



## **REPORT OF THE BOARD OF DIRECTORS ON THE FIFTH ITEM OF THE ORDINARY MEETING AGENDA**

### **Election of the members of the Board of Directors.**

Dear Shareholders,

You are requested to elect the members of the Board of Directors.

The members of the Board of Directors are elected by a Shareholders' Meeting – pursuant to article 14.3 of the corporate bylaws – on the basis of slates filed by the Shareholders and by the expiring Board of Directors, on which the candidates must be numbered progressively. We inform you in this regard that the expiring Board of Directors has decided to refrain from filing its own slate of candidates, since, taking into account the Company's shareholding, as of the date hereof Shareholders have shown no difficulties in filing a list of candidates.

With regard to the procedures and deadlines for the preparation, filing, and publication of the slates by the Shareholders, you are reminded that pursuant to the applicable law and article 14.3 of the corporate bylaws:

- a) Shareholders must submit the slates, together with the required documentation, with the Company no later than twenty-five days before the date set for the Shareholder's Meeting convened for the election of the members of the Board of Directors (*i.e.* by April 28, 2014). The filing of the slates and of the relevant documentation shall be made by hand delivery at the office of Enel S.p.A. Legal and Corporate Affairs (Viale Regina Margherita No. 137, 00198 Rome, from Monday to Friday, from 9.00 a.m. to 5 p.m.) or using the specific section of the Company's website ([www.enel.com](http://www.enel.com)) dedicated to the Meeting, or by fax at No. +39 06 83055028. Information on the identity of the persons filing the slates shall be submitted together with such slates. The slates must be made available to the public by the Company at the Company's registered office and on the Company's website at least twenty-one days before the date set for the Shareholders' Meeting (*i.e.* by May 2, 2014);

- b) each Shareholder may submit, or participate in submitting, only one slate and each candidate may be enlisted in only one slate under penalty of ineligibility;
- c) only those Shareholders who, alone or together with other Shareholders, own the minimum percentage of the share capital of the Company set by Consob with regulation (which is currently equal to at least the 0.5% of the share capital) are entitled to submit slates;
- d) The ownership of the minimum percentage of the share capital of the Company required to submit the slates is determined according to the shares that are registered in the name of the shareholder on the date on which the slates are filed with the Company. The relevant certificate, issued by an authorized intermediary, may also be provided after the filing of the slates but, in any case, no later than twenty-one days before the date of the Meeting (*i.e.* by May 2, 2014);
- e) the declarations of the candidates, under which they accept their candidacy and certify, under their own responsibility, the inexistence of any cause of ineligibility or incompatibility, as well as their satisfaction of the requirements specified by applicable law for their respective offices, must be filed with the Company together with each slate and the documentation required pursuant Article 144-*octies*, paragraph 1, letter b), of Consob regulation No. 11971 of May 14, 1999, by the same deadline specified above for filing the slates (and therefore by April 28, 2014). In this respect, please note that:
- since Enel S.p.A. controls Enel Factor S.p.A., a company registered in the list of the financial intermediaries provided by article 106 of Legislative Decree No. 385 of September 1, 1993 (in accordance with the text currently applicable, pending the implementation of the amendments made by Legislative Decree No. 141 of August 13, 2010) the candidates for the office of the Board of Directors must possess the requisites of integrity specified by Decree No. 517 of December 30, 1998 of the Minister of the Treasury, the Budget, and Economic Planning for the representatives of entities which participate into the equity of financial intermediaries;
  - Pursuant to Article 147-*quinquies* of Legislative Decree No. 58 of February 24, 1998 (the “Consolidated Financial Act”) directors of listed companies shall possess the integrity requisites established for the statutory auditors of

listed companies, which are currently defined by article 2 of Decree No. 162 of March 30, 2000 of the Ministry of Justice;

- pursuant to the provisions of article 14.3, second paragraph, of the corporate bylaws, each slate must include at least two candidates possessing the requirements of independence established by the law (that is to say, the requirements of independence that apply to the statutory auditors of listed companies, which are defined by article 148, paragraph 3, of the Consolidated Financial Act), distinctly mentioning such candidates and listing one of them first on the slate;
- the comment on article 5 of the Code of Corporate Governance for listed companies recommends that the slates for the election to the Board of Directors be accompanied by a declaration of the candidates on their eligibility, if any, to be qualified as independent pursuant to article 3 of the same Code, without prejudice to the responsibility of the Board of Directors to evaluate the independence of its members;
- pursuant to the provisions of article 14.3, third paragraph, of the corporate bylaws, the slates which contain a number of candidates equal to or above three shall also include at least one candidate belonging to the less-represented gender to be placed in one of the first two positions of the slate (as stated under the notice of this Meeting), in order to ensure that the composition of the Board of Directors be compliant with the applicable laws on gender balance. As this is the law's first time implementation, at least one fifth of the candidates of the less-represented gender shall be represented in the Board of Directors (rounded, in the case of a fractional number, to the higher unit);
- with Communication No. DEM/9017893 of February 26, 2009, Consob recommended to those shareholders who present a minority slate for the election of the Board of Directors to file, together with the slate, a statement *"in which it is certified the absence of relationships of affiliation, also indirectly, as provided in Articles 147-ter, paragraph 3, of the Consolidated Financial Act and in Article 144-quinquies of Consob Resolution No. 11971 of May 14, 1999, with those shareholders who own, also on a jointly basis, a controlling or a relative majority stake, where they can be identified on the basis of the filings of the relevant shareholdings required by Article 120 of*

*the Consolidated Financial Act or on the basis of the publication of the shareholders' agreements under Article 122 of the same Act*", specifying the significant relationships, if any, with those shareholders who control or own a relative majority stake in the Company as well as on which grounds such relationships have not been considered significant for the existence of the mentioned relationships of affiliation.

