

**THE ADVERTISING ACTIVITY OF BANKING
PRODUCTS AND SERVICES OF THE ENTITIES
SUPERVISED BY BANCO DE ESPAÑA**

BANCO DE **ESPAÑA**
Eurosistema



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Preface

The advertising of banking products and services, normally the first step in an entity's relationship with its customers, represents an important means of persuasion with the potential to influence their financial behaviour. Therefore, as a protective mechanism for bank customers, there is a need for regulatory and supervisory measures aimed at ensuring that advertising is unbiased and sufficient, which will help the relationships between customers and their entities at subsequent stages be less conflictive and generate fewer complaints. Moreover, the advertising activity itself is also, in some cases, the subject of complaints from customers.

Given the importance of the advertising activity as indicated above, the Banco de España Market Conduct and Claims Department (hereinafter, MCCD) has recently conducted a broad and wide-reaching supervisory initiative aimed at verifying compliance with the regulations for the advertising of banking products and services by the supervised entities subject to those regulations. This initiative has provided the supervisor with an overview of the advertising activity of banking products and services, and the practices adopted by the entities for the proper management of the advertising of banking products and services.

The subjective extent and objective significance of the initiative have made it advisable to include this document in this Report. As in the case of the customer care services study included in such Report, the format used has been that of an Addendum, with the aim of separating its content – as it is not directly related to the management of claims during 2017 – and, at the same time, emphasising its uniqueness.

1 Introduction

Advertising is a key element in the marketing of banking products and services. Through advertising, entities publicize their products and services, highlighting their most attractive characteristics to encourage sign-up.

In general, advertising represents the first point of contact between an entity and its potential customer; accordingly, the information transmitted in it normally has a major impact on the generation of customer expectations about the product in question and the consequent decision-making process.

Therefore, advertising must offer the customer the necessary information on which he/she can base his/her decision. In short, as indicated in Article 4 of Order EHA/1718/2010 of 11 June 2010 on regulation and control of advertising for banking services and products (hereinafter, the Order), advertising subject to this Order must be clear, sufficient, objective and not misleading.

In addition to the intrinsic supervisory significance of the advertising activity, new channels for marketing financial products and services have recently appeared, mainly linked to the digital field, which has contributed to an increase in the profusion – and dissemination methods – of advertisements. These circumstances, together with the special features of advertising via digital means, have prompted the Banco de España to conduct an extensive and intense supervisory initiative in this area, with the three-pronged aim of obtaining an accurate idea of the current situation of the advertising activity of banking products by the supervised entities, identifying best practices in this regard in order to disseminate them

among the entities themselves, and having a sufficient empirical basis to propose, where appropriate, regulatory changes and to establish more appropriate supervisory procedures and controls in this respect.

The objective of this document can be summed up as the first two purposes indicated above: i) to publicize the overall results and main conclusions of the supervisory initiative carried out, and ii) to explain those practices observed that, in the supervisor's opinion, contribute to a better management of the advertising activity of banking products and services.

2 Supervisory initiative

2.1 REGULATIONS

The aforementioned Order EHA/1718/2010 and Banco de España Circular 6/2010 of 28 September to credit and payment institutions on the advertising of banking services and products (hereinafter, the Circular), issued for the implementation of the above-mentioned order, establish the rules, principles and criteria to which the advertising of banking products and services must adhere.

Following the European model, current advertising regulations seek to ensure good management of the advertising activity in two ways.

On the one hand, the aim is to create advertising that, in line with the principles established by the regulations, places the burden of responsibility on the entities themselves, through the development of marketing communication policies and appropriate internal procedures and, ultimately, through the voluntary participation by the entities in self-regulatory advertising bodies.

On the other hand, the idea is to guarantee the correction of any inappropriate conduct through ex post control of the advertising activity by the Banco de España and the possibility of the supervisor issuing cessation or rectification orders in relation to specific items of advertising.

Although the regulatory model is based on the responsibility of the entities themselves and on the ex post review, these regulations also establish various obligations for the regulated entities. Such obligations can be categorised as follows: maintenance of an internal record of the advertising activity carried out; compliance with a series of rules, principles and general criteria when preparing the items advertising to be disseminated; and the preparation and observance of a marketing communication policy incorporating the appropriate procedures and controls to guarantee the management of the advertising activity.

