



Procedure for the authorisation of organisational, corporate, economic and financial aspects of Spanish market infrastructures (P14)

Contents

1. Scope	3
2. Applicable Regulations	3
2.1.Directors and senior management	3
2.2 Articles of association	4
2.3 Significant shareholdings	4
2.4 Prices and fees	5
2.5. Other regulations	5
3. Department Responsible for Processing	6
4. Initiation	6
4.1.Directors and senior management	6
4.2 Articles of association	6
4.3 Significant shareholdings	7
4.4 Prices and fees	8
5. Organisation	8
6. External reports	8
7. Instruction	9
7.1 Processing deadlines	9
7.2 Proposals and reports	10
8. Completion	10
8.1 Competent body	10
8.2 Notification to interested parties	12
9. Procedural manuals	12
10. Application	13

1. APPLICABLE SCOPE

This internal procedure has been developed in accordance with the contents of Article 39 of the Internal Regulations of the National Securities Market Commission (*Comisión Nacional del Mercado de Valores*, CNMV), and it shall apply to all actions taken by the CNMV in the exercise of the following powers:

1. Approving the appointment of members of the board of directors and of senior managers.
2. Approving articles of association and their amendment.
3. Authorising or making a declaration of no objection, and reporting on the rules governing significant shareholdings in the share capital of companies.
4. Establishing exceptions or restrictions on the maximum prices and fees that may be applied, both when included in the annual estimated budgets and in subsequent modifications.

All in relation to the following organisations:

- Companies that govern the official secondary markets.
 - The Sociedad de Bolsas)
 - Central Securities Depositories and, specifically, the Sociedad de Sistemas o Iberclear.
 - Central counterparties.
 - Any organisation or organisations that directly or indirectly hold all the share capital or a controlling share in all or some of the companies that manage systems for the registration, clearing and settlement of securities and the secondary markets in Spain.
5. Approving the articles of association of the companies that govern the multilateral trading facilities and the amendment of these articles of association.

Hereinafter, in general, any reference to an organisation or company that manages market infrastructures shall cover all of the organisations mentioned above.

2. APPLICABLE REGULATIONS

The regulations that apply to this procedure are set out, *inter alia*, in the following provisions:

2.1. DIRECTORS AND SENIOR MANAGEMENT

- The consolidated text of Securities Markets Act (*Ley del Mercado de Valores*, TRLMV), approved by Royal Legislative Decree 4 of 23 October 2015, (Real Decreto Legislativo 4/2015, de 23 de Octubre) Articles 47, 54, 57, 67.4, 98, 108, 152.1 f), 182, 183 and 184, and the Sixth Additional Provision.
- Royal Decree 1282 of 15 October 2010, which regulated the official secondary markets for futures, options and other derivative financial instruments. Article 16.
- Royal Decree 726 of 23 June 1989, on /Governing Companies and members of the Stock Markets, the Stock Markets Company (Sociedad de Bolsas) and collective

guarantees Article 8.

- Royal Decree 878 of 2 October 2015, on the clearing, settlement and registration of transferable securities represented in book-entry form, the legal regulation of central securities depositories and central counterparties, and the transparency requirements for the issuers of securities that are admitted for trading on the official secondary markets. Article 58.
- Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012, on OTC derivatives, central counterparties and trade repositories (EMIR). Article 27.
- Commission Delegated Regulation (EU) 153 of 19 December 2013, supplementing Regulation (EU) No. 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties. Article 3.
- Regulation (EU) No. 909/2014 of the Parliament and of the Council of 23 July 2014, on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No. 236/2012, for the purposes of monitoring the shareholding of these infrastructures. Article 27.

2.2 ARTICLES OF ASSOCIATION

- The consolidated text of Securities Market Act (*Ley del Mercado de Valores*, TRLMV), approved by Royal Legislative Decree 4 of 23 October 2015.
- Royal Decree 1282 of 15 October 2010, which regulated the official secondary markets for futures, options and other derivative financial instruments. Article 15.
- Royal Decree 726 of 23 June 1989, on Management Companies and members of the Stock Markets, the (Sociedad de Bolsas) and collective guarantees. Article 7.
- Royal Decree 878 of 2 October 2015, on the clearing, settlement and registration of negotiable securities represented by registered entries, the legal regulation of central securities depositories and central counterparties, and the transparency requirements for the issuers of securities that are admitted for trading on the official secondary markets. Article 57.