In this respect, please note that, on the basis of the communications made pursuant to Article 120 of the Consolidated Financial Act and of the shareholders' ledger, the Company results to be subject to the *de facto* control of the Ministry of Economy and Finance, which, owing a shareholding equal to the 31.24% of the share capital, has enough voting rights to exercise a dominant influence in the ordinary Shareholders' Meeting of the Company (it being understood that the aforesaid Ministry is not in any way involved in managing and coordinating the Company, since Enel S.p.A. approves the resolutions concerning its operations autonomously and in compliance with the prerogatives of its internal bodies, as confirmed by the provisions of Article 19, paragraph 6 of Decree Law No. 78/2009, converted into Law No. 102/2009, which has clarified that the provisions of the Italian Civil Code regarding the management and coordination of companies do not apply to the Italian government);

- in compliance with the recommendations under Article 1.C.3 of the Corporate Governance Code for listed companies, the Board of Directors adopted a specific policy regarding the maximum number of offices that its members may hold in the boards of directors or of statutory auditors of other companies of significant size in order to ensure that the persons concerned have sufficient time to effectively perform the role they have in the Board of Directors of Enel S.p.A.; the document containing this policy can be consulted on the Company's website [www.enel.com](http://www.enel.com).

Given that, upon proposal of the Shareholder Ministry of Economy and Finance under article 2367 of the Italian Civil Code, the present Shareholders' Meeting is called, in extraordinary session, to resolve upon the inclusion in the corporate bylaws of a provision concerning integrity requirements and related causes of

ineligibility and disqualification from office of the members of the Board of Directors, shareholders are encouraged to file together with the slates also a declaration from the candidates to the office of the Board of Directors confirming the possession of the integrity requirements set under such provision. Said requirements are described in detail under the explanatory report prepared by the Shareholder Ministry of Economy and Finance, which is available to the public at the Company registered office and on its web site ([www.enel.com](http://www.enel.com)).

With regard to the preparation of the slates, please note that, in the event Directors leave their office before the end of their term, Article 14.5 of the corporate bylaws provides for a mechanism of mandatory cooptation, according to which, whenever possible, such Directors are to be replaced by candidates from the same slate who of the Directors who have left their office. In any case, in replacing Directors who leave their offices vacant, the Board of Directors shall ensure the presence of the necessary number of Directors possessing the requirements of independence established by the law, and the compliance with the applicable laws on gender balance.

With regard to the mechanism for appointing the Directors elected by a slate vote, Article 14.3 of the corporate bylaws provides:

- that each person entitled to vote may vote for only one slate at the Shareholders' Meeting;
- that seven-tenths of the Directors to be elected (rounding down any fraction to the unit) shall be drawn from the slate that has obtained the most votes cast, in the order in which they are listed on the slate;
- that the remaining Directors shall be drawn from the other slates, applying to this end the specific rules stated under letter b) of the aforesaid Article 14.3 of the corporate bylaws;
- that for the purposes of identifying the Directors to be elected, candidates listed on the slates that have received a number of votes amounting to less than half of the percentage required for presenting the aforesaid slates are not taken into account;

- if, following the vote and the above procedure, the applicable laws on gender balance are not complied with, candidates which would result to be elected in the various slates are disposed in one single decreasing ranking list, to be formed in compliance with the quotient system indicated under letter b) of Article 14.3 of the corporate bylaws. The candidate in such ranking list belonging to the most represented gender having the lowest quotient is therefore replaced with the first candidate of the less represented gender belonging to the same slate which would result not elected. In the event that in such slate there are no other candidates, the replacement here above is carried out by the Shareholders' Meeting with the majorities provided for under the law and in compliance with the principle of a proportional representation of minority shareholders in the Board of Directors. In case of a tie between quotients, the replacement is made in favor of the candidate drawn from the slate which has obtained the highest number of votes. If the replacement of the candidate of the most represented gender having the lowest quotient in the ranking list does not allow, in any case, to reach the minimum threshold provided for under the applicable laws on gender balance, the above said replacement procedure is carried out also with reference to the candidate belonging to the most represented gender having the second last quotient, and so forth, starting from the end of the ranking list.

You are reminded that Article 147-ter, paragraph 3, of the Consolidated Financial Act requires that at least one of the members of the Board of Directors is drawn from the minority slate that receives the most votes and is not in any way connected, even indirectly, with the Shareholders who presented or voted for the slate that was first in terms of the number of votes received.

With regard to the foregoing, the Shareholders are encouraged to vote at the Shareholders' Meeting for one of the slates of candidates for the office of Director prepared, filed, and published in accordance with the provisions discussed above.

If no slate of candidates for the office of Director are presented, pursuant to Article 14.3, letter d) of the corporate bylaws, the Shareholders' Meeting shall resolve according to the majorities provided for by the law, so as to ensure in any case the presence of the necessary number of Directors possessing the requirements of independence and ensure the compliance with gender balance applicable laws.