

**CIRCULAR 12/2016**

## **MEMBER AND PARTICIPANTS IN THE MERCADO ALTERNATIVO BURSÁTIL**

Title III of the MAB Regulations (hereinafter, the “Regulations”) contain the system applicable to Members of this Market, and its Article 11 sets out its development through a Circular.

In accordance with this provision, this Circular covers aspects such as the approval procedure, the agreement to be signed for acquiring membership status, the technical and personal resources required by Members and membership rules.

As a result, the Board of Directors of Bolsas y Mercados Españoles, Sistemas de Negociación, S.A., approves in this Circular the detailed rules applicable to the members and participants in the Mercado Alternativo Bursátil.

### **1. Market Members and Participants**

Credit institutions and investment services companies that have membership status in the Spanish securities markets may be MAB members.

Likewise, those entities which, in the opinion of the Market governing body, satisfy the conditions of paragraph f) of Article 69.2 of the Consolidated Text of the Spanish Securities Market Act and perform special functions that are relevant for the operation of the market, may also become Market Members.

The SICAVs and SGIICs may be participating entities, by virtue of their legal powers regarding shares and securities listed on the Market and those for which the Market offers informational, transactional, and other similar type of services and facilities.

Market Members and participating entities shall enjoy the rights, and shall be required to comply with the duties, contained in the Market Regulations.

## **2. Legal requirements which members and participating entities must possess**

Market members and participating entities must comply with the requirements set out in the Spanish Securities Market Act and implementing provisions.

To obtain Membership status, applicants shall meet the following requirements:

- a. Indicate their intention to become a MAB Member, according to the trading capacity relevant to them, by means of an application addressed to the General Manager of the Market.
- b. Sign the relevant membership agreement in duplicate to become a Mercado Alternativo Bursátil Member, pursuant to the model attached as Annex I of this Circular, accompanied by the following documentation:

- Specific membership conditions (Annex I, Appendix A)
- Certificate issued by the Stock Exchange of which the entity is a member evidencing said stock exchange membership status
- documentation evidencing the status it holds in the central counterparty with which BME SN has agreed the clearing of transactions in the multilateral trading segments of the MAB.

In the event that the applicant is going to hold non-clearing member status in the central counterparty, it shall sign the following documentation:

- declaration relating to the interruption by the clearing member of the members' trades (Appendix A of Annex II)
  - agreement on making technical resources available (Appendix B of Annex II)
  - Agreement on enabling the kill button application (Appendix C of Annex II).
- documentation evidencing its status as a participating entity in the system that settles trades on the MAB.

In the event that the applicant is not a participating entity in the system that settles trades on the MAB, the entity shall appoint a participating entity in the said settlement system that will settle the trades of the entity that acquires Membership in the MAB.

### **3. Technical and human resources for trading**

Market Members shall have the technical and information technology resources that the Market deems necessary for access to securities traded on the Market.

For this purpose, Market Members shall have trading resources that include the technical requirements determined by the Market to access and operate on the electronic trading systems used by the Market.

They shall also have information systems that are suitable for complying with the reporting obligations corresponding to them; specifically, those that enable them to report to the information system, treatment and storage of data on Market trades in its status as Market Member.

The Market Member that opts to have an agreement with a Clearing Member in the framework of the central counterparty for clearing Market transactions, shall sign the declaration and the agreements included in Annex II of this Circular, for the said Clearing Member to have the technical measures stipulated for the effective control of the Market Members' activity in the scope of trading, by means of the interruption of the trading activity of the netting set by the Market Member.

Members are obliged to collaborate for the Market to carry out at all times the timely checks on compliance with their obligations on holding the technical resources necessary to properly implement Market activities.

The staff appointed to trading work shall pass the relevant training course established for this purpose by the General Manager with the support of the Supervisory Committee.

### **4. Admission procedure**

Anyone wishing to become a Market member or participating entity must apply accordingly. The General Manager must inform the CNMV of all applications, confirm that the corresponding entity meets all the requirements and submit the request to the Board of Directors.

If the Board of Directors believes that admission criteria are met, the applicants shall be admitted pursuant the resolution of the Board of Directors, which shall be sent to the Spanish Securities & Exchange Commission (CNMV).

The Board of Directors shall have a maximum of three months within which to decide on admission. If, after this time, no decision has been taken, admission shall be denied.

