolicited communications.
  Comparative implementation studies were also conducted among member countries of two sets of standards approved by the CESR regarding alternative trading systems and investor protection standards.

11.1.6. Participation by Spanish issuers, intermediaries and investors in the EU legislative process

One of the CNMV's objectives is to foster participation by all financial players (investors, investment services firms, collective investment schemes, financial institutions, market bodies, etc.) in the consultation processes regarding securities market regulations and standards adopted at international level. The CNMV uses various mechanisms for this, from its Advisory Committee to holding conferences and posting documents for consultation on its web site. The International Relations Department coordinates the CNMV's participation in the various forums and channels any suggestions received regarding international documents released for consultation.

In this context, the CNMV organised the 4th European Regulation Conference in June 2004. Attendees received information on the situation and outlook of the Financial

[10] April 2004. CESR/03-317c.
[11] Guidance for implementation of Co-ordination of Enforcement of Financial Information, CESR/04-257b.
[12] March 2003. CESR/03-073.

Services Action Plan and on the status of the various EU regulatory initiatives: takeover bids, investment services, market abuse, prospectuses, transparency, financial collateral, clearing and settlement, UCITS, financial conglomerates, capital adequacy and accounting standards.

The CNMV's web site added a new section on International Activities, which has two parts. The first part contains international information for Spanish markets, including documents in the phase of consultation, a calendar of activities, reports from other countries and bodies, and a directory of the main international institutions; the second part provides foreign users with news about Spanish regulations, Spanish markets and the CNMV's activities. This information is provided in English and Spanish.

11.2. Spanish legislation

The main Spanish regulations approved in 2004 were as follows:

11.2.1. Securities market regulations

Security issuers

- **Royal Decree 302/2004,** dated 20 February, on participation shares in savings banks. Article 14 of Law 44/2002 substantially amended the legal regime for participation shares in savings banks. This Royal Decree completed certain technical aspects of the legal regime and issuance procedures. It also regulates the creation and functioning of the investors' assembly.

- **Order EHA/3050/2004,** dated 15 September, on information about related-party transactions that must be reported by issuers of securities listed in the official secondary markets. This Order responds to article 35 of the Securities Market Law and to Law 26/2003, dated 17 July, which oblige listed companies to report on related-party transactions, including transactions with shareholders, directors and executives. This Order introduces a new form of relationship: a significant influence in decision-making, i.e. participating in financial and operating decisions in a company even though there is no control. The Order defines related-party transactions as any transfers of funds, services or obligations between related parties regardless of whether or not there is a consideration.

- CNMV **Circular 1/2004,** dated 17 March, on the annual corporate governance report by listed corporations that issue securities listed in the official secondary markets, and other reporting instruments by listed corporations. This Circular implemented Law 26/2003 and Economy Ministry Order 3722/2003, dated 26 December, on the annual corporate governance report and other reporting instruments by listed corporations and other firms, empowering the CNMV to specify the content and structure for the annual corporate governance report.

Investors

- **Royal Decree 303/2004,** dated 20 February, which approves the Regulation on financial services ombudspersons. Law 44/2002, dated 22 November, on measures to reform the financial system created the figure of an ombudsperson to defend financial services customers and provide them with the necessary channels to make queries and file complaints and claims with the supervisory authorities.

- **Order ECO/734/2004,** dated 11 March, on customer care departments and services and an ombudsperson for customers of financial institutions. Law 44/2002 establishes that credit institutions, investment services firms and insurance companies must have a customer care department or service to handle and resolve complaints and claims from customers. Article 48 of Collective Investment Scheme Law 35/2003, dated 4 November, extends this requirement to collective investment scheme operators.

Secondary markets

- **Ministerial Order 764/2004,** dated 11 March, which regulates certain aspects of security lending referred to in article 36.7 of Securities Market Law 24/1988, dated 28 July. The purpose of this Order is to set out the specific financial reporting obligations in lending contracts of securities listed in a secondary market, regulated in article 36.7 of Law 24/1988, and to enable the CNMV to set caps on the volume of lending transactions regulated in that article or their conditions.

Investment firms

- CNMV **Circular 2/2004,** dated 31 March, on accounting standards, private and public forms for financial statements and mandatory annual accounts of investment services firms, partially amending CNMV Circular 5/1990, dated 28 November, on accounting standards, private and public forms for financial statements and mandatory annual accounts of broker-dealers and brokers. That Circular extended the scope of application of Circular 5/1990 to investment firms; consequently, it includes portfolio management companies.

Collective investment schemes

- CNMV Board **Resolution dated 22 April 2004,** which classified as not material certain amendments in incorporation plans, bylaws and regulations of collective investment schemes, in accordance with article 11.1.d of Collective Investment Scheme Law 35/2003, dated 4 November.

11.2.2. Other Spanish regulations that affect the securities markets

- **Royal Decree 1778/2004,** dated 30 July, which establishes reporting obligations regarding preference shares and other debt instruments and certain income obtained by individuals resident in the European Union. This Royal Decree transposes Directive 2003/48/EC into Spanish legislation and amends Royal Decree 2281/1998, dated 23 October, which implemented the provisions applicable to certain obligations to report to the tax administration; the Pension Plan and Fund Regulation, approved by Royal Decree 1307/1988, dated 30 September; and Royal Decree 2027/1995, dated 22 December, which regulates the annual declaration of third-party transactions.

[12] Supervision

12.1 Market supervision

The CNMV is entrusted with supervising the official markets and the organised trading systems[1] except the public debt book-entry market, which is supervised by the Bank of Spain. The main purpose in monitoring trading activities is to ensure correct security price discovery and pursue market abuse, including insider trading. The CNMV is also in charge of supervising the securities registration, clearing and settlement services and central counterparties with the dual purpose of ensuring efficiency and limiting the risks inherent to their activity.

The CNMV monitors the secondary markets based on information produced during the trading process and on external information. Regarding the former, information is gathered and processed on the basis of the characteristics of each market or trading system. The electronic systems, such as SIBE, the electronic fixed-income platforms and the MEFF derivatives market, enable real-time monitoring and the implementation of a system of alerts that instantaneously warn about market transactions and situations that should be analysed. The other trading systems also have alert systems but they are fed with the information sent by the market after the closing bell.

The purpose of having external information is to assist the supervisor in selecting areas of attention and to frame or complement the analysis of the information supplied by the markets. The CNMV uses many sources that provide a very broad coverage of the trading environment: general economic information, news about issuers, research reports, opinions and recommendations in the media and Internet, etc.

In 2004, the CNMV's Directorate of Secondary Markets analysed nearly 62,000 supervisory signals, 43% in the equity market, 34% in settlement transactions, and the rest in fixed-income and derivatives trading (see table 12.1). The CNMV sent 643 subpoenas to intermediaries and securities issuers in order to obtain additional information.

When a more detailed analysis is required or immediate action by the CNMV is necessary, the Directorate of Secondary Markets drafts a specific report which it sends to the Market Monitoring Unit or the Directorate of Supervision in order to complete the investigation or perform complementary actions. In 2004, 210 reports were drafted, of which 47 were sent to the aforementioned bodies.

Table 12.1

Summary of supervisory activity in 2004

	Equities	Fixed-income	Derivatives	Settlement	Total
Number of transactions	13,601,754	846,956	3,144,141	22,681,377	40,274,228
Supervisory signals(1)	26,517	4,394	9,875	21,115	61,901
Information requests	423	81	26	113	643
Supervisory reports	96	25	73	16	210
Reports sent to other Directorates and bodies	11	6	29	1	47

(1)Signals that identify transactions or groups of transactions in which there have been unusual movements in certain parameters in order to analyse them for supervisory purposes.

[1] The Spanish official markets are as follows: the four stock exchanges (Madrid, Barcelona, Bilbao and Valencia), the AIAF fixed-income market, the public debt book-entry market, the MEFF derivatives markets (MEFF RV and MEFF RF) and the MFAO olive oil futures market. The organised trading systems are as follows: Latibex, and the SENAF and MTS España electronic fixed-income trading platforms.

12.1.1 Main actions in the various markets

Equities

When the supervisor suspects that the price of a security is being affected by information that has not been disseminated sufficiently, it decides to interrupt trading. In 2004, there were 74 cases of temporary suspension of trading, affecting 57 issuers. The most frequent cause of suspension was to ensure appropriate disclosure of significant information (see table 12.2). In all cases, the suspension was maintained just for the time required to ensure its purpose.

Quality supervision of the stock markets requires permanent fine-tuning of the information-gathering and treatment systems and of the system of alerts. In 2004, the Directorate of Secondary Markets designed new computer applications to monitor trading and it substantially improved its databases, particularly regarding research reports. That Directorate also began to design new supervisory signals to analyse the content of the market order book and other signals to track price manipulation in accordance with the Market Abuse Directive.

In 2004, the CNMV paid close attention to arbitrage operations between warrants and shares in capital increases in order to ensure appropriate alignment between the respective prices. The CNMV also focused on security lending transactions, examining their relationship with spot market operations. Security lending is very useful for increasing liquidity and market efficiency but requires appropriate monitoring in order to control risk and avoid any negative effects on spot price formation. Supervisory reports also focused on the interaction between spot transactions and derivatives and fixed-income transactions (convertible bonds).

Fixed-income

As in previous years, the CNMV closely monitored transactions with preference shares in the AIAF market, especially in the retail tranche, where there have been frequent complaints about valuations. The bulk of complaints referred to fixed-income securities, which are more difficult to value than equities. The bulk of fixed-income issues were redeemed in the year and the rest will be redeemed in 2005, so a reduction in complaints is expected.

Regarding complaints by investors against an issuer affected by insolvency proceedings, the CNMV adopted several initiatives to enable bondholders to receive outstanding amounts and to facilitate deregistration of the securities from the book-entry register.

Fixed-income issuance in other countries by Spanish firms and their subsidiaries has increased in the last few years. As a result of the growth of this activity, in 2004 the Directorates of Primary Markets and Secondary Markets designed a specific systematic monitoring plan. The main purpose of this initiative

Table 12.2
Temporary suspensions of trading

	2003	2004
Number of issuers suspended	**50**	**57**
Number of suspensions	**80**	**74**
Presentation of takeover bid	9	8
Disclosure of significant information	61	60
Expiry of period for acceptance of delisting offers	3	5
Other	7	1

is to gather information that is potentially useful for both the market and the CNMV's supervisory action in the Spanish market[2].

Derivatives

In the area of monitoring derivatives markets, efforts were made to establish procedures to prevent arbitrary transaction allocations. For that purpose, the Directorate-General of Entities sent a letter requiring firms to establish appropriate internal procedures to prevent conflicts of interest between customers and the firm and between customers themselves when allocating transactions.

In this line, actions were performed to prevent improper use of the markets to clear cash settlements in OTC transactions. In this type of practice, the markets are used to generate results artificially via the purchase and sale between two counterparties where the players do not change their open interest since there is a purchase and sale of the same size on the same contract in the same session. The result arises from the price difference between the transactions.

Monitoring also helped to detect self-trading in some members' proprietary accounts, i.e. transactions where members were both the buyer and seller. The transactions were due mainly to certain operating rigidities in the trading systems which, in some cases, made it difficult for members to respond rapidly to unexpected price moves in the traded instruments. Nevertheless, the members in question were told that this type of practice was not appropriate because they could be used for abusive practices due to their influence on market volumes and prices.

12.1.2. Market Monitoring Unit

The Market Monitoring Unit (MMU) specialises in investigating market abuse, especially price manipulation and insider trading. Its investigations pursue a dual purpose: prevent abuse and facilitate the persecution of improper conduct. They are usually an intermediate step between market monitoring actions and disciplinary proceedings.

In 2004, the MMU made 446 investigations (158 individuals and 288 legal entities). A large number of subpoenas were sent, interviews and visits were made, and requests were made for assistance from foreign institutions (see table 12.3).

Some investigations led to subsequent actions:

- *Initiation of four disciplinary proceedings*: the CNMV's Executive Committee initiated two disciplinary procedures for possible insider trading, another one for obstructing the CNMV's

Table 12.3

The Market Monitoring Unit's actions in 2004

	Number	
	2003	2004
Investigations	**379**	**446**
Individuals	176	158
Legal entities	203	288
Actions during the investigations	**1,054**	**507**
Subpoenas	993	438
Requests for assistance from foreign institutions	19	26
Depositions	24	24
Visits	18	19
Subsequent actions	**6**	**13**
Prior notification and warnings	3	9
Initiation of proceedings	3	4
Other	0	0

[2] For example, monitoring the fixed-income prices of a Spanish issuer in foreign markets will help to assess the price formation of similar or identical instruments by the same issuer in the Spanish market.

inspections[3] and the fourth regarding the disclosure of several significant stakes of a director of a listed company in the framework of a significant corporate transaction.

- *Nine warnings.*
- One warning was sent to an investment services firm for brokering or placing high-risk products among its clients without notifying the CNMV, although the requirements for the mandatory registration of the issue prospectus were finally considered not to exist.
- Another warning was sent to a listed company for notifying significant events about a capital increase without identifying the existence of new significant shareholders, although that information was contained in the Register of Disclosures of Significant Holdings.
- Another warning was sent to a significant shareholder of a listed company for continuing trade as usual in that company in the framework of a significant corporate transaction; it was ultimately decided that this not a case of insider trading.
- The other warnings were sent to investment services firms and IberClear members for performing specific transactions which did not make economic sense, even when those transactions did not affect the free formation of prices or their clients.

12.2 Supervision of entities

12.2.1. Supervision of investment services firms

The supervision of investment services firms focuses on three fundamental aspects in order to protect investors and market integrity: solvency, compliance with the codes of conduct, and checking firms' internal control procedures, resources and systems. The CNMV performs its supervisory activity in this matter in two complementary ways: by analysing the information filed by the firms and via on-site supervision.

In 2004, the CNMV's supervisory actions gave rise to 1,290 subpoenas: 871 for additional information, 225 for late filings with the CNMV, and 194 for corrective measures or recommendations. Nearly three-quarters of subpoenas were issued as a result of distance supervision, i.e. by analysing the information filed by the firms.

Solvency and other prudential requirements

Investment services firms must meet certain requirements in terms of equity (solvency), liquidity and risk diversification, the main purpose being to ensure compliance with their commitments to third parties, especially clients. Because of its importance, the CNMV always pays close attention to supervising this aspect (prudential supervision).

Table 12.4
Supervision of investment services firms: subpoenas issued by the CNMV in 2004

	Actions		
Type of subpoena	Distance	On-site	Total
For filing information late	225	–	225
Requesting information	586	285	871
Corrective measures or recommendations	133	61	194
Total	**944**	**346**	**1,290**

[3] Regarding one of the two proceedings on insider information.

Table 12.5

Investment services firms. Surplus equity over solvency coefficient(1) in 2004

	Total surplus(2)	Average surplus(3)		Number of firms, in terms of surplus equity				
		Amount(2)	% (4)	< 50%	< 100%	< 200%	< 500%	>= 500%
Broker-dealers	**795,917**	**16,582**	**491.70**	**3**	**7**	**4**	**16**	**18**
Stock exchange members	663,491	17,460	474.25	2	5	4	12	15
Non-members	132,426	13,243	602.84	1	2	0	4	3
Brokers	**94,352**	**1,715**	**209.51**	**12**	**14**	**7**	**10**	**12**
Stock exchange members	31,281	2,406	397.12	1	2	2	2	6
Non-members	63,071	1,502	169.74	11	12	5	8	6
Portfolio management companies	**14,103**	**672**	**107.12**	**5**	**1**	**5**	**6**	**4**
Total	**904,372**	**7,293**	**410.97**	**20**	**22**	**16**	**32**	**34**

(1) Surplus computable equity over that required for capital adequacy purposes.
(2) Thousand euro.
(3) Average weighted by each firm's required equity.
(4) Coverage margin as a % of required equity.

Compliance with prudential requirements has become increasingly important in recent years due to the negative impact on the sector of stock market performance, mainly in the 2000-03 period. The sector's results in 2004[4] confirm an improvement that was already observed in 2003 but the recovery is not evenly distributed. In particular, some portfolio management companies' structural expenses exceeded ordinary revenues in 2004.

The specific difficulties of some firms did not prevent the overall sector from presenting a clearly positive situation in terms of compliance with the solvency requirement (see table 12.5). At 31 December, all the firms complied with that requirement and the bulk had a very ample coverage margin (computable equity in excess of requirements). The specific incidents that were detected in the year were resolved satisfactorily, generally via capital increases, accompanied, in some cases, by cost containment plans and business reorientation.

The prudential supervision of investment services firms is carried out on an individual and consolidated basis. In the first case, firms with narrow solvency margins, especially recently-created firms, were closely monitored in 2004. Monitoring included reviewing and, where appropriate, adapting the business plans in the incorporation proposals to ensure their viability via a long-lasting, stable net worth equilibrium.

Table 12.6

Consolidable groups: number of groups of each type

	Groups		Firms	
	2003	2004	2003	2004
Total	**53**	**54**	**514**	**517**
Subgroups of credit institutions. Non-resident credit institutions(1)	12	14	123	145
Broker-dealers and brokers(2)	18	18	258	253
Other financial institutions(3)	23	22	133	119
Total	**53**	**54**	**514**	**517**
Groups with five or more firms	30	24	424	442
Groups with less than five firms	23	30	90	75

(1) Title I of Royal Decree 1343/92.
(2) Title II of Royal Decree 1343/92.
(3) Title IV of Royal Decree 1343/92.

[4] See Chapter 8.

Table 12.7

Number of firms of each type that form part of consolidable groups

	2003		2004	
	Number	%	Number	%
Agents of broker-dealers and brokers	110	21.4	104	20.1
IIC and FTH operators	66	12.8	62	12.0
Brokers	56	10.9	54	10.4
Broker-dealers	29	5.6	28	5.4
Holding companies	33	6.4	35	6.8
Special purpose vehicles	30	5.8	29	5.6
Advisory and consulting services	14	2.7	12	2.3
Portfolio managers	7	1.4	7	1.4
Pension fund managers	19	3.7	19	3.7
Computer services	5	1.0	11	2.1
Real estate holding companies	1	0.2	2	0.4
Other financial institutions(1)	42	8.2	42	8.1
Other institutions	102	19.8	112	21.7
Total	**514**	**100.0**	**517**	**100.0**

(1) Marketing of pension and retirement plans, marketing of insurance, currency brokers, SIM, companies that are dormant or in liquidation.

Regarding supervision at consolidated level, efforts continued in the definition and adaptation of the consolidation scopes and methods applied. In 2004, investment services firms tended to reorganise and simplify their structure although there is still a large number of horizontal groups, without a consolidable parent company or with minority interests that have a large stake in consolidated or aggregate equity and earnings.

Within supervision at consolidated level, in some cases, goodwill amortisation periods were detected to be longer than the maximum allowed in the specific accounting standards for investment services firms and their groups (which are more restrictive than those for corporations). The readjustments due to this improper period extension do not affect solvency but they frequently have a significant impact on the earnings of consolidable groups and, in some cases, on the earnings of broker-dealers and brokers that form part of those groups.

Ministerial Order on materialisation of clients' temporary balances

In accordance with Royal Decree on the legal regime for investment services companies[5], broker-dealers and brokers must invest the instrumental and temporary credit balances of their clients in liquid, low-risk assets, as determined by the Economy Ministry. In 2004, in conjunction with the CNMV, a draft ministerial order was prepared to grant the CNMV the power to approve such categories of assets; it was approved in 2005[6].

