Acceptance by the CMVM – Portugal – on 7 August 2008 ¨

Liquidity contracts as an Accepted Market Practice (AMP)

Description of the National AMP: The 'liquidity contract' is the accepted market practice. A public company (the issuer) whose shares are admitted to trading on a regulated market in Portugal may enter into a 'liquidity contract' with a financial intermediary (credit institution or investment company). The issuer places a certain amount of own shares or a certain sum at the disposal of the financial intermediary (FI) so that the latter is able to carry out purchase and sale operations on the spot market on the issuer's behalf, on shares issued by itself.

The transactions to be carried out on behalf of the issuer aim at increasing the liquidity of the shares in the market, be it via the increase in the transacted amounts and the number of executed trades, or via a decrease in the spreads between the purchase and sale offers, the decrease in the volatility in prices of the daily market trading in line with the general market tendencies.

The principle of exclusiveness must be observed thus allowing solely for a single active liquidity contract per share category and for each FI. Furthermore a new contract may not be entered into with same or another FI unless the previous contract is terminated. Albeit, it is not the objective of the FI to centralise purchase and sale trades and its absence in the market is beneficial at those times when the investors trade with the required regularity.

The issuer may only carry out a liquidity contract with the FI when authorised by the General Meeting for the purchase of own shares as stipulated in its Articles of Association.

The resolution to enter into a liquidity contract shall provide for a maximum contract period including extensions which must be in line with the intended objectives. Shares purchased for the execution of a liquidity contract may not be used other than for the future disposal in another transaction carried out under the contract. The maximum period for the execution of the liquidity contract, including possible extensions may not exceed 12 months.

'Liquidity contracts' may only be made with FIs that are members of the regulated market wherein the shares are admitted to trading. The FI has to ensure the independency of the employees that execute the liquidity contract.

All the share purchased by the FI in the market for the execution of the contract, are placed in an account for that purpose, in the issuer's name and contain own shares – the regime provided for in the Commercial Companies Code is applicable to these shares and in accordance with same Code, the liquidity contract may not surpass the 10% threshold of the equity capital in own shares.

The securities account will in return have a cash account opened in the issuer's name where amounts are paid and received for the execution of purchase and sale transactions.

The records in the securities account shall contain, at least the following data: the amount traded, the type of transaction (purchase and sale), the date and time of the transaction, the unit price and the amount of shares held under the liquidity contract after each transaction.

The FI may only trade for the execution of a liquidity contract during the normal established trading period established by the managing entity of the regulated market. Trading after the close of the market is not allowed and operating in opening and closing session auctions shall be restricted to situations in which there is a need to attain opening and closing prices within the deference for the expectation of both the purchaser and seller. Large block trades in shares within the execution of a liquidity contract, is not allowed. Registering offers without a price ceiling or apparent offers in banned. Offers are only valid for the session in which they were introduced in.

The issuer is not to transmit any other orders to the FI concerning purchase and sale decisions. It is up to the FI to establish its performance strategy and the issuer shall sustain the inherent market risks. However, the FI is obliged to assess at all times, the market price levels and shall adjust its performance as per the market tendency.

An incorrect perception on the value that the market has given to the shares, may originate a disparity between the cash available for the purchase and the number of own shares available for sale. The FI informs the issuer on a daily basis on the movements and balance of the accounts.

The execution of the liquidity contract must be suspended in the following cases: when a share buyback programme is approved or initiated; when a public offer for shares is carried out or when a public offer for the acquisition of the issuer's shares is announced.

With the exception of the conditions mentioned below, these transactions need not fulfil the conditions set in Article 5 of EC Regulation 2273/2003. The restrictions provided for in Article 6 of same Regulation are not applicable to these transactions. However, the following conditions must be complied with:

i) Offers placed in the opening and closing session auctions may not surpass 10% of the average amount transacted during the immediately preceding 20 normal trading sessions;

ii) the amount transacted under the liquidity contract during the last 60 minutes of the trading session may not exceed 30% of the total amount transacted during the remaining trading session;

iii) On the whole, purchase orders given under the liquidity contract during the trading session may not surpass 25% of the average amount transacted on the immediately preceding 20 normal trading sessions;

iv) Purchase orders given for the execution of the liquidity contract may not exceed the highest of the following two prices: a) Price of the last independent trade; b) The highest price of the current independent bids;

v) Sale orders given for the execution of the liquidity contract may not be less than the lowest of the following two prices: a) Price of the last independent trade; b) The lowest price of the current independent sale offers;

vi) Without prejudice to the provided for in iv) and v), the maximum *spread* between the purchase and sale offers within the execution of the liquidity contact may not surpass 5%, or when lower, the maximum spread allowed according to the regulated market rules for liquidity providers or similar persons.

