Spain

GLASS LEWIS

2025 Benchmark Policy Guidelines

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About Glass Lewis

Glass Lewis is the world's choice for governance solutions. We enable institutional investors and publicly listed companies to make informed decisions based on research and data. We cover 30,000+ meetings each year, across approximately 100 global markets. Our team has been providing in-depth analysis of companies since 2003, relying solely on publicly available information to inform its policies, research, and voting recommendations.

Our customers include the majority of the world's largest pension plans, mutual funds, and asset managers, collectively managing over $40 trillion in assets. We have teams located across the United States, Europe, and Asia-Pacific giving us global reach with a local perspective on the important governance issues.

Investors around the world depend on Glass Lewis' **Viewpoint** platform to manage their proxy voting, policy implementation, recordkeeping, and reporting. Our industry leading **Proxy Paper** product provides comprehensive environmental, social, and governance research and voting recommendations weeks ahead of voting deadlines. Public companies can also use our innovative **Report Feedback Statement** to deliver their opinion on our proxy research directly to the voting decision makers at every investor client in time for voting decisions to be made or changed.

The research team engages extensively with public companies, investors, regulators, and other industry stakeholders to gain relevant context into the realities surrounding companies, sectors, and the market in general. This enables us to provide the most comprehensive and pragmatic insights to our customers.

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Guidelines Introduction

These guidelines are intended to supplement Glass Lewis' *Continental Europe Benchmark Policy Guidelines* by highlighting the key policies that we apply specifically to companies listed in Spain and the relevant regulatory background to which Spanish companies are subject, where they differ from Europe as a whole. Given the growing convergence of governance regulations and practices across companies subject to European Union rules and directives, Glass Lewis combined our general approach to Continental European companies in a single set of guidelines, the *Continental Europe Benchmark Policy Guidelines*, which set forth the underlying principles, definitions and global policies that Glass Lewis uses when analysing Continental European companies.

While our approach to issues addressed in the *Continental Europe Benchmark Policy Guidelines* are not repeated here, we will clearly indicate in these guidelines when our policy for Spanish companies deviates from the *Continental Europe Benchmark Policy Guidelines*.

Corporate Governance Background

The National Securities Market Commission (*Comisión Nacional del Mercado de Valores* or "CNMV") is the Spanish government agency responsible for regulating national financial securities markets and ensuring their compliance with applicable regulations. The CNMV is an independent agency that falls under the Spanish government's Ministry of Economy and Finance.

The Spanish Companies Law (*Ley de Sociedades de Capital* or "LSC"), Securities Market Law (*Ley del Mercado de Valores* or "LMV"), the Sustainable Economy Law (*Ley de Economía Sostenible* or "LES"), and the Commercial Code (*Código de Comercio*) provide the legislative framework for regulation and basic principles of corporate governance in Spain. In 2014, Law 31/2014 of December 3, 2014 was introduced to update the LSC implementing further key provisions affecting corporate governance in line with developing European standards, among which include, binding votes on remuneration policy, stricter regulations on director classification and committee independence, and the implementation of new ownership thresholds for shareholders' rights. The law also requires companies to disclose an annual corporate governance report. Its content and structure is determined by the CNMV and will, at a minimum, include details on (i) the ownership structure of the company; (ii) any voting restrictions or restrictions on the transfer of securities; (iii) the management structure of the company; (iv) related party transactions; (v) risk control systems in place; (vi) the functioning of the general meeting; (vi) the degree of compliance, or explanations behind failure to comply, with corporate governance recommendations; and (vii) the main characteristics of the internal control and risk management systems in place.[1] Further, in February 2015 the Spanish Good Governance Code of Listed Companies (the Good Governance Code or the Code), which sets out principles and provisions of best practice in relation to board leadership and effectiveness, remuneration, accountability and relations with shareholders, replaced the previous best practice recommendations (the Unified Code), largely in order to harmonise with the amended Companies Law. The format of the Code identifies certain good governance principles, which in turn provide for a set of specific recommendations. It operates on a "comply or explain" premise, whereby

[1] Article 540 of Spanish Companies Law.

companies are required by Spanish law to specify their degree of compliance with corporate governance recommendations, justifying any failure to comply.[2]

The Code was most recently revised in June 2020.

Market and Regulatory Updates

Organic Law 2/2024, also known as the Parity Law (*Ley de Paridad*) was approved on August 1, 2024, with the purpose to *achieve real and effective equality between men and women*[3]. The law, implemented on August 22nd and which applies to several different areas, amends article 529 bis of the Spanish Companies Law by requiring 40% representation for the least represented gender on the boards of listed companies. Moreover, this requirement extends to management although on a comply-or-explain rather than a mandatory basis.

Further, the above article establishes the timeframe for companies to achieve the required representation. As such, companies trading in the IBEX 35 listing segment will have to comply by June 30, 2026, whereas all other companies have June 30, 2027 as their set deadline

In addition, the draft law transposing the European Corporate Sustainability Reporting Directive (CSRD) into Spanish law was introduced also in May 2023. The CSRD is intended to increase the quality, completeness, and comparability of non-financial reporting in Europe. The Spanish cabinet has not yet initiated any further legislation in this regard.

Summary of Changes for 2025

Glass Lewis evaluates these guidelines on an ongoing basis and formally updates them on an annual basis. This year we've made noteworthy revisions in the following areas, which are summarised below but discussed in greater detail in the relevant section of this document:

Virtual Shareholder Meetings

We have updated these guidelines to include our expectation under the benchmark policy regarding the virtual-only shareholder meetings. As discussed in our Continental Europe Benchmark Policy Guidelines, virtual-only shareholder meetings can curb the ability of a company's shareholders to participate in the meeting and meaningfully communicate with company management and directors.

The benchmark policy expects that companies that elect to hold virtual shareholder meetings should aim to replicate in-person shareholder meetings and safeguard shareholder rights as closely as possible.

In egregious cases where inadequate disclosure has been provided to shareholders at the time of convocation, the benchmark policy will generally recommend that shareholders vote against members of the governance committee (or equivalent) or the chair of the board.

Please refer to "Virtual Shareholder Meetings" of these guidelines for further information.

