



## 30th ABC - Deloitte Financial Sector Conference “Accelerating transformation during uncertain times”

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08 November 2023

Thank you to ABC and Deloitte for having me, once again, in this conference for the financial sector.

I mentioned at a conference similar to this one, a little over a month ago, a subject that, considering subsequent comments and opinions, has led to certain debate. I am talking about actions carried out by securities market issuers by means of share buy-back procedures. With such processes, issuers use the company’s liquidity situation to buy back capital on the market, amortise it, and, thus, reduce the company’s equity.

I won’t go over what I said then, as it is posted, like all speeches, on the CNMV website. Nonetheless, I think it is worth mentioning some comments made after the fact referencing opinions or analyses published over the last month related to the subject.

Firstly, I believe it is important to highlight that the issue of capital adequacy and own resources generally available to issuers is only relevant in sectors that do not have a prudential regulation indicating the level of capital they need. Bearing this in mind, my comments on capital adequacy are not directed at the banking sector, despite what some may have perceived, but rather at all sectors excluding the banking and insurance sectors, which already have a regulation in place that works to determine the level of own capital supervised entities should have.

The second consideration that may be of interest is related to the alleged value creation and the impact on the price of the shares being repurchased. Obviously, if the market is efficient and prices incorporate any relevant information, the market price is the closest estimate of the share value. In such a case, the shareholder’s position remains unaltered if a dividend is distributed or repurchased.

The issue lies when managers present the buyback as a value-creating operation because shares are being bought back at unusually low prices, even below their “real value”. This creates a lot of confusion and why we should be very careful with such approaches.

This is related to the impact buybacks have on the market price after they have been announced or executed. In that regard, there are, unfortunately, too many analyses with little empirical basis. At times, an analysis of the price of a single company or a group of three or four companies is carried out to reach empirical findings on whether their buybacks have impacted prices positively or negatively.

In this sense, I believe it is important to apply robust econometric methodologies when analysing such matters. An example of this is the methodology applied to the study recently published on the CNMV's six-monthly bulletin, developed independently by two university professors. A comprehensive article presenting an econometric analysis of the effect of 211 share buyback advertisements made by Spanish listed companies during 2011 - 2022, most of them with the aim of redeeming shares. The results of the study show that, subsequent to the advertisement, no abnormal returns are identified in the long term (up to one year after the announced buyback) or, in other words, the long-term development of shares of the companies carrying out buybacks we witness does not differ from what would be expected if they had not made the buybacks. On the other hand, in the short term (within 3 days of the advertisement), some companies achieved very small abnormal returns of close to 1%.

Such results confirm that the market is efficient and that buybacks did not take advantage of alleged moments of undervaluation, besides the fact that such actions did not correct, after a year, such supposed undervaluation.

In addition to the outlined issues, there are others that must be part of the analysis, found in academic documentation on these issues. For example, potential conflicts of interest for issuers that have executive bonuses linked to earnings per share (which may vary according to the number of shares subtracted from the denominator by buybacks) or issues linked to surplus cash and its relation to the attractiveness of the company as a potential takeover bid target, with all the corresponding implications for managers and shareholders. We also cannot forget the taxation issues, the effects on the Treasury due to the distribution choice of cash, as well as the trials that some countries, such as the Netherlands, have recently announced by taxing buybacks themselves.

Overall, I think the debate at hand is interesting and fruitful, considering its reflection on the costs and benefits of such operations. They will obviously continue to be carried out if managers and shareholders deem it appropriate. Nonetheless, it is important to have a clear picture of the benefits they bring and the risks they pose.

Equally challenging as buybacks, if not more, is crypto-finance and its possible effect on securities markets. The entry into force of MiCA, the new applicable European regulation, is a key step towards the establishment of a single regulation in Europe that will lead to proper issuance, trading and supervision of crypto-assets. Such activities are currently unregulated, which is why MiCA represents an important legislative milestone.

This does not mean it is a joy ride, a miracle drug, or the perfect solution to manage the new market. Unlike MiFID, the regulations governing other financial products, MiCA does not address all the risks of crypto-assets, nor do they offer all the solutions. In no way is it comparable to MiFID, but rather considered a miniature, scaled-down version, with levels of investor protection falling far behind those provided by financial regulation. There will be no investor guarantee fund, there will be no reports on transactions to supervisors to monitor market abuse, and custody requirements are more flexible and benign compared to those of a fund or bond. MiCA is a first step in the regulation of crypto-assets, but it will not place them at the same level as the protection provided by financial assets.

It is very important to separate DLT technology from cryptocurrencies. A financial asset (such as a share) in DLT will not be regulated by MiCA, but by MiFiD. MiCA will only apply to elements that are not a financial instrument. Cryptocurrencies, as currently understood, are and will remain being, due to their very nature, highly speculative products, prone to multiple financial, operational and security risks.

Moreover, they do not contribute to the financing of new investments or business projects. In this sense, they are of little use in terms of the function of a financial market.

While, prior to the regulation, we could imagine the world of cryptocurrencies as the “wild, wild west” considering regulations, compliance and investor protection, MiCA will install a sense of order, but far from making it an ideal situation.

ESMA has recently clarified the implementation timetable for MiCA and, along the implementation stage (between the date of entry into force and the full implementation date in December 2024) and with the cooperation of Spanish and other European supervisory authorities, they are developing technical standards and guidelines specifying how the new rules shall apply to issuers, offerors and crypto-asset service providers.

