

# EXPLANATORY REPORT ISSUED BY THE BOARD OF DIRECTORS OF ACS, ACTIVIDADES DE CONSTRUCCIÓN Y SERVICIOS, S.A. ON THE PROPOSAL TO AMEND ARTICLES 3, 24, 26 AND 27 OF THE STATUTES OF THE BOARD OF DIRECTORS

## 1. SUBJECT OF REPORT

On June 27, 2017, the Spanish National Securities Market Commission (CNMV) published Technical Guide 3/2017 on Audit Committees in Public Interest Companies (referred to as the “**CNMV Technical Guide**” or simply the “**Guide**”), in the context of the normative powers awarded to it by Article 21.3 of the amended Securities Market Law, establishing certain principles, recommendations and criteria relating to the organization, make-up and functions of Audit Committees.

Also, on December 29, 2018, the Spanish Official State Gazette published Law 11/2018 of November 28, 2018 amending the Spanish Code of Commerce, the amended version of the Capital Companies Law approved by Legislative Royal Decree 1/2010 of July 2, 2010, and Law 22/2015 of July 20, 2015 concerning Accounting Audits with specific reference to non-financial information and diversity.

On the basis of this law, a proposal has been tabled to amend the Statutes of the Board of Directors of ACS, ACTIVIDADES DE CONSTRUCCION Y SERVICIOS, S.A. (hereinafter, “**ACS**” or the “**Company**”) to expressly incorporate a number of the stipulations of Article 529 Clause 4 of the amended Capital Companies Law, approved by Legislative Royal Decree 1/2010 of July 2, 2010 (the “**Ley de Sociedades de Capital**” or “**LSC**”) pertaining to the composition of the Audit Committee and to a number of that committee's functions. In addition, there is a proposal to introduce the **fundamental criteria and principles of the CNMV Technical Guide** relating to the composition, role and means of operation of the Audit Committee – and in this respect, to expressly incorporate **specific Recommendations from the Good Governance Code (CBG) by which the Company states that it is compliant in its 2017 IAGC** – which, in its turn, provides a number of technical or drafting-related specifications.

A number of **stipulations on diversity** are also introduced, incorporated into the Capital Companies Law (Articles 529a.2 and 540.4.c)6) by the aforementioned Law 11/2018 of November 28, 2018 and in Articles 3 and 26 of the Statute of the Board of Directors (the “**Statute of the Board**” or the “**Statute**”).

In turn, this reform of the Statute also supplements the **roles** of the Appointments Committee (Article 26) and the Remunerations Committee (Article 27), in accordance with **Article 529 Clause 5 of the Capital Companies Law**.

In accordance with the above, the Board of Directors of the Company has produced the present Explanatory Report, outlining and explaining the proposal to modify Articles 3, 24, 26 and 27 of the Statutes of the ACS Board of Directors.

## 2. EXPLANATION OF REASONS FOR MODIFICATIONS

To help understand the reasons behind the modifications of the Statute of the Board, the numbering of the Clauses referred to below matches the numbering in the text corresponding to the reform proposal.

**I. Modifications to Article 24 of the Statutes (“The Audit Committee”), pertaining to the Audit Committee.**

**a) Modifications deriving from the stipulations of the Capital Companies Law (composition and functions of the Audit Committee).**

As pertains to the **composition of the Audit Committee**, the following modifications are made to Article 24, section 1, in accordance with Article 529 Clause 4.1 OF LSC:

- As pertains to the **categories of members** of the Committee, the requirement that there be “*at least two*” independent Committee members is replaced by the requirement that there must be a majority of such members, in accordance with Article 529 Clause 4.1 LSC.
- The statement is expressly added whereby members of the Committee must, as a whole, possess **technical skills and knowhow in the Company’s area of activity**, in accordance with Article 529 Clause 4.1 LSC.

Additionally, as pertains to the **functions of the Audit Committee**, the following modifications are made to Article 24, Clause 1, of the Statute, in accordance with Article 529 Clause 4.4.LSC:

- As pertains to the **oversight of financial information**, the role of informing the General Meeting of issues arising in matters concerning the Committee is supplemented, with the insertion “*and, in particular, of the result of the audit, explaining how the audit contributed to the integrity of the financial information and the role that the Committee played in that process*”, in accordance with Article 529 Clause 4.4.a) LSC.

