European Securities and Markets Authority

# Opinion

## On Intended Accepted Market Practice on liquidity contracts notified by the Comisión Nacional del Mercado de Valores

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**Glossary and acronyms**

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| AMP | Accepted market practice |
| ESMA | European Securities and Markets Authority |
| MAR | Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC [1] |
| OJ | Official Journal of the European Union |
| RTS on AMPs | Commission Delegated Regulation (EU) 2016/908 of 26 February 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council laying down regulatory technical standards on the criteria, the procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance [2] |

[1] OJ L 173, 12.6.2014, p. 1
[2] OJ L 153, 10.6.2016, p. 3–12

# 1 Legal Basis

1. According to Article 13(4) of MAR, ESMA shall, within 2 months from the receipt of the notification made by a competent authority under Article 13(3) of that Regulation of its intention to establish an Accepted Market Practice (AMP), issue an opinion on the intended AMP. This opinion shall assess (a) the compatibility of the intended AMP with Article 13(2) of MAR[3] and the Commission Delegated Regulation (EU) 2016/908 of 26 February 2016 supplementing MAR (RTS on AMPs); and (b) whether the establishment of the AMP would not threaten the market confidence in the Union's financial market.

# 2 Background and Procedure

2. MAR determines a harmonised framework prohibiting market manipulation encompassing the prohibition to enter into a transaction, place an order or engage in a behaviour which gives, or is likely to give, a false or misleading signal as to the supply of, demand for, or price of, an instrument in the scope of MAR, or which is securing, or likely to secure, the price of such an instrument. However, MAR also provides an exception to the general prohibition of market manipulation. To benefit from that exception ("safe harbour"), the concerned person needs to establish that the transaction conducted, the order placed or the behaviour engaged into has been carried out for legitimate reasons and in accordance with market practices formally accepted by the competent authority – these are referred to as AMPs.
3. Article 13 of MAR provides that a competent authority may establish such AMPs. The relevant provision of MAR regarding AMPs is supplemented by an RTS on AMPs that describes the non-exhaustive factors that a competent authority should take into account before deciding whether or not to establish an AMP.
4. As required under Article 13(3) of MAR, a competent authority intending to establish an AMP must notify ESMA and other competent authorities of its intention at least three months before the AMP is intended to take effect. According to Article 13(4) of MAR, ESMA has to issue a non-binding opinion within two months following the receipt of the notification of the proposed AMP and publish it on its website.
5. In accordance with Article 13(5) of MAR, where the opinion issued by ESMA is negative, the notifying competent authority is required to publish on its website a notice setting out in full its reasons for establishing the AMP, within 24 hours of establishing that AMP.

[3] Article 13(2) of MAR:
A competent authority may establish an accepted market practice, taking into account the following criteria:
(a) whether the market practice provides for a substantial level of transparency to the market;
(b) whether the market practice ensures a high degree of safeguards to the operation of market forces and the proper interplay of the forces of supply and demand;
(c) whether the market practice has a positive impact on market liquidity and efficiency;
(d) whether the market practice takes into account the trading mechanism of the relevant market and enables market participants to react properly and in a timely manner to the new market situation created by that practice;
(e) whether the market practice does not create risks for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial instrument within the Union;
(f) the outcome of any investigation of the relevant market practice by any competent authority or by another authority, in particular whether the relevant market practice infringed rules or regulations designed to prevent market abuse, or codes of conduct, irrespective of whether it concerns the relevant market or directly or indirectly related markets within the Union; and
(g) the structural characteristics of the relevant market, inter alia, whether it is regulated or not, the types of financial instruments traded and the type of market participants, including the extent of retail-investor participation in the relevant market.

A market practice that has been established by a competent authority as an accepted market practice in a particular market shall not be considered to be applicable to other markets unless the competent authorities of those other markets have accepted that practice pursuant to this Article.

6. In the present case, the Spanish Comisión Nacional del Mercado de Valores (CNMV) notified ESMA on 2 August 2016 of its intention to establish an AMP providing the information required under Article 13(3) of MAR and Article 10 of the RTS on AMPs. The proposed AMP relates to a practice known as liquidity contracts.

7. Under the proposed AMP as notified by the CNMV, an issuer of shares admitted to trading on a Spanish regulated market (beneficiary of the AMP) enters into a contract with a single investment firm or credit institution (financial intermediary) through which the latter will carry out transactions on the Spanish regulated market(s) where the issuer's shares are traded with the sole objective of enhancing the liquidity and regular trading of the shares. For the performance of the liquidity contract, the beneficiary will allocate a dedicated amount of resources on a securities account and a corresponding cash account opened in its name within the financial intermediary and to be used exclusively for that purpose. In the performance of the AMP, the financial intermediary must act independently from the beneficiary, i.e. must not be instructed by the issuer, as well as from its other activities as financial intermediary. The proposed AMP also requires that the compensation of the financial intermediary for the performance of the liquidity contract is a fixed amount, the nature and level of which need to be determined in the contract to be signed.

8. Furthermore, the proposed AMP imposes reporting requirements to the CNMV and transparency requirements to the public relating to the liquidity contract prior and during its performance as well as when it ceases to be performed. It also established *ex ante* limits and conditions to trading for the performance of the liquidity contracts in terms of price, volume and positions, including specific conditions for trading during auction periods. In addition, the AMP prohibits the beneficiary to trade in its own shares during the performance of the AMP except in clearly identified and listed situations when the performance of the AMP needs to be suspended.

9. The CNMV's notification on 2 August 2016 indicated that the proposed AMPs aimed at replacing the existing AMP on liquidity contracts previously established by the CNMV on 13 January 2008 under the regime stemming from Directive 2003/6/EC[4] (MAD).

10. Following the receipt of CNMV's notification, ESMA staff initiated a process of providing the CNMV with «*preliminary comments, concerns, disagreement or request for clarifications*» according to Article 11(1) of the RTS on AMPs.

11. In particular, with a view to further enhance the safeguards to be provided by the AMP with respect to market integrity and confidence, ESMA staff recommended the CNMV to reassess and reconsider the following elements:

    a. the scope of the issuers that could benefit from the practice taking into account the level of liquidity of their shares in light of the proposed AMP objective of enhancing liquidity;

    b. the possibility of introducing an additional ex ante safeguard to ensure that the resources allocated to the proposed AMP are proportionate and commensurate to its objectives;

    c. the restriction of the AMP to regulated markets leading to potential unequal treatment between different types of trading venues in Spain, and

    d. The need for the person performing the AMP to be a member of the trading venue on which the transactions under the liquidity contract will be carried out.