#### **5. Title of member and participating entity**

The applicant shall be deemed a member or participating entity once the Board of Directors has ruled on the matter. In order to ensure transparency, all applications shall be recorded in the Market Registry and published in the Market Bulletin according to an Operating Instruction approved by the Supervisory Committee. Details of the member or participating entity and the date on which they shall commence operations shall be included.

#### **6. Conduct of members and participating entities**

Members and participating entities must act in accordance with the rules contained in the Market Regulations and any other provisions at all times.

#### **7. Supervision of Members and participating entities**

The Supervisory Committee is the body responsible for the supervision of Members' and participating entities' activities.

Said supervision and control of Members and participating entities shall be based on the provisions of Article 38 and Articles 41 to 45 of the Market Regulations on the causes for breach, suspension and interruption of Members and operators and precautionary, disciplinary and supervisory measures applicable to them.

**8. Date of application and replacement of Circular 3/2014**

This Circular shall come into effect from 27 April 2016, inclusive, replacing and rendering null and void Circular 3/2014 of 24 January 2014.

Madrid, 26 April 2016

THE SECRETARY

Ignacio Olivares Blanco

*The English translation is for the convenience of English-speaking readers. However, only the Spanish text has any legal value. Consequently, the translation may not be relied upon to sustain any legal claim, nor should it be used as the basis of any legal opinion Bolsas y Mercados Españoles, Sistemas de Negociación, S.A. , expressly disclaims all liability for any inaccuracy herein.*

## **ANNEX I**

### **MERCADO ALTERNATIVO BURSÁTIL MEMBERSHIP AGREEMENT**

..... (Member)....., with tax number .....  
..., listed in the Companies Register in ..... Volume ..... Book .....  
..... Sheet ..... Page ..... and in the Register ..... Bank  
of Spain/CNMV Register ..... Number ..... , with registered office at .....  
..... , and in  
its name and on its behalf .....  
....., with identity card number ..... , authorised to enter into this  
Agreement  
by virtue of the powers granted before the Notary .....  
.....  
..., on ..... number ..... in general notary records in accordance with the copy  
attached,

### **DECLARES AS FOLLOWS**

- I. That it belongs to one of the categories of entities mentioned in the Securities Market Act and in the Mercado Alternativo Bursátil Regulations (hereinafter also referred to as “MAB”) approved by Bolsas y Mercados Españoles Sistemas de Negociación, S.A., in order to be able to gain Membership Status in the MAB (hereinafter, “Member”).
- II. That it is willing to gain access to that status in accordance with the trading capacity relevant to them and for the purpose of being able to trade on the MAB.
- III. That it has membership status in any of the Spanish securities markets, and as evidence of this status, it provides a certificate from the securities market(s) of which it is a member, which is attached.
- IV. That it has membership status in the central counterparty with which the MAB has agreed the clearing of the trades performed in the multilateral trading segments in the MAB.
- V. That it has participating entity status in the system that settles trades on the MAB or has appointed a participating entity in the system that holds this status and which will settle the Member’s trades. In view of the foregoing,

## **DECLARES**

1. That it has decided to access Membership status.
2. That it is familiar with, accepts and undertakes to comply with all the terms of the Regulations and Circulars and Operating Instructions of the MAB and that it undertakes to accept successive versions of the Regulations and Circulars and Operating Instructions of the MAB in force at any time and further undertakes the duty to familiarise itself with all the aforementioned regulations.
3. That it knows and accepts that Membership status is personal and non-transferable, and undertakes not to assign its position or to transfer to any third party its rights and obligations as a Member.
4. That it knows and accepts its obligation to communicate, immediately and in writing, to the MAB any material amendment to its articles of association, its nature or legal structure or its financial position and, especially, anything affecting the requirements for membership of the MAB.
5. That it is familiar with, accepts and undertakes to comply with the trading procedures and methods established by the MAB for the securities admitted to trading on it.
6. That it is familiar with and accepts that trading of securities admitted on the MAB may be done on the technical platform of the Interconnection Trading System (SIBE) managed by Sociedad de Bolsas. For this purpose, the Member agrees to comply with any technical and operational requirements determined by Sociedad de Bolsas.
7. That it is familiar with, claims and undertakes to execute trades of securities listed on the MAB are cleared by means of procedures agreed by the MAB, including those that require the intervention of a central counterparty. For this purpose, it is familiar with and accepts the responsibility that arises from the use of technical interruption measures of the trading activity that can be used by the Clearing Member of the central counterparty with which it has entered the relevant agreements for clearing of trades, pursuant to the provisions of Annex II of this Agreement.
8. That it is familiar with, accepts and undertakes to settle trades of securities admitted on the MAB in accordance with the settlement procedures of securities applied by settlement systems with which the Market has entered the relevant settlement agreements.
9. That it is familiar with, accepts and undertakes to facilitate the information, transmission and storage system of information required by the said system, relating to securities traded on the Stock Exchange.