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[2] Article 61-bis of Sustainable Economy Law.

[3] Foreword Ley Orgánica 2/2024 of August 1.

Appointment/Ratification of Auditor

We have updated this section of the guidelines to reflect the current regulations and wording provided by the Spanish Auditing Act regarding the maximum tenure of the auditor. Please refer to the "Appointment/Ratification of Auditor" section of these guidelines for further information.

Housekeeping Changes

We have made further changes of a housekeeping nature in order to enhance the clarity and readability of the document.

A Board of Directors that Serves the Interests of Shareholders

Election of Directors

We believe the boards that are best able to protect and enhance the interests of shareholders are independent, have directors with diverse backgrounds, have records of positive performance, and have members with a breadth and depth of experience.

Spanish companies are usually governed by a unitary board consisting of executive directors (*consejeros ejecutivos*) and non-executive directors, the latter subdivided into proprietary directors or shareholder representatives (*consejeros dominicales*), independent directors (*consejeros independientes*) and other external directors (*otros consejeros externos*).[4] However, the board chair, with the approval of the board of directors, may delegate some of the board's management functions to an executive committee.[5]

Independence

In Spain, we place directors into four categories based on an examination of the type of relationship they have with the company:

[4] Defined in Article 529-duodecies of Spanish Companies Law.
[5] Article 249 of Spanish Companies Law.

Independent Director — An independent director has no material financial,[6] familial[7] or other current relationships with the company,[8] its independent auditor, executives, or other directors, except for board service and standard fees paid for that service.

Affiliated Director — An affiliated director has a material financial, familial or other relationship with the company or its executives, but is not an employee of the company.[9] This may include directors whose employers have a material relationship with the company or its subsidiaries or major shareholders. We will typically consider directors affiliated if they:

- Have served on the board for 12 consecutive years or more;[10]
- Have been employed by the company within the past five years;[11]
- Have — or have had within the past three years — a material relationship with the company, either directly or as a partner, shareholder, director or senior employee of any entity that has such a relationship with the company;[12]

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[6] Per Glass Lewis' *Continental Europe Benchmark Policy Guidelines*, "material" as used herein means a relationship in which the value exceeds: (i) €50,000, or the equivalent (or 50% of the total compensation paid to a board member, or where no amount is disclosed) for board members who personally receive compensation for a professional or other service they have agreed to perform for the company, outside of their service as board members. This limit would also apply to cases in which a consulting firm that is owned by or appears to be owned by a board member receives fees directly; (ii) €100,000, or where no amount is disclosed, for those board members employed by a professional services firm such as a law firm, investment bank or large consulting firm where the firm is paid for services but the individual is not directly compensated. This limit would also apply to charitable contributions to schools where a board member is a professor, or charities where a board member serves on the board or is an executive, or any other commercial dealings between the company and the director or the director's firm; (iii) 1% of the company's consolidated gross revenue for other business relationships (e.g., where the director is an executive officer of a company that provides services or products to or receives services or products from the company); (iv) 10% of shareholders' equity and 5% of total assets for financing transactions; or (v) the total annual fees paid to a director for a personal loan not granted on normal market terms, or where no information regarding the terms of a loan have been provided.

[7] Per Glass Lewis' *Continental Europe Benchmark Policy Guidelines*, familial relationships include a person's spouse, parents, children, siblings, grandparents, uncles, aunts, cousins, nieces, nephews, in-laws, and anyone (other than domestic employees) who shares such person's home. A director is an affiliate if the director has a family member who is employed by the company.

[8] A company includes any parent or subsidiary in a group with the company or any entity that merged with, was acquired by, or acquired the company.

[9] Article 529-duodecies of Spanish Companies Law. If a company classifies a director as non-independent, Glass Lewis will classify that director as an affiliate, unless there is a more suitable classification.

[10] Paragraph 4 of Article 529-duodecies of Spanish Companies Law. As outlined in our *Continental Europe Benchmark Policy Guidelines*, we refrain from recommending to vote against directors who are not considered independent due to lengthy board tenure on that basis alone in order to meet recommended independence thresholds.

[11] Paragraph 4 of Article 529-duodecies of the Spanish Companies Law, sets a three-year look-back for employees and a five-year look-back for executive directors. Glass Lewis believes a five-year period is appropriate for measuring the potential conflict of interest for any former employee or executive. However, Glass Lewis does not apply the five-year lookback period to directors who have previously served as executives of the company on an interim basis for less than one year. In contrast, Glass Lewis may consider a lookback period irrelevant in cases where a former executive has other significant ties to the company, such as being a member of the founding family of the firm or a former executive who continues to receive variable remuneration.

[12] Spanish Companies Law applies a three-year lookback for directors who have served as a partner of the company's or group's independent auditor. Further, a director is considered non-independent if he/she has served as an executive or

- Have close family ties with any of the company's senior employees;[13]
- Hold cross-directorships or have significant links with other directors through their involvement in other companies or entities;[14] and/or
- Have not been nominated by the nominating committee[15]

Inside Director — An inside director simultaneously serves as a director and as an employee of the company.[16] This category may include a board chair who acts as an employee of the company or is paid as an employee of the company.

Shareholder Representative[17] — A director who is either the beneficial owner of 3% or more of the company's share capital, or represents the owner of 3% or more of the company's share capital.

Voting Recommendations on the Basis of Board Independence

Glass Lewis believes a board will be most effective in protecting shareholders' interests when the majority of the board members are non-executive directors[18] and at least one-third of all directors are independent.[19] However, at least half of all board members of companies included in the IBEX 35 index should be independent directors, unless the company has shareholders individually or concertedly controlling over 30% of the issued share capital.[20] Where 50% or more of the members are executive directors and/or the board does not include a sufficient number of independent members, we typically recommend voting against some of the inside and/ or affiliated directors in order to satisfy the above-mentioned non-executive and independence thresholds.

Further, we believe shareholder representation on the board can be beneficial to all shareholders but should be proportional to economic interest. As a result, the composition of the board should mirror the company's share

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shareholder of a company which received donations from the company or group in the past three fiscal years. This provision does not apply to trustees. Paragraph 4 of Article 529-duodecies.