12. Taking into account the above exchange of views, on 19 September 2016 the CNMV notified ESMA with a revised AMP, incorporating certain changes and addressing ESMA

[4] Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive); OJ L 173, 12.6.2014, p. 179–189.

staff's concerns. Additionally, on 7 November 2016, the CNMV notified that it was assessing possible additional changes to be introduced in their AMP as a result of further discussions with ESMA and other national competent authorities.

13. Accordingly, in compliance with Article 11(2) of the RTS on AMPs, ESMA ceased the process of issuing an opinion based on the two notifications mentioned above. This opinion relates to the proposed revised AMP notified on 19 September 2016 as it was ultimately left unchanged. In preparing the opinion, ESMA staff has consulted with national competent authorities.

14. The Board of Supervisors has adopted this opinion in accordance with Article 44(1) of the Regulation (EU) No 1095/2010[5]. This opinion is addressed to the CNMV.

# 3 Opinion

## 3.1 Rationale of the ESMA Opinion

### 3.1.1 General comments on the nature of AMPs

15. This is the first opinion that ESMA issues on an AMP. ESMA considers that opinions on AMPs are of utmost importance. The reason for this is that AMPs are practices that could be potentially manipulative but that are accepted and authorised to pursue a benefit they bring to market structure, operation or robustness.

16. Market manipulation is one of the most serious types of misconduct in financial markets and one of the two types for which a criminal regime has been established in the EU through the Market Abuse Directive on criminal sanctions (the other type being insider trading). That demonstrates the relevance of this matter and explains why ESMA takes its role on overseeing AMPs intended to be established particularly seriously.

17. The protections and safeguards foreseen in MAR by the co-legislators with respect to activities falling within an AMP have been envisaged precisely because those activities (placing orders or conducting transactions) could, in themselves, constitute market manipulation. The mechanisms for doing so could be either by affecting the price formation process by giving false or misleading signals as to the supply of, demand for, or price of the financial instrument or by securing the price at an abnormal or artificial level. The AMP grants a specific legal protection to those persons performing it, provided they fulfil two conditions, namely that they do so in conformity with the conditions of the AMP and that they engage in those activities for legitimate reasons.

18. However, the risks for market integrity are also very prominent. In this respect, the CNMV rightly recognises in its submission the possibility that the practice could affect the price formation process. Hence, it is important for ESMA to analyse the AMP with a view to avoid, to the extent possible, that the distortions referred to above take place.

[5] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC; OJ L 331, 24.11.2010, p. 84.

## 3.1.2 Benefits and risks brought by the activities under the proposed AMP

19. The AMP notified by the CNMV refers to liquidity contracts by which a credit institution or investment firm (financial intermediary) quotes in the equity market on behalf of the issuer, with a view of reinforcing liquidity in that share. The practice would be available for all issuers.

20. The objective of the practice is to increase or maintain the liquidity of a particular share. In that respect, the goal would ultimately benefit investors, in the sense that the likelihood of finding a counterparty for entering or exiting a position in that share would increase. That would probably have an effect on the prices, by narrowing the spreads and reducing therefore transaction costs for market participants as a whole. In that respect, when correctly applied, the provision of liquidity can be understood as a legitimate reason and also a way to improve the confidence in the market of the concerned shares.

21. There are other mechanisms in EU markets through which liquidity is usually enhanced. Liquidity provision under a contract with a venue is probably the most traditional mechanism. It consists in a market maker or liquidity provider entering into a contract with a trading venue whereby the provider quotes certain stocks within a given time interval, offering typically two-way prices. The remuneration of the liquidity provider or market maker typically comes in those cases from the spread (the difference between buy and sell prices). Additionally, market making or liquidity provision contracts typically contain some other advantages or rebates for those entering into them, in the form of discounts on execution fees or other compensation mechanisms. However, in these types of arrangements, the funds and resources for the liquidity provision are not provided by a third party and the market maker or liquidity provider therefore runs a market risk that acts as an incentive to quote prices close to the market value of the share, since otherwise they could face losses by being executed on the side of their quote that would be off-market. While the presence of fully independent (from the issuer) market makers or liquidity providers could indeed generate an impression of liquidity and therefore send a potentially false signal of what real liquidity would be in the market without them, it is more unlikely that they send false signals on prices (given that if they do so, market dynamics would probably revert the price to its normal level).

22. In the case at stake, the main difference with a classical market making contract as those deployed by trading venues is that in the proposed AMP, the issuer of the shares initiates the practice, determines when to put it in practice, defines the size of the resources that will be devoted to it and, more importantly, provides those funds and shares on its own account. The interest of the issuer and the extent to which it could collide with the interest of the market as a whole, becomes, therefore, a central element on the assessment of this practice.

23. It is evident that issuers have a legitimate interest in, and are committed to ensure, the liquidity of the securities they issue. It is well known that liquidity is an asset when it comes to investing in financial markets and issuers will normally try to maximise the liquidity of the financial instruments issued by them as a way to attract a larger population of investors and ultimately reduce their cost of capital. A way of doing so is to concentrate the outstanding volume of instruments (bonds) in a few benchmark references or to list their shares in those trading venues in which a larger community of investors can participate.

24. However, issuers may face at times a temptation to influence the market's perception on the degree of liquidity of their instruments or on the price at which they trade. The reasons for those temptations are numerous and end up in lowering their cost of capital. Issuers might be interested, for instance, in avoiding that their share prices do fall below a certain level, which would be important for certain contracts or for the financing of positions of key

shareholders that would need to face margin calls below certain levels. Similarly, they could have an interest in avoiding downward spirals on share prices that could compromise their stability or their possibilities of raising future funds through secondary offerings. Lastly, they could for instance have an interest in showing a higher turnover for the purpose of entering into an index which takes traded volume as a parameter for inclusion, knowing that shares in those indices attract demand from institutional investors tracking them. In general, ESMA considers that there could be situations in which the interests of the issuer could collide with the interests of the market as a whole and particularly investors' interests. This type of concern was already analysed, attracted the attention of several academics, and was addressed through the EU's regulatory responses (MAD and MAR) and, in limited occasions, through enforcement actions.

