



**FREQUENTLY ASKED QUESTIONS IN RELATION TO THE  
FLEXIBLE DIVIDEND (*SCRIP DIVIDEND*)**

**JUNE 2023**

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The information provided in this document contains a summary, easily understandable and in non-technical language, of the main characteristics of the flexible dividend (*scrip dividend*) up to a maximum value of 217,411,783.00 euros (dividend equivalent to 0.50 euros per share) (the "**Flexible Dividend**") which shall be implemented by increasing the share capital against reserves with the unconditional commitment of Fomento de Construcciones y Contratas, S.A. ("**FCC**" or the "**Company**") to purchase the free allocation rights at a guaranteed fixed price.

For a comprehensive understanding of the Flexible Dividend, the interested party is required to consider the proposed resolution approved by the Ordinary General Shareholders' Meeting held on June 14, 2023 under agenda item seventh as well as the corresponding report issued by the Board of Directors. In addition, the information published by the Company on June 28, 2023 through the corresponding "other relevant information" announcement, as well as the Informative Document included as an annex to the aforementioned communication.

All of these documents (proposed resolution, report of the Board of Directors, "other relevant information" announcement and Informative Document) are available on the Company's website ([www.fcc.es](http://www.fcc.es)), in the sections relating to the General Shareholders' Meeting and the Flexible Dividend.

## **1. WHAT DOES THE FLEXIBLE DIVIDEND ENTAIL?**

The Flexible Dividend is a form of shareholder compensation which allows shareholders to decide whether they prefer newly issued shares of FCC or, as the case may be, to obtain cash through the transfer of the free allocation rights they receive for the share they own.

In this regard, the option for shareholders to choose to receive shares or cash is structured by means of a share capital increase against reserves.

## **2. WHY DOES FCC OFFER A FLEXIBLE DIVIDEND?**

To allow each shareholder to choose whether or not to receive all or a fraction of his/her compensation in the form of free shares, without in any way limiting his/her ability to receive all of the compensation in cash, if he/she so chooses. As a result, FCC is implementing a practice already followed by other national and international companies.

## **3. WHO CAN OPT FOR THE FLEXIBLE DIVIDEND?**

The FCC shareholders who have acquired their respective shares no later than 23:59 hours of the day of the publication in the Spanish Official Gazette of the Companies Registry (*Boletín Oficial del Registro Mercantil*) of the announcement of the capital increase to be executed in the framework of the Flexible Dividend (expected on June 30, 2023), and that appear legitimized as shareholders in the accounting records of the *Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A.U.* (Iberclear) at 23:59 hours of the second following trading day (scheduled for July 4, 2023).

## **4. WHAT ARE MY OPTIONS? WHAT CAN I DO WITH MY CORRESPONDING FREE ALLOCATION RIGHTS?**

FCC shareholders will have the option, upon their free choice, to:

- a) Not transferring their free allocation rights. If so, at the end of each trading period, the shareholder will receive the corresponding number of fully released new shares.

- b) To transfer all or part of their free allocation rights to FCC pursuant to a purchase commitment at a guaranteed fixed price of 0.50 euros per right (the "**Purchase Commitment**"). In this regard, the shareholder may choose to monetise their rights and receive a cash amount instead of receiving shares.
- c) To transfer all or part of their free allocation rights in the market. In this case, the shareholder may also choose to monetise the corresponding rights, although in this case the shareholder would receive no guaranteed fixed price, but the consideration for the rights would depend on the market conditions in general, and the quoted price of the referred rights in particular.

#### **5. HOW MANY RIGHTS DO I GET FOR EVERY FCC SHARE I HOLD?**

The shareholder will receive a free allocation right for every FCC share held.

#### **6. WHAT IS MOST INTERESTING ME, OPTING FOR CASH OR SHARES?**

That's for each shareholder to decide. In case of cash needs, or in general, if you prefer cash, you can sell the rights. However, if you prefer to receive new FCC shares free of charge, which you can always sell when you need them, you can choose not to sell the rights and receive shares.