[13] Article 529-duodecies of Spanish Companies Law defines "close family ties" as spouses or persons related up to the second-degree. We define second-degree relatives as anyone including and up to parents, children, siblings, cousins, aunts/uncles, nieces/nephews and grandparents.

[14] Paragraph 4 of Article 529-duodecies of Spanish Companies Law. In accordance with the law, a director will be considered non-independent when serving as an executive in another company where an executive of the company in question serves as a director.

[15] Paragraph 4 of Article 529-duodecies of Spanish Companies Law.

[16] Paragraph 1 of Article 529-duodecies of Spanish Companies Law classifies an executive director as one who performs a lead management position in the company or group. Directors who are senior officers or managers of companies belonging to the group may be considered shareholder representatives under the law. However, Glass Lewis will generally consider directors exercising executive functions in a group entity to be insiders.

[17] Under Article 529-duodecies of Spanish Companies Law, a shareholder representative who no longer represents a shareholder due to a sale of shares in the company, may not be appointed as an independent director until the shareholder has sold all of its shares in the company. An independent director may hold shares in the company provided it is not of significance. Generally, significant shareholders nominate candidates for shareholder approval to serve as shareholder representatives on the board, however, article 243 of the Spanish Companies Law allows a shareholder to exercise its right to proportional representation on the board without a shareholder vote. In the event that the shareholder exercises this right, it will not be allowed to vote on the election of other board members in the meeting.

[18] Recommendation 15 of the Good Governance Code.

[19] Recommendation 17 of the Good Governance Code.

[20] Recommendation 17 of the Good Governance Code.

capital structure.[21] Where the relation between shareholder representatives and independent board members does not match the proportion between the economic interest represented by shareholder representatives and the free float, we may recommend voting against some of the shareholder representatives to achieve proportional board composition.

Voting Recommendations on the Basis of Committee Independence

Spanish law requires the audit, remuneration and nominating committees to be exclusively composed of non-executive directors, with the audit committee comprising of a majority of independent members, while remuneration and nominating committees must include at least two independent members.[22] We believe these committees should be composed of a majority of independent directors.[23] Further, in accordance with Spanish law, all committees should be chaired by an independent director.[24]

Other Considerations for Individual Directors

Our policies with regard to performance, experience and conflict of interest issues are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

External Commitments

We believe that directors should have the necessary time to fulfil their duties to shareholders. In our view, an overcommitted director can pose a material risk to a company's shareholders, particularly during periods of crisis. We typically recommend shareholders vote against a director who:

- Serves as an executive officer of any public company while serving on more than one additional external public company board; or
- Serves as a 'full-time' or executive member of the board[25] of any public company while serving on more than two additional external public company boards; or
- Serves as a non-executive director on more than five public company boards in total.

We will count non-executive board chair positions at European companies as two board seats given the increased time commitment generally associated with these roles.

[21] Recommendation 16 of the Good Governance Code.
[22] Articles 529-quaterdecies and 529-quindecies of Spanish Companies Law.
[23] Recommendation 47 of the Good Governance Code. While we generally believe that a majority of the members of the remuneration committee should be independent of shareholders owning 3% or more of the company's share capital or voting rights, we will take into account the company's ownership structure when evaluating the composition of this committee. However, we believe that a majority of the members of the remuneration committee should be independent of controlling shareholders (i.e., those owning or controlling 50% or more of a company's total share capital) in accordance with the CNMV Technical Guide 1/2019: On nomination and remuneration committees.
[24] Articles 529-quaterdecies and 529-quindecies of Spanish Companies Law.
[25] This policy applies to directors that serve on a board in a 'full-time' or executive capacity without further defined responsibilities within the executive team (e.g., executive chair that is not a member of the executive committee, or a non-executive chair that serves in the role in a full-time capacity)..

Further, as executive directors will presumably devote their attention to the company where they serve as an executive, we will generally not recommend that shareholders vote against the election of a potentially overcommitted director at the company where they serve in an executive function. Similarly, we will generally not recommend that shareholders vote against the election of a potentially overcommitted director at a company where they hold the board chair position, except where the director:

- Serves as an executive officer of another public company; or
- Holds board chair positions at three or more public companies; or
- Is being proposed for initial election as board chair at the company.

Nevertheless, we adopt a case-by-case approach on this issue, as described in our *Continental Europe Benchmark Policy Guidelines*.

Board Responsiveness

Glass Lewis believes that when 20% or more of minority shareholders vote contrary to the recommendation of board, the board should, depending on the issue, demonstrate some level of responsiveness to address shareholder concerns, particularly in cases where we have identified particular issues of concern. These include instances when 20% or more of shareholders: (i) abstain from or vote against a director nominee; (ii) abstain from or vote against a management-sponsored proposal; or (iii) vote for a shareholder proposal. In our view, a 20% threshold is significant enough to warrant a close examination of the underlying issues and an evaluation of whether or not a board response was warranted and, if so, whether the board responded appropriately following the vote.

While the 20% threshold alone will not automatically generate a negative vote recommendation from Glass Lewis on a future proposal, it will be a contributing factor to recommend a vote against board's recommendation in the event we determine that the board did not acknowledge and/or address such dissent appropriately. Further, we may, where appropriate, hold chairs and members of the relevant committees accountable where the response to shareholder concerns has fallen below a qualitative threshold. In the absence of an option to escalate concerns to specific directors, we may instead recommend a vote against the receipt of the annual report and accounts.

Our evaluation of board responsiveness is not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Board Structure and Composition

Our policies with regard to board board-level risk management oversight and board diversity are not materially different from our *Continental Europe Benchmark Policy Guidelines*. However, our policy regarding the size of the board of directors takes into account local best practice. The following are clarifications regarding best practice recommendations in Spain.