25. It follows from the above that practices based on liquidity contracts, when prompted and fully funded by the issuer of the share, require the maximum possible precautions to ensure that the risks to the price formation process are as contained as possible. Although the objective of the assessment for the purpose of this opinion is related to the market abuse sphere only, a related dimension of this matter is the impact that these liquidity contracts could have on the profit and losses account of the issuer, which ultimately is the base for the remuneration of shareholders. In cases in which the liquidity contract generates losses for the issuer that result in a smaller net profit (or a net loss) of the listed company, it will be ultimately the shareholders to pay for the activity, which raises an issue of alignment of incentives between managers and shareholders.

26. Liquidity contracts sponsored by issuers are not a widespread practice in the EU. To ESMA's knowledge, only five countries have allowed them under AMPs established under the MAD regime. A number of competent authorities in other countries, when presented with the possibility of allowing these practices, decided not to accept them as AMPs, in view of the risks to market integrity that they could pose. The views on the appropriateness and the desirability of issuer-sponsored liquidity contracts have therefore not been unanimous in past years across the EU.

27. As explained above, the risks attached to issuer-sponsored liquidity contracts require mechanisms that act as mitigants to those risks and minimise the possibility of pernicious effects on price formation and perception of liquidity.

28. The main risks in ESMA's view are the following:

    a. the possibility of the issuer instructing the financial intermediary to act on sensitive periods for the issuer (around publication of results, in the wake of key announcements or secondary offerings, during buy back or stabilisation periods, while a takeover is pending acceptance, etc.);

    b. the possibility of the issuer or the financial intermediary favouring one-side quoting (for instance, buying only or buying in bigger quantities than selling), ultimately creating an imbalance and move (typically up) the price of the share;

    c. the possibility of quoting practices that would have a distortion effect on prices (by placing orders at a better price than what would result from independent parties);

    d. the possibility of acquiring a dominant position in the market, with the associated distortive results that it would create;

    e. the possibility of a lack of transparency of the contract, in a manner that would prevent the overall market to assess how much liquidity is being "added" by the contract compared to the one that would be "naturally" present in the market;

    f. the possibility of a wrong-way incentive for the financial intermediary to increase trading in order to increase its remuneration under the contract.

### 3.1.3 Mechanisms of the proposed AMP to address the risks

29. The main mechanisms to reduce those risks envisaged by the AMP notified by CNMV are the following. Each one is linked with at least one of the criteria established in MAR and further specified in the RTS on AMPs:

    a. the requirement to use only investment firms or credit institutions (regulated firms) to operate the contract;

    b. a prohibition for the issuer to instruct the financial intermediary on its activity;

    c. a requirement to keep a certain (even if not exact) balance between the buying and selling activity;

    d. restrictions on the share of average turnover that the contract may represent (not higher than 25% of average traded volume in the previous 30 sessions);

    e. restrictions on the price at which buy and sell orders can be placed (not higher/lower than the last independent buy/sale or the best bid/offer);

    f. an obligation to act with exceptional care during auctions;

    g. a public disclosure regime (mainly of dedicated resources and traded volumes) before the contract starts and at periodic intervals thereafter;

    h. a prohibition for the issuer to engage in any trading on own account of its own shares while the contract is active;

    i. a number of events (offerings, takeover, buy-back program) that would require the suspension of the contract.

30. ESMA considers that all of the mechanisms listed above contribute to reduce the risk of market manipulation and threat to market confidence resulting from the performance of the proposed AMP and are compatible with the criteria set out in Article 13(2) of MAR and further specified in in Section 2 of RTS on AMPs.

31. In ESMA's opinion, the need to appoint a single financial intermediary and to select a regulated entity, which is subject to strict compliance requirements represents a particularly important requirement. It is also relevant to introduce limits to the dominant position, in the same vein as MAR does for stabilisation and buy-back programmes. Likewise, the requirement to suspend the contract to avoid that it coincides with some sensitive processes is an important feature of the proposed practice. ESMA also acknowledges the appropriateness of forbidding a variable remuneration for the financial intermediary that would somehow be linked to the amount of trading that the financial intermediary would conduct.

32. With respect to the restrictions on the price of orders, ESMA considers that in a market with a medium degree of liquidity (where independent third parties are present during most of the trading session), the requirements to place orders at or outside of the (independent) spread in the order book or not to improve the last independent trade (whichever is lower/higher) would generally reduce or eliminate the possible distortive effects on prices. However, ESMA can also envisage situations of particularly low liquidity in which the order book may contain no (independent) orders and the last trade may date back several hours. In those situations, when the overall market moves up or down in price, situations could arise in which the orders by the financial intermediary performing the AMP could be displaced from the fair value of the share even if the conditions of the AMP were being met. For instance, in the absence of independent quotes, placing orders at the last price could be manipulative if the stock market as a whole, meanwhile, has moved significantly in price. However, ESMA does not identify a practicable alternative to mitigate those risks apart from the duty of care born by the financial intermediary in the performance of the contract.

33. ESMA considers that the prohibition for the issuer to trade on own account outside the contract while being active is a relevant feature of the AMP proposed by CMNV to address the risks of issuers engaging in own account trading of their own shares in the market. While that activity is not per se forbidden under MAR, it is subject to the general prohibitions concerning market manipulation. The tradition and practice of issuers operating on a purely discretionary manner on their own shares (without a liquidity contract, by dealing directly on the market or through one or several intermediaries) is diverse across Member States. ESMA is aware that, while in some Member States it is quite frequent, in others it is regarded as a bad practice by the competent authority or by the market in general.

34. In any case, in a framework in which operating discretionary on its own shares is not forbidden, ESMA is of the view that the risks to market integrity of issuers placing directly in the market buy and sell orders on their own shares with none of the limitations, controls or requirements contained in the proposed AMP (or in other similar ones that might be presented to ESMA in the coming months) are far higher. This raises the question of whether these types of AMPs, even if still embedding clear risks to price formation, provide on the other hand a positive incentive for issuers to give up discretionary dealing on their own shares and to engage in practices (those under the AMP) that are at the same time less risky for the integrity of the market and which limit the legal risk of market manipulation for the issuers. For the framework to work, it would be necessary in any case to increase the supervisory convergence on what should be the tolerance level for discretionary dealing on own shares.

35. This debate is not new and was an important element in the discussions whether AMPs should be allowed or not at all during the negotiations leading to the approval of MAR. On one hand, by creating safe harbours, responsible behaviour is promoted over discretionary trading possibilities which seem riskier for market integrity. On the other hand, by allowing activity that has the potential of distorting the price formation process, competent authorities would be exchanging improvements on liquidity by risks to market cleanliness.

