



## Ninth National Collective Investment Seminar "A new growth and transformation scenario"

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Good morning,

- First of all, I would like to thank the Association for Management Progress (and on its behalf, *Enrique Sánchez Leon*), Deloitte (and on its behalf, *Rodrigo Diaz*) and Inverco (and on its behalf, *Ángel Martínez Aldama*) for inviting CNMV to the opening of this National Collective Investment Seminar, and of course many thanks to all of you for coming.
- This seminar is a good opportunity to perform a pulse check on our industry, and for me as a Commissioner, it is a pleasure to represent CNMV.
- I would like to begin by highlighting with satisfaction that the data indicate that the asset management business is in good shape, which shows that our industry is still in good condition.

- There are increasingly more and more investors who rely on collective investment schemes as a vehicle to channel their resources to the market.
- I am sure that in the round-table discussions that are taking place this morning all the relevant sector data are going to be dealt with. I do not intend, therefore, to delve into the details, but allow me to highlight **four figures at national level**:
  - In terms of the volume of assets managed, at the end of August, **collective investment assets** stood at 287.071 billion euros, 6.6% more than in December of the previous year (269.297 billion euros). That is without a doubt good news.
  - **In addition, the number of unitholders and shareholders** has exceeded the figure of 10 million (up 26% compared with December when we had 8.2 million unitholders).
  - Finally, in these first eight months of 2017, the **funds have witnessed positive subscriptions in excess of 14.76 billion** (8.27 billion more than in the same period of the previous year).

- The only news that is not so positive comes to light when we analyze the data relating to **SICAVs**. This year, more than 300 companies have been de-registered, which represents more than 10% of the total number of entities entered in our registers (2,916). No doubt the current uncertainty regarding possible legal changes has a bearing on the data associated with these vehicles.

More generally, it is relevant to point out that a prolonged period of very low interest rates such as the one we are now experiencing, influences the behaviour of investors. If the returns on savings, when assuming very little risk is low, then we are faced with two possible scenarios that are not mutually exclusive: on the one hand, an increase in the propensity to spend and on the other the **search for higher returns**, enabling them to assume greater risk in their investments.

- Without a doubt, investors have found in the collective investment industry a place to strive to obtain that greater profitability. The net subscription data of 'higher risk' funds proves this and, amongst all of them, the most prominent ones are global funds which, according to our registers, amount to a total of more than 7.8 billion euros of net subscriptions so far this year.

- These data confirm that we are on the right track. After the impact of the financial crisis on our industry, the sector has been able to redesign its models as part of a strategy focused on cost control, active risk management and greater operational efficiency.
- However, as the title of this seminar indicates, in my opinion, we stand at a crossroads, in a scenario of transformation. Entities must now face a more sophisticated and demanding context.
- In general terms, the first aspect to highlight is that we still find ourselves in a **somewhat shifting regulatory realm**. We have had a few years of intense activity, producing standards at European level at an incredible pace, and many of them affect the collective investment sector and must be transposed into our legislation.
- One of the most important changes is the one that is going to involve a **new Securities Market Law**, which will be substantially modified to adapt and transpose MAR and MiFID II into Spanish Law.

- And, more specifically, I want to focus on explaining some essential aspects of the **MiFID II-MiFIR** legislative package. As you know, this is an extensive regulatory package: it is composed of a Directive, a Regulation, a Delegated Directive and no fewer than 28 implementing regulations.
- After several delays, the set of reforms will finally be applicable with effect as from 1 January 2018. For this reason, during the last year we have redoubled our collaborative efforts with the Ministry of Economy in the tasks required to carry out the transposition of **MiFID II**.
- As a major milestone, on 4 August past, the Ministry of Economy published a preliminary draft of the new Securities Market Law, together with a draft implementing Royal Decree. Thus the public hearing period, which was open until 18 September, was initiated.
- In general terms, the MiFID II regulation seeks to promote financial stability and improve the functioning of markets, by increasing the transparency required of market participants and the coordination between supervisors and addressing weaknesses in terms of organization and control that were detected in the wake of the financial crisis.

- There are numerous relevant modifications to be addressed by this legislation, but I am going to focus on some aspects that I think may be of interest to you. Specifically, I am going to comment on some substantial changes within the scope of secondary markets, the new treatment of the analysis cost and the proposed innovations with regard to global accounts, better known as the omnibus accounts.
- I am going to start with the issue relating to new developments in the field of secondary markets that is going to affect their operations as CISs.
- As you know, two of the strategic objectives of the new pieces of legislation are to increase transparency and trading on organized platforms.
- Under MiFID II, all systems that support multilateral trading must be governed by the provisions applicable to trading venues. To develop this activity the necessary authorisation as a regulated market, multilateral trading system (MTS) or organized trading facility (OTF) will be required.
- In this regard, in addition to regulated markets and multilateral trading systems (MTSs), MiFID II introduces a new category of trading facility – organised trading facilities (OTFs) – in which only fixed-income instruments and derivatives may be traded.