2.3 SIGNIFICANT SHAREHOLDINGS

- The consolidated text of Securities Market Act (*Ley del Mercado de Valores*, TRLMV), approved by Royal Legislative Decree 4 of 23 October 2015, Articles 48.1, 99, 105, 174, 175, 176, 177, 178, 179, 180, 233.1 a) 1 and 2 and 246, and the Sixth Additional Provision.
- Royal Decree 361 of 16 March 2007, which implemented Securities Market Act 24 of 28 July 1988, on issues relating to holding shares in companies that manage the secondary securities markets and companies that administer securities registry, clearing and settlement systems.
- Royal Decree 878 of 2 October 2015, on the clearing, settlement and registration of transferable securities represented in book-entry form, the legal regulation of central securities depositories and central counterparties, and the transparency requirements for the issuers of securities that are admitted for trading on the official secondary markets. Article 59.

- Royal Decree 1362 of 19 October 2007, which implemented Securities Markets Act 24 of 28 July 1988, in relation to the requirements governing the transparency of information on issuers whose shares are admitted for trading on an official secondary market or any other regulated market within the European Union.
- Regulation (EU) no. 648/2012 of the European Parliament and of the Council of 4 July 2012, on OTC derivatives, central counterparties and trade repositories, and its implementing regulations. Articles 31 and 32.

2.4 PRICES AND FEES

- The consolidated text of Securities Market Act (*Ley del Mercado de Valores*, TRLMV), approved by Royal Legislative Decree 4 of 23 October 2015, Articles 100 and 106.
- Royal Decree 726 of 23 June 1989, on Management Companies and members of the Stock Markets, the Sociedad de Bolsas and collective guarantees. Articles 17.3 and 20.1.
- Royal Decree 878 of 2 October 2015, on the clearing, settlement and registration of transferable securities represented in book-entry form, the legal regulation of central securities depositories and central counterparties, and the transparency requirements for the issuers of securities that are admitted for trading on the official secondary markets. Article 60.
- Royal Decree 1282 of 15 October 2010, which regulated the official secondary markets for futures, options and other derivative financial instruments. Articles 20.3, 20.4 and 20.5.
- Regulation (EU) No. 909/2014 of the Parliament and of the Council of 23 July 2014, on improving securities settlement in the European Union and on central securities depositories (CSDR) and its regulatory and implementing technical standards. Articles 7, 28, 34 and 49.
- Regulation (EU) no. 648/2012 of the European Parliament and of the Council of 4 July 2012, on OTC derivatives, central counterparties and trade repositories (EMIR). Article 38.

2.5. OTHER REGULATIONS

This present procedure shall incorporate any directive or recommendation issued by the European Security and Markets Authority (ESMA), pursuant to Article 16 of Regulation (EU) No. 1095/2010 of the European Parliament and of the Council, of 24 November 2010, which established a European Supervisory Authority, provided that the CNMV has confirmed its compliance or its intention to comply under the terms of paragraph three of the aforementioned Article.

The following provisions also apply to this procedure:

- Act 30 of 26 November 1992, on the Legal Regulations Governing Public Authorities and Common Administrative Procedure (LRJPAC).¹
- The Agreement of 11 March 2015 by the Board of the National Securities Market Commission, on the delegation of powers.
- The Ruling of 16 November 2011 by the National Securities Market Commission, which created and regulated the CNMV's Digital Register.

¹ From 2 October 2016, Act 39 of 1 October 2015, on Common Administrative Procedure for Public Authorities, shall apply.

3. DEPARTMENT RESPONSIBLE FOR PROCESSING

The processing of the files referred to in this internal procedure shall be the responsibility of the Policy and Institutional Relations Department, which forms part of the Policy and International Affairs General Division

4. INITIATION

All authorisation or no objection processes shall begin with the application submitted by the interested party, which shall preferably be received via the CNMV's Digital Registry.

4.1. DIRECTORS AND SENIOR MANAGEMENT

1. Authorisation must be sought from the CNMV in the following cases:
 - The appointment of new directors or senior management positions.
 - The appointment of an existing board member to the position of general manager or similar, or managing director.
 - The appointment of the individual person who is to represent a director that is a legal person.
 - The reappointment of directors or management positions.
2. In the case of the Barcelona, Bilbao and Valencia stock markets, these powers fall to their respective Autonomous Communities.
3. Requests for authorisation must include:
 - The details of the persons being appointed.
 - The position: chairman, deputy chairman, board member or director, general manager or similar.
 - The date and the governing body that agreed to his/her appointment.
 - The term for which he/she will continue in the position.
 - The individual or company name of the shareholder that is being represented or that has proposed the appointment of the person for whom authorisation is being sought, or whether they have the status of an independent.