### 3.1.4 Adaptations introduced in the AMP

36. There were originally two aspects of the initially proposed AMP that were of concern for ESMA: its availability for all issuers on the same conditions and the restriction of the practice to regulated markets.

37. As for the scope of the AMP, ESMA had concerns about the possibility of applying liquidity contracts practices sponsored and funded by the issuers to shares that do not show a liquidity deficit under the same conditions as shares that showed a severe lack of liquidity. CNMV addressed those concerns by introducing a double mechanism by which liquid shares, though still eligible for the AMP, would be subject to more restrictive conditions. The first condition is that the financial intermediary should not exceed in any trading session 15% of average daily trading of the previous 30 trading sessions (volume limits), the second condition is that the maximum amount of cash allocated to the execution of the contract should not exceed 15% of the average daily trading volume of the last 30 sessions multiplied by five (proportionality). Regarding the distinction between liquid and illiquid shares the proposed AMP adopts a reference to the concept of shares considered to have a liquid market under MiFID I, adding that "*once MiFID II / MiFIR become applicable, the definition of liquid shares will be taken from them*".

38. CNMV also introduced in its proposed AMP a limitation on the amount of resources that the issuer can dedicate to the execution of the liquidity contract, making them more stringent in relation to liquid shares than illiquid ones.

39. The other element of concern for ESMA was the restriction of the AMP to Spanish Regulated Markets. Although the preamble of the AMP foresaw that the practice could be

in the future authorised for Multilateral Trading Facilities or other new Regulated Markets in Spain, ESMA considers that restricting the practice *ab initio* to one type of trading venue is hardly compatible with the principle already contained in the relevant EU legislation (MIFID and MAR) of equal regulatory treatment of different types of trading venues with respect to conduct rules and, in particular, to market abuse rules. The CNMV addressed this by clarifying in the AMP that it would be available for MTF platforms trading shares, that could be constituted in Spain, with the exception of those that, due to their market structure and presence of liquidity providers, would not be eligible for this practice.

40. Finally, ESMA would like to note that, in accordance with Article 13(11) of MAR, other competent authorities have notified ESMA of their AMPs relating to liquidity contracts established under MAD. These authorities have already informed ESMA that they will introduce substantial changes to the practices to adapt to the MAR framework. Although all these AMPs, including the one of the CNMV, present a number of similarities, ESMA has undertaken work to make them further converge to the extent possible. In this regard, it appears that further convergence could be achieved among the various AMPs on liquidity contracts in relation several elements including, but not limited to, i) the introduction of maximum monetary amounts capping the resources to be allocated to the execution of liquidity contract, distinguishing between the different liquidity categories for the shares covered and ii) the expectation that the financial intermediary performing the liquidity contract would in normal conditions be present on both sides of the order book. ESMA acknowledges that the AMP notified by the CNMV contains most of these elements and is only departing on the two above mentioned points.

## 3.2 Conclusion

41. Taking into account the above, ESMA considers that the proposed AMP on liquidity contracts is compatible with Article 13(2) of MAR and with the RTS on AMPs, and contains various mechanisms to limit the threat to market confidence.

42. ESMA is nevertheless inviting the CNMV to consider whether it could address in the AMP or in a future revision of it i) the introduction of maximum monetary amounts capping the resources to be allocated to the execution of liquidity contract, distinguishing between the different liquidity categories of shares and ii) the expectation that the financial intermediary performing the liquidity contract would in normal conditions be present on both sides of the order book.

**Annex: Notification of the CNMV received by ESMA on 19 September 2016**

**Accepted market practice (AMP) on** ***Liquidity Contracts***

The Spanish CNMV notifies ESMA of the Accepted Market Practice (AMP) on Liquidity Contracts for the purpose of fulfilling article 13 (3) of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (MAR).

This AMP on Liquidity Contracts is intended to replace the AMP notified to ESMA on 24/06/2016 intended for the purpose of fulfilling article 13 (11) of MAR.

The Liquidity Contract seeks to determine the limits and conditions in which the transactions carried out under such contracts may be classified as an accepted practice for the purposes of the provisions of the Spanish Securities Markets Law, article 13 of MAR and provisions set out in Commission Delegated Regulation (EU) 2016/908 of 26 February 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council laying down regulatory technical standards on the criteria, the procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance (Supplementing Regulation).

This new AMP, with the same denomination and aim as the one notified on 24/06/2016, has been adapted in the light of the experience gained with the existing AMP on Liquidity Contracts and the comments obtained from public consultation which has been carried out according to article 2 (1) (b) of Supplementing Regulation

The main characteristics of the AMP subject to this notification are the following :

- The sole purpose of the Liquidity Contracts is to enhance liquidity and regular trading in the shares of those companies whose shares are listed in Spanish regulated markets and multilateral trading facilities. It must be said that, with the exception of the Liquidity Contract, there has not been any liquidity scheme or any market-making arrangement in the Spanish Regulated Markets for cash equity.

- The performance of the Liquidity Contract shall be done by Investment Firms or Credit Institutions (Financial Intermediary) and those trades performed under a liquidity contract must be registered by the Financial Intermediary in two accounts: a securities account and a corresponding cash account, both opened in the name of the Issuer and used solely for these transactions. Both accounts must be balanced and the balances of the accounts associated with the Contract must maintain equilibrium and be proportional to the goals pursued by the contract. The Financial Intermediary must not be instructed by the issuer in its activity on the issuer's shares.

- The Financial Intermediary shall not, at any time, occupy a dominant position in trading in the Issuer's shares. Since the need to enhance liquidity can be more pressing for "illiquid" issuers, the Liquidity contract will differentiate issuers, based on their degree of liquidity. For these purposes, the financial intermediary shall not exceed in any trading session, 25% and 15%, for illiquid and liquid shares, respectively, of average daily trading of the previous 30 sessions of the trading venue where the contract is executed.

- Regarding the distinction between illiquid and liquid issuers (shares), CNMV proposes to use a transparent, simple and objective method, based on the concept of shares considered to have a liquid market ("liquid share") under Mifid I[1]. Consequently, Liquidity contracts of issuers whose shares fall into the category of liquid shares shall respect the 15% threshold. For the liquidity contracts affecting other issuers, the 25% threshold will apply.