Once MiCA becomes applicable to crypto-asset service providers in December 2024, member states shall be able to grant entities providing these services in their jurisdictions a transitional period of up to 18 months, during which existing providers may continue to operate without a MiCA licence. Member states may choose to make this period shorter, which is aligned with the recent announcement by the Spanish Ministry of Economic Affairs and Digital Transformation to reduce it in Spain to 12 months.

The CNMV is preparing for said new functions and will soon be reinforcing its human resources. The CNMV has been authorised this year to increase its staff by 70 individuals, a number that may seem modest but actually is unprecedented, making up for almost 15% of its personnel, which serves precisely to prepare to face MiCA,

DORA and other regulatory, technological and supervisory challenges posed in the coming years.

Nonetheless, a timely and orderly transition does not depend solely on the supervisor. This leads me to encourage market participants (those that are still not regulated, such as financial entities and ESIs, as well as those that are) to make the necessary and appropriate arrangements beforehand in order to be ahead of MiCA's entry into force. The first step is to align practices and procedures with the regulation requirements.

A Circular was launched in February 2022 on the advertising of crypto-assets, which has helped investors to gain awareness of the risks they are taking with such products and, thus, avoid undesirable situations.

Upon the entry into force of the circular, the CNMV has been particularly vigilant while monitoring the advertising of such unregulated offer in Spain. This has led us to carry out more than 210 actions, reviewing 1,327 advertising elements and sending 196 information requests. Additionally, I am happy to announce the opening of disciplinary proceedings for two crypto-asset advertising campaigns that did not include warnings and information on the risks of these products, and which did not follow the procedure established in the aforementioned circular.

This is the first disciplinary case to be opened for non-compliance with the circular regulating the advertising of crypto-assets. Such announcement should serve as a reminder of the need to follow and respect the provisions set out in the aforementioned text. Although compliance with its contents has been the general rule and the sector has responded satisfactorily since its approval, it is particularly important to remember the need to inform investors of the risks associated with such products, as well as to follow control and supervision procedures regarding their advertising established by the circular.

The idea I would like to convey to the industry is clear: before and after MiCA, our priority is and will be investor protection. Moreover, we shall remain meticulous and firm in achieving this objective in relation to crypto-assets presented as investments.

This is also why we have been particularly active in the fight against financial fraud. Crypto-finance and fraud are not synonymous, but some cases of fraud over recent years have been closely related to the crypto world. We have centralised the concerns of several public and private entities regarding the increase in financial scams given the growing digitalisation of society and the development of social networks, especially among the younger public. We believe that the proliferation of such fraud attempts damages investor confidence and the reputation of our financial system, goals whose care and supervision should be shared by public entities and private companies.

The CNMV is particularly active in this area and we have witnessed, causing some concern, that permissiveness and even complacency with these phenomena remains

high in some areas. For example, over the last few days we have identified advertisements on X (formerly Twitter), a social network platform, promoted by a financial boiler room.

Said elements of advertisement unlawfully use the image of certain Spanish actors and impersonate the design and identity of a national media outlet to try to obtain data and money from investors. It is about disclosing an attempt of fraud committed by a pirate entity with a fake website and taking advantage without their knowledge (nor their consent) of the prestige of famous people. It is difficult to conceive of a clearer example of an attempt at fraud and it is difficult to admit that it is spread through any channel as if it were normal, moral or legal.

In March this year, the current securities market law, upon the proposal of the CNMV, incorporated a new Article (246.3) that obliges online companies, media channels and social networks to apply measures to prevent the broadcast of advertisement of investment services by unlicensed entities. Thus, they are legally obliged to verify that advertisers are not on the list of hackers published by the CNMV and that they are authorised to provide financial services. The law designates the CNMV with the surveillance in this area and the sanctioning of non-compliance. I can assure you that we will conscientiously carry out all our capacities, supervisory and sanctioning powers in these cases.

We would also like to see all those involved to take on the joint responsibility of reducing the scope for fraudsters to operate and the damage to investors. This also applies to social media and technology platforms, which should not accept a single euro from unauthorised companies that aim to profit from deceiving their followers as remuneration for advertisements. Reducing and trying to prevent financial fraud is in everyone's hands.

The best tip to avoid scams is very clear: carry out transactions exclusively with authorised providers, listed in the CNMV register, and always verify that the contacting entity is that listed in the register, including the internet or mail domain. Regulated entities are subject to multiple controls and offer a user experience and service that can generally be described as very positive. A recent survey commissioned by the CNMV, the first results of which will be published in the next few days, over 1,350 investment services clients states that 90% of clients are satisfied or very satisfied with their entity.

There will always be issues in the regulated and supervised world, but their degree of incidence, considering such data or by the very low number of complaints received by the CNMV, is not even comparable to the unregulated world. In said unregulated cases, the entire investment is likely to be lost, without even the right to make a claim.

That is why it is so important that we all, especially financial entities, which have more resources, actively collaborate in the fight against the scourge that is investment fraud.

I would like to end on a positive note.

There are clear opportunities to improve our capital markets. We have the opportunity and the obligation to strengthen and improve them so that they contribute to a greater extent to the financing of Spanish companies.

There are stimulating legislative changes, such as the Listing Act or the changes to MiFiD. There are companies testing the possibility of going public. And there also are investors (private and institutional, Spanish and international) who view the Spanish stock market as a solid, liquid and well-regulated destination for their investments.

I am sure that everyone's contribution will help the Spanish market to continue to support such an important part of the financing of our economy.

Thank you very much.