Separation of the Roles of Board Chair and CEO

Under Spanish Law, the role of board chair may be held by an executive director, however, their appointment must be approved by two-thirds of the board of directors. In such cases, the non-executive directors must appoint a lead independent director (*consejero coordinador*).[26] Likewise, the Good Governance Code states that when the roles of board chair and CEO are combined, an independent lead director with additional powers, such as maintaining contacts with the company's shareholders, organising regular evaluations of the board and coordinating the chair's succession plan, should be appointed. The Good Governance Code states that the independent lead director should be granted additional powers such as maintaining contacts with the company's shareholders and coordinating the chair's succession plan.[27]

When the roles are combined and the board has failed to implement adequate measures to prevent and manage the potential conflict of interests deriving from the combination of the two positions such as appointing a demonstrably independent lead director, we may recommend voting against the chair of the nominating committee.

Size of the Board of Directors

In contrast to our *Continental Europe Benchmark Policy Guidelines*, which specify a maximum board size of 20 members, we believe that boards should be composed of no more than 15 members in Spain in line with the recommendation of the Good Governance Code.[28] If a board has fewer than five directors or more than 15 directors, in the absence of a convincing rationale for the size of the board, will typically recommend voting against the chair of the nominating committee.

Board Diversity

In accordance with Spanish law, the company's board must ensure that the procedures for appointing its members promote gender diversity, experience and knowledge with no implied bias entailing any kind of discrimination in regard to the appointment of female directors.[29] The Good Governance Code recommends that boards should have adequate diversity of knowledge, experience, age and gender to perform their tasks efficiently. It is also recommended that companies have a policy to promote diversity that includes measures to ensure there are a significant number of female members in top management.[30] The Code recommends that the least represented gender occupies 40% of board positions by the end of 2022.[31] In addition, companies must disclose the number of female directors sitting on the board and its committees as well as indicate the development of this number over the last four years. Further, the Corporate Governance Report should include a description of the board's diversity policy, including its objectives, the measures adopted and how they were applied, and the results achieved in the reporting period. The diversity policy should include information such as professional experience, age, and gender diversity. An explanation should be offered where such a policy has

[26] Article 529-septies of Spanish Companies Law.
[27] Recommendation 34 of the Good Governance Code.
[28] Recommendation 13 of the Good Governance Code.
[29] Article 529-bis of Spanish Companies Law.
[30] Principle 10 of the Good Governance Code.
[31] Recommendation 15 of the Good Governance Code.

not been applied. Small and medium-sized entities are only obliged to provide information on the measures that have been adopted in terms of gender diversity.

In line with our *Continental Europe Benchmark Policy Guidelines*, we expect the boards of all main market companies to not be composed solely of directors of the same gender. Further, in line with the Code, we generally expect the boards of IBEX-35 and IBEX Medium Cap companies to be composed of at least 40% of gender diverse directors.[32] However, we will take into account recent progress made to improve board diversity and company's disclosure regarding its commitment to address the gender gap in upcoming election cycles.

Where a proposed board election does not align with these targets or the Company has not disclosed a sufficient explanation or plan to address the issue, we may recommend that shareholders vote against the chair of the nominating committee (or equivalent) or a new nominee to the board, as appropriate.

Further, we will generally provide exceptions to these policies to boards consisting of four or fewer members where a company provides compelling disclosure as to why it has failed to ensure gender balance on the board.

We note that Organic Law 2/2024 requires a 40% representation for the least represented gender on the boards of listed companies. Moreover, this requirement extends to management although on a comply-or-explain rather than a mandatory basis. The Companies trading in the IBEX 35 listing segment will have to comply by June 30, 2026, whereas all other companies have June 30, 2027 as their set deadline.

Board Skills

Glass Lewis believes companies should disclose sufficient information to allow a meaningful assessment of a board's skills and competencies. The Code recommends that analysis of competencies required by the board should be disclosed in the nomination committee's explanatory report, to be published when the general meeting that will ratify the appointment and re-election of each director is convened.[33] Our analysis of director elections at IBEX-35 and IBEX Medium Cap index companies includes a board skills matrix in order to assist in assessing a board's competencies and identifying any potential skills gaps. In line with our *Continental Europe Benchmark Policy Guidelines*, we believe companies should disclose sufficient information to allow a meaningful assessment of a board's skills and competencies. If a board has failed to address material concerns regarding the mix of skills and experience of the non-executive element of the board, we will consider recommending voting against the chair of the nominating committee or equivalent.

Board Committees

In accordance with Spanish law, the board must establish an audit committee, individual nominating and remuneration committees or a joint nominating and remuneration committee. The committees must be composed entirely of non-executive directors, with the audit committee comprising of a majority of independent members, while remuneration and nominating committees must include at least two independent

[32] Women, and directors that identify with a gender other than male or female.

[33] Recommendation 14 of the Good Governance Code.

members. The chair of each committee must be independent. At least one member of the audit committee must possess expertise in accounting or auditing.[34]

The Good Governance Code recommends that companies establish individual nominating and remuneration committees or a joint nominating and remuneration committee composed of a majority of independent directors.[35] Large cap companies should operate separately constituted nomination and remuneration committees.[36]

Further, the Spanish Central Bank (*Banco de España*) determines that credit institutions which, on the basis of their size, internal organisation and the nature, scale and complexity of their activities, should establish a risk committee. This committee shall be made up of non-executive directors who have the appropriate knowledge, capacity and experience to fully understand and oversee the risk strategy and the institution's propensity to risk. At least one-third of the members, and in any event the chair, should be independent directors.[37]

Our policies with respect to committee performance and standards for assessing committees are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Committee Composition and Performance

The Role of a Committee Chair

Glass Lewis believes that a designated committee chair maintains primary responsibility for the actions of his or her respective committee. As such, many of our committee-specific voting recommendations – as outlined in these guidelines and in further detail in our *Continental Europe Benchmark Policy Guidelines* – are against the applicable committee chair rather than the entire committee (depending on the seriousness of the issue). In cases where the committee chair is not up for election due to a staggered board, and where we have identified substantial or multiple concerns, we will generally recommend voting against a long-serving committee member that is up for election, on a case-by-case basis. In cases where we would ordinarily recommend voting against a committee chair but the chair is not specified, we apply the following general rules, which apply throughout our guidelines:

- If there is no committee chair, we recommend voting against the longest-serving committee member or, if the longest-serving committee member cannot be determined, the longest-serving board member serving on the committee (i.e., in either case, the "senior director"); and
- If there is no committee chair, but multiple senior directors serving on the committee, we recommend voting against both (or all) such senior directors.