Requests shall be accompanied by the CV of the person being appointed and a declaration of honourability, duly completed and signed by the interested party. If the director, general manager or similar is a legal entity, this declaration must be signed by a person with sufficient authority.

4.2 ARTICLES OF ASSOCIATION

1. Authorisation for articles of association and any subsequent amendments must be sought from the CNMV, pursuant to the regulations in force. When this involves an amendment, the request must explain the articles that are to be amended or included, the reason for the amendment in question and the date on which the governing body approved it. An updated consolidated text of the articles of association shall also be included.

2. In the case of the Barcelona, Bilbao and Valencia stock markets, these powers fall to their respective Autonomous Communities.

4.3 SIGNIFICANT SHAREHOLDINGS

4.3.1 Acquisition or increase of significant shareholdings

1. Any natural or legal person that has decided to acquire, either directly or indirectly, a significant shareholding in the companies that manage the secondary Spanish markets and registry, clearing and settlement systems, or to increase, directly or indirectly, their shareholding in such companies, in such a way that the percentage of voting rights or share capital held is equal to or greater than 1, 5, 10, 15, 20, 25, 33, 40 or 50 per cent shall first notify the CNMV. They must also give prior notice of any shareholding which, while not reaching the above percentages, will allow them to exercise a significant influence within the company. Notifications shall be made for the purposes of assessing their suitability and financial soundness and, where applicable, obtaining a declaration of no objection with regard to the proposed acquisition, indicating the size of the intended holding and any information required to this end.
2. For the purposes of the provision set out in the preceding point, where an acquisition or increase of a significant shareholding requires a prior declaration of no objection, account shall not be taken of any voting rights or share capital that result from the underwriting of an issue or the placement of financial instruments, or from the placement of financial instruments based on a firm commitment, provided that such rights are not exercised in order to intervene in the management of the issuer and are passed on within one year of their acquisition.
3. In order to apply the exemption from calculation of the voting rights mentioned in the preceding point, in the case of the underwriting of an issue or the placement of financial instruments, the potential acquirer must state and explain in writing the circumstances in which, where applicable, acquisition would take place in the event of a potential agreement for the underwriting or placement of financial instruments, and the terms and conditions and treatment that it would apply to the shares that would eventually have to be acquired, specifically the non-exercise of any voting rights attached to such shares and the sale thereof within one year of their acquisition.
4. When the acquirer of a significant shareholding is already the holder of a controlling interest, it shall be sufficient for it to give prior notice of this fact to the CNMV, with details of the size of the said shareholding, the method of acquisition and the maximum period scheduled for the operation.
5. In the case of an acquisition or increase of significant shareholdings that do not represent a controlling interest or exceed 10%, the potential acquirer shall be sent written acknowledgement of receipt within two business days following the receipt of the notification in the CNMV (provided that such notification is accompanied by all the necessary information) and informed of the date on which the assessment term expires.
6. When an acquisition is made without prior notification to the CNMV or, though notification has been given, the period allocated to the CNMV for ruling and giving notice of its decision has not elapsed, the voting rights that correspond to

the shares improperly acquired may not be exercised until the CNMV, having received and assessed the necessary information relating to the acquirers, deems them suitable. If such rights are exercised, the votes shall be null and void.

7. In the case of the direct or indirect acquisition of the share capital or voting rights of a central counterparty, the notification thresholds, the procedure for notifying the CNMV and the assessment criteria shall be as set out in Articles 31 and 32 of Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012.

4.3.2 Disposal of significant shareholdings

1. When any individual or legal person has decided to cease holding a significant shareholding, either directly or indirectly, in a market infrastructure regulatory organisation, or to reduce their significant shareholding so that it falls below one of the thresholds indicated in the regulations, it shall first notify the CNMV.
2. The said notification shall include details of the value of the proposed operation and the period in which it is expected to be carried out.
3. This obligation shall not apply to significant shareholdings of more than 1% and less than 5%.

4.4 PRICES AND FEES

The minimum documentation that must be supplied is the internal document (announcement, circular, etc.) that has been approved or is in the process of being studied by the company's Board of Directors, and the economic and financial report on the amendments proposed.

5. ORGANISATION

1. When a submitted request is considered to be incomplete or inadequate, the CNMV shall demand any information it deems necessary or appropriate to make its assessment, or indicate any items that have to be corrected.
2. Requests and demands for information must, generally speaking, be made in accordance with the provisions set out in the *Procedure for the issue of demands and requests for information and reports from individuals and organisations that are active in the stock markets*.