All offers that are not executed for the fulfilment of the liquidity contract and that do not result from transactions carried out by the FI's own portfolio or further yet, are included by the latter in third-party portfolios by discretionary management, are considered to be independent.

Non-compliance with the mentioned conditions would prone behaviour that might spawn misleading signs concerning the supply and demand of shares and would thus manipulate the trade. Conducts that do not encompass such markers, such as: the FIs closing of offers to the issuers account may be considered as market manipulation and if the case, breach of the market protection duty.

The liquidity contract must contain the following information:

a) identification of the security mentioned in the contract, namely in what concerns its nature, type, category, the par unit value, amount issued and the amount admitted to trading;

b) identification of the contracting parties;

c) indication of the duties taken on by the contracting parties, i.e. the information that the FI shall periodically transmit to the issuer for the purposes of following-up on the execution of the contract and that allows the issuer to fulfil its legal duties for complying with the market practice and the prohibition of transmitting material information to the FI by the issuer;

d) the expected date for the beginning of the trades, the deadline for the execution of same and the number of extensions allowed;

e) the amount of securities and cash-based assets within the contract as well as the maximum and minimum limits (where applicable) in the market, both daily and accumulated until the end of the contract;

f) how to manage discrepancies in the balance of the amount of shares or cash that may jeopardise the liquidity contract;

g) the securities and cash accounts held by the issuer for the execution of the contract;

h) the liability statement from the FI that ensures that same will executive the liquidity contract in a manner that is independent from any other activity linked to own portfolio activity, trading for the account of a third-party and the discretionary management of clients' portfolios;

i) the FI's remuneration and the fact that it may not diminish its independency apropos the issuer.

Prior to trading within the liquidity contract, the issuer shall disclose – as material information – details of the contract entered into with the financial intermediary, concerning the following information: i) the identification of the intermediary; ii) the cash and securities placed at the disposal of the financial intermediary; iii) the maximum amount of shares that may be accumulated in portfolio for the execution of this contract; iv) the market and shares concerned ; and v) expiry date of the contract. Any changes made to the contract within the lifetime of same, its suspension or expiry, shall be disclosed as material information.

When the liquidity contract is terminated, the Financial Intermediary shall return to the issuer the number of shares that does not exceed the amount initially placed by the issuer for the execution of the contract and sell to the market the remaining shares to the market, in due respect of the market's regular functioning and without misleading third parties.

Both the issuers and financial intermediaries that execute contracts shall keep individual records of the transactions that have been carried out for a 5-year period as from the date of the closing of the accounts that were assigned to them and these must coincide with the end of the duties and obligations of the parties to the contract.

The issuers shall disclose to the market, on a quarterly basis, the transactions carried out under the liquidity contract and shall indicate each transaction that has been carried out, the financial intermediary responsible for it, the amount transacted, the type of transaction (purchase or sale), the date of the transaction, the unit price and the amount of shares held under the liquidity contract after each trade. This communication shall be sent via the CMVM's information disclosure system under the section concerning 'trading in own shares'.

Besides the copy of the liquidity contract that the issuers shall submit to the CMVM, the latter may further request from each issuer and FI, all the information that it may require for monitoring the execution of the liquidity contracts. Liquidity contracts are not intended to increase the amount of own-shares and the CMVM may suspend these, should it detect any irregularities concerning its compliance or if there is suspicion of market abuse.

The accepted market practice statement is written out under the market abuse and the market protection duty framework and without prejudice to the application of inside information rules and the imposition of the inherent legal consequences.

Rationale for why the practice would constitute manipulation

Liquidity contracts involve trading with own shares and do not meet the conditions set forth by EC Regulation 2273/2003 of December and thus, may not benefit from the exemption to the prohibitions of Article 8 of Directive 2003/6/EC of 28 January (MAD). The execution of transactions or the placing of offers with a view to increasing the liquidity of market shares, if carried out without the mechanisms provided for by Law or by the market rules for building up of liquidity, may be considered as market manipulation and if the case, breach of the market protection duty, inasmuch as it may induce artificial volumes and prices.