The Ministerial Order separates the definition of assets eligible for investing clients' temporary balances from the definition of assets computable for the liquidity coefficient and imposes more restrictive conditions for the first group than the current regulations envisage for the second group. The purpose is to reduce the risks inherent to those investments and maximise liquidity. Also, to safeguard customers' funds when there is a crisis at the institution that may put them at risk, the CNMV

[5] First paragraph of article 29.2 of Royal Decree 867/2001, dated 20 July, on the legal regime for investment services companies.

[6] Order EHA/848/2005, dated 18 March, which determines the investment regime for the instrumental and temporary credit balances of broker-dealers and brokers with their clients. BOE (Official State Gazette) dated 6 April 2005.

may adopt precautionary measures, such as restricting investments in certain asset categories and requiring that the ownership of client accounts be separated from the ownership of the firm's accounts.

Codes of conduct

As part of the supervisory work regarding the codes of conduct of investment services firms, the main actions were to check: (i) the bookkeeping of transactions and the archive of order tickets; (ii) the arrangement of relations with clients via contracts; (iii) the quality of information supplied to clients; and (iv) the public disclosure and correct application of fees.

In 2004, the CNMV again detected deficiencies in these matters; in some cases, based on an analysis of investors' complaints and queries. For example, deficiencies were detected in contractual arrangements with clients and bookkeeping of transactions. The growing use of telematic means for receiving and transmitting orders and for sending periodic information to clients about their transactions gave rise to a certain number of complaints and specific supervisory actions.

The prevention of conflicts of interest is a core goal of the codes of conduct. The CNMV observed that one of the main sources of conflicts of interest was the deficiencies in the procedures of breaking down and allocating transactions to the account of clients. Therefore, in November, the Directorate-General of Entities sent a letter to the chairpersons of the investment services firms, indicating the criteria they must consider when designing those procedures. Since the problem also affects credit institutions that provide investment services and IIC operators, a similar letter was sent to those institutions[7].

Internal control resources, procedures, and systems

Investment services firms must have sufficient resources to perform the activities for which they have authorisation. Their internal control procedures and systems must also ensure appropriate monitoring of the risks they face (market, counterparty, operating, legal and other risks). To check the effective compliance with those obligations, the CNMV analyses the reports on this matter by the auditors and the firms' internal control body[8] and performs specific checks.

In general, investment services firms' resources and procedures are adequate. Nevertheless, the following deficiencies were observed in some firms in 2004:

- Deficiencies in hiring representative agents and monitoring their operations. In some cases, deficiencies in control resulted in irregular action by agents, which led to significant losses at firms and clients filing complaints and lawsuits. The CNMV made considerable efforts to ensure that investment services firms reinforced this type of internal control and urged them to envisage, in their procedures, the adoption of agile measures to detect and correct any incidents.
- Deficiencies in the control procedures relating to deposits of client securities, in some cases not attributable to the reconciliation and verification procedures of the investment services firms themselves, although the incidents were generally resolved satisfactorily. In those cases, the CNMV urged the firms to reinforce their internal controls, mainly via periodic reconciliations between those balances and third-party information.
- Inadequate procedures in establishing limits on financing to clients, which may lead to default and have a negative effect on the firm's results.
- The absence of Chinese walls between areas of activity that are susceptible to cause conflicts of interest.

Amendment in the requirements governing confidential information that investment services firms must file with the CNMV

On 31 March 2004, the CNMV approved Circular 2/2004, which partially amended CNMV Circular 5/1990, dated 28 November, on accounting standards, private and public forms for financial statements, and mandatory annual accounts of broker-dealers and brokers.

The new Circular, which was applied for the first time to the financial statements as at 30 June 2004, introduced new features with respect to Circular 5/1990. The main ones were as follows:

- Portfolio management companies were included in the scope of application and they must draft their

[7] The section of Chapter 12.2.3 on Conflicts of interest describes the main recommendations contained in the letter sent to IIC operators, the content being similar to the letter sent to investment services firms.
[8] Auditors' reports on the annual financial statements and, where applicable, the recommendations that the auditors have made after auditing financial statements. The internal control body's report refers to the requirements of CNMV Circular 1/1998, dated 10 June, on internal control systems, monitoring and ongoing risk assessment.

confidential filings and notes to financial statements in line with the same accounting criteria, forms and frequency as broker-dealers and brokers.

- The CIFRADOC/CNMV encryption system was established as mandatory for confidential filings with the CNMV.
- Three new forms of confidential filings were established for: (i) the volumes, commissions applied and investments made in relation to third-party portfolio management; (ii) certain complementary disclosures of memorandum accounts in relation to security deposit for third parties; and (iii) brokerage fees, classified by type of client.
- Firms are required to break down the information on managed portfolios and security deposit for third parties between clients covered and not covered by the Investor Protection Scheme.
- The items on investment services firms' confidential filings that must be considered when determining the annual calculation base of the contributions to the Investor Protection Scheme were defined, and it was established that the accounting and valuation criteria of the amounts that will form part of that base will be determined by that Circular[9].
- Securities in deposit must be accounted for and registered at market prices.

12.2.2. Supervision of codes of conduct in the provision of investment services by credit institutions

Credit institutions play an essential role in marketing negotiable securities and other financial instruments to small investors in Spain. To provide these investors with adequate protection, in 2004 the CNMV designed a plan to supervise those activities so that codes of conduct are complied with.

The supervisory plan, which was implemented in 2005, focuses mainly on checking the following:

- The existence of formal procedures for marketing financial products that include a clearly-defined policy for training marketing staff.
- The existence of formal procedures for identifying investors' risk profile for matching their declared risk profiles and the risks that are effectively assumed by investors.
- If adequate information is provided to investors on the characteristics of the marketed products and if they are supplied with all the mandatory contractual information and documentation.

12.2.3. Supervision of collective investment schemes

The supervision of collective investment schemes focuses on five main sections: prudential regulations, information supplied to investors, prevention of conflicts of interest, management companies' internal resources, procedures and controls, and depositories' actions. The supervision of real estate collective investment schemes also requires the establishment of controls that take account of the nature of their investments.

In 2004, the CNMV performed its supervisory tasks in this sector without a complete legislative framework since the regulation that implements the new IIC Law[10] has not yet been implemented. In the meantime, Additional Provision One of that new Law states that, until the new IIC Regulation is published, «*the regulations drafted under the aegis*» of the previous IIC Law would remain in force «*provided that they do not clash with this Law*». As a result, each regulated aspect was analysed and the new Law was compared with previous lower-level regulations in order to conclude about the regulations in force.

In the course of its supervisory activities, during 2004 the CNMV issued 1,695 subpoenas: 800 requesting additional information for supervisory purposes, 346 for late filings by management companies, and 549 to provide corrective measures or make recommendations.

Prudential requirements

Investments by IICs are subject to limits that mainly try to ensure adequate asset diversification and sufficient liquidity to pay reimbursements without having to make divestments for that purpose not based on management criteria. IICs are also required to have a minimum equity and number of investors to ensure their collective nature since IICs have a specific tax treatment due to that nature.

[9] The CNMV also repealed Circular 2/2001, dated 23 November, on the information to be supplied to the company which manages the investor protection scheme and on the valuation of unlisted securities and financial instruments for the purposes of determining the basis of the calculation of the combined annual contribution to the scheme.
[10] Collective Investment Scheme Law 35/2003, dated 4 November.

Table 12.8
Supervision of collective investment schemes: subpoenas issued by the CNMV in 2004

Type of subpoena	Actions		
	Distance	On-site	Total
For late filing	346	–	346
Information requests	646	154	800
Corrective measures or recommendations	457	92	549
Total	**1,449**	**246**	**1,695**

Within its actions in the prudential sphere, in 2004 the CNMV paid close attention to compliance with the investment and liquidity coefficients, the suitability of invested assets, and compliance with the limits on operating with derivatives. Specific controls were also established relating to investment companies' capital and net worth.

Regarding the suitability of assets, the CNMV focused mainly on investments in structured products in order to detect underlying assets that were not eligible and on investments in other IICs in order to check if the IIC in question provided sufficient liquidity.

In 2004, the CNMV also performed a specific analysis on the use by IICs of tax losses available for carryforward. The purpose of that control was to check whether or not the IICs used credits whose future realisation was reasonably assured so that they only capitalised tax credits when profits were generated (taxable income) to enable the existing tax losses to be offset.

The CNMV's actions in prudential matters also include oversight of IIC management companies' solvency requirements, including their minimum equity obligations and the existence of limits on own investments. The sector's overall economic and financial position is positive, which does not prevent the CNMV from monitoring it closely. The analyses performed for that purpose are aimed at anticipating possible breaches of equity requirements. When that possibility is detected, the CNMV may demand that the firm present a preventive plan.

Information supplied to investors

As in previous years, the CNMV paid close attention to the periodic public information supplied by IICs in order to check that investors had sufficient and adequate information on their investments. The CNMV issued special recommendations to management companies to reinforce the contents of the sections on investment plans and management reports. The purpose was to enhance transparency in management decisions and the institutions' profitability.

Conflicts of interest

The actions to prevent conflicts of interest and, where appropriate, detect and penalise inappropriate outcomes are especially important in the field of IICs since most of the assets of the investors and shareholders in these investment vehicles are administered by management companies that form part of business groups with a broad range of activities in the financial markets. Therefore, one of the main focuses of attention in supervision is the services provided to IICs, sporadically or permanently, by related parties or companies that belong to the group of which the management company forms part.

In 2004, the CNMV's main actions relating to conflicts of interest were as follows:

- *Analysis of expenses charged to funds*: management, deposit, audit, brokerage and other fees. The CNMV checked the compliance of each IIC with the legal and particular limits on those expenses and their correct accrual and, where applicable, the appropriate allocation to the fund. In particular, it performed an analysis to detect expenses that were not related to the services that were actually provided and essential to the normal functioning of IICs. The CNMV also performed controls to ascertain the brokerage costs borne by IICs, focusing especially on the expenses charged by subsidiaries of the management company's group.

- *Analysis of related-party transactions* to check that: (i) they are made purely in the investors' interests; (ii) they are carried out at market prices; (iii) they conform to the management companies' internal procedures envisaged in their internal codes of conduct; and (iv) adequate information is supplied to investors. The controls focused on the brokerage commissions charged by group intermediaries and on the securities acquired on behalf of the IIC with significant involvement by a group institution[11].
- *Transaction allocation and disclosure procedure.* The CNMV checked that management companies had internal procedures that ensured that allocations of positions were not made arbitrarily among the managed IICs when the transaction orders were global or did not identify the IIC for which the transaction was ordered. In order to extend this to its members and foster a general improvement in these procedures, in November a letter was sent to Inverco (the association of IIC management companies), with the following recommendations:

  – The decision to invest in a particular IIC must be adopted before transmitting this to the intermediary and, consequently, without prior knowledge of the transaction's result.
  – The management company must have pre-established criteria for the distribution or disclosure of transactions based on the principles of equity and non-discrimination.
  – Compliance with the aforementioned requirements must be accredited objectively via verifiable, tamper-proof documents.
  – The action guidelines must be included in the internal control procedures approved by the board of directors of the management company and, consequently, their compliance must be reviewed by the body in charge of internal control.

- *Specific analyses to detect discriminatory practices in subscription and reimbursement transactions* that may be especially harmful for very volatile funds. Those practices involve the acceptance of subscription and reimbursement of shares at a price that does not correspond to that envisaged in the general regulations and those of the fund itself in order to favour a certain investor[12]. To date, this type of practice has not been detected in Spain.

Internal control resources, procedures, and systems

In 2004, the CNMV fostered improvements in the resources available at management companies and continuous improvement of their internal control procedures and systems. One of the most important actions undertaken by the CNMV relates to the prevention of conflicts of interest (see preceding section on expenses charged by group companies, analysis of related-party transactions and improvements in transaction allocation procedure). The two following actions were also notable:

- *Systematic analysis of yields.* Those controls enabled the CNMV to detect deficiencies in management companies' internal control systems and specific valuation errors. Some incidents that were detected affected the net asset value of the IICs and, consequently, had a direct effect on investors. Since there is no specific regulation for treating errors when calculating the net asset value, the CNMV observed that management companies implemented a variety of solutions, as in previous years.
- *Asset valuation.* The CNMV analysed compliance with the regulations on alternative valuation procedures for fixed-income assets when the price is not representative of market price performance. The CNMV reviewed the management companies' valuation systems to ensure the correct calculation of their net asset values, paying special attention to the preference share valuation procedures and the systems for reviewing the ratings of issuers of the fixed-income securities held by IICs. The CNMV also reviewed the valuation of OTC options acquired by guaranteed funds at the time of acquisition of these products and during the guaranteed fund's lifetime.

Supervision of IIC depositories

The CNMV monitors the custody conditions and, in particular, compliance with the obligation to oversee management companies that the IIC Law imposes on depositories. Supervisory actions involved on-site visits and focused mainly on the following objectives:

---

[11] Acquisitions charged to the institution's own account or acquisitions in the primary market or public offerings, with the institution acting as a placer or underwriter.
[12] One of the best known practices of this type is late trading, which enables a particular investor or group of investors to profit from events that occur after the closing bell which have not yet been reflected in the net asset value.

- Checking that depositories have adequate resources with which to perform their functions as required by law.
- Monitoring the custody of the securities that form part of IIC assets, focusing especially on the assignment of custody to third parties, where the assignor is required to establish the necessary controls.
- Checking that depositories have a system in place to notify anomalies to the CNMV that is at least able to notify the incidents: (i) that are expressly envisaged in the IIC Law or the Order dated 30 July 1992 on the definition of depositories' functions and obligations; (ii) that may affect the net asset value of IICs for which they exercise the deposit function; (iii) that involve a breach which is penalised in the regulations; and (iv) that, having been notified to the management company, have not been remedied by the latter.
- Examining the controls established by the depository to monitor the criteria, formulae and procedures used by the management company when calculating the net asset value of its shares.
- Verifying the existence of documentation to support the checks performed by the depository.

On-site supervision of IIC depositories commenced in 2002 and the number of incidents notified by them increased significantly in 2003 and 2004, suggesting that the visit programme is encouraging depositories to assume their responsibilities more fully.

Supervision of real estate IICs

Reviewing appraisal reports is another task that forms part of the specific actions to supervise real estate IICs. In particular, the CNMV focused on appraisal reports where it observed especially erratic fluctuations of the valuations and discrepancies in valuations that were not sufficiently justified with respect to the price actually arranged in the transaction in question. In some cases, the CNMV asked appraisers to supply information and clarify their appraisals in technical terms.

12.2.4. Supervision of venture capital firms

Based on the characteristics of venture capital firms and the profile of their investors, the CNMV's supervision is limited to reviewing their annual audits and analysing their confidential filings in order to check their compliance with certain legal coefficients. The latter supervisory task is hampered by the absence of a regulation on how to calculate the legal limits. To compensate for this difficulty and ensure a more uniform treatment of the sector, the CNMV transmits the incidents that it detects to the firms' internal control systems, suggests corrective measures, and closely monitors their implementation.

12.2.5 Supervision of securitisation fund management companies

In 2004, the supervision of securitisation fund management companies focused on analysing the sufficiency of their human and technical resources and the existence of adequate control systems. Regarding administered funds, the CNMV reviewed compliance with the general conditions agreed at the time of incorporation. Specifically, the CNMV performed controls to: (i) check that cash inflows and outflows were made on the date stipulated in the terms of each fund; (ii) analyse the actions when assignors paid late and collection management in the event of a bad debt; (iii) check compliance with the commitments acquired by each fund in relation to periodic filings with the CNMV and rating agencies; and (iv) check that there were no mismatches in the payment of interest and principal of each bond series or in the payment seniority.

12.2.6. Cooperation to prevent money laundering

In accordance with the Collaboration Agreement signed in June 2003 by the CNMV and the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC), in 2004 the CNMV monitored the degree of compliance by investment services firms and IICs with the obligation to prevent money laundering. In particular, the CNMV checked the existence at those firms of internal control and communication bodies as envisaged in the Agreement.

As a result of its supervisory actions, the CNMV notified SEPBLAC of situations that could lead to incidents in connection with the obligation to prevent money laundering.

The new regulation under the Law on the Prevention of Money Laundering[13] came into force in January 2005.

[13] Royal Decree 54/2004, dated 21 January, amending the regulation of Law 19/1993, dated 28 December, on certain measures to prevent money laundering, approved by Royal Decree 925/1995, dated 9 June, and other regulations governing the banking, financial and insurance system.

[13] Investor

13.1. Ombudspersons for customers of financial institutions

Law on Measures to Reform the Financial System[1] establishes a number of measures to protect customers of financial services, including the obligation that financial institutions (credit institutions, investment services firms and insurance companies) must handle and resolve complaints and claims from customers. For that purpose, financial institutions must have a customer care department or service and they may voluntarily appoint an ombudsperson. The new Collective Investment Scheme Law[2] extended that obligation to IIC management companies.

The requirements regarding customer care departments or units and ombudspersons, and the procedures on resolving complaints and claims, were regulated via a Royal Decree in February 2004 and a Ministerial Order in March 2004[3].

The Royal Decree establishes that the regulation on ombudspersons must be approved by the financial institution's board of directors or equivalent body and may be ratified subsequently by its shareholders' meeting or equivalent body. The regulation must state at least the ombudsperson's term of office, reasons for incompatibility, ineligibility and termination, mandatory assistance by the institution's other departments, and the procedure on handling claims and complaints, which must be resolved within a 2-month period.

The Ministerial Order enables institutions that form part of the same economic group to have, if they wish, a single customer department for the entire group and a single regulation governing the activity of that service or department or of the ombudsperson, as the case may be, and the relationship between the latter and the former. Several investment services firms have already taken advantage of this election and have opted to apply the customer defence regulations of the group's parent company (generally a bank, thrift or insurance company).

The institutions must inform the public that they have a customer care department or service or an ombudsperson. They must also disclose the regulation on customer rights. Customer care departments and ombudspersons must submit an annual performance report to the institution's board of directors. At least a summary of that report must be included in the institution's annual report.

In 2004, institutions notified the CNMV of the people in charge of those departments and the addresses for sending complaints and claims. That information is available on the CNMV's web site. The regulations on ombudspersons have been made public after being formally approved by the institutions and vetted by the CNMV.

13.2. Queries and claims made to the CNMV

13.2.1. CNMV's Investor Assistance Office

The Investor Assistance Office's main purpose is to provide information, guidance and advice to investors on: (i) general matters relating to their rights as users of financial services, in terms of transparency and customer protection and the legal channels available; (ii) the regulations in force that affect the functioning of the financial services that they are using; and (iii) in general, any matters within the scope of the CNMV's powers.

The Investor Assistance Office has often helped to resolve conflicts between financial institutions and their customers in the early stage, preventing claims from being filed with

[1] Law 44/2002, dated 22 November, on Measures to Reform the Financial System.
[2] Collective Investment Scheme Law 35/2003, dated 4 November.
[3] Royal Decree 303/2004, dated 20 February, which approves the Regulation on financial services ombudspersons, and Order ECO/734/2004, dated 11 March, on customer care departments and services and an ombudsperson for customers of financial institutions.

the institutions' customer care services. Based on the information and documents supplied by investors, the CNMV can urge institutions to correct certain practices and it can even commence supervisory actions.