In addition, the role of overseeing the process of preparation and presentation of the financial information is supplemented, to include that the Committee may make recommendations or proposals to the Board to safeguard the integrity of the financial information, in accordance with Article 529 Clause 4.4.b) LSC.

As pertains to the roles relating to **oversight of internal controls and internal audits**, it is added that the Committee “*may make recommendations or proposals to the Board and the corresponding period allowed for follow-up*”, in accordance with Article 529 Clause 4.4.b) LSC.

- The role of feeding back to the Board on proposals for selection, appointment, re-election and replacement of the **account auditor** is supplemented, with the insertion “*being responsible for the selection process, in accordance with the stipulations of the applicable legislation*”, in line with Article 529 Clause 4.4.d) LSC.

As pertains to the **account auditor**, the role of establishing appropriate relationships with the external auditor is supplemented, including that the Committee must authorize the services other than those which are prohibited, where applicable, in addition to specifying that the

information from the auditor about additional services rendered must be *“detailed and personalized”*, all in accordance with Article 529 Clause 4.4.e) LSC, and also supplementing the role of issuing a report concerning the auditor's independence, in line with Article 529 Clause 4.4.f) LSC.

**b) Modifications derived from the stipulations of the CNMV Technical Guide pertaining to the make-up, roles and operation of the Audit Committee.**

**The fundamental principles of the CNMV Technical Guide are incorporated into Article 24 of the Statutes of the Board**, pertaining to the make-up, roles and operation of the Audit Committee, in line with the Recommendations of the CBG, which are also applicable to that Committee:

- As pertains to the **make-up of the Audit Committee**, Article 24, Clause 1, is supplemented, adding the condition that the Company **shall** comply with the requirements for knowledge and experience set forth in Clauses 10 (that at least one of the Committee members must have experience with Information Technology) and 14 (that the Committee members as a group must possess the necessary knowledge not only in aspects of accounting and auditing, but also financial knowledge, internal controls, risk management and business) of the CNMV Technical Guide, and also the condition of **attempting to promote diversity** in the make-up of the Committee as a whole (Clause 9 of the Guide).

Additionally, it is added to this Clause that **it must be ensured that the Committee members and, in particular, the Chairman of the Committee, possess the knowledge and experience in accounting, auditing or risk management**, in accordance with Recommendation 39 CBG.

- As pertains to the **roles of the Audit Committee**, it is proposed, firstly, **to reorder the areas of competence of the Audit Committee**, listed in Article 24, Section 6 of the Statute of the Board, to essentially follow the same system as the CNMV Technical Guide, and secondly, **to supplement and/or incorporate specific areas of competence of the Committee to adapt to the stipulations of the Guide and to specific Recommendations of the CBG**. In that sense:
  - As pertains to the **oversight of the financial information**, the role is expanded to include oversight of the process of preparation and presentation of the mandatory financial information, with the insertion *“knowing, understanding and overseeing the efficiency of the internal financial information control system (SCIIF)”*, in accordance with Section 35 of the CNMV Technical Guide.

Additionally, this section is supplemented with the role of **the Committee to ensure there are no limitations or exceptions in the audit report**, in accordance with Recommendation 8 CBG.
  - With respect to the roles relating to **oversight of the internal control and of internal auditing**, an addition is made to point e) with Section 36 of the Guide (*“drawing conclusions as to the level of trustworthiness and reliability of the system”*).

Furthermore, an addition is made to the role of establishment and overseeing a **mechanism to allow employees to report potentially significant irregularities**, in accordance with Section 47 of the Technical Guide, meaning that the Committee will receive periodic reports on how that system is working, and can suggest actions which could help improve it.

An addition is also made to the role of overseeing the workings of internal audits, in accordance with Section 58 of the Guide (*“annually assess the workings of the internal audit unit and the Chairman's performance of their duties”*).