- In this respect, concerning volume restrictions, the 15% threshold is established at the same

[1] Once Mifid II/ Mifir becomes applicable, the definition of liquid shares will be taken from them

level set out as the "Recommendations by the CNMV for securities issuers and financial intermediaries acting on their behalf in discretionary transactions with own shares". On the other hand, the 25% threshold is established at the same level as article 3 (3) of Commission Regulation Commission Delegated Regulation (EU) 2016./52 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the conditions applicable to buy-back programs and stabilization measures.

- Activity during auction periods, and particularly during the closing auction, is permitted. Given the significance of the closing auction, as its price is often used as the reference for multiple transactions, and the need to provide as much liquidity as needed at this particular time where multiple interests are crossed, the Liquidity Contract allows the Financial Intermediary to introduce orders with certain price and volume limitations and with the obligation to act with exceptional care in order to not create artificial changes in the price of the financial instrument. Specific provisions for the introduction of orders during auction periods are established.

- A more flexible regime is foreseen for those less liquid issuers admitted to trading in the non-continuous market segment; the flexibility applies to; i) the calculation of 25% of the average daily trading in the trading venue where the liquidity contract is executed , that is, calculated in respect to the 30 previous sessions in which trading has taken place, and to, ii) the introduction and modification of orders during the auction, when those can be introduced with price and volume restrictions provided that other market participants have sufficient time to react to them. For these, in practice, less liquid shares admitted to trading in the non-continuous market segment, the order introduction rules are the ones depicted for the closing auction.

- In any case, trades by a Financial Intermediary in the framework of a liquidity contract must not create artificial changes in the share price with respect to the market trend, or hamper the market's normal operation, or mislead third parties. To that end:

a) Buy orders must be made at a price not greater than the price of the last trade in the market between independent parties and the highest price of a buy order in the market order book, whichever is higher.

b) Sell orders must be made at a price not lower than the price of the last trade in the market between independent parties and the lowest price contained in a sell order in the market order book, whichever is lower.

- Additionally, limits will be drawn in order to ensure that the resources of both accounts, cash and shares allocated to the contract respect the principle of proportionality to the goals pursued by the contract, making up an additional safeguard to limit the possibility of acquiring a dominant market position.

a) For liquidity contracts on issuers whose shares fall into the category of liquid shares under Mifid I [2], the maximum amount of cash will not exceed 15% of the average daily trading volume of the last 30 sessions, multiplied by 5 (corresponding to 5 trading sessions). Limits to securities accounts will then be set out using the same parameters, converting the volume to shares and taking into account the share market price at contract signature time.

b) For liquidity contracts on issuers whose shares do not fall in the above category, the maximum amount of cash will not exceed the maximum of the following amounts; 25% of the average daily trading volume of the last 30 sessions, multiplied by 15 (corresponding to 15 trading sessions) or 0.5% of the number of the outstanding shares issued by the issuer, multiplied by the share market price at contract signature time. Limits to securities accounts will then be set out using the same parameters, converting when applicable the volume to shares and taking into account the share market price at contract signature time.

[2] Once Mifid II/ Mifir becomes applicable, the definition of liquid shares will be taken from them

- To ensure compliance with the principle of proportionality, the liquidity contract will also establish the conditions in which the Financial Intermediary may, simultaneously or in succession:

a) Buy or sell the Issuer's shares in order to ensure equilibrium between the balance of shares and cash, having regard to the outlook for performance of the liquidity contract.

b) Transfer a certain amount from the cash account to another account designated by the Issuer

- As far as transparency conditions of the Liquidity Contract, any issuer (beneficiary) that enters into a Liquidity Contract must disclose to the public the following information:

a) Before it comes into force and is performed as an AMP, by means of disclosure of the following information through the CNMV web page:

   i) the identity of the Financial Intermediary with which the performance has been arranged,

   ii) the share to which the AMP will apply and the trading venues where the trades are to be executed,

   iii) the duration of the contract, and the number of shares and the amount of cash allocated to the securities and cash accounts, respectively.

b) Quarterly, once the AMP has been performed, daily aggregated figures of transactions executed under the contract, aggregated amount of own shares purchased and sold, amount of cash paid and received, and balance of the securities and cash accounts at the end of the reporting period and on signature of the contract are disclosed to the public. This information, along with any change in the information referred to in paragraphs i), ii) and iii) above must be disclosed within the following five stock market sessions.

c) When a specific liquidity contract ceases to be performed, the issuer must disclose the fact that the contract is terminated and the transactions in own shares made, detailing the number of own shares that were purchased and sold, the amount of cash paid and received, and the balance of the securities and cash accounts at the end of the reporting period and on signature of the contract. Additionally the issuer will report on the development of the execution of the contract and the reasons or causes that have led to its conclusion.

- Regarding the restrictions, the AMP doesn´t allow the issuer to engage, directly or indirectly in any other trade in its own shares while the Liquidity Contract is in force except for those made under the cases referred below, where the contract is suspended.

In this respect, the performance of transactions envisaged in the Liquidity Contract will be suspended in the following situations:

1. In the event of primary and secondary public offerings of the Issuer's shares, in which stabilisation activity according to article 5 of MAR is performed.

2. From the date of the announcement of a takeover bid for the Issuer's shares, up until the date of settlement.

3. During the execution of buy-back program.

4 When the issuer purchases its own shares as a result of a compensation scheme to employees or directors, of an expiry of a derivative financial instrument or of a corporate action

**Proposed date of establishment of the AMP**: On 24/06/16, according to article 13 (13) of MAR, the CNMV notified ESMA of the Liquidity Contract which was established as an AMP by the CNMV on 13/01/2008, through the *"Circular 3/2007, of 19 December, by the Comisión Nacional del Mercado de Valores on Liquidity Contracts for the purposes of their acceptance as a market practice"*.

This new AMP on Liquidity Contracts is intended to replace the above mentioned AMP.

Once ESMA issues an opinion to the CNMV assessing the compatibility of this AMP with MAR and Supplementing Regulation, the CNMV will take the necessary steps to approve the new Circular which will entry into force once it is published in the Spanish Official State Gazette (Boletín Oficial del Estado-BOE).

**Description of the AMP *"Liquidity Contract"*:**

***i) Types of person or group of persons who may perform the AMP***

Performance of the Liquidity Contract shall be done by Investment Firms or Credit Institutions (Financial Intermediary). The CNMV considers that these firms are subject to supervisory duties from financial regulators and therefore fairness, efficiency and market integrity while performing the practice is fostered. The CNMV is also of the view that from a prudential supervision perspective and to adequately protect market participants, in this particular AMP, it was considered necessary that persons performing were a particular type of "supervised persons".