- Finally, unlike the regime established in MiFID I, under which IFs could voluntarily opt to be considered as systematic internalizers, MiFID II provides for the possibility that under certain circumstances the qualification as a systematic internalizer becomes mandatory.
- Systematic internalizers are IFs that, on an organised, frequent and substantial basis, trade on their own account when executing client orders outside the trading conducted in trading facilities (OTC). This form of trading requires CNMV to be notified about it.
- With respect to the transparency regime, this obligation extends to other financial instruments beyond equity (such as fixed income, derivatives and other instruments which can be comparable to equity) and the conditions for exemption from these obligations are modified.
- Without a doubt, as I said earlier, this is a very relevant change of approach that has been reflected in the preliminary draft of the Securities Market Law and that, of course, will involve the necessary adaptation of existing institutions to the new figures.

- Several initiatives have been undertaken by CNMV to facilitate and coordinate the new obligations. On the one hand, a group has been set up with the sector with regular meetings and a mailbox has been made available for consultations on market aspects of MiFID II and MiFIR (mifid.mercados@cnmv.es). On the other hand, an implementation group has been created in order to report on the progress of the draft legislation and to address the issues proposed by the industry.
- In fact, we also recently published on our website the Test Plan that CNMV has made available for transaction reporting under the new obligations established by MiFIR which offers the possibility to check in advance the new processes required by this Regulation.
- **With regard to the question of the changes in the treatment of analysis costs,** MiFID II considers as a non-monetary incentive the analysis that entities perceive from brokers through which they broker/execute transactions (brokerage fees include the analysis cost and transaction costs of the broker that the managers and consultants normally operate with).



- These incentives are therefore not permitted within the framework of independent advisory services and portfolio management. However, if the cost of the analysis is directly charged to the client and is based on a previously informed budget agreed with the client that is not linked to the volume or amount of the transactions, it would not be considered as an incentive and would therefore be permitted in any service.
- In any case, if it is charged to the client along with a brokerage fee, a separate analysis fee must be established.
- It should be noted that in the ESMA technical advisory document provided to the Commission to develop MiFID II level 2, it is recommended to consider the possibility of aligning this treatment in the area of UCITs and Alternative Investment (AIFMD) to the extent that CISs provide investment management services similar to those of portfolio managers.

- In the draft transposition of MiFID II submitted to public consultation since August, the Spanish legislator proposes an amendment to the Regulation on Collective Investment Schemes (RIIC) to try to align the treatment of the analysis in collective management with the provisions of MiFID II provided that it is included in the fund prospectus and meets the following three requirements:
  - It must constitute original thinking and propose meaningful conclusions.
  - It must be related to the fund's investment vocation and contribute to better investment decision-making.
  - In addition, the scheme's annual report must contain detailed quantitative and qualitative information.
- The proposed text requires, however, that when investment funds bear the analysis service cost, in addition to meeting the conditions set out above, in no event shall such cost be influenced by the volume of brockering transactions.
- Finally, I would also like to point out that, coinciding with the transposition of MiFID II, at CNMV we have taken the opportunity to propose the inclusion of **some measures** to improve competitiveness without jeopardizing investor protection.

- Of all of these, I would like to highlight the ones which relate to **omnibus accounts**. The current CIS law allows for the existence of global accounts or "liability" omnibus in the register of unitholders of the management company, that is, in the marketing of CISs, in such a way that the management company does not know the identity of the final clients, and in their registers only the marketer appears.
- However, under the current legislation that regulates these accounts, if it is agreed between the Management Company and the Marketer that the shares be registered in the management company in a global account under the name of the marketer, this system cannot be applied to existing unitholders, which shall continue to appear in the management company's individual register.
- This coexistence in the management company of individual registers for unitholders with global accounts considerably increases operational complexity and constitutes an obstacle to the implementation of global accounts in practical terms.
- The proposal to amend the CIS Law that appears in the preliminary draft of the Securities Market Law attempts to solve this problem and thereby facilitate the use of these types of accounts among CISs.

- In more general terms, I would like to point out that in the short term CNMV is going to continue to **collaborate with the Ministry** in adapting our Securities Market Law in order to conclude a quality piece of legislation to serve as a reference for our markets.
- In addition, we are aware that there are some pending developments and, although we do not have a schedule yet, we are going to continue to work to settle these unresolved issues as soon as possible.
- In any case, at CNMV we are open to your suggestions to ensure that adaptation to the new regulation is as painless as possible.
- I am not going to elaborate any further. I shall end by reiterating my gratitude to the organizers of this seminar and I hope you enjoy the rest of the seminar.

Many thanks for your attention and I hope you have a nice day.