6. EXTERNAL REPORTS

1. When analysing the items in the scope of this procedure, the CNMV shall request the relevant compulsory reports that are required in law from:
 - The authorities responsible for supervision in Spain or other European Union Member States.
 - The Executive Service of the Commission for the Prevention of Money-Laundering and Monetary Offences (SEPBLAC).
 - The Autonomous Communities with competence in this area.
 - The body or bodies which, where applicable, have control over the companies that manage the official secondary markets or registry, clearing and settlement systems

in Spain.

2. A request for any of these necessary reports shall cause the term in which a ruling is to be given to be suspended between the date on which they are requested, which must be notified to the interested parties, and the date on which they are received, which must also be notified to the said parties, pursuant to the contents of Article 42.5 c) of the LRJPAC.
3. In addition, the CNMV may request other reports when it considers them necessary.

7. INSTRUCTION

7.1 PROCESSING DEADLINES

1. Calculation of the relevant deadlines shall begin from the date on which the request or notification is entered in the CNMV's official register, and it must take account of any potential suspension of the deadline in question as the result of demands for information from the interested party or requests for compulsory reports from other bodies, along with the extension of deadlines.
2. When the regulations that apply to the market infrastructure governing company do not establish specific deadlines for rulings to be handed down, the general deadlines provided for in the administrative procedures shall apply.
3. If the final deadline passes without any express ruling being notified, the application shall be understood to have been upheld on the grounds of administrative silence.

7.1.1. Directors and senior management

The CNMV shall have a period of three months following receipt of notification of an appointment to give its ruling in this regard. If it does not do so, the appointment shall be understood to have been accepted.

7.1.2 Significant shareholdings

1. The CNMV shall have the following maximum terms to object to the acquisition of a significant shareholding:
 - Ten business days following the date on which it has been informed, or from the date on which any information that, where applicable, may have been requested is completed, for the acquisition of shareholdings equal to or greater than 1% and smaller than 5%.
 - Thirty business days for shareholdings equal to or greater than 5% and smaller than 10%.
 - Sixty business days following the date on which acknowledgement of notification is given, for non-controlling shareholdings of 10% or more.
 - In the event that the CNMV requests additional written information within the first fifty business days, the assessment period shall be interrupted for the period between the date of request for information by the CNMV and the receipt of a response. This interruption shall not exceed twenty business days, though this may be extended up to thirty days in the cases provided for in the regulations.

2. If the CNMV does not give its ruling by the deadlines set out above, it shall be understood to have no objection.

7.1.3 Prices and fees

Pursuant to the regulations in force, within a period of one month from receiving documentation on prices and fees or, where applicable, from the time at which this documentation is completed, the CNMV may establish exceptions to or limits on the maximum prices for services provided by market infrastructures.

7.2 PROPOSALS AND REPORTS

1. Once the request and documentation received have been analysed, including any reports requested, where applicable, from other bodies, the General Director shall submit the relevant proposal for an agreement or ruling to the body with the necessary competence, including a report or consent from the Legal Services General Division
2. When this involves discounts or the reduction of existing fees, it shall not be necessary to submit a report to the Executive Committee, since the powers of the CNMV in respect of fees refer to maximum limits. In such cases, the changes in question shall be noted and the interested party shall be informed.
3. In the case of the acquisition of significant shareholdings of 10% or more that do not represent a controlling interest, the decisions adopted by the CNMV shall mention any potential observations or reservations that may be expressed by the authority with the competence to supervise the potential acquirer, which shall be consulted pursuant to the contents of Article 176 of the TRLMV.

8. COMPLETION

8.1. COMPETENT BODY

8.1.1. Directors and senior management

1. The Chairman or Deputy Chairman shall exercise the powers attributed to the CNMV in matters relating to the appointment of members of the board of directors and people who are to hold management positions, provided that the application made by the regulated party is not rejected or opposed in the administrative process.
2. The CNMV shall refuse authorisation if it is not demonstrated that directors and senior managers of the market governing company display sufficient good repute, possess knowledge, skills and experience and commit sufficient time to perform their duties, or if there are objective and demonstrable grounds to believe that their appointment may represent a threat to the effective, sound and prudent management and to the adequate consideration of the integrity of the market.

In such cases, the decision shall be taken by the Board of the CNMV.

3. When the organisations that are acquiring all the share capital of all or some of the companies that manage central counterparties, central securities depositories and official secondary Spanish markets, or a shareholding that will give them direct or indirect control thereover, do not have their registered office in Spain, and the requirements for the members of their boards of directors and general managers have

been verified by the competent authority of another European Union Member State or by the supervisory authority of a non-EU Member State with organisational and operational rules that are similar to those of the CNMV, the CNMV shall be responsible for checking their verification.