#### **7. IS THE OPTION TO RECEIVE CASH OR THE OPTION TO RECEIVE SHARES MORE FINANCIALLY REWARDING?**

The gross price a shareholder will receive if he/she sells his/her free allocation rights under the Purchase Commitment to FCC will be equal to the value of the new shares received if he/she does not sell his/her rights, including the compensation mechanism.

In this regard, FCC has set up a compensation mechanism for the purpose of making the options of (i) transferring the free allocation rights to FCC in accordance with the Purchase Commitment and (ii) receiving this amount in new shares, i.e. without any of these options being favoured or penalised in financial terms.

#### **8. WHAT DOES THE COMPENSATORY MECHANISM ENTAIL?**

The compensation mechanism is an innovative system introduced by FCC for the purpose of making the options of (i) transferring the free allocation rights to FCC in accordance with the Purchase Commitment and (ii) receiving this amount in new shares, i.e., without any of these options being favoured or penalised in financial terms.

To this end, the Company will pay to those shareholders of the Company who opt, partially or totally, to receive new shares, a cash compensatory dividend (the "**Compensatory Dividend**"), in order to offset the lower financial value that, as a result of the application of the established exchange formulas, such new shares would be worth compared to the amount received in cash by the shareholders pursuant to the Purchase Commitment.

#### **9. IF I CHOOSE TO RECEIVE CASH, WHAT'S BETTER, SELLING THE RIGHTS TO FCC OR SELLING THEM ON THE STOCK MARKET?**

The rights are sold to FCC at a guaranteed price of 0.50 euros gross per right, while the rights are sold on the stock market at the price at which they are listed at any given time, in which case the shareholder may receive an amount higher, equal to or lower than the guaranteed price.

In either case, the company in which the shareholder has placed his/her shares may establish, in accordance with current legislation, the commissions and expenses applicable to the processing of orders for the purchase and sale of free allocation rights that they freely determine.

In any case, as the specific situation of each shareholder depends on his/her personal, financial and asset circumstances, as well as on the tax regime applicable to such shareholder, said shareholders should consult their decision with their advisors, if deemed appropriate.

#### **10. WHAT DO I HAVE TO DO TO COMMUNICATE THE CHOSEN OPTION?**

Notwithstanding the foregoing questions, it is advisable for shareholders to respond to the notification received from their depositary company or to contact the latter in order to instruct it on the option chosen and on the communication to be sent, where appropriate, to FCC.

#### **11. WHAT DO I HAVE TO DO IN ORDER TO RECEIVE THE CASH AMOUNT?**

In order to transfer the free allocation rights to FCC, it is necessary to contact the company where the shares are deposited in order to instruct the latter to sell the rights.

In any event, it must be borne in mind that shareholders who wish to accept the Purchase Commitment of rights undertaken by FCC at the guaranteed fixed price (i.e., 0.50 euros gross per right) must notify their depositary company of their decision no later than July 10, 2023, inclusive.

#### **12. WHAT DO I HAVE TO DO IN ORDER TO RECEIVE THE AMOUNT IN NEW SHARES?**

It is not necessary to make an explicit communication to FCC in this regard. If no specific communication is made to FCC, it is understood that the shareholders have opted to receive new FCC shares.

In such circumstances, you will receive the corresponding FCC shares according to the exchange ratio determined (1 new FCC share for every 19 free allocation rights). As for surplus rights, that is, rights that do not reach the minimum number to obtain a new share in accordance with the aforementioned equation and, subject to the terms of the relationship that the shareholder has with the company where his/her shares are deposited, they are usually sold on the stock market, collecting the resulting cash.

#### **13. WHAT HAPPENS IF I DO NOT COMMUNICATE ANY OPTION TO FCC?**

See question 12.

#### **14. CAN I CHOOSE TO RECEIVE PART IN CASH AND PART IN SHARES?**

Yes. To this end, the shareholder will have to sell part of his/her rights and hold the other part, instructing his/her depositary company to this effect.

#### **15. IF I CHOOSE TO SELL MY RIGHTS ON THE STOCK MARKET, WHEN WILL I RECEIVE THE MONEY?**

On the second trading day after the sale, like any transaction made on the market.

**16. IF I CHOOSE TO SELL MY RIGHTS TO FCC, WHEN WILL I RECEIVE THE MONEY?**

Cash payments to shareholders who choose to sell their free allocation rights to FCC are expected to be made on July 19, 2023.