Additionally, market membership will become a condition to perform the liquidity contract, since it will enhance the appropriate supervision by the CNMV of those performing an AMP, will facilitate the identification of trades, while, at the same time, will reduce the risks of not complying with the corresponding rulebooks of trading venues.

The issuer is only allowed to sign a contract with a single Financial Intermediary for each category of shares.

***ii) Trading venues on which the AMP will be performed***

Transactions will be performed on Spanish regulated markets for shares and Spanish multilateral trading facilities.

***iii) Types of person or a group of persons who may benefit from the performance of the AMP***

Any issuer in the Spanish markets -whose shares are admitted to trading on Spanish regulated markets and on Spanish multilateral trading facilities -might sign a contract (Liquidity Contract) with a Financial Intermediary. The issuer (beneficiary) will benefit from the performance of the AMP through the appointment of the Financial Intermediary performing or executing it.

***iv) Description of the type of financial instrument to which the AMP relates***

The Liquidity Contract relates to shares of companies listed in Spanish regulated markets and Spanish multilateral trading facilities.

***v) Indication of whether the AMP can be performed for a specific period of time and description of situations or conditions leading to a temporary interruption, suspension or termination***

The AMP can be performed for as long the CNMV considers it appropriate provided that behaviour is conducted for legitimate reasons, respecting then article 231 of the Spanish Securities Market

Law. In this respect, the content of this provision mirrors the content of article 12.1.a. second paragraph of MAR.

Particular contracts between beneficiaries and persons performing the AMP will have a duration of either 12 or 18 months from the signature date, as agreed by the parties, and will be renewed implicitly for the same length of time, unless otherwise indicated by these.

The issuer may not engage, directly or indirectly in any other trade in its own shares while the liquidity contract is in force except for those made under the cases referred below, where the contract is suspended.

The performance of transactions envisaged in the Liquidity Contract will be suspended in the following cases:

1. In the event of primary and secondary public offerings of the Issuer's shares in which stabilisation activity according to article 5 of MAR is performed.

2. From the date of the announcement of a takeover bid for the Issuer's shares, up until the date of settlement.

3. During the execution of a buy-back program

4. When the issuer purchases its own shares as a result of a compensation scheme to employees or directors, of an expiry of a derivative financial instrument or of a corporate action

## Rationale for which the practice could constitute market manipulation

The enhancement of liquidity, in the way the Liquidity Contracts permit, could potentially lead to misleading signals, referred to in article 12 of MAR, as to the supply of demand for or price of a financial instrument, while the reduction of price movements by the enhanced liquidity could be construed as leading to an artificial price level that secures or is likely to secure the price of a financial instrument or is affecting or likely to affect the price of a financial instrument.

If transactions or other behavior conducted in the context of this market practice is not exempted from the prohibition of article 15 of MAR, it could mean that the implementation of such Liquidity Contracts could in some instances constitute market manipulation.

In order to ensure that transactions executed in the context of a Liquidity Contract are not designated as market manipulation, provisions are set to determine the transparency requirements as well as objectives, criteria, price and volume conditions and restrictions under which such Liquidity Contracts may be established as an Accepted Market Practice.

Transactions, orders or behavior in conformity with an Accepted Market Practice shall additionally be carried out for legitimate reasons to benefit from the non-application of article 15 of MAR.

## ASSESSMENT

| List of criteria taken into account | Conclusion of the competent authority and rationale |
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| (a) Level of transparency provided to the | In addition to the reporting and transparency obligations with regard to own shares to which |

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| market | listed companies are subject, any issuer (beneficiary) that enters into a Liquidity Contract must disclose to the public the following information;<br><br>a) Before it comes into force and is performed as an AMP, by means of disclosure of the following information through the CNMV web page:<br><br>i) the identity of the Financial Intermediary with which the performance has been arranged, the share to which the AMP will apply<br>ii) the trading venues where the trades are to be executed, the duration of the contract,<br>iii) the number of shares and the amount of cash allocated to the securities and cash accounts, respectively.<br><br>b) Quarterly, once the AMP has been performed, daily aggregated figures of transactions executed under the contract, aggregated amount of own shares purchased and sold, amount of cash paid and received, and balance of the securities and cash accounts at the end of the reporting period and on signature of the contract are disclosed to the public. This information, along with any change in the information referred to above in point a of paragraphs i), ii) and iii) must be disclosed by the issuer within the following five stock market sessions.<br><br>c) When a specific liquidity contract ceases to be performed, the issuer must disclose the fact that the contract is terminated and the transactions in own shares made, detailing the number of own shares that were purchased and sold, the amount of cash paid and received, and the balance of the securities and cash accounts at the end of the reporting period and on signature of the contract. The issuer must also submit a report to the CNMV describing how the AMP has been performed and the reasons or causes that have led to its conclusion<br><br>The issuer must notify the CNMV and the public whenever the contract is suspended along with the reasons for it.<br><br>In addition to fulfilling the reporting requirements described above, an issuer that enters into a liquidity contract must present a copy of the contract to the CNMV when it is signed. |

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| | There is also a provision in the AMP granting the CNMV access to any information exchanged between the issuer and Financial Intermediary. The CNMV might also, under its general supervisory powers request the issuer and or the Financial Intermediary to submit information about any transaction executed.<br><br>Please be aware that public disclosure of transactions under the Liquidity Contract are currently made through the CNMV`s web page. |
| (b) Degree of safeguards to the operation of market forces and the proper interplay of the forces of supply and demand | After careful assessment, the CNMV considered relevant that the AMP were performed by Investment Firms or Credit Institutions, in order to provide enhanced safeguards to the operation and to the market.<br><br>The CNMV is of the view that from a prudential supervision perspective and in order to adequately protect market participants and retail investors in this particular AMP, it was necessary for persons performing to be a "supervised persons" type.<br><br>Investment Firms and Credit Institutions are already obliged by the Securities Market Law and Mifid provisions to fulfill obligations with regard to managing and executing clients` orders as well as record keeping rules that will allow an immediate identification of activities and trades.<br><br>In addition, the Liquidity Contract establishes that trades performed under it must be registered by the Financial Intermediary in two accounts: a securities account and a corresponding cash account, both opened in the name of the Issuer and used solely for these transactions. Both accounts must be balanced and the balances of the accounts associated with the Contract must maintain equilibrium and be proportional to the goals pursued by the contract.<br><br>Limits will be drawn in order to ensure that the resources of both accounts, cash and shares allocated to the contract, respect the principle of proportionality to the goals pursued by the contract, making up an additional safeguard to limit the possibility of acquiring a dominant market position.<br>a) For liquidity contracts on issuers whose shares fall into the category of liquid shares under Mifid 1[3], the maximum amount of cash will not exceed 15% of the average daily trading volume of the last 30 sessions, multiplied by 5 |