The advertising regulations establish general principles to which the advertising must adhere and general criteria regarding the minimum content and format of the advertising message. In any event, it should be noted that advertising by credit institutions must be clear, sufficient, objective and not misleading. Pursuant to the content of Rule Two of the Circular, the minimum content and format of the advertising message must be in line with the principles that are included in the Annex to that Circular.

In addition, as indicated in Article 4(4) of the Order, when preparing the marketing communication policy, the entities must take into account the advertising criteria in a manner proportionate to the complexity of the banking product or service offered and to the characteristics of the dissemination method used. Furthermore, Rule Three of the Circular indicates that the entities must provide for the necessary procedures to adapt the

products offered and their form of presentation to the characteristics of the population group to which they are addressed.

Noteworthy is Article 4(5)(c) of the Order, which establishes that, when the credit institution enters into an agreement with a non-credit institution company, so that the latter can offer its products or services through any type of advertising, it must ensure that this advertising is in line with the regulations.

Article 5 of the Order confers on the Banco de España the administrative authority to order the cessation or rectification of advertising that does not comply with the regulations, as well as to include in the advertising whatever warnings may be deemed necessary. The aforementioned Article 5 establishes that entities that fail to comply with the above-mentioned obligations will incur administrative liability punishable under the provisions of Title I of the already repealed Law 26/1988 of 29 July on the discipline and intervention of credit institutions. Given that references in the legal system are made to Law 26/1988, and these must be deemed to have been made to the corresponding provisions of Law 10/2014 of 26 June on the regulation, supervision and solvency of credit institutions (LOSSEC), the sanctioning regime provided for in Title IV of the latter would apply.

2.2 REASONING

Supervisory functions in the area of advertising have been carried out within the Banco de España by the MCCD since 2013, which has been performing the ex post review of items of advertising on an ongoing basis since 2010. The performance of this work, especially in recent years, has revealed that there is a large and growing number of cessation or rectification orders that it has been necessary to submit to entities (whether or not they adhere to the only system of self-regulation in Spain), which could be an indication of a relaxation of their internal procedures.

In addition, the appearance of new product marketing channels and the consequent increase in advertising activity have contributed to the need for the supervisor to gain adequate knowledge of the gamut of advertising disseminated, for the purposes of properly planning its supervision.

In view of the circumstances described, the Banco de España, mainly during 2017, carried out the supervisory initiative giving rise to this document, with the aim, among others already mentioned, of verifying whether the entities established in Spain and subject to its supervision comply with advertising regulations and, as a result, properly advertise their products and services.

2.3 IMPLEMENTATION OF THE INITIATIVE

The above-mentioned initiative began in October 2016 with a first phase covering a total of 312 entities, which were asked to submit a file reproducing their internal advertising records, including all advertising campaigns disseminated during a six-month period of 2016, in order to assess both the magnitude and the details of their advertising activity and to check the degree of compliance with the obligation to maintain the mandatory internal records.

As a result of the information obtained in the first phase, it was concluded that 142 entities had not engaged in any banking products and services advertising activity or campaigns subject to the control of the Banco de España during the six-month period in question.

The remaining 170 entities were then subject to the second phase of this initiative, which began with a detailed analysis of the internal advertising records and continued with the

request, in a new document sent to all of them, for their marketing communications policies, procedures and internal controls, and each and every one of the items of advertising disseminated by them in the period of analysis (1 April to 30 September 2016).

As a result of the 170 individual evaluations of this second stage of the initiative, shortcomings of varying severity were discovered and, as a result, another 143 written communications were sent to 143 entities, requiring and/or recommending measures to be taken to correct the shortcomings identified.

In a third phase of this initiative there was an analysis of the responses and the measures adopted by the supervised entities as a result of the written communications sent by the Banco de España. This phase of monitoring the measures implemented by the entities lead to the submission of 81 new written communications, reiterating or clarifying some of the requests made in the course of the previous phase.