Expertise of Audit Committee Members

For an audit committee to function effectively on investors' behalf, it must include members with sufficient knowledge to diligently carry out their responsibilities. We believe that companies should clearly outline the

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34 Articles 529-terdecies, 529-quaterdecies and 529-quindecies of Spanish Companies Law.
35 Recommendation 47 of the Good Governance Code.
36 Recommendation 48 of the Good Governance Code.
37 Article 38 of Law 10/2014 on the regulation, supervision and solvency of credit institutions. Per Rule 27 of Circular 2/2016 of Spanish Central Bank, entities whose total volume of assets at individual level is greater than or equal to €10 billion at the closing date of any of the two preceding financial years must establish a risk committee.

skills and experience of the members of the audit committee, and that shareholders should be wary of audit committees that include members that lack the requisite expertise.

In Spain, it is required that at least one member of the audit committee must possess expertise in accounting or auditing.[38] When we have been unable to determine the representation of such expertise on the audit committee through the director biographies and disclosure provided by a company, we may recommend that shareholders vote against the re-election of the audit committee chair and/or other committee members standing for re-election.

Board-Level Oversight of Environmental & Social Risk

Glass Lewis believes that companies should ensure that boards maintain clear oversight of material risks to their operations, including those that are environmental and social in nature. Accordingly, for large-cap companies and in instances where we identify material oversight concerns, Glass Lewis will review a company's overall governance practices and identify which directors or board-level committees have been charged with oversight of environmental and/or social issues.

We will generally recommend voting against the governance committee chair (or equivalent) of IBEX-35 companies that fail to provide explicit disclosure concerning the board's role in overseeing material environmental and social issues.

Our evaluation of board-level oversight of environmental and social risk is not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Election Procedures

Our policies with regard to election procedures are not materially different from our *Continental Europe Benchmark Policy Guidelines*. The following are clarifications regarding best practice recommendations in Spain.

Term Length

Although Glass Lewis favours the annual election of directors, under Spanish company law directors may be elected for a term of up to four years and are eligible for re-election.[39] We generally do not recommend voting against any directors based on this issue.

Ratification of the Co-option of Board Members

In certain instances, board members are appointed directly by the board to serve as directors. Spanish company law allows the board to fill vacancies through co-option by appointing another individual until the next general

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[38] Article 529-quaterdecies of Spanish Companies Law and Principle 15 of Technical Guide 3/2017 on audit committees at public-interest entities.

[39] Article 529-undecies of Spanish Companies Law.

meeting of shareholders.[40] We apply the same standards for such proposals as we do when analysing a standard election of directors proposal

[40] Article 244 of Spanish Companies Law.

Transparency and Integrity in Financial Reporting

In Spain, companies are required to submit their financial statements and the allocation of profits and dividends for shareholder approval.[41] Shareholders are also required to approve a company's choice of independent auditor, who may be appointed for terms of between three to nine years.[42] Our policy for these issues in Spain is not materially different from Glass Lewis' *Continental Europe Benchmark Policy Guidelines*.

Accounts and Reports

As a routine matter, Spanish company law requires that shareholders approve a company's annual accounts and management report, and where applicable the consolidated accounts and management report, within six months of the end of fiscal year in order for them to be valid.

Vote on Non-Financial Reporting

Spanish law requires that large companies disclose additional non-financial information on environmental, social and diversity issues. This information must be incorporated into the management report or presented in a separate report. The report on non-financial information must be put to shareholder vote as a separate point in the annual general meeting.[43]

We will generally recommend that shareholders vote for proposals to approve a company's non-financial reporting, unless any of the following apply: (i) the company has failed to make the report publicly-available with sufficient time for shareholder review prior to the general meeting;[44] (ii) the company has failed to provide a sufficient response to material controversies in its reporting; (iii) there are material concerns regarding the completeness and/or quality of the reporting; or (iv) the company is listed on a blue-chip or mid-cap index and has failed to disclose its Scope 1 and 2 emissions.[45]

In addition, for large-cap companies and in instances where we identify material ESG oversight concerns, we will review the manner in which the board oversees ESG issues. In instances where the board has failed to provide explicit disclosure concerning its role in overseeing material ESG issues, we may recommend that shareholders

[41] Articles 164 and 253 of Spanish Companies Law.

[42] Article 264 of Spanish Companies Law.

[43] Articles 49 of Spanish Commercial Code.

[44] We generally believe that relevant disclosures should be made publicly available at least 21 days prior to a general meeting. Where the report has not been made available with sufficient time for shareholder review, we will generally recommend that shareholders abstain from voting on the report.

[45] Article 49.6 of the Spanish Commercial Code requires companies to report on a number of non-financial issues, including CO_2 emissions. Article 47, and the new Article 29b to be inserted into Directive 2013/34, of Directive 2022/2464 of the European Parliament and Council (CSRD) requires that the European Sustainability Reporting Standards shall specify that companies will be required to report on "Scope 1, Scope 2 and, where relevant, Scope 3 greenhouse gas emissions" and notes the usefulness to users in having access to this information. This policy will apply to companies listed on the Spanish IBEX 35 or IBEX Medium Cap indices.

vote against the approval of the company's non-financial reporting in addition to, or instead of, a recommendation to vote against accountable directors.

In cases where shareholders are requested to approve a company's climate reporting in a proposal that is not required by applicable law, we will generally assess such proposals in accordance with Glass Lewis' "Say on Climate" policy; please refer to Glass Lewis' *Shareholder Proposals & ESG-Related Issues Benchmark Policy Guidelines* for further information.