[3] Once Mifid II/ Mifir becomes applicable, the definition of liquid shares will be taken from them

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| | (corresponding to 5 trading sessions). Limits to securities accounts will then be set out using the same parameters, converting the volume to shares and taking into account the share market price at contract signature time.<br><br>b) For liquidity contracts on issuers whose shares do not fall in the above category, the maximum amount of cash will not exceed the maximum of the following amounts: 25% of the average daily trading volume of the last 30 sessions, multiplied by 15 (corresponding to 15 trading sessions) or 0.5% of the number of the outstanding shares issued by the issuer, multiplied by the share market price at contract signature time.<br><br>Limits to securities accounts will then be set out using the same parameters, converting when applicable the volume to shares and taking into account the share market price at contract signature time.<br><br>Financial Intermediary must also keep the records of orders and transactions related to the Liquidity Contract for a period of at least five years.<br><br>Investment Firms and Credit Institutions also distinguish to have compliance departments in charge of making appropriate assessment of the risks of the AMP. They are also better positioned than other "non-Mifid" firms to determine and avoid conflict of interest between the beneficiary and its clients and ensure compliance. In this respect, it is specifically required that they possess the compliance and audit resources necessary to be able to monitor and ensure compliance at all times with the conditions set for the AMP. The contract also provides for the Financial Intermediary and issuer to assess and communicate to each other their existing potential conflict of interest at the moment the contract is signed or any conflict that might arise in the future, as well as to establish measures aimed at avoiding them.<br><br>Market membership will also be required as an additional condition to perform the practice, as the CNMV considers this as very helpful, since it enhances the appropriate supervision by the CNMV of those persons performing an AMP, facilitates the identification of trades executed under the AMP, while, at the same time, reducing the risks of not complying with corresponding rulebooks of trading venues. In practice all the Financial Intermediaries that |

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| | execute a Liquidity Contract are so far market members.<br><br>The AMP establishes ex-ante a list of trading conditions for its performance including limits to both prices and volumes and limits on positions.<br><br>In this respect, the Financial Intermediary may not, at any time, occupy a dominant position in trading in the Issuer's shares. For these purposes, it may not in any event exceed accordingly 15% or 25% of average daily trading in the main market in the trading venue where the liquidity contract is executed in the previous 30 sessions.<br><br>During auction periods, and particularly during the closing auction, the Financial Intermediary must act with exceptional care not to create artificial changes in the price of the financial instrument.<br><br>In any case, trades by a Financial Intermediary in the framework of a liquidity contract must not create artificial changes in the share price with respect to the market trend, or hamper the market's normal operation, or mislead third parties. To that end the following rules on trading conditions apply:<br><br>a) Buy orders must be made at a price not greater than the price of the last trade in the market between independent parties and the highest price of a buy order in the market order book, whichever is higher.<br><br>b) Sell orders must be made at a price not lower than the price of the last trade in the market between independent parties and the lowest price contained in a sell order in the market order book, whichever is lower.<br><br>The AMP specifically provides for the possibility of carrying out block deals in a separate facility provided by the trading venue, only in exceptional circumstances; the person facilitating the trade shall be a third party and must respond to an offer to buy or sell generated outside the sphere of the Financial Intermediary.<br><br>This deal will compute for the daily volume limit in the Liquidity contract but will not account for the calculation of the corresponding 15% or 25% of the average daily trading in the trading venue where the liquidity contract is executed in the previous 30 sessions. |

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| | Finally, the Financial Intermediary must not be instructed by the issuer in its activity on the issuer's shares, therefore it shall act independently.<br><br>The provisions of the Liquidity Contract compels the Financial Intermediary to have an internal organization structure that ensures its employees entrusted with decision making regarding trades under the contract are independent from other areas handling the proprietary account, portfolio management and processing third party orders. |
| c) Impact on market liquidity and efficiency. | The objective of this practice is precisely to improve market liquidity and efficiency. Lack of liquidity in equities hampers the market's proper development and operation and may be detrimental to market participants and intermediaries. In line with the decisions by other securities supervisors in the European Union, certain mechanisms aimed at increasing a security's liquidity may be appropriate if they minimize misleading signals and do not impair the orderly working of the market.<br><br>In particular, Liquidity Contracts are designed to have a positive impact on some of the variables that affect liquidity. It is important to underscore the fact that with the exception of the Liquidity Contract, there has not been any liquidity scheme or market-making arrangement promoted by the market operator of the Spanish Regulated Markets for cash equity.<br><br>The experience has shown that the Liquidity Contract has increased the volume traded as it has helped and may even have been a key factor sometimes in the interaction of supply and demand of shares of an issuer. On the other hand, since it aims at ensuring regular quotations for an otherwise illiquid share or for illiquid situations in a liquid share, it is expected that it will increase the number of orders in the order book with the capability of increasing somehow the speed of executions of the transactions and the bid/offer spread.<br><br>In addition to the increase in volume traded, the additional assumptions on liquidity derive from the practical understanding of the AMP with no provisions of numerical data. The CNMV would like to stress that price and volumes restrictions in Liquidity Contracts are deemed not to create artificial prices or imbalance between supply and demand, therefore the impact of it on some of the liquidity parameters, like the volume |