In addition to the content of the internal advertising records and the marketing communication policy, which will be dealt with in the following sections, as part of the supervisory initiative there was an analysis of all the items of advertising that were disseminated at some point during the six-month period analysed in 2016 and submitted by the 170 entities that indicated that they carried out advertising activity subject to the above-mentioned regulations. This has involved the analysis of a considerable number of items of advertising, of which almost 9,000 represented, in the opinion of the Banco de España, advertising that did indeed fall within the definition of advertising activity referred to in Article 2 of the Order. 14.4% of them, issued by a total of 76 entities, showed some shortcoming, although the majority were not being disseminated at the time of the review.

By product type, the highest volume of items of advertising evaluated was linked to personal loans (39%), followed by those referring to accounts and deposits (24%) and cards (9%). With regard to the method of dissemination, noteworthy were the high percentages of advertising disseminated by digital media (48%) and, at some distance, posters (27%) and traditional mail (11%).

The most frequent shortcomings have been identified, by product, in accounts and deposits (mainly for not including the mandatory risk indicator) and in mortgage loans, and, by means of dissemination, in digital press, e-mail and radio, in that order.

This exercise made it possible to acquire a very approximate knowledge of the magnitude of the annual advertising activity of banking products and services, and to check the effectiveness of the entities' communication policies and of the self-regulation scheme in generating advertising in line with the regulations. At the same time, best practices of entities in relation to record keeping have been identified.

3 Internal advertising records

The Order covering advertising establishes as one of the main obligations of the entities the safekeeping – and annotation in an internal record – of the documentation of each and every one of the advertising campaigns disseminated and subject to the provisions of this regulation [Article 5(2) of the Order].

In the same connection, paragraph 1 of the Rule Four of the Circular details the minimum documentation relating to each campaign that must appear in the above-mentioned records.

Likewise, in the case of a group of credit institutions in which all the entities are associated with a system of advertising self-regulation, the possibility of having a single internal record for the entire group is provided for.

In order to verify compliance with these obligations, there has been an in-depth review of the internal advertising records of 170 entities. As a result of these checks related to the internal records, weaknesses of varying severity have been detected in a total of 129 entities.

Among the most frequent incidents identified is the non-inclusion in the internal records of annotations corresponding to items of advertising which the Banco de España became aware of by carrying out ex post verification work and even cessation or rectification orders. This incident has been identified in 58% of the entities analysed and shows, therefore, that the internal records were incomplete.

Another of the most frequent incidents, observed in 30% of the entities, has been the inconsistency between data collected in the internal advertising records and the items of advertising sent by the entities.

Some of the anomalies described above can be explained by the absence of sufficiently robust procedures and controls to ensure proper internal record keeping. In any case, in order to improve the management of such records, certain practices identified among those used by the entities themselves are worthy of special mention.

3.1 CONTENT

Thus, although the Rule does not clarify the form and content that the internal records should have, it is advisable that they be maintained in a versatile computerized medium that allows their complete conversion or transfer in sufficiently comprehensive programmes. In this connection, all the entities covered by the initiative have been able to present their records in an Excel file with certain very specific configurations that were provided to them.

Since the Rule states that, for each campaign, at least one copy of each of the advertising media used must be recorded, this must be taken to mean that each item of advertising must involve an independent annotation, given that the particularities of its dissemination (medium, size, period of dissemination, scope, representative example, etc.) can shape the way in which the item is perceived by customers and the way in which its clarity, objectivity, sufficiency and non-misleading character can be ensured. In this connection, in general, entities have submitted to the Banco de España each of their annotations accompanied by the item of advertising to which it refers, regardless of whether two or more items of advertising correspond to the same campaign.

Notwithstanding each entity's freedom to include the additional concepts it considers appropriate in the internal advertising records, it is deemed that all advertising records should include, at least, the following fields or concepts:

- Name of the advertising campaign to which the item of advertising belongs.
- Banking product marketed through the advertising campaign (for example, mortgage loan, vehicle financing, financing of consumer goods, financing of studies, other personal loans, leases, debit cards, credit cards, revolving credit

cards, deposits, accounts, payroll accounts, products with remuneration in kind, combined products, services, etc.).