In 2004, the Investor Assistance Office handled 13,420 queries, 9.3% less than in 2003 (see table 13.1). The CNMV's Catalunya office handled 188 queries in 2004. Most of the queries related to information contained in the public registers and web site. Delistings, trading suspensions, takeover bids and public offerings also generated a large number of queries in 2004[4]. As a result of investors' greater familiarity with the new tax regime for transferring investments between collective investment schemes, the number of queries relating to IICs decreased considerably. There was also a considerable reduction in the number of queries relating to «fly-by-night operations» and most of the queries were precautionary since they were made before signing the pertinent contracts.

13.2.2. Complaints Department

Since inception, the CNMV has had a department to handle complaints from investors related to their legally-recognised interests and rights. After listening to the institution in question and obtaining the information that it deems necessary, the Complaints Department analyses the facts and the documentation supplied by the parties and issues a final report with clear conclusions on possible incorrect conduct, which it sends to the complainant and the respondent. All the complaints are sent to the CNMV's competent departments for assessment.

The CNMV does not have the power to resolve private disputes or handle compensation claims. These are matters for the courts. The Complaints Department advises complainants on their rights and legal remedies.

Complaints also provide the CNMV with information about the functioning and actions of the institutions under supervision; in some cases, they provide the first signs of non-compliance and breaches of securities market regulations.

In 2004, the CNMV received 763 complaints, considerably fewer than the 1,355 received in 2003 (see table 13.2). Most complaints related to securities (mainly trades, fees and expenses) and mutual funds (principally information supplied to investors, procedures on switching between IICs, and reimbursements) (see table 13.3). Complaints related to security issues were again mainly due to option purchase and sale contracts.

Table 13.4 summarises the outcome of the complaints. A large number of complaints were resolved through CNMV pronouncements, in most cases with a report that was unfavourable to the complainant. The number of complaints that did not require pronouncements decreased substantially in relative terms with respect to 2003, and most were resolved by sending information to the complainant.

Some particularly significant complaints

- *Fees and expenses*

  Disputes generated a large number of complaints. The reasons were varied although they all related to a shortage

Table 13.1

Queries: breakdown by subject in 2004

	2000	2004	Change (%)
Information from the CNMV	4,149	3,657	−11.9
Legislation	2,726	2,269	−16.8
Securities (fixed-income, equities and other)	2,383	2,728	14.5
Investment services firms and credit institutions	1,012	797	−21.2
Unregistered institutions	1,081	779	−27.9
Collective investment schemes	1,046	643	−38.5
Other	2,401	2,547	6.1
Total queries handled	**14,798**	**13,420**	**−9.3**

[4] Information requests about Avanzit, S.A. in the different periods in which its shares were suspended from trading, Centros Comerciales Carrefour, S.A.'s delisting tender offer and the situation of Terra Networks, S.A. all contributed to the increase.

Table 13.2

Respondents in complaints

	No. of complaints		%	
	2003	2004	2003	2004
Market management companies and supervisory bodies	–	2	–	0
Financial institutions	1,290	712	95	93
Banks and thrifts	1,019	620	75	81
Broker-dealers and brokers	99	75	7	10
SGC, SGIIC and securities investment companies	*172*	*17*	*13*	*2*
Unregistered institutions	14	28	1	4
Security issuers	41	12	3	2
Other	10	9	1	1
Total	**1,355**	**763**	**100**	**100**

Table 13.3

Content of complaints in 2004

	No. of complaints	%
Securities issues	74	9.7
Takeover bids	5	0.6
Corporate events	12	1.6
Mutual funds	277	36.3
Securities transactions	307	40.2
Share prices, trading frequency, liquidity, etc.	6	0.8
Portfolio management	12	1.6
Unregistered institutions	25	3.3
Other	45	5.9
Total	**763**	**100.0**

Table 13.4

Outcome of complaints

	No. of complaints		%	
	2003	2004	2003	2004
Complaints in which there was a pronouncement or resolution	**600**	**501**	**44**	**65**
Resolved by mutual agreement	159	118	12	15
CNMV report favourable to complainant	122	80	9	10
CNMV report not favourable to complainant	297	296	22	39
Complaint withdrawn	22	7	1	1
Complaints not requiring pronouncement	**648**	**248**	**48**	**33**
Information provided to complainant(1)	594	196	44	26
Deficient complaints(2)	11	10	1	1
Outside CNMV jurisdiction	43	42	3	6
Pending	**107**	**14**	**8**	**2**
Total	**1,355**	**763**	**100**	**100**

(1) The information which the CNMV supplied to the complainant resolved the matter.
(2) Complaints which do not carry the sender's name or address and, consequently, cannot be processed.

of information about the fees and expenses charged by institutions.

Investors should be aware that, although institutions are free to establish their own rates, they must detail them in a clearly-defined rate sheet available to the public in all their branches and posted on their notice boards[5]. The CNMV checks those rate sheets beforehand to make sure that they comply with the regulations. Institutions must also give clients a copy of the sheet with the fees and expenses applicable to the transaction that has been arranged with them; a general reference to a rate sheet is not acceptable.

In any case, service charges must correspond to services that have actually been provided and accepted or definitely ordered by the customer. Also, any rate changes must be notified to customers, who have at least two months to change or cancel the contractual relationship without the new rates being applied to them.

- *Transfer of investments between collective investment schemes*

  Although it is two years since new tax regulations allowed tax-free transfers between IICs, there is still a large number of queries, complaints and claims about the procedure. Complaints refer mainly to delays in transfers. Any type of delay prevents investors from benefiting of their investment during the delay period and may affect the net asset values applicable to the source fund's reimbursement and to the destination fund's subscription as well as the corresponding back-end and/or front-end fees.

- *Guaranteed mutual funds*

  The complaints about guaranteed mutual funds once again evidenced lack of information on the part of investors and customers. Complaints referred to back-end fees and to the need to order a reimbursement at the end of the guarantee period.

  Institutions must inform customers clearly, correctly, precisely and sufficiently when they arrange guaranteed funds. Specifically, customers should be informed of the following:

  – If they wish to settle the investment when the guarantee matures without a back-end fee, they must give a reimbursement order on the date on which the guarantee matures since it is the guarantee (and not the fund) that expires.

  – When the guarantee matures, fund managers make general amendments to a fund's conditions and characteristics and create a new guarantee for another period; once those amendments are introduced, reimbursement may carry a large fee. However, investors should be aware that:

    a) In the period between the guarantee's expiration and the establishment of a new guarantee, reimbursements can be done at the net present value on the date on which they are requested, without back-end fees.

    b) Changes in the characteristics of a mutual fund give investors the right to divest, without reimbursement fees, at the net present value on the day on which such changes were notified. This divestment right may be exercised within one month of that notification.

- *Option purchase and sale contracts*

  Complaints about contracts for the sale and purchase of options show that customers are unaware of their scope and conditions because: (i) the contract was not duly arranged; (ii) the customer did not receive a copy of the contract; or (iii) complainants did not read or understand what they were signing. To prevent this type of situation, the CNMV recommends that investors read the contracts in detail before signing them.

- *Unregistered institutions*

  This section deals with two types of situation. The first one refers to queries and complaints about companies that are not registered in the CNMV register but which seem to provide some type of investment service or complementary activities that are reserved for registered firms. Not all complementary activities require administrative authorisation and supervision. Some complaints referred to services that do not require such authorisation and the CNMV informed complainants of this fact.

  A different case altogether is where an entity acts in areas exclusively reserved for registered firms[6] Unfortunately, many complaints received by the CNMV regarding this type of firm were made when the customers had already lost part or all of their investments. Nevertheless, those complaints are essential in order to pursue offenders and prevent other investors from suffering the same fate.

[5] Also available on the CNMV's web site (www.cnmv.es).

[6] «Fly-by-night operations».

13.3. Investor education and information

The CNMV pays special attention to educating investors so that they are aware of their rights and responsibilities.

13.3.1. Investor guides

In line with previous years, the CNMV published two new investor guides in 2004: «What you should know about... securities orders» and «What you should know about... options and futures»; 26,426 and 27,419 copies, respectively, have already been distributed. Other guides were reprinted in the year.

To date, the following guides have been published:

- «What you should know about... options and futures» (2004) (Spanish only, currently being translated into English)
- «What you should know about... securities orders» (2004) (Spanish and English)
- «What you should know about... the rights and responsibilities of shareholders» (2002) (Spanish and English)
- «What you should know about... fixed-income products» (2002) (Spanish and English)
- «What you should know about... fly-by-night operations» (2002) (Spanish and English)
- «What you should know about... investment service companies» (2002) (Spanish and English)
- «What you should know about... mutual funds and collective investment» (2002) (Spanish and English)

The industry provided considerable assistance in ensuring that investors received the guides: 209 collaboration agreements were signed (163 with security market firms). As a result of those agreements, by December 2004, over 265,000 copies had been distributed free of charge to investors (see table 13.5). These guides were also promoted through the media, and electronic formats were made available on institutional and private web sites. They are available in English on the CNMV web site[7].

13.3.2. Investor summits

In 2004, the CNMV held three «Investor Summits» in which the President directly addressed investors and listened to their queries. The main objectives of those summits are to ensure that investors check whether or not a firm is authorised to provide the service they wish to acquire, that they demand legal documentation, and that they read and understand the contracts that they sign. The main characteristics of those summits were as follows:

- «Outlook and opportunities in the securities market» (Terrassa). This meeting, organised in collaboration with Caixa Terrassa, was attended by over 400 people.
- «Challenges and opportunities for the modern investor» (Burgos). The meeting, organised in collaboration with Caja Rural de Burgos, was attended by over 400 people.
- «Protecting investors: what we should know» (Malaga). This meeting, organised in collaboration with the British Embassy

Table 13.5
Investor guides distributed

	No. of agreements	No. of copies	%
Markets: stock exchanges and MEFF	5	68,850	26.0
Investor Assistance Office (CNMV)	–	46,265	17.5
Consumer associations	8	9,978	3.8
Securities market institutions:	163	125,066	47.1
Broker-dealers	39	39,988	15.1
Brokers	37	18,930	7.1
Portfolio management companies	17	8,960	3.4
Collective investment scheme management companies	65	52,300	19.7
Branches of foreign investment services firms	5	4,888	1.8
Credit institutions(1)	14	10,549	4.0
Universities and other education institutions	19	4,377	1.7
Total	**209**	**265,085**	**100.0**

(1) Many through their investment services firms.

[7] The «Investor's Corner» section of the CNMV's web site (www.cnmv.es).

in Spain and Barclays Bank, was attended by around 300 investors from the Costa del Sol, especially British residents in the area. In line with the main objective of preventing firms from providing investment services without the corresponding authorisation, the meeting reviewed the customer acquisition techniques that they use and urged investors to make queries and interpret the scope of the various types of warnings issued by the CNMV regarding these firms.

13.3.3. Other information activities

In 2004, over 30 lectures were given, some to provide information about the services provided by the CNMV to investors and others to foster knowledge about certain issues. Those events were organised in collaboration with consumer associations, professional associations, public and private universities, financial institutions, foundations and stock exchanges throughout Spain in order to provide maximum coverage. In 2004, many issues were also disseminated via nationwide and local media (radio and press).

13.4. Warnings about unregistered firms

In 2004, the CNMV issued the following warnings to investors about unregistered firms: (i) one warning about an unregistered intermediary that is undergoing disciplinary proceedings in accordance with article 64.7 of the Securities Market Law; (ii) fourteen warnings about the existence of 18 firms not registered to provide investment services in the CNMV register, in accordance with article 13 of the Securities Market Law, which requires the CNMV to disseminate any information needed to ensure investor protection; and (iii) in accordance with international cooperation agreements, 103 warnings from foreign regulators about the existence of 231 unregistered intermediaries (see Annex A.III.1).

13.5. Actions focusing on information quality and marketing practices

In 2004, mainly as a result of investors' queries and complaints, the CNMV implemented various initiatives that focused on the marketing of securities and other financial products under its supervision. The following actions refer to the information supplied to investors via prospectuses and advertising campaigns and to financial intermediaries' sales practices.

13.5.1. Issuance and public offering prospectuses

The general requirements for prospectus wording were increased. Efforts focused especially on issues of preference shares, subordinated debt and contracts for the purchase and sale of options (formerly called «atypical financial contracts»). The main new features that were introduced were as follows:

- *Preference shares.* An analysis of the information made available to subscribers of preference shares showed that these shares were marketed as if they were a fixed-income product, which they are not. Therefore, the main characteristics and risks associated with these shares have been drafted more accurately and in simple terms, and are stated in both the three-fold prospectus and in chapter 0 of their prospectuses[8]. The following must be expressly stated: (i) their remuneration is not a dividend but an interest rate whose payment depends on the issuer obtaining a profit; (ii) in the event of insufficient assets at the issuer or guarantor, the latter may call the issue at below nominal value, with the consequent loss of the holders' principal; (iii) they are perpetual securities; and (iv) they do not grant political rights.
  A new warning was also introduced[9] in issuers' prospectuses where it expressly states that the adjective «preference» that Spanish legislation gives to this product does not mean that the holders have «privileged» rights; in fact, quite the opposite: in the order of precedence, holders of preference shares rank below all the issuer's creditors (even below holders of subordinated debt). They have precedence only over holders of common stock.
- *Subordinated debt*. The prospectuses of these securities must state the order of precedence of the collection right.
- *Contracts for the purchase and sale of options*. Considering the special nature of these contracts and their proliferation since 2000, the CNMV analysed the information contained in the prospectuses registered with the CNMV and supplied by issuers to clients. The conclusion is that they are sometimes confusing and vague since they apply the terminology and conceptual framework of a bank deposit contract to transactions whose basic common feature is the transfer of one or more call or put options between the client and the firm.

[8] This chapter is only required for specific types of securities, as in the case of preference shares, because of the high risk involved.
[9] By virtue of article 20.6 of Royal Decree 291/1992.

Therefore, the CNMV asked credit institutions that issue this type of contract to clarify the vague concepts that were detected in the prospectuses; it was decided to replace the term «atypical financial contract» with «contract issued by credit institutions», avoiding commercial names and descriptions that might lead to confusion with other products of a different financial nature, such as deposits. Also, the various components of the transaction must be disclosed faithfully and accurately (options purchased and/or sold and the immobilised amount), the remuneration allocated to each component (premiums received and/or paid and yields on the immobilised amount) and the overall yield of each contract.

13.5.2. Mutual fund prospectuses

Minor amendments were introduced in prospectuses, especially in the case of guaranteed funds. Despite the popularity of these products, investors are not fully aware of some of their characteristics. Prospectuses now state that the guarantee refers only to a specific date, so investors will receive the guaranteed principal and/or yield only if they maintain their investment until such time (guarantee maturity date). As a result, reimbursements before maturity are not guaranteed and usually carry a penalty in the form of a back-end fee.

Where appropriate, the effective APR expected in the investment is stated since this is better understood by investors than the formulas used to calculate appreciation (usually based on index performance, securities baskets, etc.). In order to relate the expected yield to the costs associated with the fund, estimated management and deposit fees and other expenses during the guarantee period must be disclosed as a percentage of assets.

13.5.3. Advertising of investment products and services

In view of the influence of advertising campaigns on investors' decisions, the CNMV believes it is necessary to monitor those campaigns. This monitoring work is performed under article 94[10] of the Securities Market Law, which provides that the Economy Ministry can empower the CNMV to establish special rules for the advertising of investment products and services[11].

Article 94 also empowers the CNMV to discontinue or rectify the advertising of investment products and services «which is generally deemed unlawful according to the general advertising regulations», without prejudice to the applicable penalties, since this is envisaged as a serious infraction[12]. The CNMV performs two types of analysis in this field:

- Pre-publication analysis of advertising. Issuers and marketers usually take advantage of the prospectus registration procedures (in the case of mutual funds, issues and public offerings) to ascertain the CNMV's opinion on the legitimacy of the planned promotional activities. In this case, the Directorate of Investors analyses the advertising before it is launched. This is a flexible procedure that enables advertisers to spend on advertising in the knowledge that it conforms to the supervisor's requirements of clarity, truthfulness and balance.
- Post-publication analysis of advertising. Where appropriate, the CNMV can ask advertisers to change their campaigns.

In 2004, the CNMV analysed 122 advertising campaigns: 114 pre-publication and just 8 post-publication. The small number of post-publication analyses is due to the difficulties in obtaining information about certain types of advertising since: (i) they were restricted to a specific territory; (ii) they used direct approaches to customers (ordinary or electronic mail); or (iii) other circumstances prevented widespread knowledge of the advertising messages. A total of 11% of the analysed campaigns were ultimately withdrawn by advertisers for several reasons: the product was not issued, the product was placed without the need for advertising, etc.

13.5.4. Quality of information in securities marketing

For investor protection, it is essential to control the information that institutions supply to their customers and establish mechanisms that enhance the quality and availability of information. Analyses of the information supplied to investors when arranging a product showed deficiencies in the following areas:

- Internal information distribution channels.
- Content of the information supplied.
- The relation between the product risk and the investor's risk profile.
- The sales network's knowledge and training level.

---

[10] Amended by the 2004 Budget Annex Law.

[11] A Ministerial Order is currently at an advanced stage of drafting and, among other items, it empowers the CNMV to implement those rules.

[12] Article 100.l) of the Securities Market Law.

In order to improve all the factors related to quality in the information supplied to customers when marketing securities, the CNMV held meetings in 2004 with over 60 financial institutions (thrifts, collective investment scheme management companies, broker-dealers, brokers, etc.). The purpose was to create action plans to resolve the deficiencies that had been detected. In October 2004, nine institutions had applied those procedures to all their sales staff and persons susceptible to control by the departments responsible for monitoring them, and the rest were in various phases of implementation of those projects.

As stated in Chapter 12.2.2, to continue enhancing the quality of information received by customers, the CNMV included in its supervisory plans a special plan to check compliance by credit institutions with the codes of conduct applicable to securities marketing.

13.5.5. Other actions to reinforce investor protection in marketing activities

Notices to issuers and marketers

As in previous years, the CNMV addressed issuers and financial institutions which place issues through broad marketing networks and/or place products with which the public is unfamiliar (preference shares, securitisation bonds, etc.). In 2004, the CNMV sent 247 notices to remind them to comply with the requirements for issue placements and, in particular, it reminded them of the need to make the issue prospectuses and three-fold summaries available to the public and to comply with certain rules of conduct.

Analysis of subscription orders

The CNMV asked for 230 subscription orders made at different branches, selected randomly among the institutions that launched issues and public offerings, in order to check whether the orders complied with all the requirements envisaged in the corresponding prospectus. Other key features in order arrangements and executions were also reviewed. The CNMV checked that all the analysed orders complied with the prospectus requirements. However, in some cases, the analysis of the order arrangements and executions, though not fully conclusive, raised doubts about the propriety of institutions' actions.

13.6. Investor Protection Scheme

In 2004, no new claims for default were filed regarding insolvent investment services firms; consequently, all the claims analysed by the Investor Protection Scheme's management company referred to cases prior to the Scheme's creation[13]. At 2004 year-end, the Scheme's management company had analysed close to 93% of the over 9,000 claims that had been filed. Nearly 7,800 were accepted; consequently, approximately 60 million euro were paid in compensation.

Since nearly all the compensation claims have been resolved, the Scheme's management company believes that one of its priorities is to recover part or all of the assets, since the Scheme subrogates to the compensation paid to investors, and to design IT systems that improve execution periods and interaction between member firms and claimants, on the one hand, and the Scheme's management company, on the other.

The overall contribution to the Investor Protection Scheme budgeted for 2004 amounted to nearly 5 million euro. The method of calculating each member firm's contribution to the Scheme is the same as in 2003[14], in accordance with Law 53/2002, on Tax, Administrative and Labour Measures. A new feature in 2004 was that the scope of application of the investor compensation systems was extended to the collective investment scheme management companies that provide discretionary, individualised portfolio management. This activity was included in the list of possible services to be provided by collective investment scheme management companies in the new Collective Investment Scheme Law[15].