- As pertains to the **oversight of risk management and control**, the modifications add the terms set out on the matter in Section 51, points c), e) and f) of the Technical Guide, on annually reassessing the most relevant financial and non-financial risks and holding an annual meeting with the business leaders.
- As pertains to the **account auditor**, an addition is made to the Committee's role of feeding back to the Board on the proposals of selection, appointment, re-election and substitution of the account auditor, specifying that the Committee must define the **process of selection of an auditor**, and issue a reasoned proposal, in accordance with Sections 60 and 64, respectively, of the CNMV Technical Guide;

In addition, also as pertains to the **account auditor**, the following roles are incorporated:

- it is specified that the Committee will collect information from the auditor, amongst other things, relating to *“any disagreements arising between the account auditor and the Company management”*, in accordance with Section 66 of the CNMV Technical Guide;
  - as pertains to the role of overseeing the payment of the auditor, the conditions are amended to further include that the Committee shall establish a guideline cap on the fees that the auditor may receive annually for services other than auditing, in accordance with Section 65.c) of the CNMV Technical Guide; and
  - perform a **final assessment of the auditor's actions** and how s/he has contributed to the quality of the audit and the integrity of the financial information, as established in Section 71 of the Guide.
- The **schedule of meetings of the Audit Committee** is developed, with the proposals to:
    - Incorporate into Section 4 the terms of Clauses 22.c), 31.c) and 32 of the Guide, pertaining to the notice of a meeting, which must always include the agenda and be accompanied by the necessary information, unless it is justified otherwise.

- Incorporate into Section 5 of Article 24 of the Regulation the stipulation that, at Committee meetings to review the financial information, the internal auditor shall attend; however, neither the internal nor external auditors shall be present for the decision-making part of the meeting, as prescribed by Clauses 23 and 42 of the CNMV Technical Guide.
- Although it stems from the general duty of diligence of Committee members, to expressly incorporate into Section 6a Sections 24 (the effort invested by the Committee members) and 4 (constructive dialog and the critical attitude which must prevail in Committee discussions) of the CNMV Technical Guide.
- As pertains to the **attendance of the management team, of Company personnel and other persons at Committee meetings**, it is proposed to supplement Section 7, specifying that non-members may only attend Committee meetings at the invitation of the Chairman, and then only to discuss such concrete points of the agenda for which they are summoned, in accordance with Sections 6 and 25 of the Guide.
- As pertains to the **Committee's responsibilities**, Section 2 is expanded to include the **role of the Chairman of the Committee to act as a spokesperson** at meetings of the Board and the General Shareholders' Meetings, and the **roles of the Secretary of the Committee** (to assist the Chairman of the Committee in planning its meetings, compile and distribute the necessary information in sufficient time), all in accordance with Sections 27 and 28 of the CNMV Technical Guide, respectively, .
- As pertains to **the Committee's communications with its usual contacts**, Section 7 of Article 24 of the Regulation is supplemented with the stipulations of Sections 5 and 6 (the need to establish an effective means of periodic communication between the Committee and its usual contacts), and also 66 and 67 (specific requirements on communication of the Audit Committee with the external auditor) of the CNMV Technical Guide.
- In the new Clause 8, it is proposed to insert the stipulations given in Sections 22 (**access to information of the Committee**, as appropriate, opportune and sufficient) and 29 of the CNMV Technical Guide (the possibility of the Committee calling on **advice from external experts**).
- In the new Section 9, an express reference is included, stating that the Committee must have **sufficient resources** to perform its functions, in accordance with Section 28 of the CNMV Technical Guide, and that it will have a periodic training program and an integration program to welcome new members (Section 17 and 18 of the Guide).
- Finally, the new Section 10 includes the obligation of the Committee to devise, firstly, the **annual work plan**, listing the main activities that the Committee intends to carry out during the year and, secondly, the **annual report on the Committee's performance**, whose contents shall include "*significant activities carried out during the period, and a report on those carried out in collaboration with external experts*", in accordance with Sections 31 and 79 of the CNMV Technical Guide, respectively.

**c) Other technical modifications.**

In addition to the modifications listed above, a number of technical changes have been made to Sections 6.u)1 (modifying the wording of the role relating to the report on operations of structural and corporate modifications, to fit with the system on organization of the section) and 2 of Article 24 of the Regulation.

**II. Modification to Article 3 of the Regulation (“Make-up and appointment” of Board members) in order to incorporate the legal criteria pertaining to diversity.**

- Section 2 of Article 3 of the Regulation is adapted to Article 529 Clause 2.2 LSC, in the wording given by Law 11/2018, of December 28, establishing that *“The Board of Directors must ensure that the procedures for selecting Board members encourage diversity, with respect to criteria such as age, gender, disability or training and professional experience, and are not tainted by implicit biases which could represent any form of discrimination and, in particular, facilitate the selection of female Board members in sufficient numbers to have balanced numbers of men and women”*.