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| | weighted average price should be somehow limited.<br><br>As far as daily closing price effect, it has been previously mentioned that an explicit provision demands the Financial Intermediary to take great care during closing auction in order to ensure that its actions do not have a decisive influence on share price performance. In addition, there are specific rules for the introduction of orders during the closing auction; a) the price of the buy order shall not exceed the greater resulting from the theoretical equilibrium price of the auction at the time of the introduction of the order and the price of the last transaction executed in the market before the auction; b) the price of the sale order shall not be less than the lower resulting from the theoretical equilibrium price of the auction at the time of the introduction of the order and the price of the last transaction executed in the market before the auction.<br><br>Responses to the public consultation carried out by the CNMV for the purposes of article 13.3 of MAR about a future AMP on the same object, have shown that Liquidity Contracts have had a positive impact on liquidity, narrowing the spread and making deeper order books enabling transactions that without them would not have been possible. No supporting data was however provided by the respondents. |
| d) The trading mechanism of the relevant market and the possibility for market participants to react properly and in a timely manner to the new market situation created by that practice. | The CNMV recognizes the possibility that the practice could affect price formation process.<br><br>Thus, the AMP compels Financial Intermediary in the framework of a liquidity contract not to create artificial changes in the share price with respect to the market trend, or hamper the market's normal operation, or mislead third parties.<br><br>On the other hand, Liquidity Contract provisions establish that trades have to be executed in Spanish regulated markets or multilateral trading facilities through the order book in accordance with the trading rules, within the standard trading of those markets and using electronic trading means.<br><br>The disclosure means and the effective dissemination of the information are achieved by the means described in point a, "Level of transparency provided to the market". These disclosures may be viewed on the web sites of the CNMV and the Issuer. |

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| | Moreover, the Liquidity Contract envisages "ex ante" situations or conditions where it will be suspended, these are the following; i) in the event of primary and secondary public offerings of the Issuer's shares, in which stabilization activity according to article 5 of MAR is performed, ii) from the date of the announcement of a takeover bid for the Issuer's shares, up until the date of settlement, iii) during share buyback programs, iv) When the issuer purchases its own shares as a result of a compensation scheme to employees or directors, of an expiry of a derivative financial instrument or of a corporate action. |
| (e) Risks for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial instruments within the Union. | In order to avoid the risk for the integrity of related markets, the AMP includes different safeguards which are described below.<br><br>Provisions included in the AMP ensure the principle of proportionality encouraging the parties to maintain equilibrium between the balance to the cash and shares accounts associated with the contract.<br><br>Additionally, the Financial Intermediary shall not, at any time, occupy a dominant position in trading in the Issuer's shares. Since the need to enhance liquidity can be more pressing for "illiquid" issuers, the Liquidity contract will differentiate issuers, based on their degree of liquidity. For these purposes, the financial intermediary shall not exceed in any trading session, 25% and 15%, for illiquid and liquid shares, respectively, of average daily trading of the previous 30 sessions of the trading venue where the contract is executed.<br><br>The contract should determine the nature and level of the compensations. Those must not undermine the principle of independence nor encourage the Financial Intermediary to artificially influence the price or trading volume by performing transactions. Compensation to be received by the financial intermediary shall consist of a fixed amount which shall not be linked to variables such as the number of trades executed under the contract or the evolution of the price of the shares of the issuer.<br><br>Trades performed under a liquidity contract must be registered by the Financial Intermediary in two accounts: a securities account and a corresponding cash account, both opened in the name of the Issuer and used solely for these transactions. Both accounts must be balanced |

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| | and the balances of the accounts associated with the Contract.<br><br>The Liquidity Contract must define the conditions under which the Financial Intermediary will trade. Other duties and activities are depicted throughout the contract, specifically in the section describing the market practice that is compulsory for every contract.<br><br>As far as the organizational structure and internal arrangements of the persons performing the AMP, we would refer to what it has been said in point b *"Degree of safeguards to the operation of market forces and the proper interplay of the forces of supply and demand"*.<br><br>It is also important to point out that an adequate reporting between the issuer (beneficiary) and the Financial Intermediary to fulfill their respective legal obligations, particularly the rules on inside information, is compulsory.<br><br>Finally, transaction reporting to the CNMV is not specifically required in the AMP for the following reasons; i) the CNMV can at any time request it under its general powers, ii) Mifid requires European Investment Firms to send Competent Authorities transaction reports through the TREM and orders made under the contract are introduced by Mifid authorized firms and executed in the market under an agency basis, always on behalf of the issuer. This implies that in the Transaction Reporting regime under Mifid and under Mifir, the client buyer or seller field will be filled with the name of the issuer. The CNMV can therefore track down at any time any transaction under the contract, iii) transparency requirements explained in point a, are also used to examine and ascertain any activity performed (issuers must disclose in the quarterly report the daily aggregated figures of its activity under the contract). |
| (f) Outcome of any investigation of the relevant market practice by any competent authority or other authority, in particular whether the relevant market practice infringed rules or regulations designed to prevent market abuse or codes of conduct, irrespective of whether – it concerns, directly or indirectly, – the relevant market or related markets within the Union. | The Secondary Markets Department of the CNMV quarterly undertakes a supervisory exercise of every Liquidity Contract.<br><br>The exercise assesses the fulfilment of the transparency requirements as well as the following conditions; limits on volumes, activity in closing auctions, compliance with restrictions and accuracy of the balance of the cash and securities accounts.<br><br>Whenever minor non-compliant aspects are |

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| | found a written explanation from the Financial Intermediary is required. A copy of the warning letter sent to the Financial Intermediary is also sent to the issuer. Meetings with beneficiaries and Financial Intermediaries are also held in case performance of the contract raises any concern.<br><br>A written report of every regular supervisory exercise is always produced and submitted to the management of the CNMV.<br><br>From the experience of the CNMV in its supervisory and investigation activities, we have not had until now any adverse result or outcome that might question the nature or object of the AMP. |
| (g) Structural characteristics of the relevant market, inter alia, whether it is regulated or not, the types of financial instruments traded and the type of market participants, including the extent of retail investors' participation in the relevant market. | Spanish regulated equity markets and Spanish multilateral trading facilities operate based on the SIBE electronic trading platform, developed entirely by Bolsas y Mercados Españoles, S.A. Those markets are based on an order-led system, single order book and order- matching system that operates on the basis of price-time priority.<br><br>Apart from shares, warrants, certificates and exchange traded funds (ETFs) are also traded electronically.<br><br>Concerning the effects of the practice on the market participants it is worth noting, firstly, that the Liquidity Contract shall increase the probability of investors finding a counterparty, especially in low-liquidity shares or in an illiquid environment. The practice is therefore favorable to retail investors.<br><br>Secondly, the financial instruments in the scope of the Liquidity Contracts are shares of companies admitted to trading in Spanish regulated markets and multilateral trading facilities. Therefore, it is widely expected that the retail investors' participation might be very significant in most of the cases.<br><br>Lastly, the fact that the AMP sets out conditions and restrictions to the performance of the practice intends to guarantee the interest of retail investors. |