



General and Supervisory Board

# **REGULATIONS ON CONFLICT OF INTEREST AND TRANSACTIONS BETWEEN RELATED PARTIES OF EDP**

**29.10.2015**

*This is an unofficial translation of the Regulations on conflicts of interest and transactions between related parties of EDP prepared for information purposes only. In the case of any discrepancy between this translation and the Portuguese version of the Regulations, the Portuguese version will prevail.*



## **REGULATIONS ON CONFLICT OF INTEREST AND TRANSACTIONS BETWEEN RELATED PARTIES OF EDP (REGULATIONS)<sup>1</sup>**

### **1. Preamble**

The General and Supervisory Board (GSB) has played a pioneering role in creating an internal mechanism for preventing, identifying and handling potential corporate conflict of interest, an issue that was only expressly laid down in the CMVM Corporate Governance Code at the beginning of 2010. Following the commitment made by the GSB to adopt best corporate governance practices, these Regulations replace the “Framework for handling conflict of interest” approved on 16 October 2008, as well as the initial version of this Regulation approved by the GSB on the 29<sup>th</sup> July 2010.

The rules voluntarily adopted by EDP – Energias de Portugal, S.A. (EDP) in relation to conflict of interest are meant to be reviewed within a period of at least one year from entering into force. The application of the aforementioned rules has allowed the GSB to issue a reasoned and qualified opinion on this issue as part of its appraisal of the management reports and accounts. In this regard, these Regulations seek to provide continuity to the work carried out in coordination with the Executive Board of Directors (EBD), given their common interest in improving governance practices and promoting transparency and objectivity in managing conflict of interest.

In operational terms and according to best governance practice, supervision and monitoring duties in this regard are the responsibility of the Corporate Governance and Sustainability Committee (CGSC), a specialised committee of the GSB with a majority independent membership.

These Regulations (Regulations) take into consideration CMVM Regulation no. 4/2013, the CMVM Corporate Governance Code and the IPCG Corporate Governance Code.

### **2. Objectives and Responsibilities**

**2.1.** In addition to the compliance of the applicable legal, regulatory and statutory provisions, these Regulations seek to strengthen the internal corporate procedures for preventing, identifying and resolving relevant conflicts of interest, in particular those concerning significant transactions between related parties. In particular, these Regulations complement the internal mechanisms developed by EDP to comply with IAS 24.

**2.2.** This Regulations aim also to establish the relevant procedures regarding articulation of the competent corporate bodies within the scope of the Conflict of Interests treatment.

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<sup>1</sup> Approved by the GSB in 29.10.2015



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- 2.3.** Under the contents of article 22, no. 1, paragraph i) of EDP' By-Laws, of article 12, paragraph j) of GSB Internal Regulations and of article 10, no.1, paragraph g) of CGSC Internal Regulations, the present Regulations is approved by the GSB, under CGSC proposal within the scope of the work performed in articulation with the EBD.

### **3. Responsibilities of the GSB and CGSC**

**3.1.** Without prejudice to its decision-making powers and its ability to evoke these at any time, the GSB shall delegate to the CGSC the permanent monitoring, evaluation and auditing of the internal procedures governing conflict of interest, as well as the effectiveness of the systems in place for their assessment and resolution.

**3.2.** The duties of the CGSC with regard to conflict of interest include:

- a) Informing the GSB of its activity on a regular basis.
- b) Submitting recommendations to the GSB, as well as adopting adequate measures to identify, prevent and resolve conflict of interest in relevant situations.
- c) Reporting the results of its activity in the GSB's annual report, including a conclusive opinion on the EBD's performance in terms of meeting the guidelines defined for handling conflict of interest.
- d) Assessing whether these Regulations are still fit for purpose on an annual basis and, if deemed necessary, propose their revision to the GSB.

**3.3.** In addition to its other duties, the GSB should:

- a) As part of its assessment of EDP's annual and interim management reports, and taking into account the work carried out by the CGSC, issue an opinion on the application of these Regulations in relation to transactions performed between related parties.
- b) Recommend to the EBD appropriate measures for reinforcing the mechanisms for identifying, preventing and resolving conflict of interest.
- c) In case of relevant situations that are damaging to EDP's interests, assess the consequences of these situations and take any measures required to safeguard their interests.

**3.4.** It should be ensured that no GSB members involved in appraising relevant situations are themselves in a situation of conflict of interest.