Allocation of Profits/Dividends

In accordance with Spanish company law, prior to the distribution of dividends, companies are required to allocate at least 10% of their after-tax profits to a legal reserve.[46] Additional allocations for legal reserves are no longer required when the legal reserve reaches 20% of a company's share capital (i.e., the nominal value of all company issued shares) as of the last day of the year.[47] After the statutory requirement for allocation to the legal reserve has been met, shareholders may decide to declare a dividend payable to shareholders (in cash or shares), to allocate a portion to a specific reserve and/or to carry the profits forward in retained earnings.[48]

Appointment/Ratification of Auditor

Glass Lewis believes shareholders should be able to annually review an auditor's performance and to annually ratify a board's auditor selection. Nevertheless, Spanish law allows companies to elect an auditor for an initial period of three to nine years. As entrenchment can erode the independence and effectiveness of the auditor, the auditor must be rotated every ten years, with an additional term of up to ten years when the audit is tendered, or 14 years when a joint audit is adopted.[49] Further, the principal individual auditor must be rotated after the initial five years.[50]

Our policy with regard to these issues in Spain is not materially different from Glass Lewis' *Continental Europe Benchmark Policy Guidelines*.

[46] Article 274 of Spanish Companies Law.
[47] *Ibid.*
[48] Articles 273, 275 and 276 of Spanish Companies Law.
[49] Article 40.1 Spanish Auditing Act 22/2015.
[50] Article 40.2 Spanish Auditing Act 22/2015.

The Link Between Pay and Performance

In Spain, the Good Governance Code provides best practice remuneration recommendations and the LMV and the LES provide the legislative framework for the structure and content of the remuneration policies of publicly listed companies. Further, regulation regarding remuneration policies of financial institutions is included in Law 10/2014 on the regulation, supervision and solvency of credit institutions.

Other than aspects of remuneration disclosure and policies specific to Spain mandated by the Good Governance Code or required by the aforementioned laws and regulations, our assessment of a company's remuneration policy is not materially different from the approach to evaluating remuneration outlined in Glass Lewis' *Continental Europe Benchmark Policy Guidelines*.

Vote on Executive Remuneration

In accordance with the Good Governance Code and Spanish Law, companies must prepare and submit an annual remuneration report for advisory shareholder approval and submit their remuneration policy to a binding vote at least once every three years.[51]

Any material change to the remuneration policy must be submitted to a vote at a shareholders meeting in order to take effect. Should a company fail to gain shareholder approval for its remuneration report, it must submit its remuneration policy to shareholders for approval at the next annual general meeting, unless its remuneration policy has been approved at the same meeting.[52]

Remuneration Policy

Spanish companies' remuneration policy will determine the parameters within which executive directors may be remunerated. It must include the maximum annual remuneration amount for all directors and the parameters for setting variable pay. Further, any remuneration paid to directors on termination of their term in office must remain within the limits stipulated by the remuneration policy.[53]

We expect companies to fully disclose and explain their remuneration policies in a manner that is consistent with shareholder interests. When separate votes are offered on the policy and remuneration report, our voting recommendations for an advisory vote on the remuneration report may reflect ongoing structural concerns as well as remuneration decisions and outcomes during the past year. Our voting recommendations for a binding vote on the remuneration policy will reflect an overall assessment of the structural alignment between pay and company performance as well as any changes that would affect the alignment of executive and shareholder interests.

[51] Article 529-novodecies of Spanish Companies Law.
[52] *Ibid*.
[53] Article 529-octodecies of Spanish Companies Law.

Structure and Content of Remuneration Reports

Spanish companies' remuneration reports should be clear, complete and comprehensible. A remuneration report should include a description of a company's remuneration practices during the year, as well as a breakdown of individual remuneration and a description of the remuneration policies planned for future years.[54]

The Spanish Companies Law states that the Ministry of Economy and Finance and the CNMV will determine the structure and content of remuneration reports. Spanish companies are expected to revise their remuneration reports in accordance with a standardised format in clear, uniform tables. Remuneration reports must provide an explanation on how the total remuneration complies with the remuneration policy, and in particular how it contributes to the sustainable and long-term performance of the company. Companies must disclose a robust breakdown of individual remuneration to include fixed salary, board fees, bonuses, long-term incentives, committee fees, severance payments, pension contributions and equity awards received by individual executives including the number of awards, their value, exercise price and exercise period. In addition, the report must disclose the total annual amount of remuneration of each director, the performance of the company, and the average remuneration of the company's full-time employees other than directors during the five most recent financial years.[55] Further, a summary of changes from the previous year, as well as the policy regarding the upcoming year and prior year must also be included.

Companies that do not wish to use the standardised electronic document are allowed to file remuneration reports in a free format, the content of which must comply with the minimum requirements established by legislation. These free format reports must be accompanied by statistical appendices in order to continue to provide a minimum amount of information in a standardised format.[56]

Short- and Long-Term Incentives

In accordance with the Good Governance Code and Order 461/2013, companies should, at a minimum, disclose the performance criteria used to calculate the entitlement of any performance-related remuneration, the main parameters and grounds for annual bonus schemes (STIs), an estimate of the total of variable payments as a function of the degree of compliance with pre-set targets or benchmarks, as well as explain the relative weight of variable to fixed remuneration,[57] how the total remuneration contributes to the long-term and sustainable performance of the company, and how the performance criteria have been applied.[58] In practice, however, it is uncommon for Spanish companies, particularly small companies, to fully disclose the performance targets for STIs.

With respect to long-term incentives (LTIs), the Good Governance Code recommends that share options or other share-based incentives be linked to a company's performance and safeguards should be in place to ensure that they reflect professional performance, rather than simply changes in the market or a company's sector that are outside of an executive's control.[59]

[54] Article 541 of Spanish Companies Law.
[55] Article 10 of Order 461/2013.
[56] Circular 2/2018, of 12 June, of the CNMV.
[57] Recommendation 58 of the Good Governance Code and Article 10 of Order 461/2013.
[58] Article 541 of Spanish Companies Law.
[59] Recommendation 58 of the Good Governance Code.