- Scope of the dissemination: the target public that the advertising campaign seeks to reach.
- Medium/support for the dissemination of the advertising campaign [press, digital press, radio, television, mailshots (postal mail, leafletting), e-mail, telephone, outdoor signage (billboards, posters, etc.), Internet, social networks, ATMs, etc.].
- Date of commencement and end date of the dissemination of the advertising campaign in each of its media.
- Whether there is a positive report from the advertising self-regulation system.
- Whether it is issued by intermediaries (identification of same).
- Annex: detailed information on court and out-of-court disputes relating to such advertising activity.

3.2 RECORD-KEEPING RESPONSIBILITIES AND PROCEDURES

In the course of the initiative it became clear that the marketing communication policy, its procedures and controls (which will be analysed in point 5 below) must adequately cover matters relating to internal record-keeping.

In this respect, it has been deemed advisable for the commercial communication policy to define in a clear and detailed manner the responsibilities of the departments involved in defining the content of the internal advertising records, as well as in their keeping, monitoring and control, and it has been deemed highly advisable to establish a clear separation between the department in charge of filling in these records and the party responsible for their control.

In this connection, certain entities have designed very useful tools for recording advertising campaigns through an approval flow involving the various parties responsible and which allows the complete traceability of the approval of each item of advertising and its annotation and electronic safekeeping in the records.

Moreover, initiatives have been identified to ensure that the records are complete and correct. To this end, some entities use a repository of advertising information against which the integrity of the records is checked and validated. This allows the inclusion in the records of all the new advertising disseminated during a given period to be checked.

It has also become clear that it is advisable, within the framework of the entity's internal control procedures, for it to verify with a pre-established frequency that the internal advertising record complies with regulatory requirements.

3.3 GROUP OF ENTITIES. SINGLE RECORD

The Circular envisages the possibility of groups of entities having a single advertising record. The initiative conducted has highlighted the importance in these cases of the clear identification of the specific entity (with its Banco de España code) to which each item of advertising belongs.



General view of the old chamber of the Historic Archive.

4 Marketing communication policy

As indicated above, the advertising regulations establish the obligation to have a marketing communication policy that, among other objectives, incorporates the proper criteria and procedures for advertising activity management to protect the legitimate interests of bank customers and to be able to properly manage the risks arising from the advertising activity [Article 4(3) of the Order]. This policy must integrate the general principles contained in the annex to the Circular, the regulations applicable to the entity's advertising activity and the procedures necessary to adapt the products offered and the method of presenting them to the characteristics of the population group at which they are aimed (paragraph 1 of Rule Three of the Circular).

Paragraph 2 of Rule Three of the Circular establishes the presumption that the above-mentioned procedures [which according to Article 4(3) of the Order are part of the marketing

communication policy] are adequate in the case of entities that adhere to an advertising self-regulation system for their entire advertising activity.

When carrying out the supervisory action, the above presumption has been deemed – in the light of the literal wording of the regulation – to affect only the procedures but not the general obligation to have a marketing communication policy, which must be complied with by all entities subject to the Order, except for payment entities, which are explicitly exempt from mandatory compliance with Article 4(3), under the single additional provision of the Order.

Moreover, the Rule establishes the above-mentioned presumption only for the case of entities adhering to a self-regulation system *for their entire advertising activity*. Consequently, even if the proportionality principle is applicable to some extent, the absence of procedures in entities that, despite adhering to a self-regulation system, do not submit all of their items of advertising to review, must be deemed inappropriate. In short, if an entity develops and disseminates advertising that it does not submit to a self-regulation system, it must have internal procedures in place aimed at ensuring that such advertising complies with the aforementioned principles and regulations.

Furthermore, it should also be deemed that the above-mentioned presumption does not apply to procedures that are not covered by the self-regulation system, such as those related to the keeping of the internal records or paying proper attention to the rectification or cessation requirements formulated by the supervisor.

As a result of the review of the marketing communication policies carried out as part of the supervisory initiative, written communications have been sent requiring and/or recommending the adoption of certain measures to each and every one of the entities with advertising activity subject to the regulations. In addition, 21 of them have been asked for a report prepared by their internal audit function to assess the degree of implementation and effectiveness of the improvement measures requested. It should also be noted that the initiative has disclosed that 12 entities lacked, prior to this initiative, a marketing communication policy or, at least, a document in which it was contained.