8.1.2. Articles of association

1. The Chairman and Deputy Chairman shall be responsible, where applicable, for authorising amendments to articles of association when they refer to:
 - a) A change of registered office within Spanish territory, or a change of company name.
 - b) Share capital increases charged to reserves.
 - c) Adaptation to the regulations in force.
 - d) The enforcement of rulings of a judicial or administrative nature, or
 - e) Any other amendment for which prior authorisation is not required as the CNMV has been given the power to dispense with this process for unimportant amendments and to rule that this requirement has been met.
2. In all other cases, the decision shall be taken by the Board of the CNMV.
3. When the organisations that are acquiring all the share capital of all or some of the companies that manage central counterparties, central securities depositories and official secondary Spanish markets, or a shareholding that will give them direct or indirect control thereover, do not have their registered office in Spain, and their articles of association and any amendments have been verified by the competent authority of another European Union Member State or by the supervisory authority of a non-EU Member State with organisational and operational rules that are similar to those of the CNMV, the CNMV shall be responsible for checking their verification.

8.1.3. Significant shareholdings

a) Significant shareholdings of less than 5% without a controlling interest

The Chairman or Deputy Chairman of the CNMV shall have the right to object to the acquisition of significant shareholdings that are equal to or greater than 1% but less than 5% of the share capital.

b) Significant shareholdings of between 5% and 10% without a controlling interest

Decisions on the acquisition of significant shareholdings equal to or greater than 5% but less than 10% shall be taken by the CNMV's Board, except when such acquisitions are made for a period of less than twelve months for the purposes of merely serving as a guarantee, provided that no voting rights are exercised by the party receiving the shares in this way or by any third parties to which the recipient may assign them under loan or by any other title, in which case the decision shall be taken by the Chairman or the Deputy Chairman.

c) Significant shareholdings equal to or greater than 10% and less than 50% without a controlling interest

The CNMV's Board shall have the power to object to the acquisition of significant shareholdings equal to or greater than 10% and less than 50%.

d) Significant shareholdings with a controlling interest

Authorisation to acquire or dispose of a controlling shareholding in all or, where applicable, some of the companies that manage central counterparties, central securities depositories and official secondary Spanish markets shall be the responsibility of the Government, at the proposal of the Ministry for the Economy and Competitiveness, following a report from the CNMV and consultations with the Autonomous Communities that have competence in this area.

e) Significant shareholdings in the share capital of central counterparties.

The Chairman and Deputy Chairman of the CNMV have the power to make declarations of no objection to significant shareholdings in the share capital of central counterparties.

8.1.4. Prices and fees

The CNMV's Board shall have the power to establish exceptions to or limits on the maximum prices for the services offered by the market infrastructure governing companies.

8.2. NOTIFICATION TO INTERESTED PARTIES

1. Once authorisation has been ruled on or agreed, the interested party shall be informed of the decision in writing.
2. In the case of the acquisition of a significant shareholding, if after completing an assessment of the proposed acquisition, the CNMV raises objections to it, it shall notify the potential acquirer in writing within a period of two business days and provide the reasons for its decision. Under no circumstances may the maximum term for completing the assessment be exceeded.
3. When the proposed acquisition involves a percentage of voting rights or shares in a company that is admitted for trading on an official secondary market or another regulated market domiciled in the European Union that exceeds the thresholds set out in Royal Decree 1362/2007, this notification shall recall the obligations provided for in Article 23 of the said Royal Decree.
4. In cases involving fee discounts or reductions, the market infrastructure in question shall be notified that the circumstances provided for in the regulations for establishing exceptions or limits do not apply to its application.

9. PROCEDURAL MANUALS

1. The General Director of Policy and International Affairs shall approve the "Procedural Manuals" required for compliance with and the practical application of the provisions contained in this Procedure.
2. The criteria or standards included in the "Procedural Manuals" shall provide basic guidelines and specific operational rules to ensure that duties are performed in the most appropriate and effective way.

3. The “Procedural Manuals” shall contain the controls deemed necessary under the terms of the CNMV’s Risk Management System, in order to ensure effective compliance with provisions set out in law and in this procedure.
4. The process for the preparation of the “Procedural Manuals” shall adhere to the criteria and standards issued by ESMA in order to promote common supervisory practices, pursuant to the contents of Article 29.2 of Regulation (EU) no. 1095/2010, as well as to any guidelines that the CNMV may publish in relation to this procedure.
5. The “Procedural Manuals” shall be submitted to the CNMV’s Executive Committee.

10. APPLICABILITY

This present procedure shall apply from 21 September 2016, and it shall be revised every year or whenever there is a regulatory change that significantly affects its contents.