Non-exhaustive list of factors to be taken into account by the Competent Authorities when assessing particular practices, whether they occur on a regulated market or, on an OTC market

a) The level of transparency of the relevant market practice to the whole market.

The transparency of market practices by market participants is crucial for considering whether a particular market practice can be accepted by the competent authorities. The less transparent a market practice is, the more likely that it will not be accepted. However, practices on non-regulated markets might, for structural reasons, be less transparent than similar practices on regulated markets. Such practices should not be considered *per se,* unacceptable by the competent authorities. [Preamble 2 of Directive 2004/72/EC of 29 April].

Regulator's Conclusion:

Apart from the compliance with the Commercial Law on trading in own shares and public companies, the issuer shall disclose to the market, via the CMVM's information disclosure system and on its own site, the following information:

a) Prior to trading within the liquidity contract, the issuer shall disclose the details of the contract entered into with the financial intermediary, concerning the following information: i) the identification of the intermediary; ii) the cash and securities placed at the disposal of the financial intermediary; iii) the maximum amount of shares that may be accumulated in portfolio for the execution of this contract; iv) the market and shares concerned; and v) expiry date of the contract.

b) Any changes made to the contract within the lifetime of same, its suspension or expiry shall also be disclosed.

c) The transactions carried out under the liquidity contract shall be disclosed on a quarterly basis, and shall indicate each transaction that has been carried out, the financial intermediary responsible for it, the amount transacted, the type of transaction (purchase or sale), the date of the transaction, the unit price and the amount of shares held under the liquidity contract after each operation.

A copy of the liquidity contract shall be sent to the CMVM by the issuer prior to its disclosure to the market which is required before the beginning of same.

b) The need to safeguard the operation of market forces and the proper interplay of supply and demand.

The market practices that hinder the interplay between supply and demand by limiting the opportunities for other market participants to respond to transactions, are particularly susceptible of damaging market integrity and are thus less likely to be accepted by the competent authorities. [Preamble 1 of Directive 2004/72/EC of 29 April].

Regulator's Conclusion:

The practice does not hinder the interplay between supply and demand. The transactions performed by the FI under the practice at hand, are a response to the purchase and sale intentions introduced in the market by third-party investors and if it were not for the FI's intervention, the investors would not be able to perform the business deals that they lawfully seek for or create derangements in the supply or demand simply due to the fact that no other competing counter-part offers exist in the market.

Liquidity contracts may have an impact in the interplay between the legitimate supply and demand in the market and thus achieve a regular market for shares that would otherwise be considered non-liquid.

c) The degree to which the relevant market practice has an impact on market liquidity and efficiency.

Market practices that improve its liquidity are more easily accepted than those that reduce it.

[Preamble 1 of Directive 2004/72/EC of 29 April]

Regulator's Conclusion:
The objective of the practice is that of increasing market liquidity and efficiency.

d) The degree to which the relevant 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.

Regulator's Conclusion:

For the purposes of the contract, the FI acts as a member of and in the regulated market, as per the rules in force in that market and within the normal period of trading albeit with certain additional acting principles aimed at protecting the regular functioning of the market.

The accepted market practice statement in Portugal includes a set of characteristics that aim at strengthening the market protection duty, namely in what concerns:

i) the offers placed in the opening and closing session auctions may not exceed 10% of the average amount transacted during the immediately preceding 20 normal trading sessions.

ii) the amount transacted under the liquidity contract during the last 60 minutes of the trading session may not exceed 30% of the total amount transacted during the remaining trading session.

iii) On the whole, purchase orders given under the liquidity contract during the trading session may not surpass 25% of the average amount transacted on the immediately preceding 20 normal trading sessions;

iv) Purchase orders given for the execution of the liquidity contract may not exceed the highest of the following two prices: a) Price of the last independent trade; b) The highest price of the current independent bids;

v) Sale orders given for the execution of the liquidity contract may not be less than the lowest of the following two prices: a) Price of the last independent trade; b) Lowest price of the current independent sale offers;

vi) Without prejudice to the provided for in iv) and v), the maximum *spread* between the purchase and sale offers within the execution of the liquidity contact may not surpass 5%, or when lower, the maximum spread allowed according to the regulated market rules for liquidity providers or similar persons.