It should be noted, moreover, that the shortcomings identified in the marketing communication policies analysed have been diverse in nature, and sometimes purely formal. Among the most significant shortcomings, it is noteworthy that 40 entities lacked procedures and controls relating to the cessation or rectification of advertising at the supervisor's request, 19 lacked specific procedures related to keeping and monitoring the internal advertising records and 11 did not include any mention of the inclusion and calculation of the annual percentage rate.

The attitude of some of the payment entities that have been covered by this initiative must be welcomed, since, despite not being obliged to comply with Article 4(3) of the Order, they had a marketing communication policy or prepared one as a result of the initiative.

4.1 MARKETING COMMUNICATION POLICY CONTENT

Paragraph 3 of Rule Three of the Circular specifies that the entities will draft their marketing communication policy in a single document that brings together the general principles contained in the Annex to the Circular in a manner that is proportional to the complexity of the banking product or service offered and to the characteristics of the dissemination measure used, and also includes a description

of the internal controls, criteria and mechanisms in place to ensure compliance with the rules, principles and general criteria established in the regulations applicable to them. It is recommended that all this content be contained in a single document, since this facilitates the systematisation thereof as well as dissemination and consultation.

In relation to the regulations governing advertising, it should be noted that, in addition to the Order and the Circular, there are other rules that govern specific aspects of the advertising of certain products and services that should also be taken into consideration when marketing the products in question. However, a very common shortcoming identified in the entities' policies is not only the omission of references to some of these rules, but also the absence of procedures to enforce them. We refer, by way of example, to Article 9 of Law 16/2011 of 24 June on consumer loan agreements (which establishes the basic information that must be included in the advertising of these loans), or to Order ECC/2316/2015 of 4 November on information obligations and classification of financial products.

Regarding the minimum procedures necessary that must be included in the marketing communication policy to ensure compliance with the regulations, in addition to those already mentioned on record-keeping and the preparation of items of advertising, it is deemed necessary to include other details on different matters.

Thus, in the case of adherence to a self-regulation system and, in particular, when not all items of advertising are submitted for review, a procedure must be incorporated that includes, among other matters, the criteria for determining which items are sent, the allocation of responsibilities within the entity's organizational structure or the action that must be taken if an unfavourable report (negative copy advice) is received from the self-regulation system.

Particularly important are the procedures and controls established by the entities in relation to the cessation or rectification requirements formulated by the supervisor. In this regard, entities must ensure that the amendment or cessation of the advertising campaign has been carried out in accordance with the Banco de España resolution and within the established legal deadline, making sure that the effective withdrawal or amendment of the items of advertising has been carried out in all the broadcasting channels and, especially, in all their branches.

In addition, complementary controls could be established, such as the issuance of specific communications to the contact responsible for disseminating the advertising campaign, the request for confirmation – signed by the person responsible for disseminating the campaign – of the cessation or rectification of the advertising within the required period, the creation of communication channels for the purposes of regulatory compliance in the event of incidents related to the cessation or rectification of an advertising campaign, etc.

It must be noted that these procedures must be aimed at ensuring that the cessation or rectification occurs effectively within the legally established deadlines. In any event, in the case of advertising disseminated in digital media, the amendment or cessation would have to be practically immediate. With regard to other methods of dissemination, the necessary preventive and corrective measures must be set up to ensure the possible amendment or cessation within the deadline.

4.2 BEST PRACTICES DETECTED

In accordance with Rule Three of the Circular, the marketing communication policy has to include the general principles mentioned in the Annex to the Circular itself and, in general, any regulations applicable to the advertising activity. A properly prepared communication policy in which these principles are incorporated in the procedures actually implemented will tend to produce better advertising from a regulatory compliance standpoint.

From the analyses carried out it can be concluded that the application of the criteria established in the Circular improves considerably if the various criteria of the Annex are classified and grouped systematically in the marketing communication policy.

The principles of the Circular dealing with the annual percentage rate (APR) are particularly significant, due to its importance in ascertaining the real cost of financing products and the interest on savings products. Therefore, it is most advisable to devote a special section to the APR, differentiating between the calculation of the APR for loans and for deposits, and explaining the calculation formula for the APR and the items it includes for each type of product marketed by the entity.