10. That it claims to have the technical resources necessary to use the trading systems of the MAB and maintain the necessary operating and technical relationships with the clearing, settlement and registration systems of transactions executed through the procedures established by the MAB and for securities traded on it. Likewise, it claims that these resources are those required for the activity carried out by the Member and necessary to guarantee transparency, integrity and supervision of trading on the MAB.

11. That it knows, accepts and undertakes to use duly accredited operators for trading on the MAB. It takes full responsibility for and undertakes any consequences arising from action taken by such operators.

12. That it is aware of the supervisory functions that the MAB performs and undertakes to accept and follow the procedures approved and applied by the MAB for this purpose. It further undertakes to abide by the decisions and agreements that the MAB adopts in the application of such procedures, without prejudice to being able to ask about the challenges and revisions set out in the Regulations and in the Circulars and Operating Instructions of the MAB.

13. That it is aware of and undertakes to accept and follow the procedures and actions applicable in the event of incidents in the clearing and settlement, including the buy-in procedure.

14. That it undertakes the Specific Membership Conditions attached, and further undertakes to notify MAB in writing of any changes to same.

15. That it undertakes the responsibilities arising from the decisions and activities adopted in its status as Member.

16. That it knows and accepts that this Agreement is governed by Spanish legislation, and that it shall be interpreted and applied pursuant to such legislation.

17. That in order to resolve any conflicts that may arise in relation to the interpretation, validity or performance of this Agreement, both parties expressly submit to arbitration at law as governed by the Spanish Arbitration Act of 23 December 2003, thereby expressly waiving their right to any other jurisdiction to which they may be entitled. Both parties are required to submit to the arbitral award and comply with the award once handed down. Arbitration is assigned to the Civil and Commercial Court of Arbitration (CIMA), the Bylaws and Rules of Procedure of which are known by the parties executing this Agreement.

... of....., .....

(Name and signature of the attorney-in-fact of the Member)



(Name and signature of the attorney-in-fact of the MAB)

**Annex I. Appendix A- SPECIFIC CONDITIONS**

**GENERAL INFORMATION**

<i>(1) Name</i>	<i>(2) Nature of Member (company, agency or credit institution)</i>
<i>(3) Member Code</i>	
<i>(4) BIC Code</i>	
<i>(5) Registered office (with identification of city, postal code and country)</i>	
<i>(6) Tax Number ("NIF")</i>	<i>(7) VAT Number</i>
<i>(8) Non-clearing Member Code</i>	<i>(9) Clearing Member Code</i>
<i>(10) Iberclear Participant Code</i>	<i>(11) Operators</i>

(2) Certificate of membership issued by the relevant stock exchanges shall be attached.

(8) (9) Document evidencing membership and category in BME Clearing shall be attached. In the event the Member is not a clearing member in BME Clearing, it shall indicate the clearing member code of BME Clearing with which it has agreed to clear stock exchange transactions.

In the event that the Member, holding non-clearing membership status in BME Clearing, authorises its Clearing Member to use the technical tools that permit the interruption of orders relating to securities traded on the MAB, documents supporting this authorisation shall be attached.

(10) Documentation supporting participating entity status in Iberclear shall be attached. In the event that the member is not going to be a participant in Iberclear, it shall indicate the participating entity code in Iberclear to which it has delegated the clearing and settlement functions.