**III. Modifications to Article 26 of the Regulation (“The Appointment Committee”) in order to incorporate the legal criteria pertaining to diversity and supplement the roles also attributed to that Committee in Article 529 Clause 5 LSC.**

- Article 26 of the Regulation is supplement to **incorporate into the roles of the Appointment Committee**, in the newly created Section 7, **the legal criteria pertaining to diversity**, in accordance with Article 529 Clause 5.3.b) LSC and Article 540.4.c)6º LSC, as set forth in Law 11/2018, of November 28.
- In addition, **the roles of the Committee are extended to include those set forth in Article 529 Clause 5 LSC:**
  - The new Section 1 defines the role of *“Assessing the capabilities, expertise and experience required by the Board of Directors. For these purposes, it shall define the roles and capabilities required for candidates, which must fill every shortcoming, and assess the time and effort needed for them to be able to effectively perform their commitments”*, in accordance with Article 529 Clause 5.3.a) LSC.
  - Section 2 introduces the role of making proposals to the Board on the appointment, re-election or removal of independent Board members, in accordance with Article 529 Clause 5.3.c) LSC, and Section 3 introduces that of making proposals on the appointment, re-election or removal of non-independent Board members, in accordance with Article 529 Clause 5.3.d) LSC.

- The newly created Section 5 includes the role of *“Examining and organizing the succession of the Chairman of the Board of Directors and the Company’s leading executive and, where necessary, make recommendations to the Board of Directors to help that succession take place in an orderly, planned manner”*, in accordance with Article 529 Clause 5.3.f) LSC.
- The role of reporting on proposals on the appointment of Senior Directors and the basic conditions of their contracts, is supplemented, also including their *“removal”*, in accordance with Article 529 Clause 5.3.f) LSC.

**IV. Modifications to Article 27 of the Regulation (“The Remunerations Committee”) to expand the roles assigned to that Committee in Article 529 Clause 5 LSC.**

- **Article 27 is supplemented and adapted to the roles which Article 529 Clause 5 LSC assigns to the Remunerations Committee.** In that sense:
    - The newly created Section 1 sets forth the role of *“Making proposals to the Board of Directors on policy regarding remuneration of Board members and Directors, or those who carry out their senior management roles reporting directly to the Board, to Executive Committees or Committee Members, and ensuring that these proposals are implemented”*, in accordance with Section g) of Article 529 Clause 5.3 LSC; and in Section 3, the role of *“Making proposals on individual remuneration and other contractual conditions applying to Executive Committee members”* is adapted in line with the aforementioned Section g) of Article 529 Clause 5.3 LSC.

Thus, the reference to *“The payscale for the Chairman of the Board of Directors and other senior directors of the Company”* is incorporated into Section 3 of the Article.

  - The phrase *“Make proposals/propose”* is added, on the distribution of the overall remuneration granted by the General Council, between the members of the Board of Directors (Section 2) and long-term plans (Section 5).
- In addition, and for the purposes of coordinating the regulation of the Remunerations Committee with those of the Audit Committee and the Appointments Committee, the following stipulation has been added: *“Insofar as may be necessary, and with the appropriate adaptations, the functioning of the Remunerations Committee shall be governed by the provisions of these Rules regulating the functioning of the Board of Directors.”*.
  - In addition, the reference to *“Remuneration of Board members”* is removed, every time that a generic reference is made to the roles detailed in Article 27 of the Regulation.

**3. APPENDIX**

Included as an **Appendix** to this Report is the compared text between the Articles of the Regulation of the Board currently in force, and the proposed modifications of those Articles.

**PROPOSAL TO MODIFY ARTICLES 3, 24, 26 AND 27 OF THE STATUTES OF THE BOARD OF DIRECTORS OF ACS.**

[To make it easier to identify the changes proposed, the new text to be included has been placed **in bold type and underlined**, the text that is to be deleted has been ~~crossed out~~, and the text that was already present in the Current Regulations and only has to change place has been included *in bold type and italics*.]

