The CNMV reminds the market of certain takeover bid obligations

Madrid, February 2014

Last January 22, 2014 the Spanish Securities Market Commission (CNMV) issued a public release reminding of some obligations in relation to takeover bids. Certain market movements by funds specialized in distressed situations seen last months may be the origin of this release.

The CNMV reminder states as follows:

Pursuant to section 60 of the Spanish Securities Market Act, the acquisition of a controlling holding in a listed company (30 percent of the voting rights) triggers the obligation to launch a takeover bid for 100 per cent of the securities at the equitable price, as defined by Royal Decree 1066/2007, of 27 July. This obligation applies regardless of the financial situation of the target company.

The equitable price must be approved by the CNMV who will take into account, amongst other criteria, the valuation report of the target company issued by an independent expert.

If the bid is not authorized either due to non-fulfillment of the equitable price criterion or for any other reason, the voting rights of the shares directly or indirectly corresponding to the offeror and to those acting in concert with it shall be suspended, notwithstanding the sanctions included in Title VIII of the Securities Market Act.

The same will occur should a takeover bid not be launched.

Section 8 d) of the above mentioned Royal Decree provides for an exception to the obligation to launch a takeover bid when the transaction is designed to guarantee the long term financial viability of a company when its financial viability is at serious and imminent risk. This exception applies regardless of whether the company has been declared insolvent by a court or not. The exemption shall have to be approved by the CNMV, as it occurred in 2011 with the acquisition by Banco de Santander, S.A. of a 34.9 per cent of the share capital of Metrovacesa, S.A. as a result of the capitalization of credits of several financial entities.

The CNMV will particularly watch over that no market abuse occurs in these cases.