### **4. Definitions**

**4.1. Conflict of Interests:** the situation in which the purposes or the advantages, patrimonial or non- patrimonial, proper or from thirds, that certain Manager is willing to pursue or achieve with the performance of a Transaction is susceptible to interfere with the compliance of the principles of impartiality, objectivity and observance of the Ethics Code to which the Manager is obliged to in the performance of its duties or with the interests that the relevant company of EDP Group shall pursue.

**4.2. Control:** means the power to, directly or indirectly, determine or influence the management and the management policies or to manage financial and operational policies, namely in virtue of:



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- a) Direct or indirect holding of more than half the vote rights;
- b) Existence of an agreement that allows to exercise more than half the votes representing the share capital;
- c) Capacity to designate or dismiss the majority of the board members or audit members.

**4.3. Managers:** means the persons identified on items 4.8.e., 4.8.f. and 4.8.g. below.

**4.4. Suppliers:** the individual or collective entities that supply products or render services to EDP or to its Subsidiary Companies.

**4.5. EDP Group:** group of companies that integrates EDP and the companies that are under a domain or group relation with the former (the Subsidiary Companies), in virtue of:

- a) Holding the majority of the voting rights or of the possibility of its exercise for the existence of a shareholders agreement;
- b) The possibility of designating or dismissing the majority of the board members.

**4.6. Significant Influence:** means the ability to participate in the decisions related to financial and operational policies of certain entity without detaining Control over those policies; it is understood that EDP Group exercises a “significant influence” over an entity always it detains, at least, 25% of the respective voting rights (calculated in accordance to the Portuguese Securities Code or to the Portuguese Companies Code, as applicable).

**4.7. Significant Relevance Transactions:** for effects of this Regulations, correspond to juridical businesses considered Relevant Situations and that, in accordance to the applicable internal rules, are subject to the GSB prior opinion.

**4.8. Related Parties:** the following are considered related parties:

- a) A shareholder with a qualifying shareholding of at least 2% in EDP or one of its subsidiaries, calculated pursuant to Article 20 of the Securities Code.<sup>2</sup>
- b) Any company that is in a domain or group situation (in virtue of the verification of one of the criteria defined to in items 4.5.a) and 4.5.b)) with the persons or entities referred to on 4.8.a).
- c) Any entity that is under EDP Control or over which EDP or a Subsidiary Company applies Significant Influence.
- d) Entities controlled jointly by EDP and other entities, namely in case of joint ventures in which EDP Group has joint control.
- e) The members of the board of directors (executive and non-executive) of EDP and of EDP Group Subsidiary Companies, that the EBD qualifies as such, in virtue of the people at stake have, directly or

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<sup>2</sup> 2 When calculating qualifying shareholdings, besides the voting rights inherent in the shares that the shareholder owns or controls, the following voting rights are also considered:

- a) Those held by third parties in their own name, but on behalf of the shareholder; b) Those held by a company controlled by or in a group relationship with the shareholder; c) Those held by holders of voting rights with whom the shareholder has signed an agreement for their exercise, except if the same agreement is subject to following the instructions of a third party; d) If the shareholder is a company, those held by the members of its management and audit boards; e) Those which the shareholder may acquire by virtue of an agreement signed with their holders; f) Those linked to shares held in guarantee, managed or held in deposit by the shareholder, if the voting rights have been transferred to him/her; g) Those held by holders of voting rights who have conferred on the shareholder discretionary powers for their exercise; h) Those held by persons who have signed an agreement with the shareholder with a view to acquiring control of the company or blocking change of control, or which constitute an instrument for the concerted exercise of influence over the company; i) Those ascribable to any persons referred to in the above sub-paragraphs by application of the criteria from any other sub-paragraph, with due adaptations.



Regulations on conflicts of interest and transactions between related parties of EDP indirectly, authority and responsibility for the planning, managing and controlling of EDP Group activities.

f) Management officers responsible for EDP Group management that correspond to officers of the Corporate Center (primeira linha) and other persons with functions and categories that perform duties at EDP Group, as long as the EBD qualifies them as such, once the people at stake have, directly or indirectly, authority and responsibility for the planning, managing and controlling of EDP Group activities.

g) Employees of EDP Group that are workers that took part of the Company staff structure, with an individual working contract with or without term, even if temporarily suspended, within the limits of the respective delegation of competences, that are able to practice acts in the individual amount of € 25.000; the remaining employees of EDP Group, even if assigned or requested, permanently or occasionally and independent from the nature of the employee bond, in service fee or through a rendering of services contract, as well as performing its tasks under a training contract in conformity with the limits resulting from the respective juridical relations, that are able to practice acts in the individual amount of € 25.000.

h) Any of the following family member of the Managers:

- i. Spouse or de facto partner;
- ii. Descendants, ascendants, or any other dependent of the Managers or of any one of the persons identified in the previous paragraph;

i) Any entity directly or indirectly under Control or Significant Influence of the Managers;

j) Any fund or beneficial plan, such as pensions, other retirement beneficial, life insurance and medical care, for the benefit of Group EDP employees, or of any entity that is a Related Party of EDP Group.