**Article 3.- Composition and appointments**

1. Within the limits stipulated in Article 13 of the Company Bylaws in force and notwithstanding the powers of proposal which, under the legislation in force, may correspond to the shareholders, the Board of Directors shall be responsible for proposing to the General Shareholders' Meeting the number of Board Members and individuals or legal entities to be appointed. The appointment proposal must specify whether the Board Member is an Executive, Proprietary, Independent or External Board Member.  
Furthermore, should any vacancies arise; the Board of Directors may provisionally fill them by appointing Directors by co-optation until the next General Shareholders' Meeting where a definitive appointment shall take place. Should a vacancy arise once the General Meeting has been convened and before it is held, the Board of Directors may appoint a Director until the next General Meeting is held. The Director appointed by the Board does not necessarily have to be a Company shareholder.
2. The proposed appointment or re-election of Board members corresponds to the Appointments Committee in the event of Independent Directors and to the Board itself in the remaining cases. In any case, the proposal must be accompanied by a Board of Directors' report justifying its decisions, which assesses the competences, experience and merits of the proposed candidate, which will be attached to the minutes of the General Shareholders' Meeting or of the Board itself. The proposed appointment or re-election of any Non-Independent Director must also be preceded by a report by the Appointments Committee.

The Board of Directors must ensure that the selection procedures of its members favour diversity **in matters of age, ~~of~~ gender, disability or training and professional** experiences ~~and knowledge~~, and they are not tainted by implicit biases which could represent any form of discrimination and, in particular, that they facilitate the selection of female directors **in sufficient numbers to have balanced numbers of men and women.**

3. This article will also apply to individuals who are appointed as representatives of a Director which is a legal entity. The proposal of a representative who is an individual must be included in the Appointments Committee report.

**Article 24.- The Audit Committee**

- 1.** In accordance with the provisions of Article 21 of the Company Bylaws, there shall be an Audit Committee made up of a minimum of three and a maximum of five members who shall be appointed and discharged, from among its members, by the Board of Directors.

Under no circumstances may such appointment fall to anyone who currently performs or who has carried out tasks of an executive or labour-related nature at the Company during the three immediately preceding years. ~~At least two~~ **The majority** of the members of the Audit Committee shall be Independent Directors and one of them shall be appointed on the basis of his or her knowledge and experience in accounting or auditing or both. **Notwithstanding the above, steps shall be taken to ensure that all members of the Audit Committee – especially its Chair – are appointed on the basis of their knowledge and expertise in accounting, auditing or risk management and also in all areas which are helpful in performing all their duties for the Audit Committee, such as finance, internal monitoring and information technology.** **In turn, without prejudice to the obligation to promote diversity in terms of gender and of geographic origin, the Audit Committee members must have relevant technical skills in relation to the Company's area of activity.**

- 2.** The Chairman's ~~appointment~~ **shall be appointed**, ~~also to be carried out~~ by the Board of Directors, **and the office** shall necessarily correspond to one of the Company's Independent Directors, who may not remain in such position for a period in excess of four years, although he/she may, nevertheless, be re-elected after the period of one year has elapsed from the moment of cessation. The **Chairman of the Committee shall act as its spokesman at meetings of the Board of Directors and, where applicable, of the Company's General Shareholders Meeting.**

The Secretary to the Company's Board of Directors shall attend meetings with the right to speak but not to vote. **His/her role shall be to assist the Chairman of the Committee in planning the meetings, compile and distribute the necessary information in sufficient time,** and shall draft the Minutes of the meeting, which shall be forwarded to all members of the Board of Directors following their approval.

- 3.** Under the supervision of the Audit Committee, it will have a unit which will assume the internal audit function to oversee the sound functioning of the reporting and internal control systems. From a functional standpoint, it will be answerable to the Non-Executive Chairman of the Board or to that of the Audit Committee. The head of internal audit should present an annual work program to the Audit Committee; inform it directly of any incidents arising during its implementation; and submit an activities report at the end of each year.
- 4.** ~~3~~ **The notice of a meeting, which must always include the agenda and should be accompanied by the necessary information, although in certain circumstances, it may be justified to distribute all or part of the information at the meeting itself, rather than in advance.** The Audit Committee shall only be deemed to be constituted when the majority of its members attend and it shall adopt its agreements by the majority vote of those attending, with the Chairman having the casting vote in the event of a tie.
- 5.** **The Committee** will meet as many times as convened by its Chairman and, in any case, it must coincide with the initial and final phases of the audit of the Company's financial statements and the consolidated financial statements of its Group of Companies, prior to the issuance of the corresponding auditors' reports, as well as upon the process of preparing financial reporting packages which must be made public by the Company. The Company's