**CONTACTS**

<i>(11) Name and surname of the contact person</i>			
<i>(12) Address</i>		<i>(13) E-mail</i>	
<i>(14) Post code</i>	<i>(15) Province</i>	<i>(16) Tel.</i>	<i>(17) FAX</i>

<i>(18) Name and surname of the Manager of the Cash Department</i>			
<i>(19) Address</i>		<i>(20) E-mail</i>	
<i>(21) Post code</i>	<i>(22) Province</i>	<i>(23) Tel.</i>	<i>(24) FAX</i>
<i>(25) Name and surname of the Back Office Manager</i>			
<i>(26) Address</i>		<i>(27) E-mail</i>	
<i>(28) Post code</i>	<i>(29) Province</i>	<i>(30) Tel.</i>	<i>(31) FAX</i>

<i>(32) E-mail for receiving Circulars (one per Member)</i>
<i>(33) E-mail for receiving Instructions (one per Member)</i>
<i>(34) E-mail for receiving Notifications (one per Member)</i>

... of.....

(Name and signature of the attorney-in-fact of the Member)

## ANNEX. II. Appendix A

### INTERRUPTION BY THE CLEARING MEMBER OF TRADES OF THE MEMBER

Dear Sirs,

In my status of attorney-in-fact of the entity (**name of the Member**), I hereby inform you that within the process of acquiring membership status of the MAB which we are carrying out, the entity that I represent will not be a compensating member of BME Clearing.

In this regard, the possible obligations arising from clearing of trades of (**name of Member**) shall be assumed by (**name of clearing member**), clearing member identified in BME Clearing with the Clearing Member code... ..

Likewise, (**name of Member**) undertakes to inform the MAB, as soon as possible, about any change / replacement / or cancellation of the existing relationship with the clearing member, and to report any new clearing member that is appointed, or rather the acquisition of clearing member status in BME Clearing.

(**Name of Member**) authorises the clearing member in BME Clearing, that acts as a clearing member of the possible trades that correspond to (**name of Member**), to make use of the technical tools that enable it, at any time and under its responsibility, to stop entering orders of (**name of Member**) relating to securities traded on the MAB. It further authorises it to cancel all orders which, at that time, are pending trading, except orders at a price agreed entered before the interruption.

(**Name of the Clearing Member**) recognises the appointment as Clearing Member for trades of (**name of Member**) subject to clearing in BME Clearing and states its willingness to make use of the technical tools that are made available to it and which enable it to interrupt trading carried out by (**name of the Member**), cancelling orders entered by the Member, preventing the entry of new orders. Without prejudice to the foregoing, trades at an agreed price entered before the activation of tools available shall not be cancelled.

(**Name of the Entity and name of the Clearing Member**) recognise that to end the interruption of trading of (**name of the Market**) prompted by (**name of Clearing**

**Member**) through the use of technical tools for this purpose, a written request signed by representatives of **(name of the Member and name of the Clearing Member)** addressed to the MAB Supervisory Department is necessary.

.....

(Name and signature of the attorney-in-fact of the Member)

(Name and signature of the attorney-in-fact of the Clearing Member)

**ANNEX II. Appendix B**

**AGREEMENT FOR MAKING TECHNICAL RESOURCES AVAILABLE**

In Madrid, on ... ..

**BY AND BETWEEN**

OF THE ONE PART, \_\_\_\_\_, of legal age, holder of National Identity Card Number \_\_\_\_\_, both of whom are Spanish nationals

OF THE OTHER PART, \_\_\_\_\_, of legal age, holder of National Identity Card Number \_\_\_\_\_ and Spanish national.

OF THE OTHER PART, \_\_\_\_\_, of legal age, holder of National Identity Card Number \_\_\_\_\_ and Spanish national.

**ACTING**

The first one as Attorney-in-fact for and on behalf of Sociedad de Bolsas, S.A., incorporated and established in accordance with Spanish law, with registered office at Plaza de la Lealtad, 1, Madrid 28014, and holder of Tax Identification Number A-79092573, (hereinafter, "Sociedad de Bolsas").

The second, as Attorney-in-fact for and on behalf of \_\_\_\_\_, incorporated and established in accordance with Spanish law, with registered office at \_\_\_\_\_, and holder of Tax Identification Number \_\_\_\_\_, which is \_\_\_\_\_ (hereinafter, the "Member").

And the third, as Attorney-in-fact for and on behalf of \_\_\_\_\_, incorporated and established in accordance with Spanish law, with registered office at \_\_\_\_\_, and holder of Tax Identification Number \_\_\_\_\_, which is \_\_\_\_\_ (hereinafter, the "Clearing Entity").

