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Spain

Accounting

FUNDS AND FUND MANAGEMENT 2009

1.1 Requirement to produce financial statements

Requirement to maintain the books and records in the local jurisdictions

There is no requirement under either Spanish commercial or fiscal legislation for Spanish regulated undertakings to keep accounting books and supporting documentation in the domicile of the entity or even in Spain, as long as they can be made available at the request of the Spanish authorities.

Production of financial statements by collective investment funds

Under Law 35/2003 of 4 November (Law on Collective Investment Undertakings), and Royal Decree 1309/2005 of 4 November, Spanish regulated undertakings are required to produce annual public financial statements which must be prepared within three months of the year-end. The public financial statements must be submitted together with the audit report to the Spanish regulator (Comisión Nacional del Mercado de Valores, hereinafter CNMV) within four months of the end of the calendar year.

Spanish undertakings are also required to file an annual report, quarterly, and semiannual updates with the CNMV which will make it available to the public, together with the brochure, in the CNMV's official registries.

In addition, Spanish regulated undertakings are obliged to submit financial statements and other information to the CNMV as required under Circular 3/2008 dated 11 September issued by the CNMV (regarding financial undertakings). In general, financial undertakings with a fund structure are required to file monthly financial statements, while other undertakings with a corporate structure are required to file quarterly financial statements, although specific reporting obligations exist subject to different filing deadlines. These financial statements and other information must follow a specific format provided in developing regulations (mainly in CNMV Circular 3/2008 dated 11 September in the case of financial undertakings, and CNMV Circular 4/1994 dated 14 December in the case of real estate undertakings).

For corporate vehicles, the directors are responsible for preparing and signing the annual accounts (public financial statements). For undertakings with a fund structure, the fund manager takes responsibility for the preparation of the annual accounts (public financial statements), which must be signed by the fund manager's directors.

Choice of period/year-end for collective investment funds

Collective investment funds cannot choose their own year-end and are required to use the calendar year.

Requirement for comparatives

Comparatives are required for the annual accounts (public financial statements) of Spanish regulated undertakings.

Restrictions on the currency under which financial statements must be prepared

The currency that must be used to prepare financial statements is the Euro.

Use of short form accounts

Financial statements must follow the specific format defined in the applicable regulations.

Financial statements must follow Spanish GAAP. Refer to Section 1.4 for specific accounting publications for the funds industry.

1.2 Requirement to audit financial statements

The annual accounts (public financial statements) of Spanish regulated undertakings require annual audits. There is no obligation to audit other financial statements or other interim financial statements.

Audits must be completed and filed with the CNMV within four months of the year-end.

Audits must be carried out in accordance with Spanish provisions regarding the audit function, and the auditors must be individuals or firms registered in the Official Registry of Auditors at the Accounting and Auditing Institute (Instituto de Contabilidad y Auditoría de Cuentas, ICAC).

1.3 Publication of financial statements

As indicated in 1.1, Spanish regulated undertakings are obliged to file two different types of financial statements:

- Annual financial statements must be deposited and published, together with the audit report, with the commercial registry within one month of the date of approval of the financial statements. Additionally, these annual financial statements and audit report must be filed with the CNMV within four months after the end of the calendar year. An exemption from depositing the annual financial statements of investment funds with the commercial registry may be obtained.

Regulated undertakings are required to submit a brochure, an annual memorandum (with similar specifications as for listed companies) and quarterly updates of the memorandum, with the CNMV, following a specific format provided in Spanish regulations (mainly CNMV Circular 3/1997 dated 29 July 1997). This information is deposited with the public registries of the CNMV and is available to the public.

- Financial statements and other information must be submitted monthly or quarterly with the CNMV, but these are not available to the public.

1.4 Accounting standards

Spanish undertakings are required to follow Spanish Generally Accepted Accounting Principles (GAAP).

The accounting principles applicable for preparing financial statements of Spanish undertakings are mainly found in the following:

- Law 35/2003, dated 4 November, which regulates collective investment undertakings
- Royal Decree 1309/2005 dated 4 November, which regulates collective investment undertakings
- CNMV Circular 3/ 2008 dated 11 September, which establishes the accounting rules for financial undertakings
- The Code of Commerce and developing legislation
- The General Accounting Plan
- The legislation established by the Accounting and Auditing Institute,
- Specific rules with respect to non-financial (real estate) undertakings are provided in CNMV Circular 4/1994

1.5 New accounting regulations in Spain (Circular 3/2008, 11 September)

Circular 3 dated 11 September 2008 adapts the accounting plan for financial and real estate collective investment undertakings (hereinafter CIUs) to the new accounting framework established in the Spanish General Chart of Accounts (NPGC, local regulations adapted to IFRS).

The adaptation process has essentially been developed by considering the specific nature of CIUs compared to other types of institutions, even financial. These specific characteristics are recognized by the Spanish General Chart of Accounts and also Law 35/2003.