Equity awards should be subject to a minimum holding period of three years, unless the executive director already holds shares worth two times their base salary.[60]

Further, executives' contracts should include malus and clawback provisions that permit the company to reduce or reclaim variable components of remuneration when payment was out of step with the director's actual performance or based on data subsequently found to be inaccurate.[61]

Lastly, the Good Governance Code urges that non-executive directors be excluded from participating in any variable incentive program that is linked to a company's financial indicators or share price.[62]

Severance Payments

We generally believe that severance payments should be limited to two years fixed salary[63] and should not be paid in the event of inadequate performance or voluntary departure. However, executive severance agreements in Spain often exceed this cap. In line with the Code, we believe severance payments should be capped at two years' total pay subject to meeting performance conditions and that all companies should disclose their policy on such payments. This maximum severance payout should include all indemnities resulting from the end of the contractual relationship, such as amounts deriving from non-consolidated long-term post-employment benefits and post-contractual non-competition agreements.[64]

In addition to the allocation of a severance, some companies allow for full vesting of outstanding long-term awards after an executive's termination. In line with international best practice, the size of long-term awards granted prior to termination and not yet vested should be reduced proportionately to the time served until termination. Post-vesting or post-termination holding periods imposed on the remaining portion of a grant may serve to ensure the executive's interests remain aligned with those of the company's shareholders for a time following their termination.

Pension Provisions

While the Code does not include recommendations regarding the level of annual pension contributions, we will consider a company's remuneration structure, including the pension provisions, in relation to its peers when assessing a company's overall remuneration policy.

Further, in our assessment of the appropriateness of the level of the 'at risk' portion of executive incentive plans, we generally consider pension contributions as a fixed element of executive pay.

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[60] Recommendation 62 of the Good Governance Code.
[61] Recommendations 58 and 63 of the Good Governance Code.
[62] Recommendation 57 of the Good Governance Code
[63] EU Commission Recommendation 2009/385/EC, Section III, Art. 3.5., where the definition of severance payments includes payments related to notice periods and non-competition clauses.
[64] Recommendation 64 of the Good Governance Code.

Executive Remuneration for Financial Institutions

In accordance with Spanish law, the remuneration policies of financial institutions must not encourage excessive employee and executive risk taking and they must be in line with a company's business strategy, goals, values and long-term interests.[65] Please see Glass Lewis' *Continental Europe Benchmark Policy Guidelines* for further details regarding the additional measures that apply to financial institutions in Europe.

Remuneration Policy Relative to Ownership Structure

Glass Lewis recognises that differences in the ownership structure of listed firms can affect the incentive structure for executives. We believe boards should account for the natural alignment between shareholders' and an executive's interests whenever the executive directly or indirectly owns a significant portion of the company's shares. Conversely, we expect companies with a more dispersed ownership structure to demonstrate a more precise and linear pay-performance link.

In particular, where an executive owns or directly controls more than 10%-20%[66] of a company's shares or voting rights, we would not expect the individual to participate in equity incentive schemes unless a cogent rationale is provided by the company. In general, however, we would be sceptical of any large grant, either in equity instruments or cash, that would allow the executive to further consolidate their ownership level; in such cases, we would expect the board to implement anti-dilutive safeguards and disclose the terms thereof.

Similarly, where a company is controlled and managed by a family, we believe the use of equity incentives for representatives of the family to generally be inappropriate, as this may lead to further entrenchment of the controlling shareholders' stake. When such grants are made or proposed, we will consider the individual stake of the family representative that is awarded equity incentives and the overall size of the grant.

Where a significant award is granted to a shareholder executive, we will closely scrutinise the appropriateness of the vesting terms and conditions of such award. Elements that may mitigate our concerns when assessing such grants (or remuneration policies allowing for such grants) include: challenging targets attached to an adequately diverse performance metric set; disclosure of feedback by free-float shareholders on this specific topic; a policy specifying that the major shareholder will not vote, or will abstain from voting,[67] on the relevant proposal; or a commitment that dissent expressed on the proposal by free-float shareholders will be taken into account.

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[65] Article 33 of Law 10/2014 on the regulation, supervision and solvency of credit institutions.

[66] Depending on overall ownership structure, growth stage, and available liquidity of the company.

[67] As applicable, depending on rules on the validity of abstain votes and quorum in the market or for a specific company.

Governance Structure and the Shareholder Franchise

Shareholders of companies listed in Spain are asked to approve amendments to articles and ratify the acts of the board. While we have outlined the principal characteristics of these types of proposals that we encounter in Spain below, our policies regarding these issues are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Ratification of Board Acts

In Spain, companies must submit the actions of the board of directors during the year for shareholder approval. Ratifying the acts of the board of directors is primarily a vote of confidence and will not release its members from liability for their actions. In no case will the fact that a harmful act or agreement has been adopted, authorised or ratified by the general meeting, exonerate directors from liability.[68]

Absent compelling evidence that the board has failed to satisfactorily perform its duty to shareholders in the past fiscal year, we generally recommend that shareholders approve ratification proposals. In cases where we believe that ongoing investigations or proceedings may cast significant doubt on the performance of the board in the past fiscal year, but that the potential outcome of such investigations or proceedings is unclear at the time of convocation of the general meeting, we will generally recommend that shareholders abstain from voting on such ratification proposals.

Shareholders' Rights

Under Spanish law, shareholders holding at least 3% of a company's share capital may submit additional items to the agenda of the general meeting already convened.[69]

Further, a shareholder (or group of shareholders) holding at least 3% of a company's share capital, and shareholder associations who hold at least 1% of a company's share capital, are entitled to request beneficial ownership information for any shareholder.[70]

In accordance with our *Continental Europe Benchmark Policy Guidelines*, we are generally not in favour of reducing these thresholds below the minimum legal requirement.

Shortened Notice Period

The Spanish Companies Law allows for the shortening of a company's extraordinary general meeting notice period from 30 days to 15, subject to annual shareholder approval of shareholders representing two thirds of

[68] Article 236 of Spanish Companies Law.
[69] Paragraph 2 of Article 495 of Spanish Companies Law.
[70] Paragraph 2 of Article 497 of Spanish Companies Law.

the issued capital.[71] This authority, which is often sought at Spanish AGMs, is contingent upon a company having adequate electronic voting and communication provisions in place.

We recognise that the current notice period for an extraordinary general meeting of 30 days in Spain may not always be practicable; however, we believe that a 21 day notice period would be more reasonable. Despite assurances that shareholders will be able to vote electronically at an extraordinary general meeting, we continue believe 15 days is simply insufficient time for shareholders to receive a ballot, weigh the issues and submit voting decisions. In practice, such a short notice period may leave some shareholders with no time to review a proposal before submitting voting decisions in order to meet a voting deadline. Further, issues raised at extraordinary general meetings are by nature often more complex than routine annual general meeting proposals, thereby requiring a more in-depth review.