Sociedad de Bolsas, the Clearing Entity and the Member shall be jointly referred to as the “Parties” and each of them indistinctly as the “Party”.

The interested parties, acting as stated above, mutually recognise each other's capacity to execute this Supplement and state that their respective powers of attorney have not been limited, suspended or revoked in any way and, therefore, for this purpose,

**THEY STATE AS FOLLOWS:**

**One.** That the Parties have concluded an Agreement for Making Available Technical Resources (hereinafter, the “Agreement”), by virtue of which the Clearing Entity shall have a licence to use the Application installed in its BME PC terminal, to be able to interrupt trading of the Member on the Stock Exchange.

**Two.** That the Parties wish to extend the scope of the Agreement to the activities of the Member in the Mercado Alternativo Bursátil (MAB).

Therefore, the parties, having reached an agreement regarding the terms of this Agreement, execute it in accordance with the following:

**CLAUSES**

**Only clause. Extension of the Agreement to the activity on the Mercado Alternativo Bursátil**

The Parties agree to extend the scope of the Agreement so that the licence to use the Application granted by Sociedad de Bolsas to the Clearing Entity shall enable the Clearing Entity to interrupt trading of the Member on the MAB, by applying the Agreement and its annexes in all respects reproduced herein.

In witness of their consent, the Parties hereby sign this Agreement in the place and on the date stipulated above.

**Sociedad de Bolsas, S.A.**

**Trading Member**

**Clearing Entity**

**ANNEX II. Appendix C**

**AGREEMENT FOR ENABLING THE KILL BUTTON APPLICATION**

In \_\_\_\_\_ on \_\_\_\_\_

**BY AND BETWEEN**

OF THE ONE PART, ....., of legal age, holder of National Identity Card Number ....., and of Spanish nationality,

OF THE OTHER PART, ....., of legal age, holder of National Identity Card Number ..... and of ..... nationality

AND OF THE OTHER PART, ....., of legal age, holder of National Identity Card Number ..... and of ..... nationality

**ACTING**

The first part, as Attorneys-in-fact for and on behalf of BME CLEARING [REDACTED] S.A.U. (hereinafter, the “CCP”), incorporated and established in accordance with Spanish law, with registered office at [REDACTED], [REDACTED] and holder of Tax Identification Number A-.....

The second part, as Attorney-in-fact for and on behalf of ..... (hereinafter, the “Entity” or “Clearing Entity”) incorporated and established in accordance with ..... law, with registered office at ....., ..... and holder of Tax Identification Number .....

The third part, as Attorney-in-fact for and on behalf of ..... (hereinafter, the “Member”) incorporated and established in accordance with ..... law, with



registered office at ....., ..... and holder of Tax Identification Number .....

The parties may hereinafter be individually be referred to as a “Party”, and jointly as “Parties”.

The interested parties, acting as stated above, mutually recognise each other's capacity to execute this agreement and state that their respective powers of attorney have not been limited, suspended or revoked in any way and, therefore, for this purpose,

### **THEY STATE AS FOLLOWS:**

**1.** That the Parties have executed an Agreement for Enabling the Kill Button Application (hereinafter, the “Agreement”), by virtue of which the Member authorises the Clearing Entity to enable the SMART SIBE KILL BUTTON Application in the BME PC terminal of the Clearing Entity, for it to interrupt trading of the Trading Member on SIB.

**2.** That the Parties wish to extend the scope of the Agreement to the activities of the Member in the Mercado Alternativo Bursátil (MAB).

Therefore, the parties, having reached an agreement regarding the terms of this Supplement, execute it subject to the following

### **CLAUSES**

#### **Only clause. Extension of the Agreement to the activity on the Mercado Alternativo Bursátil**

The Parties agree to extend the scope of the Agreement in such a way that the authorisation of the Member to the Clearing Member for enabling the Application in the BME PC terminal of the Clearing Entity shall enable it to interrupt trading of the Member on the MAB, by applying the Agreement in all respects reproduced herein.

In witness whereof, the Parties hereby sign two copies of this Supplement in the place and on the date stipulated above.

**CCP**

**Clearing Entity**

**Trading Member**