**17. IF I OPT FOR SHARES, WHEN WILL I RECEIVE THEM?**

The new shares will be allocated after the corresponding deed of capital increase has been publicly issued and registered in the Spanish Commercial Register (*Registro Mercantil*), in accordance with the calendar published by the Company.

Subject to obtaining the corresponding authorisations, it is estimated that the ordinary trading of the new shares on the Spanish Stock Exchanges will take place on July 28, 2023.

**18. IF I CHOOSE TO RECEIVE SHARES, DO I HAVE TO PAY FOR THEM?**

No. The capital Increase shall be carried out free of expenses and commissions in relation to the allocation of the new shares issued. The Company will assume the expenses of issuance, subscription, entry into circulation, admission to trading and others related to the capital increase.

However, each depositary company may establish, in accordance with current legislation, the commissions and expenses applicable to the subscription of new shares and administration, derived from the maintenance of the values in the accounting records, that they freely determine.

**19. HOW MANY RIGHTS ARE NECESSARY IN ORDER TO RECEIVE A NEW SHARE?**

Pursuant to the formulas established by the Ordinary General Meeting of Shareholders held on June 14, 2023, the number of free allocation rights required to receive one new share is 19.

**20. WHAT HAPPENS TO THOSE RIGHTS THAT ARE NOT ENOUGH TO RECEIVE A SHARE?**

Subject to the terms of the relationship that the shareholder has with his/her depositary company, the customary practice, unless otherwise instructed, is for them to be sold on the stock market, receiving the resulting cash.

**21. WHAT HAPPENS IF I HAVE FCC SHARES DEPOSITED IN MORE THAN ONE COMPANY?**

The exchange equation and the number of new shares resulting from its implementation, as well as the compensation mechanism, are applied at the level of each securities account in each depositary company, meaning that if you own FCC shares deposited with different companies you may receive fewer new shares than you would receive if all the shares you hold were deposited with a single company.

**22. I AM NODE/BARE OWNER OF FCC SHARES OBJECT OF USUFRUCT. HOW DOES THIS SYSTEM WORK IN MY CASE?**

It is up to the node/bare owner to decide what to do with the free allocation rights corresponding to the shares subscribed in usufruct. If you choose to receive new shares or sell the rights on the stock market, the usufruct will be extended over the new shares or on the product of the sale. If you choose to sell the rights to FCC, the corresponding cash will be considered as a civil proceeds of the shares, corresponding to the holder of usufruct.

However, as the specific situation will depend on personal, financial and asset circumstances, as well as on the tax regime that is applicable, the node owner should seek advice from his/her consultants if deemed appropriate.

### **23. I AM A FCC SHARES USUFRUCT HOLDER, HOW DOES THE FLEXIBLE DIVIDEND WORK IN MY CASE?**

It is up to the node/bare owner to decide what to do with the free allocation rights corresponding to the shares subscribed in usufruct. If the node/bare owner chooses to sell the rights to FCC, the usufruct holder will receive the corresponding cash and will be considered a civil proceeds of the shares. If the node owner chooses to receive new shares or to sell the rights in the market, the usufruct will be extended on to the new shares or on the product of the sale.

However, as the specific situation will depend on personal, financial and asset circumstances, as well as on the tax regime that is applicable, the node owner should seek advice from his/her consultants if deemed appropriate.

### **24. WHAT HAPPENS TO SHARES THAT ARE CO-OWNED?**

In this event, the co-owners must appoint a single individual to exercise the membership rights and, in this case, to decide what to do with the free allocation rights corresponding to the co-owned shares. All this is subject to the terms of the relationship that the shareholder may have with the company in which he/she has deposited his/her securities.