We note that electronic disclosure and voting provisions for shareholder meetings required by Spanish law mitigate to some extent the negative aspects of a shortened notice period. However, we believe that a notice period below 21 days does not provide shareholders with sufficient time to adequately review proposals being presented at an extraordinary general meeting.

Double Voting Rights

Spanish Companies Law includes the possibility for shares to carry double voting rights, as an incentive for shareholders to become long-term investors in listed companies. Once provided for in a company's articles of association, the double voting rights will apply to shares held in a listed company by the same registered shareholder for at least two years. The articles may extend, but not reduce, the minimum period of uninterrupted ownership requirement.[72]

Glass Lewis is generally opposed to the creation or extension of stock with differential voting rights as it implicitly creates multiple classes of stock, which we believe to be detrimental to the equal exercise of shareholder rights. As such, we will generally recommend shareholders vote against the implementation of provisions relating to such loyalty initiatives into a company’s articles of association.[73]

Virtual Shareholder Meetings

Glass Lewis unequivocally supports companies facilitating the virtual participation of shareholders in general meetings. We believe that virtual meeting technology can be a useful complement to a traditional, in-person shareholder meeting by expanding participation of shareholders who are unable to attend a shareholder meeting in person (i.e., a "hybrid meeting"). However, we also believe that meetings at which shareholders are not permitted to attend in person can curb the ability of a company's shareholders to participate in the meeting and meaningfully communicate with company management and directors.

[71] Article 515 of Spanish Companies Law.
[72] Article 527 ter of Spanish Companies Law.
[73] We note that our policy on multi-class share structures described in our *Continental Europe Benchmark Policy Guidelines* does not apply to loyalty initiatives such as double voting rights.

We believe that companies that elect to hold virtual shareholder meetings should aim to replicate in-person shareholder meetings and safeguard shareholder rights as closely as possible. At a minimum, we expect companies to set and disclose clear procedures at the time of convocation regarding:

- When, where, and how shareholders will have an opportunity to ask questions during the meeting, including a timeline for submitting questions, types of admissible questions, and rules for how questions and comments will be recognised and disclosed to shareholders;
- The manner in which appropriate questions received during the meeting will be addressed by the board; this should include a commitment that questions which meet the board's guidelines are answered in a format that is accessible by all shareholders, such as on the company's AGM or investor relations website;
- The procedure and requirements to participate in the meeting and access the meeting platform; and
- Technical support that is available to shareholders prior to and during the meeting.

In egregious cases where inadequate disclosure of the aforementioned has been provided to shareholders at the time of convocation, Glass Lewis will generally recommend that shareholders vote against members of the governance committee (or equivalent) or the chair of the board. In instances where appropriate directors are not standing for election, we may instead recommend that shareholders vote against other matters that are up for a vote, such as the ratification of board acts, or the accounts and reports proposal. Our policies regarding virtual shareholder meetings do not differ materially from our *Continental Europe Benchmark Policy Guidelines*.

Capital Management

Glass Lewis believes that adequate share capital is important to a company's operation. In Spain, the Companies Law provides the legal framework for authorities involving share capital increases and decreases, share repurchases and the issuance of shares or convertible/non-convertible debt instruments.

With the exception of country-specific regulations regarding capital proposals described below, our policies on these issues are not materially different from Glass Lewis' *Continental Europe Benchmark Policy Guidelines*.

Authority to Repurchase Shares

Spanish law limits the number of shares which may be repurchased to no more than 10% of a company's capital. Furthermore, the authority to repurchase shares cannot be granted for a period exceeding five years.[74] Given these limits, we will generally support buyback programs in Spain.

Issuance of Shares and/or Convertible Securities

In Spain, shareholders are required to approve all proposals related to the issuance of shares and/or convertible securities. According to Spanish law, shareholders may delegate the power to set the terms and conditions of an issuance to the board or management. Notwithstanding the aforementioned, if shareholders approve the amount of the increase and allow the board to determine the date and conditions of the issuance, the board's authority will be for one year.[75]

If, however, shareholders grant the board full discretion over the increase as well as the issuance, the board's authority will be for five years and will be capped at 50% of the company's total share capital.[76] In addition, issuances without pre-emptive rights must be limited to 20% of a company's share capital.[77]

We will generally recommend voting for proposals to authorise the board to increase share capital within the aforementioned limits. We apply these limits in cases where there is a single proposal to increase a company's share capital or, in the aggregate, when there are separate/multiple proposals for the issuance of shares and convertible securities.

In cases where a company seeks shareholder approval for the issuance of shares related to a specific purpose or transaction, we will consider each proposal on a case-by-case basis, taking into account a company's rationale for such issuance.

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[74] Articles 146 and 509 of Spanish Companies Law.
[75] Article 297 of Spanish Companies Law.
[76] *Ibid.*
[77] Article 506 of Spanish Companies Law.

Issuance of Debt Instruments

According to Spanish law, unless otherwise provided in the Company's articles of association, the board is authorised to agree on the issuance of non-convertible debt securities. Authorities to issue debt instruments that are convertible to shares must always be approved by the general meeting.[78] In case a proposal to authorise the board to issue debt securities is presented to a general meeting, shareholder approval is generally sought to set an overall cap on the total amount of debt to be issued over the course of five years, while the board is granted the authority to establish a fixed or variable interest rate, and more globally, to establish all other aspects of the debt instruments.

In line with our *Continental Europe Benchmark Policy Guidelines*, we will generally recommend voting in favour of such proposals if the requested authority is reasonable and we have no reason to believe that the increase in debt will weaken the company's financial position. Further, any general authorisation to issue debt instruments convertible to shares without preemptive rights should not exceed 20% of the company's issued share capital. If a company proposes the issuance of non-convertible debt instruments and convertible debt instruments in separate proposals at the same meeting, we will combine the requested amounts under each proposal and evaluate the issuance of debt instruments in the aggregate.

[78] Article 406 of Spanish Companies Law.

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