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JUSTIFICATION REPORT ON THE AMENDMENTS TO THE  
REGULATIONS OF THE BOARD OF DIRECTORS OF  
ENDESA, S.A.

**endesa**



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Translation of a report originally issued in Spanish. In the event of discrepancy, the Spanish-language version prevails

## **JUSTIFICATION REPORT ON THE AMENDMENTS TO THE REGULATIONS OF THE BOARD OF DIRECTORS OF ENDESA, S.A.**

### **1. INTRODUCTION**

The purpose of this justification report is to set out the causes and scope of the amendments to the Regulations of the Board of Directors of ENDESA, S.A. ("**Endesa**", the "**Company**" or the "**Firm**"), which, at the proposal of the Proprietary Directors, representatives of the controlling shareholder Enel, S.p.A, and following a report from the Audit and Compliance Committee, are proposed for approval by the Board of Directors, under the terms provided in Article 4.- "Amendments" of the aforementioned Regulations.

### **2. JUSTIFICATION OF THE AMENDMENT**

In order to adapt the Board Regulations to the new non-executive nature of the Chairman of the Company; limit the maximum period for which a person can hold the role of Chairman of the Company; as well as introducing certain non-substantial technical improvements, it has been considered appropriate to proceed with the amendment of the Regulations of the Board of Directors.

Although Endesa's regulatory framework allows the role of Chairman to be either executive or non-executive, it is necessary to adapt the Regulations of the Board, since when they contain specific measures in relation to the functions of the Board and its organisation and operation, their adaptation to the incorporation of a Non-Executive Chairman into the new model of the Board of Directors is necessary.

In accordance with Article 4.- "Amendments" of the Regulations, Endesa's majority shareholder, Enel SpA, owner of 70.10% of the share capital, through its representatives on Endesa's Board of Directors, proposes the adaptation of Endesa's internal regulations to limit the maximum period for which a person can hold the position of Chairman of the Company, in the interests of good corporate governance, as follows:

Limit the maximum period for which a person can hold the role of Chairman of the Company. The Chairman *may not hold office for more than twelve years from the date of his/her initial appointment as Director.*

Although in Spain there is no recommendation from the regulator in this regard, the proposal by Enel, S.p.A. is in line with some of the best international corporate governance practices such as those established by the Financial Reporting Council (UK independent regulatory body, whose objective is to promote good corporate governance and transparency of information) in "The UK Corporate Governance Code", which expressly indicate, among other things, that it is advisable to limit the tenure of Chairmen to nine years and that this could exceptionally be extended in the case of Non-Executive Chairmen.

In addition, some of the best international good governance practices, mainly concerning Scandinavia or the main Proxy Advisor such as ISS, recommend establishing time limits to the terms of the Directors, below what is legally established in each country.

Due to this, in response to the permanent commitment of the Board of Directors of Endesa to the best practices of good corporate governance and the promotion of effective business management, the amendment of the Regulations of the Board of Directors, under the terms

detailed below, has been submitted for approval by the Board of Directors, following a report from the Audit and Compliance Committee.

### **3. DETAIL OF THE PROPOSALS FOR AMENDMENT OF THE REGULATIONS OF THE BOARD OF DIRECTORS**

In the following sections, the main amendments to the Regulations submitted to the Board of Directors for approval are set out in detail, omitting minor changes with respect to the current text that constitute mere improvements in wording or of a strictly technical nature.

The description of the main new features is grouped based on the various titles of the Regulations:

#### **3.1 Title One (Article 6): Article 6. General Duties and Powers of the Board of Directors**

Two technical improvements are introduced in **Article 6**. The power to approve the general policies and strategies of the Company is expressly incorporated in section 4.2.F. "Approve, where appropriate, the specific regulations of its Committees" and in section 4.4.E. in relation to the need for a prior report of the Appointments and Remuneration Committee for appointments to positions on the Board, the position of "CEO", not previously provided for in this section, is expressly included.

#### **3.2 Title Three (Article 9): Appointment and removal of directors**

In **Article 9.3**, which states that the position of Director can be renounced, revoked and re-elected, an improvement of a technical nature is introduced, specifically, the words "without prejudice to the provisions of Article 13.4" are added in relation to the main amendment introduced, which is to limit the maximum period for which a person can hold the position of Chairman of the Company.

#### **3.3 Title Four (Articles 13 and 14): Board Positions**

In **Article 13**, concerning the Chairman and Vice-Chairmen of the Board of Directors, the main amendments to the Regulations are introduced.

Sections 2 "*The appointment of the Chairman, based on his status as Executive Director, shall require the favourable vote of at least two-thirds of the members of the Board*" and section 5 "*The Chairman of the Board may delegate his powers, totally or partially, to other members of the Board of the Company, unless such substitution is expressly prohibited by the Law*" are deleted in order to adapt the text to the incorporation of a non-executive Chairman in the new model of the Board of Directors.

A new section 4 is added, to read "*The Chairman of the Board may not remain in office beyond twelve years from the date of his first appointment as Director*", which includes the main reason for amending the Regulations, to limit the maximum period for which a person can hold the position of Chairman of the Company.

In **Article 14**, regarding the Coordinating Director, the wording is amended, deleting the reference to the Chairman's status as Executive Director and, in accordance with best corporate governance practices, the possibility is maintained, even if the Chairman is of non-executive status, of maintaining the position of Coordinating Director with the same powers provided to date, as if the Chairman had the status

of executive.

### **3.4 Title Five (Article 20): Workings of the Board of Directors**

**Article 20**, in relation to the adoption of agreements, incorporates an improvement of a purely technical nature. Specifically, at the end of section 3, which indicates that resolutions shall be adopted with the favourable vote of the absolute majority of the Directors attending the meeting, in person or by proxy, the words "*unless a different majority is provided by law*" are added.

### **3.5 Title Nine (Article 30): Directors' Remuneration**

The wording of section 6 of **Article 30** is amended in order to ensure consistency with the rest of the Article. Specifically, the reference to "of the Chairman and CEO" is replaced by "of the Executive Directors" so as to bring the content of the article into line with the other amendments made in order to adapt the Regulations to the incorporation of a Non-Executive Chairman.

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