In November 2004, the Scheme's management company presented its 2005 budget to the CNMV, which approved it. The budget envisages expenses of 905,560 euro (6.59% less than in 2004). Personnel expenses amount to 36.26% of the total. The only revenues envisaged are those from management fees, so they equal the total amount of budgeted expenses.

[13] To date, the following firms have been declared insolvent in order to apply for the Scheme's coverage: Gescartera Dinero AV, AVA Asesores de Valores, XM Patrimonios AV, Bolsa 8 AVB and Broker Balear AV.

[14] Each firm's contribution is the sum of one fixed component and two variable components. The fixed component is selected from three possible amounts, based on the firm's gross fee revenues. The variable components are based on: (i) the cash and securities or financial instruments deposited or managed for the clients covered by the guarantee; and (ii) the number of clients covered and the maximum indemnity per client envisaged by the regulation.

[15] Collective Investment Scheme Law 35/2003, dated 4 November.

[14] Disciplinary action

The CNMV's supervisory function, in pursuit of market integrity, is completed with the work of investigation and the imposition of penalties. Fewer penalty proceedings were commenced in 2004 in comparison with 2003, but a much larger number of proceedings were concluded.

Noteworthy among the new proceedings were several relating to very serious infractions due to failure to disclose significant holdings in listed companies. Among the proceedings that were completed, nine penalties were imposed for that same infraction and for three serious infractions consisting of price manipulation by issuers.

A total of 73 penalties were imposed in 2004, 40 less than in 2003, but the total amount of fines increased by 17% to 3.1 million euro. Additionally, there was one penalty of disqualification from the position of director and executive, and fourteen reprimands.

14.1. Disciplinary proceedings

14.1.1. Statistics

In 2004, the CNMV Executive Committee initiated 27 new disciplinary proceedings, investigating a total of 34 possible violations. The CNMV also completed 37 proceedings, covering a total of 58 violations. Of the completed proceedings, one had commenced in 2002, 27 in 2003 and 9 in 2004 (see table 14.1).

A total of 73 penalties were imposed: 58 fines (a total of 3.149 million euro), one disqualification from holding office as director

Table 14.1

Number of violations envisaged in the disciplinary proceedings

	2003	2004
1. Violations leading to the initiation of proceedings	**78**	**34**
• Very serious	34	32
• Serious	44	2
• Minor	–	–
2. Violations on which proceedings concluded	**56**	**58**
Very serious violations	**23**	**25**
• proceedings initiated in 2002	19	–
• proceedings initiated in 2003	4	16
• proceedings initiated in 2004	–	9
Serious violations	**29**	**23**
• proceedings initiated in 2002	25	1
• proceedings initiated in 2003	4	22
• proceedings initiated in 2004	–	–
Minor violations	**4**	**10**
• proceedings initiated in 2003	4	10
Pro memoria:		
Number of proceedings initiated	35	27
Number of proceedings concluded, of which	10	37
Initiated in 2004	–	9
Initiated in 2003	8	27
Initiated in 2002	2	1

or executive for five years, and 14 public or private reprimands (see table 14.2)

The characteristics of the violations investigated and the proceedings concluded in 2004 are as follows:

- Among the new proceedings, investigations targeted 22 alleged very serious violations due to failure to disclose significant holdings in listed companies, a matter to which the CNMV devotes particular attention as part of its supervisory duties. Two investigations dealt with alleged insider dealing by two individuals.
- Among the proceedings which concluded, three found that securities issuers had engaged in practices to manipulate the market price, leading to penalties. Other proceedings related to breach of rules of conduct or of coefficients, and accounting irregularities by financial intermediaries.

14.1.2. The CNMV's position on specific issues

Significant holdings in listed companies

In 2004, 22 disciplinary proceedings commenced with respect to alleged breach of the obligation to disclose significant holdings in listed companies. Spanish law requires that the acquisition or transfer of shares listed on the stock exchanges be disclosed in certain cases. Such disclosures are entered in the Register of Disclosures of Significant Holdings, an official register of public record, as provided in article 92.i) of the Securities Market Law. It is important that the contents of the Register be complete and correct since it is an instrument for disseminating significant information among investors for the purpose of making investment decisions, and it is also a tool in the CNMV's supervisory work.

As part of citizens' fundamental rights, Spanish law limits the Administration's power to impose penalties. One such limit is that punishments may only be imposed if the intentions were culpable.

In order to impose a penalty, it is not enough for the objective circumstances of the violation to exist (in this case, late disclosure or non-disclosure in the circumstances envisaged by law); it is also necessary for the accused to have acted with malice or negligence.

Although article 130 of Law 30/1992, dated 26 November, on the Legal Regime of Public Authorities and Common Administrative Procedure, provides that administrative infractions may be punished *«even in the case of a simple breach»*, there is a large body of case law which requires that there be negligence or malice in order to justify a penalty by the Administration.

Accordingly, once the CNMV detects an alleged breach of the rules for disclosure of significant holdings and, consequently, commences a disciplinary proceeding, it must analyse whether there was culpable intent in order to assess whether the accused can legitimately be punished.

If malice (which is necessarily punishable) is ruled out, it is necessary to investigate whether there was a lack of diligence in complying with the requirements regarding disclosure to the market and the CNMV.

Since the breach of the duty to disclose significant holdings in listed companies is classified as a serious infraction by the Securities Market Law, then, for basic reasons of equity, proportionality and timeliness, lack of diligence in complying with this obligation must also be classified as serious, having regard to the circumstances.

These circumstances may be objective (in connection with the person's position in the listed company, the impact of the delay, the percentage holding not disclosed in time, and the extent of the period during which there was a failure to disclose) and subjective (relating to the party's general level of compliance with the rules of disclosure regarding transactions with securities of the company in question, and any other personal circumstances). Those factors determine the seriousness of the harm to the legal good that is protected by the regulation.

Breach of the disclosure obligations with regard to significant holdings is particularly important if it occurs in certain periods under investigation due to alleged insider dealing or other forms of market abuse.

Publication of penalties

Following the amendments in recent years to the Securities Market Law[1] and the Collective Investment Scheme Law[2],

[1] Law 44/2002, dated 22 November, on Measures to Reform the Financial System, added a new paragraph to article 103 of the Securities Market Law governing the publication of penalties for serious violations in the Official State Gazette (BOE). Article 102 of the Securities Market Law already provided a similar measure for penalties relating to very serious violations.

[2] The publication in the Official State Gazette of penalties for serious and very serious violations is provided in article 94.3 of the Collective Investment Scheme Law 35/2003, dated 4 November. Article 39 of Law 1/1999, dated 5 January, regulating venture capital firms and their operators also provides that penalties for very serious violations will be published in the Gazette.

Table 14.2

Penalties imposed

	2003		2004	
	No.	Amount[1]	No.	Amount[1]
I. Fines	92	2,702	58	3,149
II. Disqualification of directors	–	–	1	–
III. Public reprimand	21	–	11	–
IV. Private reprimand	–	–	3	–

(1) Thousand euro.

Table 14.3

Types of violations investigated

	Opened		Closed	
	2003	2004	2003	2004
VERY SERIOUS VIOLATIONS	**34**	**32**	**23**	**25**
I. Failure to disclose/incorrect disclosure of significant holdings	1	22	2	9
II. Forbidden activities	6	2	5	2
III. Market manipulation	2	–	1	–
IV. Breach of coefficients	9	–	1	4
V. Failure to disclose significant events/provision of misleading, incorrect or materially incomplete information	3	–	2	1
VI. Violation of general securities market regulations	5	3	4	3
VII. Violation of general IIC regulations	6	–	6	4
VIII. Accounting irregularities	–	1	1	–
IX. Unregistered issues	2	–	1	2
X. Insider dealing	–	2	–	–
XI. Obstruction of inspection	–	2	–	–
SERIOUS VIOLATIONS	**44**	**2**	**29**	**23**
I. Accounting irregularities	4	–	2	1
II. Forbidden activities	9	–	1	2
III. Breach of coefficients	9	–	3	10
IV. Violation of general securities market regulations	–	–	2	–
V. Violation of general IIC regulations	13	1	8	4
VI. Breach of rules of conduct	8	1	13	3
VII. Market manipulation	1	–	–	3
MINOR VIOLATIONS	**–**	**–**	**4**	**10**
I. Violation of general securities market regulations	–	–	4	–
II. Violation of general IIC regulations	–	–	–	8
III. Breach of coefficients	–	–	–	2

publication of penalties for all types of serious and very serious violations relating to the securities market is obligatory provided that the decision has attained finality in the administrative sphere. Publication consists of insertion of details of the penalty in the Official State Gazette and in the CNMV's register of penalties.

The Securities Market Law[3] requires that the CNMV keep an official register, accessible to the public, of the penalties for serious and very serious violations imposed in the last five years on individuals and legal entities under the scope of its supervision, inspection and discipline as provided in Title VII of the Securities Market Law.

Publication is not part of the disciplinary proceedings since it takes place after the disciplinary process has concluded with a resolution finding liability for an administrative violation and imposing a penalty. Therefore, publication is an outcome of the disciplinary decision which has become final in the administrative sphere. It is at this point that the CNMV becomes obliged to publish the penalty.

Although the publication is not a penalty per se, it may undoubtedly be harmful. Publication of a penalty always affects areas of the violator's life, specifically honour, privacy and good name, due to the penalty becoming public knowledge.

Therefore, although the publication is not classified as a penalty, it can certainly be included under the category of *«penalising provision»* and, even more clearly, it falls under the heading of *«rules that restrict individual rights»*; accordingly, the same rules and principles as for the penalties themselves should strictly apply with regard to execution.

Consequently, the Comisión Nacional del Mercado de Valores must publish each and every one of the penalties imposed in this connection, once they have become final in the administrative sphere, while nevertheless fully respecting the principle of legal protection, enshrined in article 24 of the Spanish Constitution, under which provisions that limit or restrict individual rights cannot be retroactive.

For the foregoing reasons, in 2004 the CNMV published, in the Official State Gazette, the penalties imposed in seven disciplinary proceedings but only one of them was entered in the Public Register of Penalties since the events punished in the other cases occurred before the entry into force of Law 44/2002, dated 22 November, on Measures to Reform the Financial System, which created the Register.

In December 2004, the CNMV decided to include the Public Register of Penalties on its web site.

14.2. Litigation Department

14.2.1. Relations with the judicial system

Since it was created in 2003 by the CNMV's Internal Regulation, the Directorate of Litigation and Enforcement has been in charge of relations with all levels of the judicial system; two types of relationship stand out because of their number and complexity:

- With the administrative appeals system, in which it does not confine itself to the processes envisaged in the Law Regulating the Administrative Appeals Jurisdiction but also provides comprehensive assistance throughout the proceeding to defend CNMV decisions against which appeals have been presented.
- With the courts at all levels, particularly the criminal courts, providing assistance and cooperation when requested, mainly in trials for fraud or embezzlement.

Table 14.4
Relations with the judicial system in 2004

	Presented	Resolved
Administrative appeals	**16**	**22**
Appeals to a higher instance	11	18
Appeals for reconsideration	5	4
Appeals to the courts against administrative decisions	**45**	**19**

Assistance to the courts	Appeals processed
	179

14.2.2. Judicial review of disciplinary proceedings

In 2004, the courts issued 14 decisions regarding appeals against penalties and other resolutions by the CNMV or the Economy and Finance Ministry. These decisions are summarised in annex A.III.3.

[3] Article 92.k) of the Securities Market Law, introduced by Law 44/2002, dated 22 November, on Measures to Reform the Financial System.

14.2.3. International cooperation

The Directorate of Litigation and Enforcement is also entrusted with providing assistance and information to the competent authorities of foreign countries with regard to investigations under way, in the framework of the international cooperation agreements in this area.

In 2004, the CNMV issued 26 requests for assistance from foreign regulators and processed 37 requests of this type from foreign regulators. In both cases, most requests related to investigations of unauthorised firms and cases of alleged market abuse. Table 14.5 lists the countries with which the CNMV cooperated in this area in 2004.

Table 14.5
International requests for assistance in inspection

Requests to foreign regulators			Requests from foreign regulators Country		
	Year			Year	
Country	2003	2004	Country	2003	2004
Germany	0	4	Germany	1	3
Andorra	0	1	Australia	2	0
Belgium	2	0	Belgium	1	2
United States	5	2	United States	0	8
France	2	3	France	2	2
Netherlands	0	1	Greece	0	1
Hong Kong	1	0	Guernsey	0	1
Ireland	1	0	Netherlands	1	2
British Virgin Islands	0	1	Hong Kong	0	1
Luxembourg	2	1	Ireland	6	1
Portugal	0	1	Jersey	3	1
UK	12	8	Luxembourg	0	1
Sweden	1	0	New Zealand	1	1
Switzerland	4	4	Portugal	0	2
			UK	9	8
			Switzerland	0	3
Total	**30**	**26**	**Total**	**26**	**37**
Status			**Status**		
Closed	24	22	Closed	21	36
Pending	6	4	Pending	5	1
Total	**30**	**26**	**Total**	**26**	**37**

Annexes III

A.III.1

Public warnings about unauthorised firms

Date	Regulator	Firm
		CNMV warnings about unauthorised firms undergoing disciplinary proceedings
21/06/2004	CNMV	Carlton Birtal Financial Advisory, S.L.
		CNMV warnings about unauthorised firms
29/11/2004	CNMV	Beckham Advisors Alliance, S.L.
25/10/2004	CNMV	Churchill Marketing and Advisory Services, S.L.
		European Private Equity Consultants, S.L.
18/10/2004	CNMV	Liberty First Advisory Services, S.A.
13/10/2004	CNMV	Consultores Sicra, S.L.
		Commodity & Futures Consulting, S.L.
11/05/2004	CNMV	Anderson Goldberg, S.L.
13/04/2004	CNMV	International Equity Consultants, S.L.
12/04/2004	CNMV	Inprolinks, S.L.
07/04/2004	CNMV	Inprolinks, S.L.
10/03/2004	CNMV	Harrington Advisory Services, S.L.
		Millenium Business Services, S.L
		The Pension and Investment Shop, S.L.
03/03/2004	CNMV	Recoletos Servicios de Asesoría, S.L.
26/02/2004	CNMV	Tana Corum, S.L.
27/01/2004	CNMV	Europaish Buro Consultant, S.L.
		United Royale Immobilien Verwaltung, S.L.
		Cerxnet Europe, S.L.
		Europe Business Center, S.L.
		Public warnings from foreign regulators
22/12/2004	SFSA (SWEDEN)	VC Private Management Ltd.
		www.vcpm.com
	FMA (AUSTRIA)	Private Fiduciary Trust GmbH
	FSC (ISLE OF MAN)	Alied Trust
	AMF (FRANCE)	Poseidis Inc
	IFSRA (IRELAND)	Nation Capital Group
15/12/2004	FSC (ISLE OF MAN)	Kapital Alliance
		www.kapital-alliance.com
01/12/2004	FSC (ISLE OF MAN)	Philip Barker
		Advance Fee Fraud
		Apex Continental Bank PLC
		www.feaf-online.com
		Asian European Finance
		First European Asian Finance Bank
		First European Asian Finance Bank and Securities
		Apex Continental PLC.COM
		Apex Continental Bank PLC

A.III.1

Public warnings about unauthorised firms *(Continued)*

Date	Regulator	Firm
		Public warnings from foreign regulators
01/12/2004	FSC (ISLA DE MAN)	Apex Continental Bank PLC & Trust Corporation
		Apex Continental Bank PLC & Securities
		Apex Continental Bank PLC Finanace (sic) and Securities
		www.acbplc.com
		www.fsotbonline.com
		First State Online Trust Bank (FSOTB)
01/12/2004	NAFM (NETHERLANDS)	The Armstrong Group
		www.the-armstrong-group.com
01/12/2004	JFSC (JERSEY)	Piccadilly Finance
		Piccadilly Finance Center
		Continental Trust Bank
		www.piccadillyfn.com
		Apex Continental Bank PLC
		www.feaf-online.com
		Asian European Finance
		First European Asian Finance Bank
		First European Asian Finance Bank and Securities
		First European Asian Finance Bank, Inc
		First European Asian Finance Bank & Trust
		First European Asian Finance Bank & Trust Corporation
		First European Asian Finance Bank Global Correspondent Network
		Trans Intercontinental Finance
		Integris Group of Mutual Funds
		Integris Managed Fund Solutions
		African European Finance Trust
01/12/2004	VEN (VENEZUELA)	Banco de Desarrollo Agropecuario (BANGADRO)
17/11/2004	SFSA (SWEDEN)	VC Private Management Ltd.
17/11/2004	NAFM (NETHERLANDS)	Inter-FX Investment Inc.
		www.interfx.com.cy
10/11/2004	JFSC (JERSEY)	Scotland Alliance
		Scotland Alliance Bank
		Scotland Alliance and Security House
		www.scotlandalliance.co.uk
10/11/2004	FSC (ISLE OF MAN)	www.westminsterexpress.com
		Westminster Express Bank
		Westminster Express Bank (Isle of Man) Limited
		First Choice Bank International
		First Choice Bank Isle of Man Limited
		First Choice Bank Offshore
		www.firstchoicetrust.net
		First Choice International Bank
		First Choice Bank Trust Company (Isle of Man) Limited

A.III.1

Public warnings about unauthorised firms *(Continued)*

Date	Regulator	Firm
		Public warnings from foreign regulators
03/11/2004	NAFM (NETHERLANDS)	Tradelinx Investments Ltd
03/11/2004	JFSC (JERSEY)	First European Asian Finance Corporation («FEAF Corp») www.feafcorp.com
03/11/2004	FSC (ISLE OF MAN)	Nationwide International Group www.nationwide-international.com
20/10/2004	MFSA (MALTA)	MFSA issued a warning about fraudulent activities via the internet
20/10/2004	FSC (ISLE OF MAN)	www.tapb.com Trans-Atlantic Private Bank
20/10/2004	AMF (FRANCE)	AMF issued a warning about certain fixed-price units with ISIN DE0008160896 to the effect that those units were not registered in France
20/10/2004	FSC (ISLE OF MAN)	CAPITAL BANK
14/10/2004	JFSC (JERSEY)	International Personal Banking International Premier Banking www.cityfidelitytrust.com City Fidelity Trust Bank City Fidelity Trust Bank Private Clients International City Fidelity Trust Bank International City Fidelity Trust Bank Worldwide City Fidelity Trust Bank Channel Islands, UK City Fidelity Worldwide CFT Worldwide City Fidelity Trust Bank Limited Worldwide City Fidelity Trust Bank Group International Corporate Services Afrikaans Trust Bank
14/10/2004	FSC (ISLE OF MAN)	www.inlandic.com Inlandic Bank Regent Bank PLC InlaREGENT BANK PLCee InlaREGENT BANK PLC Trust Bank InlaREGENT BANK PLC InlREGENT BANK PLCsp InlREGENT BANK PLC InlREGENT BANK PLChrough Inlandic Bank Isles of Man IB Inlandic Bank I-bank Inlandic bank Bank
06/10/2004	FSC (ISLE OF MAN)	www.cityfidelitytrust.com City Fidelity Trust Bank City Fidelity Trust Bank Private Clients International www.halifaxbank.org

