Corporate Governance Institute
3rd Good Corporate Governance Conference

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Opening speech

Good morning, and thank you to the Corporate Governance Institute for inviting me to open this third conference on good corporate governance.

On 3 November, we launched a public consultation on the proposed update to the Governance Code of Listed Companies. The consultation period will continue until 15 December. Once it has ended, we will review the comments received and work on the final version of this update, which we expect to publish during the first half of next year.

The proposed update is the culmination of a process that has taken nearly a year, during which we have had the support of experts from the main associations, as well as law firms and public sector representatives. This public consultation now marks the final stage of the process.

A revision of the Code in 2015 and a partial revision in 2020 were published for four key **reasons**:

1. To adapt the Code to **regulatory changes at the national level**. Because the Code is a form of soft law, there is no point in repeating the provisions of mandatory regulations. It should aim to go beyond existing legal requirements and make further progress in areas that benefit corporate governance.

2. The publication of the **OECD Principles** of Corporate Governance, and the need for a Code that is **more comparable** with those of our international counterparts. As the Spanish market is fully integrated with the markets of its neighbouring countries, it must align with international best practices in corporate governance.

3. The trend in recent years towards more **streamlined financial legislation**. This is an approach that avoids being overly prescriptive, focusing instead on material matters and the impact of our decisions on companies' competitiveness.

4. Finally, the emergence of **new developments** since the 2020 revision that have become central to business management, such as artificial intelligence and cybersecurity risks.

Due to this context and the key reasons I have just mentioned, we have carried out an in-depth revision of the Code. I would like to highlight four of the **changes** we made:

1. The first change is to the structure of the text. We reorganised it so that the most important section—the principles and recommendations for **Boards of Directors—comes first**, followed by those for Shareholders' General Meetings and then the more general arrangements. We restructured the Code in this way to show the importance we attach to the Board and to make it more similar to other international codes.

2. In keeping with this approach of streamlining and focusing on material issues, the second change we propose is to make the Code much shorter. Due to the reasons for the update that I mentioned earlier, the **explanatory texts have been shortened**, and, even more importantly, the number of recommendations and principles has been reduced.

For example, to avoid duplicating legal texts, we have removed the recommendation on the presence of women on Boards, since this is covered by the Organic Law on Equal Representation. I would like to add that this is one of the areas that we have **yet to finalise** in the text. We are still thinking about how we can go further and continue contributing to matters such as the number of women in executive roles on Boards.

In addition, to **avoid being overly prescriptive**, we have scaled back requirements that are not included in similar codes and which we think do not address fundamental corporate governance issues. The **real challenge** of this revision has been finding the right **balance** between simplifying the Code and focusing on recommendations that truly raise the standards of good governance.

3. We are therefore proposing a simplified version of the Code, one that reinforces corporate governance. This would entail, among other things, the division of executive responsibilities between the chair and the CEO, the reinforcement of the role of independent directors, the defence of minority shareholders' interests and the inclusion of technological challenges.

- For the first time, we are making progress towards the **separation of powers between the chair and the CEO**. To ensure that counterbalances function properly on the Board, we recommend that the CEO should have genuine executive responsibilities, equivalent to the role of the CEO with which we are all

familiar. Under our proposal, the chair may have executive functions, provided they are compatible with the role of the CEO. The appointment of a coordinating director would be required to facilitate coordination amongst external directors and to voice their concerns.

- Another area where we wish to go a step further than the current Code is that of **independent directors**. We are aware that this is a complex issue, that every company is different and that we are being somewhat more prescriptive in this regard. However, we believe it is important to identify a number of **circumstances** that may affect a director's independence and which the nomination committee must assess at the time of appointment, re-election or in the event of a significant change in those circumstances. Furthermore, we wish to enhance the protection of independent directors by preventing **dismissals** that are not justified, both in substance and in form.

- We are also making progress with respect to the current Code in **safeguarding the interests of minority shareholders**, by strengthening their participation in general meetings and ensuring transparency in the information provided both before and after such meetings. In addition, we have included a new recommendation stipulating that, where any item on the agenda of a general meeting receives a significant number of **votes against it**, the Board should analyse the reasons for this, paying particular attention to the position of minority shareholders. This does not mean that the Board must necessarily accept or agree with the views of a minority group, but that it should, in any event, reflect on them and report on any actions that may be taken.

4. The fourth and final development that I would like to highlight is the challenges that **new technologies** pose to companies. Over the past few months, cybersecurity and artificial intelligence have emerged as the primary areas of risk for companies and governments. Boards of directors must pay attention to these issues, as well as to the cybersecurity and artificial intelligence policies of the companies they govern.

I shall conclude by pointing out that the ultimate aim of this revision is for the Code to remain a **useful tool** for companies and investors.

- Good governance is a source of added value for companies. Proper decision-making facilitates the long-term sustainability of companies and mitigates conflicts of interest. Therefore, this Code will only be successful if it is perceived as a driver of competitiveness rather than an unnecessary burden.

- It must also be useful for investors. Firstly, because it provides a number of safeguards and instils confidence in listed companies, provided they comply with corporate governance standards. And secondly, because its voluntary nature—based on the "comply or explain" principle—offers a flexible and transparent framework that addresses the wide range of circumstances among our listed companies.

We hope that the revision of the Code will help us achieve this objective.

Thank you all very much.