Large share block transactions are not allowed while executing a liquidity contract. Registering offers without a price ceiling or apparent offers is banned. Offers are only valid for the session in which they were introduced in.

e) The risk inherent in the relevant practice for the integrity of, directly or indirectly, related

markets, whether regulated or not, in the relevant financial instrument within the whole Community.

Market practices in a given market, whether directly or indirectly, should not place the integrity of other related markets within the Community at risk, regardless of whether the markets are regulated or not. Thus, the greater the risk for market integrity, in a related market within the Community, the less those practices are likely to be accepted by the competent authorities. [Preamble 3 of Directive 2004/72/EC of 29 April]

Regulator's Conclusion:

Besides the copy of the liquidity contract that the issuers shall submit to the CMVM, the latter may further request from each issuer and FI, all the information that it may require for monitoring the execution of the liquidity contracts. Liquidity contracts are not intended to increase the amount of own-shares and the CMVM may suspend these should it detect any irregularities concerning its compliance or if there is suggestive market abuse.

Issuers and FI's that execute contracts are obliged to maintain individual records on the transactions that have been carried out for a 5-year period as from the date of the closing of the accounts that were assigned to them and must coincide with the end of the duties and obligations of the parties to the contract .

The FI is liable for the independency of the employees that execute the liquidity contract.

The issuer is not to transmit any other instruction to the FI concerning purchase and sale decisions. It is up to the FI to establish its performance strategy and the issuer shall sustain the inherent market risks. However, the FI is obliged to assess at all times, the market price levels and shall adjust its performance as per the market tendency. An incorrect perception on the value that the market has given to the shares, may originate a disparity between the cash available for the purchase and the number of own shares available for sale. The FI informs the issuer on a daily basis on the movements and balance of the accounts.

The FI may only trade for the execution of a liquidity contract during the normal trading period established by the managing entity of the regulated market. Trading after the close of the market is not allowed and operating in opening and closing session auctions shall be kept for situations in which there is a need to attain opening and closing prices within the deference for the expectation of both the purchaser and seller.

The execution of the liquidity contract must be suspended in the following cases: when a share buyback programme is approved and initiated; when a public offering of shares is carried out; or when a public offer for the acquisition of the issuers' shares is announced.

f) The outcome of any investigation of the relevant market practice by any competent authority or another authority mentioned in Article 12/1 of Directive 2003/6/EC, in particular whether the relevant market practice breached rules or regulations designed to prevent market abuse, or codes of conduct, be it on the market in question, or on directly or indirectly related markets within the Community.

Regulator's Conclusion:

Presently, and within the scope of CMVM's powers, no conclusion was put forward that opposes the liquidity contract as an accepted market practice.

g) The structural characteristics of the relevant market including whether it is regulated or not, the types of financial instruments traded and the type of market participant, including the extent of retail investors' participation in the relevant market;

Regulator's Conclusion:

The market practice only concerns shares that are admitted to trading in a regulated market in which the retail investors' participation may be significant.

The market practice increases the probability of investors finding a counterpart with lawful objectives in low-liquidity shares without added risk to the investors.

Increasing integration of trading platforms obliges for additional effort for innovation in order to avoid lop-sided practices within trading areas that are common to more than one jurisdiction. Due to this, the liquidity contract is accepted by the CMVM as a market practice.

Overriding Principles

Overriding principles to be observed by the Competent Authorities to ensure that accepted market practices do not undermine market integrity, while promoting innovation and the dynamic development of the financial markets:

- New or emerging accepted market practices should not be assumed to be unacceptable by the Competent Authority simply because they have not been previously accepted by it;
- Practising fairness and efficiency by market participants is required in order not to create prejudice to normal market activity and market integrity.
- Competent Authorities should analyse the impact of the relevant market practice against the main market parameters such as weighted average price of a single session, daily closing price, specific market conditions, before carrying out the relevant market practice.

Conditional Elements

The conditional elements on the legitimacy/validity concerning the reasons for carrying out the transactions and its adequate execution.

The above mentioned principles have been taken into account by the CMVM when accepting the 'liquidity contracts' market practice.

The CMVM shall supervise transactions that have been carried out under the accepted market practice and the monitoring of its impact in the market and for that purpose, shall request the cooperation of the management entity of the regulated market in question.