Occasionally, in addition to taking into account the provisions of the Circular on general advertising principles, when entities define internal procedures they detail or explain accurately with specific cases how these principles should be put into practice. Similarly, the inclusion of examples of real cases and indications given in advance by the supervisor can be very illustrative, which can help the persons in charge of preparing the advertising avoid errors.

Similarly, it is certainly advisable for the marketing communication policy document itself to specify what to do in the event of a contradiction between advertising and contractual content. In these cases, whichever is most beneficial or favourable for the customer must prevail.

4.3 CONSIDERATIONS IN ADDITION TO THE GENERAL PRINCIPLES

Without prejudice to the adequate application of the above-mentioned general principles in the preparation of items of advertising, the conduct of the mass review of advertising items has made it possible to specify the following additional recommendations for preparing such advertising:

- 1 The colour and the contrast with the background must guarantee adequate legibility of the entire text of the message, including clarifications or warnings.
- 2 Written documents must not include letters smaller than 1.5 millimetres.
- 3 Entities must check the actual manner in which their items of advertising are disseminated in the chosen medium, taking responsibility for any incidents that may arise from the medium or channel used.
- 4 For ease of reading, warnings about cost or returns in audiovisual media must remain fixed on the screen during the entire broadcast of the advertisement.
- 5 Inclusion in the advertising message of data that could create unreal or misleading impressions of the characteristics or duration of the advertised offer must be avoided.

- 6 When in an item of advertising a main message coexists with a secondary message that conditions or qualifies the offer communicated in the main message, the latter must warn of the existence of such conditions, referring to the reading of these secondary messages.
- 7 To avoid confusion, in items of advertising which offer the simultaneous arrangement of several products of differing nature, the product characteristics will have to be clearly distinguished.
- 8 The entity must be in a position to withdraw the advertising of products or services as soon as the term of the specific campaign ends. Furthermore, in cases where there is no mention of a specific period of validity of the offer, if the item of advertising continues to be disseminated the offer must be taken to remain in force for all purposes.
- 9 When express reference is made to the cost of or interest on a deposit or loan, the APR of the transaction must be included. The APR must be accompanied by the nominal interest rate and the rest of the elements that compose it. The advertising must always give particular prominence to the APR, and this is especially important in cases of variable interest rate transactions in which a fixed interest rate is agreed for a given initial period.
- 10 In addition, the APR of the transaction must also be highlighted in offers of interest-free financing and deposits in which fees and expenses must be paid, so that the customer understands that the transaction is not free of charge.
- 11 In variable interest rate transactions, the information regarding the benchmark rate must be updated, so that the current rate is always announced, especially in digital media.
- 12 The entity must avoid the use of expressions that could create confusion between savings or investment products and financing products.

4.4 PROCEDURES AND RESPONSIBILITIES RELATING TO THE MARKETING COMMUNICATION POLICY AND TO THE PREPARATION AND DISSEMINATION OF ITEMS OF ADVERTISING

The shortcomings relating to the marketing communication policy detected within the framework of the supervisory initiative have shown that, in general, it is indeed advisable to have the close involvement of the regulatory compliance function and of the governing bodies of the entities when preparing and monitoring the policy document and the procedures and controls included in it.

In this connection, it is considered advisable that the marketing communication policy document include references to its periodic review and update – and its review and update whenever there is a regulatory amendment or significant changes are made to the procedures and controls established by the entity – by the regulatory compliance function itself or alternatively by whoever is nominated by the entity's internal control framework. Likewise, the involvement of the entities' management bodies in marketing communication policy approval processes, as well as in the oversight of the application of the procedures and controls contained in such policy, is considered to contribute to the most efficient and proper management of their advertising activity.

The detection, in the course of the supervisory initiative, of a significant number of cases in which marketing communication policies included references to repealed regulations illustrates the need to incorporate procedures that guarantee the periodic review of the communication policy itself.

On the other hand, it is noteworthy that the most favourably evaluated commercial communication policies among those analysed had a specific and detailed procedure for designing, preparing and launching advertising campaigns, incorporating a flowchart of the specific tasks and responsibilities of the various departments involved, and of the necessary authorizations at the various stages.

