

THE CNMV APPROVES THE CODE OF GOOD PRACTICE FOR INVESTORS

22 February 2023

- The Code is aimed at institutional investors and asset managers based in Spain, at foreign entities, and at other investors with shareholdings in listed companies.
- Adherence to this is voluntary, having an “apply and explain” approach, and considers a three-year transition period.
- Its application shall be determined by the principle of proportionality according to the size or complexity of the entity, the nature and size of the investments and the resources of the investee companies.
- The CNMV will publish a list of all the entities adhering to the Code.

Today, the Spanish National Securities Market Commission (CNMV) approved the [Code of good practice for institutional investors, asset managers and proxy advisors in relation to their duties regarding the assets conferred or the services provided](#) (Code of good practice for investors).

The aim of the Code is to promote greater engagement of shareholders in the life of the companies in which they invest. As institutional investors and asset managers are shareholders of or important players in a large number of companies, their engagement is essential to achieve an efficient corporate management and governance model.

The document was drafted with the support of an Advisory Group chaired by the Chairman of the CNMV and formed by representatives of the sector supervisors (Bank of Spain and the Directorate-General for Insurance and Pension Funds), associations of issuers and sector professionals, legal and auditing firms, proxy advisors/solicitors, and other renowned professionals and experts.

For further information:

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Once the Code is approved, those investors wishing to may adhere to it by submitting a document to the CNMV. The CNMV will publish a list of these entities including the links to their websites where their engagement and voting policies, together with any other information necessary in compliance with the Code, will be visibly and clearly published.

By means of this initiative, the Spanish market matches all other international markets applying these codes to encourage the participation of investors in the decisions of the entities in which they invest.

The most relevant aspects of the Code are as follows:

Scope of Application

- It is aimed at institutional investors and asset managers, based in Spain.
- For the purposes of this Code, institutional investors are deemed to be life insurance and reinsurance companies and occupational pension funds. However, given its voluntary nature, there is the possibility that other entities (non-life insurance and reinsurance companies; pension funds other than occupational pension funds, and pension fund management companies, holding companies, family groups and other private investors or other similar entities) may also adhere to the Code should they wish to.
- From within service providers, the applicability of the code has been limited , at least initially, to proxy advisors.

Principle of Proportionality

- Contained are a series of elements enabling entities smaller in size, scale or complexity to adhere. Thus, based on the principle of proportionality, the scope of the recommendations can be adjusted to any entity, independently of its size, in terms of the absolute and relative magnitude of its investments, or in terms of the size, complexity and resources of the investee companies.

Willfulness

- This sets out a principled approach to engagement in the investee companies and on their exposure to sustainability risks.

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- Adherence to the Code is voluntary. However, entities that decide to adhere to the Code should indicate in their annual report how they applied the different principles of the Code the previous year, under the principle of proportionality and, therefore, taking into consideration their particular conditions and circumstances.
- The Code adopts the "apply and explain" model. It is considered relevant for entities voluntarily deciding to adhere to the document, to commit to apply each and every one of the Principles.

Transitional Regime

- Given that the Code is new in the Spanish market, a transitional period of three years has been established, starting from the approval of the Code, during which the entities choosing to adhere may transitionally apply the "comply or explain" principle in their annual report, indicating the principles applied and those not applied, in the latter case appropriately explaining the reasons for deciding not to do so during the period of the report.
- However, it is considered that Principle 6 on conflict of interests management policy should be applied from the outset, as it is inherent to the operations of any investor or manager.
- Institutions that decide to use the transitional period must publicly commit to implement all the principles before February 2026, by publishing, at the time of adhering, a concrete plan and timetable for adaptation, explaining the degree of annual progress in each of the years.

Structure of the Code

- The Code contains 7 Principles, covering aspects such as the need to invest and to have a long-term strategy and direction, for which it will be necessary to review and update the internal governance practices and structures; the importance to attain adequate knowledge on and to perform the monitoring of investee companies; the development and publicity of the engagement policy; the exercise of voting rights; the annual transparency of engagement and voting actions performed the previous year; the management of conflicts of interests; and the remuneration policy.

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- An explanatory text is included following each principle with clarifications and expectations regarding the principle, while also detailing when it is applicable and how the principle of proportionality would be applicable. These clarifications and expectations would not be prescriptive but intend to aid the application of each principle, considering the particular circumstances of each investor, manager or voting advisor, while taking into account the purpose and spirit of each principle.

The CNMV submitted a draft of the Code to public consultation from 24 June to 16 September 2022. Said consultation stage generated great interest and several documents were received with comments and contributions that have been taken into account to determine the final scope of the modifications applied to the aforementioned draft.

The members of the Advisory Group were the following:

- Álvaro Pereda de Pablo, Bank of Spain
- José A. Fdez. de Pinto, Directorate-General for Insurance and Pension Funds
- Javier Rodríguez Pellitero, Spanish Banking Association (AEB);
- Raquel Cabeza Pérez, CECA
- Javier Zapata, Spanish Issuers
- Manuel Enrich, AERI
- Lázaro Cuesta Barberá, UNESPA
- Carolina Fernández González, INVERCO
- Fernando Igartua, Institute of Directors/Managers
- Xavier Angrill, Deloitte
- Lourdes Centeno, EY
- Francisco Uría, KPMG
- Javier Cano Peláez, PWC
- Carlos Paredes, Uría Menéndez
- Fernando Vives, Garrigues
- Borja Miranda, Morrow Sodali
- Carlos Sáez Gallego, Georgeson
- Juan Prieto, Corporance Corporance Voting Advisors
- José Ramón del Caño
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