A.III.1

Public warnings about unauthorised firms *(Continued)*

Date	Regulator	Firm
		Public warnings from foreign regulators
06/10/2004	FSC (ISLA DE MAN)	Halifax Intl. Bank
		Halifax Intl. Corporate Management Bank
		Halifax Intl. Financial Services Group
29/09/2004	FMA (AUSTRIA)	Emmerson Bennett
22/09/2004	FSC (ISLE OF MAN)	Royal Pacific Bank
		www.royalpacificbank.com
		Winter Capital International LLC
		Heritage National Bank
		Heritage National Asset Management
		www.heritagenbonline.com
22/09/2004	JFSC (JERSEY)	Infinite Trust Bank
		Infinite Trust Bank Limited
		Infinite Trust bank Investment Management Services
		www.itbonline.com
		Wizzell Bank
		Wizzell Bank International Funds Group
		www.wizzellbank.com
		International Personal Banking
		International Premier Banking
		Wizzell Bank Finance Company (Jersey) Limited
08/09/2004	FSC (ISLE OF MAN)	Wizzell Bank
		Wizzell Bank International Funds Group
		www.wizzellbank.com
08/09/2004	HCMC (GREECE)	P & A Voilis S.A.
01/09/2004	NAFM (NETHERLANDS)	E1 Asset Management Inc
25/08/2004	FSC (ISLE OF MAN)	Roy Atkinson
		Stonewood Securities Limited
		Welsham, Welsham & Fulham
		Anglo American Bank
		Lyvitt-Hall Solicitors
25/08/2004	FSA (UNITED KINGDOM)	Aberdeen Langley
		Jacob Sterm
25/08/2004	JFSC (JERSEY)	AIB Private Bank (Jersey) Limited
		AIB Online
		AIB Online Bank
		AIB Plc
		Platinium Merchant Bank
		Platinium Merchant Management
		Platinium Merchant

A.III.1

Public warnings about unauthorised firms *(Continued)*

Date	Regulator	Firm
		Public warnings from foreign regulators
18/08/2004	FSC (ISLE OF MAN)	Johnstone Brown Investments Jones Atkins Investments Thomas Jones& Company Alliance Finance Bank Alliance Finance Asset Management Winter Capital International LLC Premier Trust Trans-Atlantic Investment and Private Bank
18/08/2004	CBF (BELGIUM)	Wisa Beratung GmbH SOROS HOLLAND Soros Holland Investment Fund IV Général Finance SPRL www.banque-direct-suisse.com www.incorporate-usa-direct.com
04/08/2004	MFSA (MALTA)	MFSA issued a warning about the alleged falsification of a guarantee that might be used for fraudulent purposes
04/08/2004	SV (EL SALVADOR)	The Superintendencia de Valores of El Salvador gave notice that, effective 19 July 2004, the company Operaciones Bursátiles de Centroamérica, S.A. de C.V. (OBC) had been disqualified from trading on the stock exchange. It also stated that there were signs of possible unauthorised fund-raising by that company.
04/08/2004	FSC (ISLE OF MAN)	Trans Intercontinental Finances
28/07/2004	FSC (ISLE OF MAN)	Alliance Investment Group Alliance Investment Alliance Investment Trust Bank Alliance Investment Bank
28/07/2004	FMA (AUSTRIA)	Anderson Goldberg, S.L. Baker & White Novis Partners
14/07/2004	FSC (ISLE OF MAN)	www.closeprivate.com Capital Investment Corporation
14/07/2004	CBF (BELGIUM)	Big T Marketing Soros Holland
30/06/2004	FSC (ISLE OF MAN)	The Royal Oxford Capital Express Bank
23/06/2004	IFSRA (IRELAND)	Whittman Wright & Associates
23/06/2004	SSMA (SLOVENIA)	De Verre Lloyd & Co., Ltd. Baker & White
16/06/2004	FSC (ISLE OF MAN)	Johnstone Brown Investments Jones Atkins Investments Thomas Jones& Company Boom Time Lottery
16/06/2004	AMF (FRANCE)	E Net Speculation

A.III.1

Public warnings about unauthorised firms *(Continued)*

Date	Regulator	Firm
		Public warnings from foreign regulators
16/06/2004	NAFM (NETHERLANDS)	Leberman Steine Inc
		Atrium Financial Group
09/06/2004	DFSA (DENMARK)	Black and White Investments
02/06/2004	DFSA (DENMARK)	Baker & White
01/06/2004	LSC (LITHUANIA)	LSC (Lithuanian Securities Commission) gave notice of the revocation of the bonds AB «Penki akrai».
12/05/2004	VEN (VENEZUELA)	The Embassy of Venezuela in Spain relayed information from the Venezuela Ministry of Finance relating to Caroní Code Promissory Notes ICC-290 and ICC-322 allegedly issued by defunct Banco de Desarrollo Agropecuario (BANDAGRO)
10/05/2004	FMA (AUSTRIA)	ADN Warenhandels GmpH
10/05/2004	AMF (FRANCE)	I-Forex Online Investment Service
10/05/2004	CBF (BELGIUM)	The Mayflower Group
10/05/2004	FSC (ISLE OF MAN)	Ecowas Development Bank Limited
		Ecowas Promotions
		Ecobank Transnational Incorporated
		Ecowas Development Bank Group
		Ecowas Development Bank Transnational Incorporated
		ETI
		Sun Trust Services
		Sun Trust Telephone Banking
		Union Bank E Advantage
05/05/2004	FSC (ISLE OF MAN)	Providence Financial Trust
		First Choice Bank Limited
		First Choice Bank International
		First Choice Bank
		First Choice Bank Isle of Man Limited
		First Choice Bank Offshore
		First Choice Bank Group
		First Choice Bank Offshore Group Limited
		First Choice Bank Group Priority Banking
		First Choice Bank Group Limited
		Pan Mercantile Bank
		Pan Mercantile Bank Finance Company (Isle of Man) Limited
13/04/2004	FSC (ISLE OF MAN)	Meridien Trust Finance
		Trust & Bond Clearing House
31/03/2004	IND (INDONESIA)	The Embassy of Indonesia in Madrid relayed information from the Technical General Secretariat of the Indonesia Finance Department in connection with illegal public bonds in circulation.
24/03/2004	FSC (ISLE OF MAN)	Harrington Advisory Services, S.L.
23/03/2004	FSC (ISLE OF MAN)	Johnstone Brown Investments
17/03/2004	FSC (ISLE OF MAN)	Royal Security Services

A.III.1

Public warnings about unauthorised firms ***(Continued)***

Date	Regulator	Firm
		Public warnings from foreign regulators
15/03/2004	CBF (BELGIUM)	Carnegie Advisors
		Momentum Consultants, Ltd
15/03/2004	FMA (AUSTRIA)	Austrian Trader AG
04/03/2004	IFSRA (IRELAND)	Pearson Clarke LLP
04/03/2004	AMF (FRANCE)	SharkInvest HYIP
19/02/2004	MFSA (MALTA)	Argo Trust Limited
19/02/2004	FSC (ISLE OF MAN)	Global Credit Investment Bank
		Brown Atkins Investments
19/02/2004	CBF (BELGIUM)	Crown-Euro Trust Investment Bank
06/02/2004	IFSRA (IRELAND)	Professional Capital Management Pte Ltd
		Carlton Marsh Limited
30/01/2004	FSC (ISLE OF MAN)	Browning Attlee Investments
14/01/2004	AMF (FRANCE)	Cofexa and Prismary's
		Prime Forestry Group
07/01/2004	FSC (ISLE OF MAN)	Oceanic Capital Financial
		Oceanic Capital Financial Corp.
		OCF Bank
		OCF Bank Online
		Equitoria Trust Bank Inc.

A.III.2

Outcome of disciplinary proceedings in 2004

Reference	Resolution
(1/04)	**CNMV Board Resolution dated 20 January 2004** Resolution on the alleged commission, by an investment firm, of three serious infractions – article 100.g) breach of liquidity coefficient, article 100.t) breach of code of conduct, and article 100.o) occasional performance of forbidden activities: provision of credit or loans to investors without authorisation. The company was penalised with three fines of 12,000 each and a public reprimand; a member of its board of directors was also fined 6,000 euro.
(2/04)	**CNMV Board Resolution dated 20 January 2004** Resolution on the alleged breach by an investment firm, as depository of a collective investment institution (IIC), of its duty of vigilance and supervision in connection with compliance by the IIC with the minimum investment coefficient. The investment firm was fined 2,000 euro and received a private reprimand for a minor breach of the IIC Law.
(3/04)	**Ministerial Order dated 22 January 2004** Resolution on the alleged commission, by an issuer, of a very serious infraction under article 99.ñ) of the Securities Market Law due to filing with the CNMV periodical public financial information that was inaccurate, untrue or materially incomplete. The company was fined 150,000 euro and received a public reprimand; a member of its board of directors and the company's general manager were fined 50,000 euro each.
(4/04)	**Ministerial Order dated 23 January 2004** Resolution on the alleged commission by a limited company of a very serious infraction under article 99.q) of the Securities Market Law, due to habitual performance of activities reserved for investment firms. The company was fined 613,352 euro; two of its directors were fined 180,304 euro each.
(5/04)	**CNMV Board Resolution dated 2 February 2004** Resolution on the alleged commission, by an investment firm, of a serious infraction under article 100.t) of the Securities Market Law for breach of the code of conduct. The company was fined 48,080 euro; six members of its board of directors were fined a grand total of 156,260 euro.
(6/04)	**CNMV Board Resolution dated 24 February 2004** Resolution on the alleged commission, by an individual, of a serious infraction under article 100.o) of the Securities Market Law due to occasional performance of activities reserved for investment firms. The person was fined 18,000 euro and received a public reprimand.
(7/04)	**CNMV Board Resolution dated 24 February 2004** Resolution on the alleged commission, by an IIC management company, of two serious breaches and one minor breach of the IIC Law for various infractions relating to investment limits and the liquidity coefficient of a mutual fund managed by it. The company was penalised with three fines for a total of 7,500 euro.
(8/04)	**Ministerial Order dated 9 March 2004** Resolution on the alleged commission, by an investment firm, of a very serious infraction under article 99.l) of the Securities Market Law due to non-compliance with article 70.1.h) of that law. The company was penalised with a fine of 104,000 euro and a public reprimand; a member of its board of directors was fined 52,000 euro.
(9/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on the alleged commission, by an IIC management company, of two serious breaches of the IIC Law due to non-compliance with a number of obligations imposed by that law, and the alleged commission by a credit institution, as depository of a collective investment institution, of a serious infraction under the IIC Law due to breach of its duty to oversee the management company. The management company was punished with two fines of 30,050 euro each and a public reprimand, and the depository was fined 30,050 euro and received a public reprimand.
(10/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on the alleged breach by an IIC management company, and a credit Institution, the latter as depository of a collective investment institution, of the liquidity coefficient of an IIC under their management. The management company was fined 6,000 euro for a serious breach of the IIC Law, and the credit institution which is the depository was fined 1,000 euro for a minor breach of that same law.

A.III.2

Outcome of disciplinary proceedings in 2004 *(Continued)*

Reference	Resolution
(11/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on the alleged breach by an IIC management company, and a credit institution, the latter as depository of a collective investment institution, of the liquidity coefficient of an IIC under their management. The management company was fined 8,000 euro for a serious breach of the IIC Law, and the credit institution which is the depository was fined 2,000 euro for a minor breach of that same law.
(12/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on disciplinary proceedings against an IIC, its management company and its depository, for various breaches of the IIC Law in connection with the minimum investment coefficient, declaring that no such breaches had occurred due to retroactive application of the new IIC law (Law 35/2003), which is more favourable.
(13/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on the alleged breach by a credit institution, as depository of an IIC, of its duty to oversee and supervise compliance by the IIC with the minimum investment coefficient. For a minor breach of the IIC Law, the institution was fined 1,000 euro and received a private reprimand.
(14/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on the alleged breach by an IIC management company and an investment firm, the latter as depository of the IIC, in connection with the minimum investment coefficient of IICs. The management company was fined 14,000 euro for a serious breach of the IIC Law, and the investment firm which is depository was fined 1,500 euro and received a private reprimand for a minor breach.
(15/04)	**CNMV Board Resolution dated 17 March 2004** Resolution on the alleged breach by an IIC management company and an investment firm, the latter as depository of the IIC, in connection with the minimum investment coefficient of IICs. The management company was fined 5,000 euro for a serious breach of the IIC Law, and the investment firm which is depository was fined 1,000 euro and received a private reprimand for a minor breach.
(16/04)	**CNMV Board Resolution dated 31 March 2004** Resolution on the alleged breach by an IIC management company and a credit institution, the latter as depository of the IIC, in connection with the minimum investment coefficient of a managed IIC. The management company was fined 8,000 euro for a serious breach of the IIC Law, and the credit institution which is depository was fined 2,000 euro for a minor breach.
(17/04)	**CNMV Board Resolution dated 31 March 2004** Resolution on the alleged breach by a SIMCAV, and a credit institution, the latter as depository of the SIMCAV, in connection with the liquidity coefficient. For a minor breach of the IIC Law, the two firms were fined 1,000 euro each.
(18/04)	**CNMV Board Resolution dated 31 March 2004** Resolution on disciplinary proceedings against an IIC, its management company and a its depository, for various breaches of the IIC Law in connection with the minimum investment coefficient, declaring that no such breaches had occurred due to retroactive application of the new IIC law (Law 35/2003), which is more favourable.
(19/04)	**CNMV Board Resolution dated 31 March 2004** Resolution on the alleged breach, by an IIC management company, of the minimum investment coefficient of a managed IIC. The company was fined 12,000 euro for a serious breach of the IIC Law.
(20/04)	**CNMV Board Resolution dated 22 April 2004** Resolution on disciplinary proceedings against a SIMCAV and the members of its board of directors for breach of the IIC Law in connection with the acquisition of own shares. No liability was found.

A.III.2

Outcome of disciplinary proceedings in 2004 *(Continued)*

Reference	Resolution
(21/04)	**CNMV Board Resolution dated 22 April 2004** Resolution on the alleged commission, by a credit institution, of a very serious breach under article 99.g) of the Securities Market Law relating to non-compliance with the rules governing relations with the Bank of Spain's Book Entry System. No liability was found.
(22/04)	**Ministerial Order dated 20 May 2004** Resolution on the alleged commission by an investment firm, as manager of a SIMCAV, of a very serious breach of the IIC Law through non-compliance with the limits on acquisition of own shares by the managed SIMCAV. The investment firm was fined 30,050 euro.
(23/04)	**CNMV Board Resolution dated 17 June 2004** Resolution on the alleged commission, by an issuer, of a serious breach of article 100.w) of the Securities Market Law due to practices to distort free price discovery. The company was fined 60,000 euro, and its general manager was fined 30,000 euro.
(24/04)	**Ministerial Order dated 1 July 2004** Resolution on the alleged commission, by an IIC management company, of a very serious infraction under the IIC Law due to breach of the management regulation of a managed fund. The management company was fined 150,253 euro and received a public reprimand.
(25/04)	**CNMV Board Resolution dated 29 July 2004** Resolution on the alleged commission, by a company, of a serious infraction under article 100.w) of the Securities Market Law due to practices to distort free price discovery. The company was fined 120,000 euro and a member of its board of directors was fined 30,000 euro.
(26/04)	**Ministerial Order dated 7 September 2004** Resolution on the alleged commission by an investment firm of a very serious infraction under article 99.l) of the Securities Market Law for breach of the general securities market regulations, and the alleged commission by an IIC management company of a very serious infraction under the IIC Law through non-compliance with the general rules for IICs. The investment firm was fined 300,506 euro and the management company was fined 150,253 euro; also, an individual who is a member of the board of directors of both firms was penalised for both violations with a fine of 150,253 euro, removal from office and disqualification for a period of 5 years.
(27/04)	**CNMV Board Resolution dated 14 September 2004** Resolution on disciplinary proceedings against a credit institution, as depository of an IIC, due to breach of its duty to oversee the actions of the management company. The institution was fined 15,000 euro for a serious infraction under the IIC Law.
(28/04)	**CNMV Board Resolution dated 14 September 2004** Resolution on the alleged commission, by an issuer, of a serious infraction under article 100.w) of the Securities Market Law due to practices to distort free price discovery. The company was penalised with a fine of 150,000 euro and a public reprimand; a member of its board of directors was fined 36,000 euro.
(29/04)	**CNMV Board Resolution dated 14 September 2004** Resolution on disciplinary proceedings against an investment firm for two alleged breaches of the Securities Market Law: a very serious infraction under article 99.k) due to non-compliance with the equity coefficient, and a serious infraction under article 100.c) due to accounting irregularities. No liability was found.
(30/04)	**CNMV Board Resolution dated 14 September 2004** Resolution on disciplinary proceedings against an individual for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.

A.III.2

Outcome of disciplinary proceedings in 2004 ***(Continued)***

Reference	Resolution
((31/04)	**CNMV Board Resolution dated 14 September 2004** Resolution on disciplinary proceedings against an individual for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(32/04)	**CNMV Board Resolution dated 14 September 2004** Resolution on disciplinary proceedings against an individual for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(33/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against two credit institutions for alleged commission of a very serious infraction under article 99.n) of the Securities Market Law: issuance of securities without complying with the legally-established requirements. No liability was found.
(34/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against an investment firm for two alleged breaches of the Securities Market Law: a very serious infraction under article 99.q) due to performance of activities without authorisation, namely the provision of financing to perform transactions with securities, and a serious infraction under article 100.t) for breach of the code of conduct. No liability was found.
(35/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against an individual for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(36/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against an individual for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(37/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against an individual for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(38/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against a legal entity for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(39/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against a legal entity for alleged commission of a very serious infraction under article 99.p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(40/04)	**CNMV Board Resolution dated 29 September 2004** Resolution on disciplinary proceedings against a legal entity for alleged commission of a very serious infraction under article 99 p) of the Securities Market Law: failure to disclose significant holdings, or disclosure after the legally-established deadline. No liability was found.
(41/04)	**Ministerial Order dated 30 September 2004** Resolution on the alleged commission, by an IIC management company, of a very serious breach of the IIC Law in connection with investment in assets not authorised for a managed fund. The company was fined 75,000 euro, and the six members of its board of directors were fined 10,000 euro each.

