



DIRECTORS, AN INCREASINGLY IMPORTANT ROLE

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Good afternoon.

Thank you, Juan, for introducing me, and thanks to the Institute of Directors/Managers (ICA) for inviting the CNMV once again this year to this event to award certificates and diplomas in good corporate governance. Congratulations for the 20th anniversary of the Institute and for the excellent work you perform to help professionalise the role of directors and managers in companies, which we appreciate and value as you very well know.

Before such an exclusive audience, today I will focus on two considerations: i) I cannot start without emphasizing the figure of directors and its growing importance, particularly that of independent directors; and ii) afterwards I will share my thoughts on the diversity of boards of directors, in particular on gender diversity, coinciding with the latest data we have published.

The role of directors

The importance of the figure of directors continues to grow. I already highlighted this aspect last year, but the message it still applicable and, if anything, even more important.

In the first place, being a director in a company requires strong capabilities and training, the demand for these growing year by year. This requires increasingly deep knowledge on a varied range of subjects. But one must also keep up to date and be capable of keeping an eye on the future, with a long-term viewpoint, in order to afford enough anticipation to react and position oneself.

Long past are the times when good directors were simply those monitoring the work of company's executives. What really adds value is being capable to actively contribute to the strategic debate of the company, not just sticking to traditional regulatory box-ticking, that is to say, simple regulatory compliance. In order to foresee the difficulties and opportunities regarding financial and economic trends, these trends must be known and understood.

Last year I referred to two of these major trends: technological and digital changes, and environmental sustainability. Both are more relevant than ever before.

I would like to refer once again to sustainability, since one of the most important developments derives from the new Directive on the breakdown by companies of information related to sustainability, published towards the end of last year and which will be applied for the first time next year, 2024, to be published in 2025. One may think that is far in the future, but the truth is it's in a couple of days time so as to say.

Some weeks ago, the Spanish Government initiated the public consultation process to adapt our legal system to the new European requirements. I will not go into the details of the regulation. As you are aware, it extends the breakdown to be published by companies on social and environmental aspects and, more importantly, it establishes certain common standards, those prepared by EFRAG, which will serve as models of reference. It is expected that the first phase of these standards will be adopted in the coming months. Therefore, reporting is homogenised in Europe in a manner that is comparable between companies, with its reliability being increased as it demands third-party verification, as in fact occurs in Spain since Law 11/2018 was enacted.

Just a few days ago, last Wednesday, I attended a meeting in Barcelona with different companies and other business players, to exchange views on sustainable finance, and they all insisted on the huge challenge facing the sustainability reporting requirements is for them. This is due to the difficulty in obtaining data, the lack of common criteria and methodologies, and to many companies having no proper internal information control and traceability system, such as that which does exist for financial information. This was indicated both by small and large companies. This is normal. The data are extremely diverse, from the pay gap or greenhouse gas emissions data, all the way to the water footprint.

It is true that some initial transitory periods will be applied and that certain proportionality criteria will be followed. But the demands are growing.

And not only due to the new standards. Company reporting also increases with the taxonomy. In the 2022 reports, published this year, companies have provided for the first time the percentage of their economic activities that are aligned with the taxonomy, may this be regarding turnover, investments in capital expenditure (CapEx) or in operating expenses (OpEx). That is, the percentage of their economic activities that significantly contributes to the climate change mitigation and adaptation targets, while complying with the minimum social and governance guarantees. This information must be verified as it is included within the non-financial information statement.

Therefore, we are seeing important regulatory developments that will gradually increase. Also in terms of taking responsibility, with the Due Diligence Directive.

I therefore encourage companies to get ahead of themselves and implement internal information control systems that ensure that the information reaching their Boards follow solid procedures.

There's no turning back in the area of sustainability. This is not just about reporting, about it affects one's activity, the ESG aspects, but about knowing how to include the environmental and social risks in the business model and adapting this consequently, otherwise being at risk of this becoming unfeasible in the future.

At the start I mentioned the importance of directors' roles in listed companies. But the most important figure among the different types of director in order to ensure good governance is that of independent directors.