Auditor may attend such Audit Committee meetings, whenever especially convened, for the purpose of explaining the most significant aspects of the audits performed **and so may the internal auditor. Neither shall be present, however, for the decision-making portion of the meeting, when the Committee is required to take the relevant decisions.**

**6.** The Audit Committee shall have the following functions:

**As pertains to oversight of the financial information:**

- a) To inform the General Shareholders' Meeting of matters envisaged in relation to those issues which are the competency of the Committee **and, in particular, of the result of the audit, explaining how it contributed to the integrity of the financial information, and the role which the Committee played in that process.**
- b) To supervise the preparation and presentation of the company's, *and where applicable the Group's, financial information, reviewing compliance with regulatory requirements and ensuring the adequacy of the consolidation scope defined and appropriate application of accounting criteria and, in particular, being aware of, understanding and supervising the efficacy of the financial information control system (SCIIF). The Committee may present recommendations or proposals to the Board of Directors, with the aim of safeguarding the integrity of the financial information.*
- c) **To provide the Board of Directors with prior notice about the financial information that the Company is required to publish periodically.**
- d) **To ensure that the Board of Directors is able to present the accounts to the General Shareholders' Meeting without limitations or provisos in the audit report and that, in the exceptional circumstances where there are provisos, both the Chairman of the Board and the auditors can clearly explain to the shareholders the content and scope of those limitations or provisos.**

**As pertains to the oversight of the internal control and internal audit:**

- e) *To oversee the efficiency of the Company's internal control, and the internal audit and, with the account auditor, to discuss any significant weaknesses in the internal control system ~~id~~detected during the performance of the audit process, without infringing its independence, drawing conclusions as to the level of trustworthiness and reliability of the system. For these purposes, where necessary, the Audit Committee may present recommendations or proposals to the Board of Directors and indicate the corresponding period of time for follow-up of these recommendations.*
- f) *To supervise the independence of the internal audit unit; propose the selection, appointment, re-election and substitution of the head of the internal audit department; propose the budget for the service; approve its orientation and work plans, ensuring that activities are directed principally towards key risks for the company; receive regular information on internal activities; ensure that senior management takes the conclusions and recommendations of internal audit reports into consideration; **and annually assess the workings of the internal audit unit and the performance of its duties by the person responsible for the unit.***

**g) To establish and oversee a mechanism enabling employees to confidentially report potentially significant breaches – especially in matters of finance and accounting – which they discover within the company, receiving periodic information about its workings and being able to put forward proposals as to appropriate actions to improve matters and reduce the risk of future irregularities.**

**As pertains to the oversight of risk management and control:**

**h) To oversee the efficiency of the risk management systems.**

**i) At least once a year, to reassess the list of most significant risks, both financial and otherwise, and evaluating their tolerance level, proposing adjustments to the Board of Directors where necessary. For these purposes, the Committee shall, at least once a year, hold a meeting with the heads of the various business lines, for those managers to explain trends in their line of business, and the associated risks.**

**j) To directly oversee the performance of the internal control and risk management functions carried out by any unit or Department of the Company.**

**In relation to the external auditor:**

**k) To submit to the Board of Directors the proposals for the selection, appointment, re-election and substitution of the external auditor, taking responsibility for the selection process, and for the conditions their engagement, and for this purpose, the Committee must:**

- 1. define the process for selection of the auditor; and**
- 2. issue a reasoned proposal containing at least two alternatives for auditor selection, except in cases of re-election of the same auditor.**

**l) and to Regularly receive information from the external auditor ~~on~~ regarding the audit plan and its implementation, and any other issues relating to the account auditing process – in particular, any disagreements which arise between the account auditor and the Company management,** as well as to preserve its independence in the exercise of its functions.

**m) To establish the appropriate relationships with the external auditor for the purpose of receiving information on any matter which may compromise its independence, for examination by the Committee, and any other matter relating to the process of auditing the accounts and, where necessary, authorization of services other than those which are prohibited, in the conditions set forth the applicable**.legislation, in addition to any other communication laid down in Spanish legislation regarding auditing and auditing standards.