A.III.3

Court judgements in 2004 on administrative appeals against penalties

No	Date	Tribunal	Appeal no.	Appealed order
1	10/02/2004	Supreme Court	633/1999	Madrid High Court of Justice decision 22/09/1998
Upheld decision by Madrid High Court of Justice dated 22 September 1998 which rejected administrative appeal no. 2053/1993 filed against the CNMV order dated 9 December 1993 which refused to suspend the penalty proceedings against the appellant.				
2	11/02/2004	Supreme Court	1247/1999	National Court decision 1/10/1998
Upheld the National Court decision dated 1 October 1998 which rejected administrative appeal no. 521/1996 filed against the Economy and Finance Ministry order dated 29 April 1996 which imposed a penalty for breach of article 32.4.*g)* of Law 46/1984, dated 26 December, regulating Collective Investment Schemes.				
3	17/02/2004	Supreme Court	17/2003	National Court decision 6/11/2002
Upheld the National Court decision dated 6 November 2002 which rejected administrative appeal no. 451/00 filed against the Economy and Finance Ministry order dated 24 January 2000 which imposed a penalty for an infraction under article 100.*c)* of the Securities Market Law.				
4	25/02/2004	Supreme Court	5615/1999	National Court decision 18/03/1999
Upheld the National Court decision dated 18 March 1999 which rejected administrative appeal no. 567/1996 filed against the Economy and Finance Ministry order dated 16 June 1996 which imposed penalties for an infraction under article 99.*q)*, in connection with article 71.*a)* of the Securities Market Law.				
5	31/03/2004	Supreme Court	129/2000	National Court decision 20/09/1999
Upheld the National Court decision dated 20 September 1999 which rejected administrative appeal no. 118/1997 filed against the Economy and Finance Ministry order dated 5 December 1996 which imposed penalties for an infraction under article 99.*q)*, in connection with article 71.*a)* of the Securities Market Law.				
6	24/05/2004	Supreme Court	7600/2000	National Court decision 27/09/2000
Upheld the National Court decision dated 27 September 2000 which partly accepted administrative appeal no. 420/1998 filed against the Economy and Finance Ministry order dated 14 January 1998 which imposed a penalty for an infraction under article 99.*ñ)* of the Securities Market Law.				
7	2/06/2004	National Court	552/2001	Economy and Finance Ministry order 7/03/2001
Confirmed the penalties imposed on the appellants by Economy and Finance Ministry order dated 7 March 2001 for an infraction under article 99.*p)* of the Securities Market Law.				
8	4/06/2004	National Court	78/2001	CNMV Board decision
Confirmed the penalties imposed on the appellants by CNMV Board Resolution dated 13 July 2000 and confirmed by Economy and Finance Ministry order dated 1 March 2001 for infractions under articles 100.*b)* and 100.*c)* of the Securities Market Law.				
9	1/07/2004	Supreme Court	1429/2001	National Court decision 4/12/2000
Upheld the National Court decision dated 4 December 2000 in connection with the imposition of penalties under article 99.*ñ)* of the Securities Market Law via Economy and Finance Ministry order dated 14 January 1998.				
10	8/07/2004	Supreme Court	1816/2001	National Court decision 18/01/2001
Upheld the National Court decision dated 18 January 2001 in connection with the imposition of penalties against the appellants for infractions under article 99.*q)* in connection with articles 71.*a)* and 71.*j)* of the Securities Market Law via Economy and Finance Ministry order dated 31 July 1998.				
11	19/07/2004	National Court	1115/2001	Economy and Finance Ministry order 14/09/2000
Confirmed the penalty imposed by Economy and Finance Ministry order dated 14 September 2000 for infractions under articles 100.*c)*, 100.*g)* and 100.*o)* of the Securities Market Law.				
12	26/07/2004	National Court	893/2001	Economy and Finance Ministry order 12/12/2000
Confirmed the penalty imposed by Economy and Finance Ministry order dated 12 December 2000 for an infraction under article 99.*q)* in connection with article 71 of the Securities Market Law.				
13	8/09/2004	National Court	892/2004	Economy and Finance Ministry order 12/12/2000
Confirmed the penalty imposed by Economy and Finance Ministry order dated 12 December 2000 for infractions under articles 99.*a)* and 99.*q)* of the Securities Market Law.				
14	27/10/2004	National Court	15/2002	Economy and Finance Ministry order 6/11/2001
Confirmed the decision adopted by Economy and Finance Ministry order dated 6 November 2001 regarding precautionary measures of indeterminate amount imposed by the CNMV.				

Part IV

CNMV: organization, finance and institutional aspects

[15] Organization

The year saw the appointment of a new President and Vice-President of the CNMV, as well as changes in the powers delegated to them and to the Executive Committee[1]. Additionally, the new Directorate of Internal Control, reporting directly to the Executive Committee, and the Directorate of Financial and Accounting Reports, which is part of the Directorate-General of Markets and Investors, began to operate.

The CNMV had a workforce of 318 at the end of 2004, which was slightly lower than at the end of 2003, although a large number of employees were due to be inducted in the first half of 2005 following the Public Sector Hiring Process of 2004.

Additionally, practically all of the internal operating procedures established by the July 2003 CNMV Internal Regulation were approved during 2004.

15.1. Organization chart[2]

In accordance with the provisions of the Securities Market Law, the Government, at the proposal of the Minister of Economy and Finance, appointed Manuel Conthe Gutiérrez and Carlos Arenillas Lorente as President and Vice-President, respectively, of the Comisión Nacional del Mercado de Valores[3]. Both appointments came as a result of the expiration of the terms of office of their predecessors, Blas Calzada Terrados and Juan Jesús Roldán Fernández.

During 2004, the CNMV completed the organisation structure envisaged in its Internal Regulation, which was approved in July 2003[4] with the entry into operation of the Directorate of Internal Control and the Directorate of Financial and Accounting Reports.

The mission of the Directorate of Internal Control is to inform the Executive Committee, to which it reports directly, on compliance and speed of processes, the suitability of supervision and inspection procedures, and the general application of the internal control procedures. This Directorate is also entrusted with drafting an annual report about the degree to which the decisions of the CNMV's governing bodies conform to the applicable regulations in each case, which report must be attached to the supervisory report envisaged in point 2 of Additional Provision two of the Law on Measures to Reform the Financial System.

The Directorate of Financial and Accounting Reports, which reports to the Directorate-General of Markets and Investors, is in charge of supervising compliance by listed companies with their obligations regarding financial reporting and auditing. This Directorate is also entrusted with supervising compliance with reporting requirements regarding corporate governance (annual corporate governance report), significant holdings and own shares, among other matters.

In December 2004, the CNMV Board authorised the creation of units to provide direct support to the President and Vice-President of the CNMV. The creation of these two units required amendments to the Internal Regulation[5].

15.2. Human resources

The CNMV had 318 employees at the end of 2004, i.e. 7 less than at 2003 year-end[6]. As the following tables show, the

[1] See Annexes IV.1 and IV.2.
[2] See Annex IV.4.
[3] Royal Decrees 1991/2004 (President of the CNMV) and 1992/2004 (Vice-President), dated 1 October, effective 6 October.
[4] CNMV Board Resolution dated 10 July 2003 approving the CNMV Internal Regulation.
[5] CNMV Board Resolution dated 14 December 2004. A point 6 was added to article 17 («Directorates-General») of the Internal Regulation, which provides for the possibility of creating such units with the status to be determined by the Board.
[6] However, in terms of average employee numbers, the workforce increased in 2004 to 322 (302 in 2003). This variation is due to differences in the timing of hires during the year.

decline in staff was mainly due to the departure of interns at the Directorates-General of Entities and of Markets and Investors. As a result, the ratio of line staff to staff engaged in horizontal activities declined slightly, from 2.10 in 2003 to 2.03 in 2004.

At the end of 2004, the CNMV commenced a process to hire at most 60 new employees. Of those 60, who will be hired in the first half of 2005, ten will be administrative staff and 50 will be technical personnel. Except for very specific specialist areas, such as: International Accounting Standards, Lawyers, Computer Technicians and Documentalists, which account for a total of 9 positions, all the other technical positions at the directorates-general will be covered in just two selection processes. The first such process will focus on professionals with over three years' experience in fields similar to those in which the CNMV operates, and the second will focus on persons with solid post-graduate training but no previous experience.

Moreover, these selection processes are the first to be conducted under the requirements of the CNMV Internal Regulation.

Table 15.1

CNMV staff: composition by professional category

	Number of employees	
Category	**2003**	**2004**
Services	9	9
Clerical	51	50
Technical interns	8	0
Technical	237	237
Management	20	22
Total	**325**	**318**

Table 15.2

Breakdown of CNMV staff by division

	2003	2004
Line Directorates-General:	220	213
Entities	109	104
Markets and Investors	75	73
Legal Counsel	36	36
Directorates	94	94
Board	11	11
Total	**325**	**318**

15.3. Information systems

In 2004, the CNMV enhanced its information systems in order to provide greater security in hardware and software. It also implemented and improved its computer applications and expanded e-government services as a means of facilitating paperwork for entities under its supervision.

In particular, new applications were implemented for uploading and processing the corporate governance report of listed companies, for the new register of takeover bids, and for new alerts for the warrants market.

Services of e-government have been enhanced by the inclusion, in the «CNMV Online» service, of two major processes: payment of fees (the online channel is voluntary in this case) and submission by issuers of their annual corporate governance report (obligatorily online). It is now possible to perform 30 different process online: the use of the online channel is obligatory in five cases, but it also predominates in the processes where its use is voluntary. These processes can be divided into three major groups:

a) 23 processes performed directly using the CIFRADOC/CNMV encryption and electronic signature system (see table 15.3). Some of these processes can only be carried out online.
b) 4 fee payment processes, which require the use of a public key certificate accepted by the State Tax Administration[7].
c) 3 processes of obtaining data feeds for professional disseminators, public agencies and authorised users, which require a username and password.

15.4. Internal procedures

Internal procedures are approved by the Executive Committee at the proposal of the President on the basis of a prior report by the Legal Counsel Directorate. Procedures take the form of service instructions signed by the President, who may order their publication in the Official State Gazette if they are considered to be of public interest; none have been so published to date.

[7] Ministry of Finance Order 729/2003.

Table 15.3
Processes that can be carried out using CIFRADOC/CNMV

Investment firms
Registration and changes at broker-dealers, brokers and portfolio management companies
Filing of financial statements of broker-dealers, brokers and portfolio management companies
Filing of financial statements of consolidable groups of broker-dealers and brokers
Filing of statistical statements by foreign IICs
Monitoring of ongoing processes
Issuers
Disclosure of significant events
Filing of the commercial paper placement reports
Filing of quarterly and half-yearly financial statements(1)
Filing of the annual corporate governance report(1)
Filing of information about securitised notes
AIAF market
Admissions to listing
Daily trading
Collective investment schemes
Registrations and updates of IIC prospectuses(1)
Disclosure of significant holdings by mutual funds(1)
Filing of IIC financial statements
Filing of statistical information for the European Union
Filing of management companies' financial statements
Filing of statistical statements of foreign IICs
Filing of real estate funds' financial statements
Filing of quarterly and half-yearly public financial statements of SIM and SIMCAV
Monitoring of ongoing processes
Venture capital firms
Filing of financial statements(1)
Monitoring of ongoing processes

(1) May only be processed online.

The general structure of a procedure is as follows:

1. Scope and applicable legislation.
2. Forms, channels and deadlines for the reception of information or requests.
3. Verification, control, demands and authorisation to be performed by the CNMV.
4. Publication and dissemination of information.
5. Envisaged exceptions.
6. Manuals of action, to be drafted by the Directors-General and the Directors attached to the Presidency or Vice-Presidency for the compliance with, and practical application of, the provisions contained in the procedures (however, these manuals are not public and are not legally binding).
7. Date of entry into force of the procedure.

Practically all of the internal operating procedures established by the CNMV Internal Regulation, dated 10 July 2003, were approved during 2004. Specifically, the following were approved:

1. **Relating to entities and persons participating in the securities markets:**
   a) Procedure to authorise investment firms, collective investment schemes and venture capital companies (PAE).
   b) Procedure on amendments to bylaws, regulations and services provided by the companies, institutions and entities operating in securities markets (PME).
   c) Procedure for issuing subpoenas and requests for data and reports from the companies, institutions and entities operating in the securities markets (PFR).

d) Procedure for the supervision and inspection of companies, institutions, persons and entities operating in the securities markets (PSI).

2. **Relating to the issuance of securities:**
   a) Procedures for processing issues, public offerings of securities and listing of securities (PVV).
   b) Procedures for the suspension and exclusion of certain securities from trading on the official markets (PSE).
   c) Procedure for processing takeover bids (PAV).
   d) Procedures for regular disclosures by issuers (PIP).
   e) Procedure for disclosure of significant information (PHR).
   f) Procedure for disclosing significant holdings and the acquisition of own shares (PPS).

3. **Relating to administration and services:**
   a) Procedure for the administration, settlement, notification and collection of the applicable fees for activities and services provided by the CNMV (PRT).
   b) Procedure for the selection and hiring of staff (PSC).

At the end of 2004, the following procedures had been drafted and were awaiting approval:

1. **Relating to entities and persons participating in the securities markets:**
   a) Procedures for disclosures and reporting by investment firms, collective investment schemes and venture capital firms.

2. **Relating to the issuance of securities:**
   a) Procedure for the supervision of market management companies, members of secondary markets, securities clearing and settlement services, and the *Sociedad de Bolsas*.

3. **Relating to administration and services:**
   a) Procedure for coding of tradable securities and other financial instruments.
   b) Procedure for management of secondments.
   c) Procedure for economic management.
   d) Procedure for administrative contracts.

[16] Finances

16.1. Revenues and expenses

In 2004, the CNMV obtained 47.7 million euro in revenues and incurred 28.4 million euro in expenses; therefore, the surplus for the year amounted to 19.3 million euro.

The bulk of revenues were from fees: 43.1 million euro, 19.9% more than in 2003. The other revenues were mainly from interest and, to a lesser extent, from the sale of publications and other sources (professional information disseminators, recovery of the expenses of publishing notices of exclusion from trading in the Official Bulletin of the Mercantile Register, expenses charged to winners of tenders, etc.).

Total expenses increased by 14.7% with respect to 2003. Personnel expenses, which account for 65% of the total, increased by 10% as a result of a 6.6% increase in the average workforce. Other expenses increased by 24.4% with respect to the previous year. The increase in non-personnel expenses is due basically to the variation in operating provisions as a result of the change in 2003 in the regulations governing the method of calculating bad debt provisions, and the increase in fixed asset depreciation and amortisation between 2000 and 2004 as a result of changes in accounting methods, since computer software is now capitalised under intangible assets.

The «Other management expenses» item, which represents 27.7% of total expenses, declined by 1.1% with respect to 2003 due basically to a reduction in office lease expenses (since the IOSCO headquarters moved to permanent premises), lower communications costs, and a lower level of outsourcing.

16.2. Fee structure

Most categories of CNMV fees were increased in 2004 (see table 16.1), particularly those for registration of prospectuses and for market supervision. The main changes in fees were as follows:

- The increase in prospectus registration fee revenues was due to increased fixed-income issues. There was a sharp increase in revenues for vetting AIAF listing requirements.
- In the area of market supervision fees, there was a considerable increase in revenues for supervision of members of the Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores (registration, clearing and settlement system) as a result of the increase in the system balances.
- IIC supervision fees accounted for the bulk of the increase in market participant supervision fee revenues.

Early in 2005, in the context of the fixed-income competitiveness plan, the CNMV proposed to the Government to amend the limits on the CNMV's fees to issuers and financial institutions for vetting and supervision activities relating to the fixed-income market. The amendment involves a substantial reduction in the fees for a number of items, either by reducing the applicable rate or by imposing a cap on fees which were not previously capped. The Government included the proposal in a draft law on tax reforms to enhance productivity, which was presented to Parliament on 18 March. The Law will foreseeably be approved by mid-2005.

Table 16.1
CNMV fee revenues
Thousand euro

Activity or service	2003	2004	Change (%)
Registration of prospectuses and market participants	**10,438.3**	**12,370.0**	**18.5**
Prospectus registration	9,092.7	11,536.8	26.9
Issue prospectuses	5,530.5	5,999.5	8.5
Listing prospectuses	108.3	108.6	0.3
Vetting of AIAF listing requirements	3,453.9	5,428.7	57.2
Market participant registration	783.4	631.8	−19.4
Authorisation of takeover bids	562.2	201.5	−64.2
Market supervision	**16,104.5**	**19,856.2**	**23.3**
Members of AIAF	111.7	133.1	19.2
Members of the Sociedad de Sistemas	11,157.2	14,871.1	33.3
Stock exchange members	4,590.2	4,595.5	0.1
MEFF RF members	3.4	3.4	2.0
MEFF RV members	241.6	252.4	4.5
MFAO members	0.0	0.7	–
FC&M members	0.4	0.0	–
Market participant supervision	**9,411.5**	**10,899.5**	**15.8**
IIC supervision	8,642.7	10,091.3	16.8
FIM and FIAMM	7,628.4	8,899.1	16.7
SIM and SIMCAV	914.7	1,054.7	15.3
Real estate investment funds	98.6	135.8	37.8
Securities investment companies	1.0	1.7	74.0
Supervision of IIC and FTH operators	197.1	210.4	6.7
IIC operators	188.8	200.2	6.0
Securitisation fund operators	8.3	10.2	23.1
Supervision of investment firms	571.7	597.8	4.6
Portfolio management companies	17.9	17.1	−4.6
Broker-dealers and brokers	553.8	580.7	4.9
Issuance of certificates	**1.0**	**0.8**	**−21.6**
Total	**35,955.3**	**43,126.6**	**19.9**

[17] Institutional relations

17.1. Relations with other Spanish supervisors

In accordance with the Securities Market[1] Law, the CNMV is entrusted with the supervision and inspection of the securities markets and all their participants, even if they are subject to supervision relating to solvency by other agencies. Accordingly, the laws regulating the supervision of credit institutions[2] and private insurance companies[3], which can participate in the securities markets, stipulate that the powers to oversee and discipline these entities lie, respectively, with the Bank of Spain and the Ministry of Economy's Directorate-General of Insurance and Pension Funds.

Without prejudice to this distribution of powers under the law, it would seem advisable to have mechanisms for cooperation between the agencies with responsibility for the various segments of the financial sector in order to exchange information and standardise supervisory approaches. As a result of this need, the CNMV signed Cooperation Agreements with the Bank of Spain on 9 June 2004 and with the Directorate-General of Insurance on 9 September 2004.

These Cooperation Agreements establish the points where the supervisory bodies' powers converge. These derive mainly from the fact that supervised entities may engage in activities related to the securities markets and from the existence of groups of financial institutions which include entities involved in lending and insurance along with investment firms and collective investment institutions. The main features addressed in the Agreements are as follows:

- Cooperation between supervisory bodies must be based on the principles of respect for their respective spheres of influence, confidentiality, mutual assistance, efficiency, and transparency.
- They delimit the responsibilities and functions attributed to each supervisory body by its sectoral regulations.
- They establish a system of cooperation through the exchange of information in cases of cross holdings between lending institutions, insurance institutions and entities subject to the supervision of the CNMV, and for cases in which weakness or difficulties in a group comprising entities in different sectors may have a significant repercussion in situations of potential systemic shocks.
- They also establish a system for cooperation in the case of overlap of powers between the Bank of Spain and the CNMV in the supervision of the securities activity, and a system for technical cooperation regarding the exchange of information on the financial system and supervisory techniques. The authorities involved can refer technical queries to each other or hold meetings to exchange opinions on regulation of the financial system, supervision techniques and other aspects of mutual interest, and they will cooperate in staff training, for which purpose they agree to exchange invitations to attend courses, seminars or training sessions that may be of interest. Additionally, the heads of training and planning at the supervisory authorities will consider the use of experts from the other authority as speakers in courses, seminars and information sessions.
- Other forms of cooperation are also established, basically providing the other supervisory authorities with a channel to international supervisory bodies and the possibility of joint publications.
- The Agreements also regulate forms of cooperation via contacts or meetings between the supervisory authorities; for this purpose, each agency appoints a liaison officer to channel queries and requests for information. Apart from ad hoc contacts and meetings, the Agreements envisage an annual meeting between the representatives of the agencies.

---

[1] Law 24/1988, dated 28 July, on the Securities market (amended by Laws 37/1998, dated 16 November, 14/2000, dated 29 December, 24/2001 27 December, 44/2002, dated 22 November, and 53/2002, dated 30 December, amended by Law 22/2003, dated 9 July, on Bankruptcy, Law 26/2003, dated 17 July, 35/2003, dated November, and Law 62/2003, dated 30 December).

