

Endorsed
 CEO
 Georgeta Corina Popescu



NOTĂ

9900/8793/16.09.2019

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|-------------------------------|---|---|--------------------|--------------------|
| AUTHOR | Number | | | |
| | Entity | Legal Department, Legal and Holdings' Management Division | | |
| 1. Referring to | Amendment of the Articles of Association of Electrica S.A. | | | |
| 2. For | | Approval | Endorsement | Information |
| | Board of Directors | | X | |
| | GMS | X | | |
| 3. Proposed resolution | <p>The Board of Directors endorses the following:</p> <ul style="list-style-type: none"> the proposal for the amendment of the Articles of Association of Electrica SA, in order to align the provisions of art. 12, par. (2) with the provisions of Law 24/2017 on the issuers of financial instruments and market operations, so that the new form will be the following: Art. 12 (2): "The holder of the depositary certificates issued based on the underlying shares has the capacity of shareholder within the meaning and for the application of Law 24/2017 on the issuers of financial instruments and market operations. The issuer of the depositary certificates is fully responsible for informing the holders of the depositary certificates in a correct, complete and timely manner, observing the provisions of the issuance documents of the depositary certificates, about the documents and the informative materials related to a general meeting of shareholders, as made available to the shareholders by the Company." the proposal for the amendment of art. 17, par. (4) of the Articles of Association of Electrica SA, by supplementing the cases in which the secret vote is applied, according to the applicable legal provisions, so that the new form will be the following: Art. 17 (4) "The secret vote is mandatory when appointing or revoking the members of the Board, when appointing, revoking or dismissing the financial auditors and when taking decisions regarding the liability of the members of the Company's administration, management and control bodies." the proposal for the amendment of the Articles of Association of Electrica S.A. by eliminating point f) – "dissolving the subsidiaries" of art. 20, par. (1), let. A.; <p>in order to be submitted for the approval of the Extraordinary General Meeting of Shareholders</p> | | | |
| 4. Legal background | Art. 204 of Companies' Law no. 31/1990 Art. 14, par. (4), let. n) of the Articles of Association | | | |

5. Content

1. Proposal for the amendment of the Articles of Association of Electrica SA, in order to align the provisions of art. 12, par. (2) with the provisions of Law 24/2017 on the issuers of financial instruments and market operations

At this moment, art. 12 of the Articles of Association provides that "The issuer of the depository certificates in the name of whom the underlying shares are registered, is the shareholder within the meaning and for the application of the Regulation no. 6/2009 regarding the exercise of certain rights of the shareholders in the general meetings of the companies."

Art. 2 par. (1) point 1 of the Law no. 24/2017 on the issuers of financial instruments and market operations defines the shareholder as being any natural person or legal entity governed by private or public law, who holds, directly or indirectly:

"a) shares of the issuer in its own name and on its own account;

b) shares of the issuer in its own name, but on behalf of another natural person or legal entity;

c) certificates of deposit representing securities, in which case the holder of the certificate of deposit shall be considered the holder of the shares represented by the depository receipts;"

Thus, as opposed to Regulation 6/2009 previously in force, Law 24/2017 introduces the clear definition of the company's shareholder as being the holder of certificates of deposit.

Taking into account the legislative changes, the rewording of art. 12 of the Articles of Association is necessary, as follows:

Art. 12 (2) „The holder of the depository certificates issued based on the underlying shares has the capacity of shareholder within the meaning and for the application of Law 24/2017 on the issuers of financial instruments and market operations. The issuer of the depository certificates is fully responsible for informing the holders of the depository certificates in a correct, complete and timely manner, observing the provisions of the issuance documents of the depository certificates, about the documents and the informative materials related to a general meeting of shareholders, as made available to the shareholders by the Company."

2. Proposal for the amendment of art. 17, par. (4) of the Articles of Association of Electrica SA, by supplementing the cases in which the secret vote is applied, according to the applicable legal provisions:

At this moment, art. 17 par. (4) of the Articles of Association provides that „The secret vote is mandatory when appointing or revoking the members of the Board, when appointing, revoking or dismissing the internal auditors and when making decisions regarding the liability of the members of the Company's management and control bodies."

Taking into account that, according to the provisions of art. 130 par (2) of Company's Law no. 31/1990, "the secret vote shall be mandatory for the appointment or revocation of the Board members of directors or, respectively, of members of the supervisory board and for the appointment, revocation or dismissal of the censors or financial auditors, and for taking decisions concerning the responsibility of the members of the Company's administration, management and control bodies.", the rewording of art. 17 par. (4) of the Articles of Association is necessary, as follows:

Art. 17 (4) „ The secret vote is mandatory when appointing or revoking the members of the Board, when appointing, revoking or dismissing the financial auditors and when making decisions regarding the liability of the members of the Company's administration, management and control bodies."

3. Proposal for the amendment of the Articles of Association of Electrica S.A. by eliminating point f) – "dissolving the subsidiaries" of art. 20, par. (1), let. A., from the Electrica SA's EGMS attributions regarding Electrica SA's subsidiaries

According to the provisions of art. 20 paragraph (1) lit. f. from the Articles of Association of Electrica SA, in force, the power to mandate the company regarding the vote in the General Assembly of the Shareholders of the subsidiaries regarding the "dissolution of the subsidiaries" belongs to EGMS Electrica SA.

According to the provisions of the Articles of Association of Electrica SA, the Board of Directors of Electrica SA approves the proposals regarding the overall strategy of the company, including but not limited to the development and restructuring of the Company (art. 19 A (1) letter a)). This competence also includes the approval of the proposals for the organization of the subsidiaries of the company, representing in fact a complex corporate process.






In order to facilitate the decision-making process regarding issues related to corporate governance and the organization of the Group, in 2017, by the Decision of the EGMS no. 1 / 27.04.2017, the shareholders approved the amendment of the Articles of Association in the sense of granting the power to mandate the company on voting in the General Meeting of the Shareholders of the subsidiaries regarding "merger, division" and "approval of the overall strategy of the subsidiaries, including but not limited to its development and restructuring", to Electrica's Board of Directors.

However, the responsibility of approving the dissolution of the subsidiaries was maintained within competence of the EGMS of Electrica SA, which may lead to difficulties in implementing the strategies that are within the competence of Electrica's Board of Directors (respectively for the subsidiaries' GMS), respectively delays in obtaining the corporate approvals and multiple formalities.

In this context, for the implementation of a unitary mode of action in the corporate governance of the group, respectively of the subsidiaries, we propose to the EGMS of Electrica SA to modify the Article of Association of the company, so that the competence of dissolving the subsidiaries will be in the responsibility of the Board of Directors of Electrica SA, respectively the elimination of the provisions of art. 20 (1) lit. f. - "dissolution of subsidiaries", from the attributions of EGMS of Electrica SA regarding the subsidiaries of Electrica SA.

6. Annex

Annex 1 – The consolidated Articles of Association as a result of the proposals in this note.

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| Chief Strategy Officer Anamaria Acristini |  |
| Head of Investor Relations Department Alexandra Titan |  |
| General Secretary Catalina Nedelcu |  |
| Head of Holding's Management Department Raluca Kasap |  |
| Legal Advisor Ana Maria Nistor |  |