In any case, the Company must receive an annual declaration from the external auditors regarding their independence vis-à-vis the entities directly or indirectly related to the Company, together with **detailed and individualized** information on additional services of any kind provided and the related fees received from these companies by the external auditor or by persons or entities related thereto, in accordance with the audit legislation in force.

**n) To issue annually, prior to the issue of the auditors' report, a report in which it gives its opinion on whether or not the independence of the auditor has been compromised.** In any case, this

report should **contain the reasoned assessment of each and every one** ~~inform on the provision~~ of the additional services referred to in the previous section, individually and globally considered, other than the legal audit and in relation with the independence system or the audit regulations.

**n)** *Should the external auditor resign, examine the circumstances leading to such decision.*

**o)** *Ensure that the remuneration of the external auditor does not compromise its quality or independence, **and establish a guideline cap on fees that the auditor can be paid, each year, for services other than auditing.***

**p)** *Ensure that the Company notifies any change of auditors to the CNMV as a significant event, accompanied by a statement of any disagreements arising with the outgoing auditors and, if any, of their content.*

**q)** *Ensure that the external auditor holds an annual meeting with the Board of Directors to inform it of the work performed and of the evolution of the Company's accounting situation and risks.*

**r)** *Ensure that the Company and the external auditor comply with the applicable laws regarding the provision of services other than auditing services, restrictions on the concentration of the external auditor's business, and, in general, with other laws stipulated to safeguard the independence of auditors.*

**s)** *To perform a final assessment regarding the auditor's performance, and how they have contributed to the quality of the audit and the integrity of the financial information.*

**Other roles:**

**t)** To inform the Board of Directors in advance of all matters envisaged by law, in the Company's Bylaws and in these Rules and, in particular, of:

1. **the economic conditions and the impact on accounting matters and, where applicable, on the proposed exchange ratio, of structural and corporate modifications which the Company plans to carry out.**
2. the creation or acquisition of holdings in special purpose vehicles or entities domiciled in countries or territories deemed to be tax havens; and
- 3.- related party transactions.

That stipulated in letters ~~d), e) and f)~~ **k), l), m) and n)** above will be understood without prejudice to the audit regulations.

~~**5.** Aside from the functions envisaged in the previous section, the Audit Committee will exercise the following in relation to the reporting and internal control systems and to the external auditor:~~

**7.- Before attending meetings of the Audit Committee, members must put in sufficient effort to analyze and assess the information received. In addition, at Committee meetings,**

**constructive dialogue and free expression between the members will be encouraged, and members will be encouraged to adopt a vigilant and analytical attitude. The Chairman of the Committee must ensure that members are freely participating in the discussions.**

**8.** The Audit Committee may convene any Company employee or manager, even ordering their appearance without the presence of another senior executive, **and also insist that other persons attend their sessions, though only by invitation of the Chairman of the Committee, and only to address those specific points of the agenda which they are called to explain, provided the matter at hand justifies such a measure.**

**The Audit Committee must establish an effective channel for periodic communication with their usual interlocutors, normally between the Chairman of the Committee and, amongst others, the Company management – in particular, the general management and finance department, the head of internal audits, and the main auditor responsible for account auditing. In particular, communication between the Audit Committee and the external auditor must be free and continuous, in accordance with the regulations on account auditing.**

**9.- The Audit Committee may have adequate access, when required, to any information or documentation the Company has, and may receive advice from external experts when deemed necessary for the Committee to discharge its duties properly.**

**10.- The Company must provide the Audit Committee with sufficient resources to perform its duties. In particular, the Committee shall have a periodic training plan to help update the Committee members' knowledge, and a program shall also be run to help integrate new Committee members.**

**11.- The Audit Committee shall establish an annual work plan listing the main activities the Committee intends to carry out over the course of the year. In addition, the Committee will produce an annual report on its operation during the year, including, amongst other things, significant activities carried out over that period, specifying those which have been conducted with the help of external experts.**

**12.** Insofar as it were deemed necessary, and with the natural adaptations, the operation of the Audit Committee shall be governed by the provisions of these Rules regarding the functioning of the Board of Directors.