An essential part of the reform is the consideration, for classification and measurement purposes, of the entire portfolio of financial assets in which CIUs invest as other financial assets and liabilities at fair value through profit or loss. This is due to the requirement for market values of institutions to be calculated, reflecting the effective or estimated realizable value of the assets in their portfolios. In the case of real estate CIUs, changes in fair value would be recognized in equity.

The Spanish General Chart of Accounts permits this option to be used if accounting asymmetries due to the use of different criteria are significantly reduced or eliminated and where applied to a group of assets and liabilities that are managed jointly and the performances of which are evaluated on the basis of their fair value in accordance with a strategy of risk management or documented investment.

The classification of instruments as held to maturity is not applicable to CIUs, as they do not have the positive intent or ability to hold instruments to maturity. Institutions have no intent to hold assets to maturity if they are willing to sell them due to liquidity requirements (which happens in CIUs, as they are open-ended with redeemable units) and ability depends on the absence of legal limitations that would make it impossible to have a positive intent to hold instruments to maturity (again, CIUs are required to redeem units).

The classification of available-for-sale assets is theoretically applicable to CIUs, but creates an unnecessary asymmetry and is therefore considered inappropriate. Consideration of the portfolio under a single criteria, therefore, achieves the consistency mentioned, and CIUs are required to publish a prospectus explaining their investment vocation, targets and inherent risks.

The Spanish General Chart of Accounts does not expressly permit real estate CIUs to apply fair value to property assets. However, through their similarity to financial CIUs, this treatment has been permitted for properties that form part of these institutions' investment portfolios, recognizing changes therein through equity.

Other features of the regulations are as follows:

- In the case of properties for own use for investment companies, increases in value are recognized through equity.
- In the case of non-deposit cash included in the portfolio and other receivables and payables, the criteria of amortized cost or nominal value has been applied.
- The standards for business combinations and consolidation are expressly considered as inapplicable to CIU investments, given that CIUs cannot exert significant influence over the assets in which they invest. Therefore, the standards for business combinations will only apply in mergers of CIUs.
- Although CIUs are required to recognize a balancing entry with a charge against equity, their shares and interests have been considered as equity instruments and not as financial liabilities. This interpretation has been based on the specific legal status of the institutions, in particular their open-ended nature, and the fact that CIU shares and interests have the features of equity instruments and not liabilities. This is because they are contributions from shareholders and unitholders that represent these parties' ownership of the CIU. These parties are ranked behind creditors in CIU liquidations. The NPGC also categorizes CIU interests in this way.

1.6 Contents of financial statements

Requirements for inclusion in annual financial statements:

	Required by law	Required by GAAP (Spanish)	Complied with for Best Practice
A statement which includes all income less expenses plus realized and unrealized gains and losses	No	No	No
A statement which only includes income less expenses	Yes	Yes	Yes
A statement which only includes income less expenses plus realized gains and losses	No	No	No
Statements of net assets and liabilities	No	No	No
Statement of changes in net assets	No	No	No
Cash flow statement	No	No	No
Statement of accounting policies	Yes	Yes	Yes
3-year net asset value table	No	No	No
5-year net asset value table	No	No	No

1.7 Accounting treatments and disclosures

The following items must be included in the annual financial statements:

	Required by law	Required by GAAP (Spanish)	Complied with for Best Practice
Futures are shown on balance sheet using the grossed up notional amount	No	No	No
Futures are shown on the balance sheet based on the margin outstanding	Yes	Yes	Yes
Futures are shown on the balance sheet based on the margin outstanding and the margin paid to date	No	No	No
Organization costs are written off immediately	Yes	Yes	Yes
Organization costs are amortized over one year	No	No	No
Organization costs are amortized over more than one year	No	No	No
Issue costs are charged to the statement of operations	Yes	Yes	Yes
Issue costs are netted off against creation proceeds	No	No	No
Contingent deferred sales charges are recorded as income	No	No	No
Contingent deferred sales charges are netted off against redemption proceeds	No	No	No
Holdings in other collective investment funds are consolidated if the fund holds > 50% of the underlying collective investment fund's shares	No	No	No
Methods used in financial statement presentation to measure listed investments are:			

	Required by law	Required by GAAP (Spanish)	Complied with for Best Practice
Cost	No	No	No
Market value:			
bid	No	No	No
mid	Yes	Yes	Yes
offer	No	No	No
close	Yes	Yes	Yes
price at any time during the day	No	No	No
The financial statements distinguish between income and capital	Yes	Yes	Yes

Appendix

Reference material

The following details the relevant laws and regulations for collective investment funds and fund management companies and provides Web addresses (in certain instances) for where this material can be located.

Accounting pronouncements

Accounting and Auditing Institute: www.icac.mineco.es.

Regulator

Comisión Nacional de Mercado de Valores: www.cnmv.es.

Stock exchange

Stock exchanges: www.sbolsas.es

Taxation authority

Spanish Tax Authorities: <http://www.aeat.es>.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.