[2] Law 26/1988, dated 29 July, on the oversight and intervention of credit institutions (by express reference in the Securities Market Law and the IIC Law), amended by Law 3/1994, dated 14 April, adapting Spanish legislation on credit institutions to the second Banking Coordination Directive.

[3] Law 30/1995, dated 8 November, on the governance and supervision of private insurance.

The Agreements may be amended by mutual agreement where necessary for optimal attainment of their purpose, to adapt to new legislative developments that affect their content, or to include principles or recommendations by international institutions of which Spain is a member.

The Agreements run for one year, and they are renewed automatically unless either party gives notice, at least 15 days before expiration, that it does not wish to renew.

17.2. International relations

The CNMV is an active member of a number of international and European Union organisations whose purpose is to debate the regulation and supervision of the securities markets and to foster bilateral and multilateral cooperation between regulators and supervisors. The CNMV's intensive participation in CESR working groups has already been discussed in section 11.1. in the chapter on Regulation.

Table 17.1
Attendance at international meetings and participation in technical assistance missions

	Number of meetings	
Organization	**2003**	**2004**
CESR	59	102
IOSCO	42	35
European Union	64	35
OECD	7	9
Other forums	16	20
Total	**188**	**201**
Technical assistance missions	2	4

17.2.1. International Organization of Securities Commissions (IOSCO)

IOSCO is the body which groups the supervisors of the world's main securities markets. Its 180 members supervise over 90% of the world's markets. IOSCO was founded in 1983 and its headquarters are located in Madrid. For operational purposes, it is organised into four regions: Asia-Pacific, Interamerican, Africa/Middle East, and Europe. There are other committees which are not geographical, such as the Technical Committee and the Emerging Markets Committee.

In 2004, the Technical Committee updated the specific functions and tasks assigned to the five standing committees (described below). The CNMV played an active role in the standing committees.

Accounting, auditing and dissemination of information

Accounting standards-setting: this standing committee worked in cooperation with the International Accounting Standards Board (IASB)[4] to strengthen its independence, enhance transparency in its work and address other aspects that may require future action. Additionally, a working group was created to foster harmonisation of International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS).

Audit Standard-Setting: there was a notable institutional reform in the International Federation of Accountants, leading to the creation of a Public Interest Oversight Board (PIOB) to supervise the work of the IAASB[5]. This body's goal is to implement mechanisms to improve the process of setting international audit and oversight standards.

Secondary markets

A report on transparency in corporate debt markets was published[6]. That document analyses and compares reporting requirements and transparency mechanisms used in the most developed countries and highlights the main problems to be overcome in order to improve the transparency of private fixed-income markets.

Another report dealt with share buybacks[7]. It analyses the various regulatory approaches adopted by the committee's member states to guarantee fair treatment of shareholders and ensure that stock repurchases are executed with respect for organised market requirements and integrity.

Intermediaries

Responding to the growing cross-border provision of investment services without a physical establishment, a report was published on the subject[8].

[4] IOSCO has two representatives in the IASB's Standard Advisory Committee, one of whom is currently CNMV Director Rafael Sánchez de la Peña.
[5] International Auditing and Assurance Standard Board.
[6] Transparency of Corporate Bond Markets, Report of the Technical Committee of IOSCO, IOSCOPD168.
[7] Stock Repurchase Programs, IOSCOPD161.
[8] Regulation of Remote Cross-Border Financial Intermediaries, Report of the Technical Committee of IOSCO, IOSCOPD162.

Enforcement and exchange of information

In 2004, IOSCO analysed the possibility of establishing technical assistance programmes in coordination with other international organisations and financial institutions in order to improve cooperation and the exchange of information with countries where securities regulation is incomplete and with non-member countries.

The joint working group, comprising members of the Technical Committee and the Emerging Markets Committee, continued to examine applications from members to adhere to the Multilateral Memorandum concerning Consultation and Cooperation and the Exchange of Information[9].

Collective Investment Schemes

The following documents of interest were published:

- *Index Funds and the Use of Indices by the Asset Management Industry* (IOSCOPD163) analyses how IICs use stock market indexes, summarises members' experience with these index-tracking funds, and expresses opinions about their regulation.
- *Final Report on Elements of International Regulatory Standards on Fees and Expenses of Investment Funds. Report of the Technical Committee of IOSCO* (IOSCOPD178).
- *An Examination of the Regulatory Issues Arising from CIS Mergers. Report of the Technical Committee of IOSCO* (IOSCOPD179), which sought to determine whether mergers are allowed in the various jurisdictions and examine the possibility of cross-border mergers.
- Final version of the report *Performance Presentation Standards For Collective Investment Schemes: Best Practice Standard. Report of the Technical Committee of IOSCO* (IOSCOPD169), which included a process of consultation with the industry and the general public.

Moreover, the corporate crises of recent years, such as the Parmalat case, set the agenda for IOSCO in 2004 by highlighting the need to strengthen certain areas under the supervision of securities commissions, such as corporate governance, the role of intermediaries, the role of analysts, and cooperation between supervisors to avoid fraud and market abuse using off-shore financial centres. To this end, in February 2004 the Technical Committee established a Committee of Chairpersons, which completed its report early in 2005.

In 2004, a series of *Principles on Client Identification and Beneficial Ownership for the Securities Industry*[10] was published with a view to improving the legal framework for processes where intermediaries are obliged to ascertain their client's identity. Though differing from those already established for banks, these principles are consistent with the recommendations drafted by GATI-FATF[11].

Finally, following a process of consultation in which the industry played an active role, the report entitled *Code of Conduct Fundamentals for Credit Rating Agencies*[12] was published. The Report describes how rating agencies should try to avoid potential conflicts of interest, improve transparency in rating processes while safeguarding their integrity and independence, and remain impartial vis-à-vis issuers, investors and other market participants.

17.2.2. Cooperation with Latin America

As in previous years, the CNMV cooperated actively with Latin American securities regulators, mainly through the Instituto Iberoamericano del Mercado de Valores (IIMV). Additionally, the CNMV provided technical assistance to Latin American regulators by responding to queries, receiving visits, and sending CNMV technical staff to visit those countries. The CNMV is aware of Latin America's growing importance for Spanish companies and investors and, consequently, devotes particular attention to relations with its counterparts in that region.

Some of the main activities in this area are described below.

- Participation in the «Financial System Stability Assessment of Colombia» as part of a joint IMF/World Bank mission to assess compliance with international securities markets standards as enshrined in the IOSCO principles.
- In the framework of the IOSCO's pilot programme to assess various countries' compliance with its Goals and Principles, a representative of the CNMV was selected to act as advisor and assessor in connection with El Salvador.
- As a member of the IOSCO working group for implementing the organisation's principles, CNMV sent speakers to

---

[9] IOSCO Multilateral MOU.
[10] IOSCO Report, IOSCOPD167.
[11] Available on the web site of the Financial Action Task Force www.fatf-gafi.org/pdf/40Recs-2003_en.pdf.
[12] Report of the Technical Committee of IOSCO, IOSCOPD180.

regional seminars, such as the one in Tegucigalpa for training staff of Latin American regulators.

- The CNMV attended, as an observer, the meetings of the Consejo de Autoridades Reguladoras de Valores de las Américas (COSRA), which debated such issues as SME financing and technical training for regulators. A number of expert panels were held to discuss progress in accounting convergence.

Instituto Iberoamericano del Mercado de Valores (IIMV)

The Instituto Iberoamericano del Mercado de Valores, of which the CNMV is founder member, continued working to advance and modernise Latin America's securities markets by improving the legal framework and fostering cooperation between regulatory and supervisory authorities.

To this end, a number of training, cooperation and awareness-raising activities were organised, in which 232 staff members from 19 different securities commissions participated.

During 2004, the main lines of work by the IIMV, in cooperation with the CNMV and Spain's Directorate-General of the Treasury and Finance Policy were related to financial and accounting disclosure, integration of Latin America's markets, technological assistance, and cooperation in information systems.

17.2.3. Other international forums

Joint Forum

The Joint Forum was established in 1996 under the aegis of the Basel Committee on Banking Supervision (Basel Committee), the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS).

The working groups in which the CNMV participated published the following documents: (i) *Financial Disclosure in the Banking, Insurance and Securities Sectors: Issues and Analysis*[13], which reflected the progress made by financial firms in applying the Fisher II recommendations[14] to strengthen and enhance disclosure, and (ii) a consultative paper on *Credit risk transfer*[15], which deals with financial instruments that involve the transfer of risk, their management by market participants, and the need to expand regulatory disclosure requirements.

CPSS-IOSCO Joint Task Force

During 2004, a document entitled *Recommendations for Central Counterparties*[16] was published. The recommendations were released after a period of public consultation and with the approval of the IOSCO Technical Committee and the G10 Governors at the Bank for International Settlements. The document provides 15 recommendations that focus on risk management as part of the activities of central counterparties. It also includes a methodology for assessing compliance with the recommendations by jurisdictions and by individual institutions.

In October, CESR and the Board of the European Central Bank approved a document on standards for securities clearing and settlement in the European Union. This work entailed the adaptation of the CPSS-IOSCO recommendations[17] to the European situation with the aim of increasing the security and efficiency of the European Union's securities settlement systems. The two institutions are drafting a methodology for assessing these standards (due for release in the fourth quarter of 2005) and on adapting the «CPSS-IOSCO Recommendations for Central Counterparties» mentioned above.

International financial institutions

In 2004, the CNMV joined the International Monetary Fund/World Bank teams tasked with the financial sector evaluation programmes in the jurisdictions of Italy and Colombia.

OECD

During 2004, the CNMV continued to assist the Directorate-General of the Treasury and Finance Policy in the OECD working group to review the OECD Principles of Corporate Governance: 1999. The document reflects member countries' experiences in facing new challenges in the field of corporate governance. The Principles set out a series of non-binding standards, together with a list of best practices and an implementation guide.

---

[13] May 2004.
[14] Final Report of the Multidisciplinary Working Group on Enhanced Disclosure, April 2001.
[15] October 2004.
[16] Released in March 2004, amended in November 2004.
[17] Recommendations for Securities Settlement Systems, November 2001, and Assessment methodology for «Recommendations for Securities Settlement Systems», November 2002; both issued by the Committee on Payment and Settlement Systems and the IOSCO Technical Committee.

[18] National Securities Numbering Agency (ANCV)

The CNMV discharges the functions of the National Securities Numbering Agency (ANCV), whose main goal is to administer International Securities Identification Numbers (ISIN) and to facilitate their use. The ANCV is a full member of the International Association of National Numbering Agencies (ANNA).

The ANCV was again very active in 2004. This was assisted by, among other factors, the greater knowledge, dissemination and acceptance of ISIN and CFI codes among market participants, both domestic and foreign.

The ANCV data base increased by 10% in 2004 to 21,097 references. This was due to an increase in issues of securitisation bonds and warrants, greater trading in ISIN-numbered future and option contracts, and a sustained high level of commercial paper issuing. At year-end, there were 18,874 financial instruments with a current ISIN, i.e. 7% more than in 2003. Listed securities and instruments accounted for 45% of the total.

The trend in the number of queries to the ANCV was maintained. The number of direct queries to the Agency is declining due to increasing use of the web site as a source of information. A total of 1,162 direct queries were received in 2004, compared with 1,943 in 2003 and 2,140 in 2002. Of the total, 67% of queries referred to domestic codes, and the remainder to foreign codes.

Table 18.2

Queries handled directly by the ANCV

	2003	2004	Change (%)
Spanish codes	1,400	784	−44.0
Foreign codes	543	378	−30.4
Total	**1,943**	**1,162**	**–40.2**

Table 18.1

Number of securities and other financial instruments with an ISIN at 31/12/2004(1)

	Listed			Total		
	2003	2004	Change (%)	2003	2004	Change (%)
Public debt(2)	252	249	−1.2	257	255	−0.8
Equities(3)	3,217	3,306	2.8	13,021	13,268	1.9
Debentures	357	366	2.5	452	456	0.9
Bonds	397	561	41.3	422	584	38.4
Covered bonds	61	71	16.4	87	96	10.3
Commercial paper	1,560	1,662	6.5	1,560	1,662	6.5
Warrants	587	835	42.2	752	1,028	36.7
Treasury Bills	11	9	−18.2	11	9	−18.2
Options	1,051	1,472	40.1	1,051	1,472	40.1
Futures	27	44	63.0	27	44	63.0
Total	**7,520**	**8,575**	**14.0**	**17,640**	**18,874**	**7.0**

(1) ANCV data base. ISIN code.
(2) Except Treasury Bills.
(3) Shares, mutual fund shares and other equities.

[1] International Securities Identification Numbering System.
[2] Classification of Financial Instruments.

[19] CNMV Advisory Committee

The CNMV Advisory Committee is the body which provides advice to the Board. Its opinion must obligatorily be sought before decisions are made on any of the following issues:

1. Approval of CNMV Circulars.
2. Imposition of penalties for very serious violations.
3. Authorisation, revocation and mergers and takeovers of investment firms.
4. Authorisation and revocation of branches of investment firms from non-EU Member States.

In addition to its consultative role to the Board, the Advisory Committee provides advice on draft regulations relating generally to the securities markets which are referred to it by the Government or the Ministry of Finance.

The Committee is composed of representatives of issuers, investors, markets and the autonomous regions with devolved powers in the area of securities markets[1]. The Committee is chaired by the Vice-President of the CNMV, who does not have a vote.

The CNMV wishes to enhance the role of the Advisory Committee so that it acts as a channel for the opinions and concerns of the various market participants. For this reason, late in 2004, the Committee began to issue opinions on regulatory initiatives arising at international bodies, since these (particularly those of the EU) are normally reflected in domestic legislation. It was decided to establish a Technical Secretariat to support the Committee in this area.

This new facet of the Advisory Committee's activity will enable the financial industry and the other participants in the Spanish markets to express their position on international regulatory initiatives, particularly with regard to measures likely to be implemented in the short term. The Committee's opinion will also be invaluable for the CNMV when designing its own lines of action in international forums.

To date, the activities of the Advisory Committee in this area have focused on the work of the Committee of European Securities Regulators (CESR) relating to implementing regulations for Directive 2004/39/EC on Markets in Financial Instruments. The Advisory Committee's activities in this area will continue to expand in 2004 so as to make it an effective channel for informing the Board about the opinion of market participants on all relevant matters of regulation.

[1] See Annex IV.A.3.

Annex IV.1

Composition of the CNMV Board

President

Manuel Conthe Gutiérrez[1]

Vice-President

Carlos Arenillas Lorente[2]

Commissioners

Soledad Núñez Ramos[3]

Gonzalo Gil García

Soledad Plaza y Jabat

Juan Junquera González

Luis Perezagua Clamagirand

Secretary

Javier Rodríguez Pellitero[4]

[1] Appointed by Royal Decree 1991/2004, dated 1 October, effective 6 October. Took the place of Blas Calzada Terrados.

[2] Appointed by Royal Decree 1992/2004, dated 1 October, effective 6 October. Took the place of Juan Jesús Roldán Fernández.

[3] Director-General of the Treasury and Finance Policy. Appointed by Royal Decree 133/2005, dated 4 February. Took the place of Belén Romana García.

[4] Appointed by a resolution of the CNMV Board dated 28 December 2004, effective 13 January 2005. Took the place of José María Garrido García.

.

Annex IV.2

Composition of the CNMV Executive Committee[1]

President

Manuel Conthe Gutiérrez

Vice-President

Carlos Arenillas Lorente

Commissioners

Soledad Plaza y Jabat

Juan Junquera González

Luis Perezagua Clamagirand

Secretary

Javier Rodríguez Pellitero

[1] The creation, constitution and functions of the Executive Committee are regulated by Article 18 of Securities Market Law 24/1988, dated 28 July, as amended by Law 44/2002, dated 22 November, on Measures to Reform the Financial System.

Annex IV.3

Composition of the CNMV Advisory Committee[1]

President
Carlos Arenillas Lorente
Secretary
D. Javier Rodríguez Pellitero
Members:
Representatives of the members of the official secondary markets:
Member: Sebastián Albella Amigo
Alternate: Ignacio Olivares Blanco
Member: Jaime Aguilar Fernández-Hontoria
Alternate: Manuel Ardanza Fresno
Member: José Mª Antúnez Xaus
Alternate: Antonio Gallego González
Member: Ignacio Solloa Mendoza
Alternate: Luis Vía Fernández
Member: Francisco Oña Navarro
Alternate: Julio Alcántara Lera
Member: Ignacio Gómez-Sancha Trueba
Alternate: Ana Ibáñez Díaz-Bustamante

Representatives of issuers:
Member: José Mª Méndez Álvarez-Cedrón
Alternate: Juan Carlos Manzano-Monis López-Chicheri
Member: José Luis Alonso Iglesias
Alternate: Mª Teresa Sáez Ponte
Member: Ana Bartolomé Delicado
Alternate: Teresa Conesa Fábregues
Member: Juan Luis Sabater Navarro
Alternate: Luis Cortés Domínguez

Representatives of investors:
Member: Manuel Pardos Vicente
Alternate: Ana Isabel Ceballo Sierra
Member: Pilar González de Frutos
Alternate: Mª Aranzazu del Valle Schaan
Member: Antonio Mª Malpica Muñoz
Alternate: José Manuel Pomarón Bagües
Member: Mariano Rabadán Forniés
Alternate: Ángel Martínez-Aldama Hervás

Representatives of the Autonomous Regions with official secondary markets:

Basque Country:
Member: Juan Miguel Bilbao Garai
Alternate: Miguel Bengoechea Romero

Cataluña:
Member: Miquel Salazar i Canalda
Alternate: Josep María Sánchez i Pascual

Valencia:
Member: Enrique Pérez Boada
Alternate: Nicolás Jannone Bellot

[1] Royal Decree 504/2003, dated 2 May, which regulated the CNMV Advisory Committee, applied for the first time to the replacement of the members of the Advisory Committee on 1 April 2004..

Annex IV.4

Structure of the CNMV

Directorate-General	Directorate	Subdirectorate
Securities Market Participants Antonio Carrascosa	Supervision Mª José Gómez	Investment firms
		Support unit
		Collective investment schemes
	Authorisation and registration Antonio Moreno	Investment firms, fund managers and venture capital
		IIC and foreign funds
		Support unit
Legal Affairs Javier Rodríguez	Legal Counsel	
	Litigation Silvia García	
		Market Monitoring Unit
Markets and Investors Ángel Benito	Investors Elena Brito	
	Primary markets Carlos Lázaro	Issuers
		Takeovers
	Secondary markets Antonio Mas	Equities
		Fixed-income
		Derivatives
	Financial reports Paulino García	Financial disclosure
		Corporate governance

Annex IV.4

Structure of the CNMV *(Continued)*

Directorate-General	Directorate	Subdirectorate
	Information systems Francisco Javier Nozal	Development and ANCV
		Infrastructure
	General secretariat Salvador Meca	Finance
		Procedures
		Complaints and general regulations
		Internal regulations
		Official registers and documentation
	International relations Rodrigo Buenaventura	
	Studies and statistics Nieves García	Studies
		Statistics
		Communication
	Assistant to the President Rafael Sánchez	Barcelona office
	Internal control[1] Margarita García	

(1) Under article 41 of the CNMV Internal Regulation, this body reports directly to the CNMV Executive Committee.