You are aware that the CNMV pays special attention to the protection of such figure, in order for them to act independently and free from conflicts. Independent directors are those who, after all, defend the interests of minority shareholders and can have a broader point of view. Consequently, many of our actions in listed companies precisely aim at enabling them to perform their roles without any interference. Without being conditioned by their relations with the management team, that is, avoiding any possible risk of being captured, or with the controlling shareholders of the company.

I would like to insist on this as, despite the progress, when analysing the data regarding Spanish listed companies as a whole, it can be seen that there is room for improvement. For instance, for these to be able to fulfil their roles, it is essential that they are provided with certain stability regarding the time they hold their posts. That is, a degree of continuity that allows them to be protected from the wishes of the company's executives or significant shareholders, in addition to acquiring deep knowledge on the company. This is not always the case. Unfortunately, in a piece of work published last year by the CNMV we were able to see that, in the case of Spanish listed companies, the influence of top executives on independent directors is often high, both regarding the process of appointment of independent directors and in determining their tenure of the post.

As you know, our Code of Good Governance seeks to protect this figure, particularly in the case of any discrepancy with other members of the board of directors or the management. To this end, recommendations aimed at increasing transparency are included, both in the case of dissenting positions and in the case of terminations before the end of the mandate. This occurs in a general manner.

Also, the CNMV has proposed legislative measures to increase the protection of independent directors, paying special attention to measures that increase transparency, particularly in the case of possible terminations. This is an important area for the CNMV and one to which we will continue paying special attention.

Gender diversity

The second issue I wish to address today refers to diversity in boards of directors and, in particular, gender diversity. In my opinion, there is no room for debate on the substance of the matter: as a country and as a society, we cannot waste the knowledge, intelligence and experience of half of the population. The question should be how to do this and what measures should we implement to enable such growth.

The figures on this continue improving. Last week we published the 2022 data on the presence of women on boards of directors and we could, once again, confirm a progressive increase¹.

For the first time, women represent over 30% of board members overall. In the case of Ibx 35 companies, more than half of these had already reached or exceeded the aim of women representing 40% of the boards of directors, a recommendation we established in the last review of our Code of Good Governance and which started being applied at the end of last year. In other words, in total 11 new female directors remain to be appointed for Ibx 35 companies to reach this 40% objective. This seems feasible.

Anyhow, there are still 44 companies that are yet to reach the previous minimum 30% recommendation, so we must not lower our guard.

Furthermore, the weakest link continues to be the management positions held by women. Although these have improved by just over two percent, the figures are still around 22%, leaving much to be desired as, in the end, these are the stepping stone leading to positions of greater responsibility.

In Spain we already chose years ago to apply an approach based on recommendations, or soft law, which has borne fruit. Also, last November, the Directive on achieving a better gender balance among directors of listed companies was published and the government has commenced the process of its transposition into Spanish law.

The CNMV welcomes the new regulatory framework regarding listed companies. We believe the recommendations have been successful, although it is obvious that making these recommendations compulsory will mean one step further is taken towards effective equality and a balanced representation of both genders.

In this sense, we back the application of the requirements proposed both to listed and non-listed companies, particularly in the case of large public interest entities. Longer transitory periods as an aid for smaller companies to adapt in a gradual manner or,

¹ CNMV, press release, 23 May 2023

alternatively, the configuration of requirements that are closer to those stated in the Directive, may be appropriate in the case of certain smaller companies. For example, let us take the case of small to medium-sized companies in alternative growing markets at the time of their first listing.

What is important is that, as a society, we continue eliminating limitations or biases that may be limiting women's professional careers. As I said, the goal is to progress as a country and to favour growth and social progress in the widest and most inclusive manner possible, making use of all the resources available.

Final considerations

Now to sum up. We are at very disruptive times in the world of business and require governance bodies that are capable of navigating these choppy waters, with a plural board of directors, critical ability and sufficient knowledge to assess the different scenarios and risks.

I would therefore like to acknowledge the work of the ICA in continuous training, which contributes to the continuous training and professionalisation of the role of directors and managers, as proven by this event.

An, of course, to congratulate those of you who are receiving diplomas and certificates today for your efforts and willingness to continue learning good corporate governance. Congratulations.