In addition, in the conduct of this initiative has demonstrated that it is advisable to separate the departments responsible for the design and preparation of the advertising campaigns from those entrusted with the review and control of the regulatory compliance of each item of advertising. It is considered advisable that, prior to dissemination of an advertising campaign, it be validated in advance by the corresponding control function, and that the latter verifies that the advertising has all the necessary approvals.

Occasionally, entities have established an adequate dual control system for items of advertising: on the one hand, an external control, consisting of the review of the items through an advertising self-regulation system; and, on the other hand, in addition, an internal review by one or more departments of the entity. The implementation of this dual verification will undoubtedly tend to better ensure the adequacy of advertising, without forgetting, in any event, that the entity itself will be solely liable for the strict compliance by each and every item of advertising disseminated with the provisions of the advertising regulations.

In any event, as indicated above, when entities rely on advertising self-regulation systems to verify the regulatory compliance of their advertising, their marketing communication policies should include the criteria for submitting the items of advertising to the procedures of said self-regulation systems.

Also, without prejudice to the checks made by internal control functions, the procedures must include the review of the campaigns that are being disseminated, especially when such dissemination is lengthy. This review can be performed periodically, within the framework of other complementary activities, such as the launch of new products, or by way of quality control within the framework of a sampling of items of advertising disseminated in a given period. Finally, for advertising with a duration exceeding a given period (e.g. twelve months), checks must be made to ensure that it continues to comply with the rules and principles established.

4.5 ITEMS OF ADVERTISING IN DIGITAL MEDIA

Given the significance and high profile of advertising in digital media and the reach of advertising broadcast on said media, it will be advisable to differentiate between the procedures used for preparing and controlling the campaigns carried out through digital channels (dedicating a specific section to them) and those used in traditional channels.

4.6 BANKING ADVERTISING DISSEMINATED THROUGH INTERMEDIARIES

To ensure compliance with the regulations in relation to advertising carried out through other companies, entities that market their products and services through the involvement of intermediaries must have in place specific controls relating to this advertising activity. In addition to the proper drafting of contractual clauses establishing the terms and conditions of dissemination, financial entities must ensure by means of ad hoc checks that the content

and duration of advertising disseminated by intermediaries comply with the criteria specified by the entity itself.

Such controls may consist of periodic reviews of the intermediaries' websites, on-site visits to the intermediaries' premises, review of the intermediaries' compliance with requests for rectification or cancellation (due to expiry of the campaign or because of requirements of the supervisor), etc.

4.7 CIRCULATION
OF THE MARKETING
COMMUNICATION POLICY.
EMPLOYEE TRAINING

Finally, with the aim of ensuring the proper internal circulation of the marketing communication policy, entities must have certain mechanisms set up for disseminating it amongst their employees. In this connection, the policy itself must clearly indicate where the document containing it can be found, and must provide for control of the departments or units to which it has been communicated.

Also, to ensure the application of the policy, the entities must have specific plans for the training of the personnel involved in the preparation and control of the advertising activity.

5 Conclusions

The supervisory initiative giving rise to this Addendum is one of the manifestations of the importance that the Banco de España ascribes to the advertising of banking products and services as part of the relationships of supervised entities with their customers. Its performance has made it possible to obtain very precise knowledge of the scale of the advertising activity of banking products and services, and of the best and worse practices, in any event contributing hugely to the improvement of quality standards.

Although the supervisory presence has been significant in terms of cessation and rectification requirements, this initiative – which was intensive and extensive in both subjective and objective terms – has strengthened discipline in the advertising field, promoting the involvement of the entities' governing bodies and, in particular, of internal control functions, in relation to the advertising activity.

The initiative is, however, ongoing. The efforts made would serve little purpose if the necessary supervisory controls were not also maintained going forward. Therefore, the knowledge obtained in the course of the initiative will not only serve to mark out the supervisory priorities of the Banco de España in this area, but will also be followed by the establishment of mechanisms for ex post review and monitoring to ensure maintenance of the quality standards attained.

Similarly, the wealth of supervisory information will be very valuable when weighing up, and potentially proposing, any possible amendments deemed advisable for establishing a more efficient regulatory framework.

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