## **Article 26. -The Appointment Committee**

Likewise, the Board of Directors will set up an Appointment Committee to be made up of a Chairman and a minimum of two Members who will be freely elected and moved, from among its members, by the Board of Directors, and who will perform their functions during the term of four years for which they were appointed. At least two Members must be Independent Directors

and the Chairman of the Committee will be appointed from among the Independent Directors who form a part of it.

The Secretary to the Board of Directors will attend the Committee's meetings, will act as its Secretary, with entitlement to participate but not to vote, and will write up the Minutes of the meeting, which will be forwarded to all members of the Board of Directors following their approval.

The meeting will only be deemed to be convened when the majority of its members attend and agreements will be adopted by majority vote of those attending, with the Chairman having the casting vote in the event of a tie. The Committee will meet, when convened by the Chairman, at least twice a year.

The Appointment Committee ~~is responsible for providing~~ **has the following duties:**

1. **To evaluate the capabilities, expertise and experience required by the Board of Directors. For these purposes, it shall define the necessary skills and abilities of the candidates to cover any vacancy and shall evaluate the time and dedication required to discharge the related duties effectively.**
2. **To make proposals to the Board of Directors for the a appointment of independent independent Directors by co-option or by approval at the Shareholders' General Meeting, as well as proposals for the re-election or removal of such Board Members by the Shareholders' General Meeting.**
3. **To make proposals for the appointment of other Board Members by co-option or by approval at the Shareholders' General Meeting, as well as proposals for the re-election or removal of such Board Members by the Shareholders' General Meeting.**
4. **To make proposals for the appointment of the Secretary of the Board of Directors.**
5. **To examine and organize the succession of the Chairman of the Board of Directors and of the Chief Executive Officer of the Company and, if applicable, to make proposals to the Board of Directors for such succession to occur in an orderly and well-planned fashion.**
6. **The proposed appointment and removal of Senior Executives, especially those who will form part of the Group's Management Committee, and the basic conditions of their contracts.**
7. **The issues related to gender diversity in the Board of Directors. To make proposals to the Board of Directors as to diversity policy on the basis of criteria such as age, disability, level of training, professional experience and gender, setting concrete objectives in this matter.**

Insofar as it were deemed necessary, and with the natural adaptations, the operation of the Audit Committee shall be governed by the provisions of these Rules regarding the functioning of the Board of Directors

#### **Article 27. -The Remuneration Committee**

Likewise, the Board of Directors will set up a Remuneration Committee to be made up of a Chairman and a minimum of two Members who will be freely elected and moved, from among its members, by the Board of Directors, and who will perform their functions during the term of four years for which they were appointed. At least two Members must be Independent Directors and the Chairman of the Committee will be appointed from among the Independent Directors who form a part of it.

The Secretary to the Board of Directors will attend the Committee's meetings, will act as its Secretary, with entitlement to participate but not to vote, and will write up the Minutes of the meeting, which will be forwarded to all members of the Board of Directors following their approval.

The meeting will only be deemed to be convened when the majority of its members attend and agreements will be adopted by majority vote of those attending, with the Chairman having the casting vote in the event of a tie. The Committee will meet, when convened by the Chairman, at least twice a year.

The Remuneration Committee is responsible for **the following functions:** ~~providing the Board of Directors with information on:~~

1. **To report to the Board of Directors on policy regarding the remuneration of directors and general managers or other persons discharging senior management functions and reporting directly to the Board of Directors, executive committees or Executive Board Members, and to verify compliance with the policy established.**
2. ~~The remuneration system of the Chairman of the Board of Directors and other senior executives of the Company.~~
2. **To make proposals on the** The distribution among the members of the Board of Directors of the overall remuneration agreed upon by the shareholders at the General Meeting.
3. **To make proposals on the individual remuneration and other contractual conditions of the executive Board Members.** ~~and, if applicable, the establishment of supplementary remuneration and other payments corresponding to executive Board Members in relation to their functions.~~
4. ~~Remuneration of Board Members.~~ **To make proposals on the** long-term plans that may be established in accordance with the value of the share, such as stock option plans.

**Insofar as may be necessary, and with the appropriate adaptations, the functioning of the Remunerations Committee shall be governed by the provisions of these Rules regulating the functioning of the Board of Directors.**

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