**4.9. Transaction:** means an act or legal business or any other act that implies the transmission of resources, services or obligations between two or more persons or other entities.

**4.10. Relevant Situations:** legal businesses or “de facto” situations existent between Related Parties that are susceptible of creating a Conflict of Interests between the involved parties with relevance for the pursuit of EDP interests.

## 5. Reporting relevant situations

**5.1.** Within 20 days of the end of each quarter, the EBD should inform the CGSC of:

a) Transactions classified as relevant situations that were performed during the period in question and:

- i. Have a financial value of over EUR 5 million, or the accumulated annual value of which exceeds this amount, and/or
- ii. Need to be included in the management report, by virtue of their material relevance or their having been performed outside normal market conditions.

b) Shareholders owning a qualifying shareholding of at least 2% in EDP or one of its subsidiaries, calculated pursuant to Article 20 of the Securities Code, and who in the period under review:

- i. Are EDP creditors holding at least 5% of its liabilities.
- ii. Are customers representing at least 1% of total billing or have generated income of over EUR 5 million.
- iii. Are suppliers representing at least 1% of the overall value of external supplies and services or from whom services to a value of at least EUR 5 million have been acquired.



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- 5.2.** The information described in sub-paragraph a) of paragraph 4.1. above should include:
- a) Summary description of the operations and the responsibilities taken up by the parties.
  - b) Outline of the procedures used to select the counterparty, i.e. whether the operation was based on a tender competition/consultation or direct award.
  - c) In cases of direct award, the grounds for this decision and the mechanisms adopted to mitigate the risk of potential conflict of interest.
  - d) In cases of tender competition/consultation, the type of contact established with the potential interested parties and the identity of those parties.
  - e) In case of competitive tenders, the details of the different tenders and the criteria used for selection.
  - f) The parameters used to check whether the transaction was performed under “normal market conditions for similar operations”.
  - g) Measures taken to prevent or resolve potential conflict of interest.
  - h) Indication, if such is the case, of the multiannual character of the operation, in which case it shall be reported the initial date of the contracting as well as the date in which the supplies and /or the services are performed.

**5.3.** In addition to providing the information described in IAS 24, before signing, or where not possible immediately after signing, the EBD shall inform the CGSC of any contracts or addenda to existing contracts agreed between EDP and its subsidiaries where the value of the transaction is equal to or greater than:

- a) EUR 75 million, for subordinated and standard loans.
- b) EUR 75 million, for purchase, sale, marketing or supply of electricity and natural gas (and connected products and services).
- c) EUR 5 million for all other transactions.

**5.4.** The EBD should report to the CGSC any relevant situations of which it has knowledge and are liable to damage or have damaged EDP’s corporate interest, as soon as possible and regardless of the financial value in question, in accordance with a standard of diligence to be reasonably expected of a diligent and organised manager.

**5.5.** Upon analysis of the information reported by the EBD, the CGSC:

- a) May request the EBD to provide any additional information or documentation it deems necessary to formulate a reasoned opinion on the situations under review.
- b) Should submit to the GSB its opinion on the analysis performed of the reported information, and may make proposals for recommendations to be passed on to the EBD.
- c) Having identified a relevant situation that is liable to damage EDP’s corporate interests, it should communicate this situation to the GSB with immediate effect and may suggest the adoption of measures to resolve or manage the situation in line with these interests.

## **6. Previous opinion on significant transactions**

- 6.1.** For significant transactions, the EBD should provide the information listed in paragraph 5.2. together with their request for a GSB previous opinion or its exemption.



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**6.2.** For significant transactions submitted for GSB previous opinion:

- a) If the CGSC is able to meet before the GSB meeting, the opinion of this committee should be requested, to be passed on to the GSB for the purposes of issuing the decision.
- b) If the CGSC cannot hold the aforementioned meeting, the potential conflict of interest should be appraised directly by the GSB as part of its decision-making process.

**6.3.** For significant transactions subject to a request for exemption from GSB previous opinion, at least three members of this board should be consulted, a majority of whom should be independent.

**6.4.** Upon appraisal of the EBD's request, the CGSC, GSB or the Chairman of the GSB (in the case described in 6.3, may recommend the EBD to take suitable measures to resolve the potential conflict of interest.