Annual report of the CNMV 2004

Part V

Report by internal control body

Directore of Internal Control

INTERNAL CONTROL REPORT ON THE CONFORMITY OF THE DECISIONS ADOPTED BY THE CNMV'S GOVERNING BODIES TO THE PROCEDURAL REGULATIONS APPLICABLE IN EACH CASE

(Second Additional Provision of Law 44/2002).- 2004

CNMV Comisión Nacional del Mercado de Valores

Directore of Internal Control

I.- INTRODUCTION

The Internal Control Directorate of the Comisión Nacional del Mercado de Valores has examined the degree to which the decisions adopted by the CNMV's governing bodies conformed to the procedural regulations applicable in each case, in accordance with the Internal Control Action Plan approved by the Commission's Board on 28 December 2004, thus discharging the duty imposed by the Second Additional Provision of Law 44/2002, dated 22 November, on Measures to Reform the Financial System (published in the Official State Gazette on 23 November).

The work was performed in accordance with the International Standards for the Professional Practice of Internal Auditing of the Institute of Internal Auditors (IIA), as established by the Rules for Internal Audit of the CNMV approved by the Commission's Board on 28 December 2004.

The report was referred to the Executive Committee, in compliance with rule 11.4 of the Rules for Internal Audit of the CNMV, on 31 March 2005. The comments received on 5 April have been incorporated into the report.

II.- OBJECTIVE AND SCOPE

The purpose of the audit work was to determine the degree to which the decisions adopted by the CNMV's governing bodies in 2004 conformed to the applicable procedural regulations.

The specific regulations applicable to the CNMV's procedures were as follows:

- Securities Market Law (Law 24/1998, dated 28 July).
- CNMV Internal Regulations (RRI).
- CNMV Internal Operating Procedures, in the terms of articles 38, 39 and 40 of the RRI.

There were no scope limitations on the performance of the work.

Directore of Internal Control

III. OPINION

In our opinion, having completed the audit work, it can be concluded that, during 2004, the governing bodies of the Comisión Nacional del Mercado de Valores, within the scope of the supervision assigned to them by the Securities Market Law and other regulations, complied with the requirements of the procedural rules that were applicable in each case, with the exceptions described below:

- In two of the cases analysed, the decision in disciplinary proceedings was issued after the deadline established in article 9.2 of Royal Decree 2119/1993, dated 3 December, on disciplinary proceedings applicable to financial market participants.
- A discrepancy was detected between the procedure approved for the suspension of fixed-income securities and the CNMV's delegation decisions; this matter was resolved by means of the Resolution for the Delegation of Competencies dated 14 December 2004.

Madrid, 8 April 2004
Director of Internal Control

Margarita García Muñoz

EXECUTIVE COMMITEE

CNMV Comisión Nacional del Mercado de Valores

At its meeting on 31 March 2005, the Executive Committee of the Comisión Nacional del Mercado de Valores took cognizance of the ***"Provisional Internal Control Report on the Conformity of the Decisions adopted by the CNMV'S Governing Bodies to the Procedural Regulations applicable in each case (Second Additional Provision of Law 44/2002)"*** and of the contents of the note from the General Directorate of Legal Affairs, relating to compliance with the deadlines in disciplinary proceedings, for inclusion in the aforementioned report.

You are hereby notified for your information and any other purposes. Nevertheless, please note that the minutes of that meeting are pending approval at the next meeting of the Executive Committee.

Madrid, 5 April 2005
The Secretary

Javier Rodríguez Pellitero

TO THE DIRECTOR OF INTERNAL CONTROL

NOTE FROM THE LEGAL AFFAIRS GENERAL DIRECTORATE RELATING TO COMPLIANCE WITH THE DEADLINES IN DISCIPLINARY PROCEEDINGS

In any administrative proceeding, there are two types of period and deadline in connection with the processes to be completed by the units in charge of investigation and decision-making, respectively.

– Periods or deadlines relating to the various processes:

These must be stated expressly by law or regulation. As a general rule, these time periods are not essential. That is to say, breach of them does not affect the proceeding under way, apart from the case envisaged in article 63.3 of Law 30/1992, dated 26 November, on the Legal Regime of the Public Administrations and the Common Administrative Procedure: "Performance of administrative actions outside the time period established for them shall not render them null except where the nature of the term or deadline renders them so."

Accordingly, the general rule is that an action that takes place outside the term or period established by the current regulations, whether it is a process or a decision, must be considered to be perfectly valid, this being justified by the fact that time periods are merely for the purpose of complying with the principle of efficacy that should govern all administrative actions, that is to say, that unnecessary delays or waits in the resolution of a proceeding should be avoided.

The same criterion should apply to the time periods or deadlines of disciplinary proceedings as established in the General Regulation of the procedure for the exercise of the Public Administrations' disciplinary powers or in the special regulations such as that approved by Royal Decree 2119/1993, dated 3 December, on the disciplinary proceeding applicable to participants in the securities markets.

This is supported by case law, such as the 10 December 2001 decision by the Contentious-Administrative section of the Supreme Court relating to a disciplinary decision issued after the deadline established in article 20.2 of Royal Decree 1398/1993, which established the obligation to issue a resolution within ten days from receipt of the proposed resolution: "... As stated in the past, administrative decisions made outside the time period can only be considered to be null where the nature of the term or deadline renders them so. Otherwise, as in the case at hand, they should be viewed as periods for expediting processes whose breach is a mere irregularity that does not annul ..."

CNMV Comisión Nacional del Mercado de Valores

GENERAL DIRECTORATE OF LEGAL AFFAIRS

– Period for decision-making in administrative proceedings

This must be viewed as essential since delays do have consequences in the administrative procedure. A decision issued after the established deadline leads to a range of effects under Law 30/1992, dated 26 November, on the Legal Regime of the Public Administrations and the Common Administrative Procedure, depending on whether the proceeding commenced on the initiative of the administration or at the behest of a party. Specifically, in proceedings initiated ex officio in which the Administration exercises disciplinary powers, failure to issue resolutions or notices within the deadline renders the proceeding null.

Therefore, within the general period for making and notifying a disciplinary decision, failure to comply with the time periods envisaged for the various proceedings or for issuing a decision on the disciplinary proceedings do not have any invalidating effect.

In particular, not only does a delay by the CNMV Board in issuing a decision on disciplinary proceedings for serious violations not have any effect on the proceedings under way but it may actually be fully justified by the complexity of the case and the need to reach a collective decision, which makes the matter more complex than when the disciplinary powers lie with a single person (in some cases, it is necessary to examine and discuss the matter at several meetings of the Board in order to decide whether or not to impose penalties, the scale of any penalties, the advisability of expanding the investigation, etc.). In short, compliance with the principle of speed, which is the ultimate goal pursued by the rules that impose deadlines for issuing decisions on a proceeding (within the general period for its completion) must give way to the need to issue a legal and fully-justified decision in disciplinary proceedings, where the deprivation or limitation of individuals' rights and interests is at stake, and particularly if there is no intention on the part of the deciding body to delay matters.

This same principle is applicable to cases in which, in accordance with the current regulations, the maximum deadline for deciding on the proceeding has been extended since that extension, in itself, is a sign of the difficulty and complexity of the process.

Madrid, 29 March 2005.

DIRECTOR GENERAL OF LEGAL AFFAIRS

Javier Rodríguez Pellitero

Annual report of the CNMV 2004

Part VI

Authorised accounts and auditors' report

Summary of the financial statements

Year 2004

Balance sheet, statement of income and expenditure and cash flow statement

Balance Sheet

2004

Account no.	Assets	2004	2003
	A) Fixed assets	**30,855,821.01**	**29,676,115.20**
20	I. Investments for general use		
21, (281)	II. Intangible assets	1,453,892.80	0.00
22, (282)	III. Tangible fixed assets	29,388,820.97	29,663,007.96
23	IV. Investments managed for other public bodies		
25, 26, (297)	V. Permanent financial investments	13,107.24	13,107.24
27	**B) Deferred charges**		
	C) Current assets	**92,634,285.85**	**81,235,091.82**
30, 31, 32, 33, 34, 35, 36, (39)	I. Inventories		
45, 46, 47, 55, (490)	II. Accounts receivable	8,008,822.80	2,427,213.77
54, 56, (549), (597), (598)	III. Short-term financial investments	83,752,564.78	76,470,696.16
57	IV. Cash	758,367.64	2,225,696.25
480, 580	V. Accruals	114,530.63	111,485.64
	Grand total (A+B+C)	**123,490,106.86**	**110,911,207.02**

Account no.	Liabilities	2004	2003
	A) Equity	**119,369,080.96**	**100,069,765.34**
	I. Own funds	5.357.639,39	5,360,740.72
100	Own equity	4,204,102.67	4,204,102.67
101, 103	Equity received in cession or assignment	1,194,338.74	1.194.338,74
(107), (108)	Equity delivered in cession or assignment	–40,802.02	–37,700.69
(109)	Equity delivered for general use		
11	II. Reserves	80,766,756.46	80,766,756.46
120, (121)	III. Prior years' income	13,942,268.16	0.00
129	IV. Income for the year	19,302,416.95	13,942,268.16
14	**B) Provisions for contingencies and expenses**	**1,454,148.42**	**1,393,350.48**
	C) Long-term debt		
15	I. Debentures and other tradeable securities		
17, 18	II. Other long-term debt		
259	III. Uncalled capital		
	D) Current liabilities	**2,666,877.48**	**9,448,091.20**
50	I. Debentures and other tradeable securities		
520, 526	II. Bank debt		
42, 45, 47 521, 523, 527, 528, 529, 55, 56	III. Accounts payable	2,666,877.48	9,448,091.20
485, 585	IV. Accruals		
	Grand total (A+B+C+D)	**123,490,106.86**	**110,911,207.02**

Statement of income and expenditure

2004

Account no.	Debit	2004	20033
	A) Expenses	**28,368,508.77**	**24,741,485.69**
71	1. Decrease in finished-product and product-in-process inventories		
60, 61 *	2. Cost of services provided		
	3. Operating expenses of services and employee welfare expenses	27,216,540.79	24,331,845.20
64	– Personnel and employee welfare expenses	18,439,846.82	16,759,836.86
68	– Fixed asset depreciation	905,559.84	524,196.13
675,69, (793), (794) (796), (798), (799)	– Change in provisions for, and losses on, uncollectible receivables	10,375.83	-944,592.12
62, 63, 676	– Other management expenses	7,854,495.56	7,943,767.14
66	– Financial expenses, exchange losses and other similar expenses	6,262.74	48,637.19
	4. Transfers and subsidies	383,109.53	364,327.20
650, 651	– Current transfers and subsidies	383,109.53	364,327.20
655, 656	– Capital transfers and subsidies		
670, 671, 674, 678, 679	5. Extraordinary deficit and expenses	768,858.45	45,313.29
	Surplus	**19,302,416.95**	**13,942,268.16**

*Con signo positivo o negativo según su saldo

Account no.	Credit	2004	2003
	B) Income	**47,670,925.72**	**38,683,753.85**
70, 741, 742	1. Sales and services		
71	2. Inncrease in finished-product and product-in-process inventories		
	3. Ordinary income	43,126,586.07	35,955,290.71
740, 744	– Fee income	43,126,586.07	35,955,290.71
729	– Employee welfare		
	4. Other ordinary income	2,641,263.59	2,727,441.82
76	– Financial income, exchange gains and similar	1,980,964.30	2,532,779.72
773, 775, 776, 777 78, 790	– Other income	660,299.29	194,662.10
	5. Transfers and subsidies		
750, 751	– Current transfers and subsidies		
755, 756	– Capital transfers and subsidies		
770, 771, 774, 778, 779	6. Extraordinary gains and income	1,903,076.06	1,021.32
	Deficit		

Cash flow statement. Source and application of funds

2004

Funds applied	2004	2003
1. Funds applied in operations	26,698,030.62	23,833,210.71
c) Outside services	7,775,843.53	7,898,100.83
d) Taxes	37,366.59	21,708.02
e) Personnel expenses	18,326,836.98	16,404,558.93
g) Transfers and subsidies	383,109.53	364,327.20
h) Financial expenses	6,262.74	48,637.19
i) Other current losses and extraordinary expenses	158,235.42	40,470.66
j) Provision for current assets	10,375.83	–944,592.12
4. Fixed asset acquisitions and additions	858,158.23	1,291,724.48
b) Intangible assets	523,436.19	0.00
c) Tangible fixed assets	334,722.04	1,291,724.48
5. Direct decrease in equity	3,101.33	6,002,455.80
b) Assignments	3,101.33	2,455.80
c) Delivered for general use	0.00	6,000,000.00
7. Provisions for contingencies and expenses	52,211.90	105,229.13
Total funds applied	**27,611,502.08**	**31,232,620.12**
Funds obtained in excess of funds applied (increase in working capital)	**18,180,407.75**	**7,733,176.32**

Funds obtained	2004	2003
1. Funds from operations	45,786,531.17	38,683,753.85
e) Fees, charges and special levies	43,126,586.07	35,955,290.71
g) Financial income	1,980,964.30	2,532,779.72
h) Other current income and extraordinary expenses	678,980.80	195,683.42
3. Direct increase in equity	0.00	271,310.56
a) Assignment	0.00	271,310.56
5. Fixed asset disposals and other retirements	5,378.66	10,732.03
c) Tangible fixed assets	5,378.66	4,721.91
d) Financial investments	0.00	6,010.12
Total funds obtained	**45,791,909.83**	**38,965,796,44**

Cash flow statement. Change in working capital

2004

Change in working capital (summary)	2004 Increase	2004 Decrease	2003 Increase	2003 Decrease
2. Accounts receivable	5,588,240.35		975,677.77	
a) Trade accounts receivable	5,588,240.35		975,677.77	
3. Accounts payable		148,433.59	7,993,020.01	
a) Trade accounts payable		78,372.29	297,767.53	
b) Other accounts payable		70,061.30	7,695,252.48	
4. Short-term financial investments	7,281,868.62		5,904,078.12	
6. Other non-bank accounts	6,923,015.99			6,649,991.01
7. Cash on hand and at banks	3,268.07	1,470,596.68		524,684.42
a) Cash	3,268.07			6,833.36
c) Other banks and credit institutions		1,470,596.68		517,851.06
8. Accruals	3,044.99		35,075.85	
Total	**19,799,438.02**	**1,619,030.27**	**14,907,851.75**	**7,174,675.43**
Change in working capital	**18,180,407.75**		**7,733,176.32**	

State Comptroller’s Office report

SATATE SECRETARIAT
OF FINANCE AND BUDGETS

STATE COMPTROLLER’S OFFICE

ECONOMY AND FINANCE MINISTRY

COMISIÓN NACIONAL DEL MERCADO DE VALORES (CNMV)

(Year 2004)

MARIA DE MOLINA Nº 50
28071 MADRID
TEL: 91.536.70.40
FAX: 91.536.76.26

ECONOMY AND
FINANCE MINISTRY

STATE COMPTROLLER'S OFFICE

CONTENTS

ECONOMY AND
FINANCE MINISTRY

STATE COMPTROLLER'S OFFICE

SECTION I.- INTRODUCTION

Through the National Audit Office, the State Comptroller's Office, using the powers attributed to it by article 168 of the General Budget Law, has drafted this auditors' report.

The financial statements to which this report refers were authorised by the CNMV on 12 May 2005 and placed at the disposal of this National Audit Office on 13 May 2005.

The CNMV initially authorised its financial statements on 22 March 2005 and placed them at the disposal of this National Audit Office on 28 March 2005. Those financial statements were amended on the date indicated in the preceding paragraph.

Our work was performed in line with the Audit Standards for the Public Sector.

ECONOMY AND
FINANCE MINISTRY

STATE COMPTROLLER'S OFFICE

SECTION II.- OBJECTIVE AND SCOPE OF WORK

The objective of our work is to check whether the financial statements that were examined give, in all material respects, a true and fair view of the entity's net worth, financial position and results of its operations in accordance with the applicable accounting and budgetary standards and principles and contain the necessary information for appropriate interpretation and understanding.

Our examination comprised the balance sheet as at 31 December 2004, the statement of income and expenditure and the notes to financial statements for the year then ended.

In accordance with current legislation, the figures for 2003 relating to each item in the 2004 balance sheet and statement of income and expenditure were included for the purposes of comparison. Our opinion refers solely to the 2004 financial statements. On 27 May 2004, this National Audit Office issued an auditors' report on the 2003 financial statements, in which it expressed a favourable opinion.

In the performance of our work, there were no limitations to the application of auditing standards and procedures.

ECONOMY AND
FINANCE MINISTRY

STATE COMPTROLLER'S OFFICE

SECTION III.- OUTCOME OF THE WORK

In the course of our work, the following matters or circumstances came to light which do not affect the true and fair view presented by the audited financial statements:

1. CHANGE OF ACCOUNTING METHOD

In 2004, at the proposal of the auditors, the CNMV changed the accounting method it had applied in previous years for accounting for computer software; by applying the materiality principle, in previous years it had booked software as a period expense; in 2004, it capitalised purchased and in-house developed software from both the current and preceding years at its acquisition or production cost.

Additional note 2 to the financial statements discloses the net effect of this change of method on the assets of the balance sheet as at 31 December 2004, which was an increase of 1,453,892.80 euro in its net value, due to registering the gross value of 2,407,830.74 euro under "computer software" and registering 953,937.94 euro under accumulated amortisation as at that date.

Additionally, this change in accounting method had an effect on the 2004 statement of income and expenditure since it increased the year's surplus by 1,430,543.43, net, as a result of capitalising the gross cost of computer software from prior years by means of a credit of 1,884,394.55 euro to the "prior years' income and revenues" account and a credit of 500,086.82 euro to the "capitalised in-house work on fixed assets"; of the accounting adjustment of accumulated amortisation from prior years by means of a charge of 625,232.41 euro to the "prior years' expenses and losses" account, and the corresponding period amortisation provision for 2004 amounting to 328,705.53 euro.

We are in agreement with the change of accounting criteria applied by the Commission.

ECONOMY AND
FINANCE MINISTRY

STATE COMPTROLLER'S OFFICE

SECTION IV.- <u>OPINION</u>

In our opinion, the 2004 financial statements of the Comisión Nacional del Mercado de Valores (CNMV) present, in all material respects, a true and fair view of the entity's net worth, financial position and the results of its operations and contain the necessary information for appropriate interpretation and understanding in accordance with the applicable accounting and budgetary standards and principles, which are applied on a uniform basis with those of the preceding year, except for the change in accounting method described in section 1 of Outcome of the Work, with which we are in agreement.

Madrid, 9 June 2005
National Auditor-Team Manager

Yolanda Tabera Morales

Head of Financial Control and
Audit of the State Public Sector

Alberto Girón González

Detailed table of contents

Index of tables and figures

Figures

Chapter 3: Fixed-income markets

Tables

Figures

Chapter 4: Issuers and corporate governance

Tables

Chapter 5: Record-keeping, counterparties, clearing and settlement

Tables

Chapter 6: Spain' s derivatives markets

Tables

Figures

Chapter 7: Collective investment schemes (IIC)

Tables

Figures

Chapter 8: Investment services firms

Tables

Figures

Chapter 9: Provision of investment services by credit institutions

Tables

Chapter 10: Venture capital firms

Tables

Chapter 11: Financial regulation

Tables

Chapter 12: Supervision

Tables

Chapter 13: Investors

Tables

Chapter 14: Disciplinary action

Tables

Chapter 15: Organization

Tables

Chapter 16: Finances

Tables

Chapter 17: Institutional relations

Tables

Chapter 18: National Securities Numbering Agency (ANCV)

Tables

Index of boxes

Design: Adrian Tyler
Translation: Versalia Traducción
Layout and pre-press: Cromotex
Printing: Elkar
ISBN: 84-87870-46-5
Dep. Legal: BI-1731-2005

Comisión Nacional del Mercado de Valores