### **25. WHAT IS THE TAXATION OF EACH OF THE OPTIONS?**

The Spanish tax regime applicable to shareholders will be, in general, the one described as it follows, notwithstanding the specialities applying to non-resident shareholders or those subject to taxation in the Basque Country's provincial territories or in the Autonomous Community of Navarre, and potential future regulatory developments that could also affect the applicable tax regime:

#### **a) Receive new fully released shares:**

For shareholders, taxpayers for the purposes of the Personal Income Tax (the "IRPF") or the Non-Resident Income Tax (the "IRNR") without a permanent establishment in Spain, the delivery of the New Shares will not constitute income. However, for the purposes of future transfers, the acquisition value, both of the New Shares and the shares from which they come, will be the amount resulting from dividing the total cost by the number of corresponding securities, both old and released. The acquisition date of the New Shares will correspond to the date for their pertinent shares.

Regarding shareholders, taxpayers for the purposes of the Corporate Income Tax (the "IS") or the IRNR and acting through a permanent establishment in Spain, closing a full market cycle, given that the applicable tax regulations contain no specific criterion for this purpose, the criterion established by the accounting standard will be applied. For these purposes, the accounting treatment of these operations is included in ICAC Resolution of 5 March 2019. In accordance with the accounting criteria established by ICAC in that resolution, since 1 January 2020 the granting of free allocation rights determines in the shareholder the accounting, in any case, of a collection right and the corresponding financial income to be included in the taxable base of the IS or IRNR. Investors should also take into account the special valuation rules set out in tax legislation for the purpose of determining the tax base, which may be applicable in view of the

nature of the reserves from which the Company is increasing capital. In addition, the income obtained by investors could be exempt from tax if the requirements of the applicable legislation are met (at 95%), particularly those set forth in Article 21 of the IS Law.

In accordance with the administrative criteria established by the Directorate General for Taxation in various binding consultations, FCC will not be required to make withholdings or prepayments on account in the delivery of released shares or free allocation rights.

As regards the amount received by the Company's shareholders in the form of the Compensatory Dividend detailed in Section 3.5 of the Informative Document, the provisions set forth below shall apply to the amount obtained in the transfer of rights to the Company under the Purchase Commitment.

b) Transfer all or part of their free allocation rights to the Company under the Purchase Commitment:

Should the holders of free allocation rights opt for the Purchase Commitment, the tax regime applicable to the amount obtained in the transfer to FCC or its subsidiary of the free allocation rights held in its capacity as shareholders shall be equivalent to the regime applicable to dividends distributed directly in cash and, therefore, will be subject to withholding on account of the appropriate tax and to the corresponding taxation, depending on the applicable tax according to the legal nature of the beneficiary (IS, IRPF or IRNR).

Thus, if the dividends are subject to IS, the applicable withholding tax will be 19% (unless the exemption provided for in the IS Regulation is applicable for meeting the requirements of Article 2.1 of the IS Law, in which case they will not be subject to withholding tax). On the other hand, the dividends will be taxed at the shareholder's headquarters applicable tax rate (normally at the 25% general rate), and may, where applicable, be 95% exempt if the requirements of Article 21.1 of the IS Law are met. The same regime applies in case of dividends subject to IRNR when the non-resident operates through a permanent establishment in Spain.

In the case of IRPF or IRNR taxpayers without a permanent establishment in Spain, the dividend will be considered as income from movable asset income. In both cases, the applicable withholding rate is 19%.

c) Transfer all or part of their free allocation rights in the market:

Should shareholders sell their free allocation rights in the market, the amount obtained in the transfer to the market of said rights will have the tax regime indicated below:

For the purpose of income taxes (IRPF or IRNR) for taxpayers without a permanent establishment in Spain, the amount obtained in the market transfer of the free allocation rights will be considered as a capital gain for the transferor. For shareholders subject to income tax (IRPF), this capital gain will be subject to withholding on account of the IRPF at the corresponding tax rate (currently at 19%). This withholding will be carried out by the corresponding depository entity and, failing that, by the financial intermediary or notary public intervening in the transfer. For shareholders subject to IRNR liabilities without a permanent establishment in Spain, the gain will be subject to taxation for this tax (currently at 19%), notwithstanding a possible application of the exemption included in the internal regulations or, as the case may be, the agreement to avoid double taxation in force, signed between Spain and the taxpayer's country of tax residence.

Regarding IS and IRNR with a permanent establishment in Spain, to the extent that a complete business cycle is completed, it will be taxed according to the results from the applicable accounting regulations and the regulations applicable to said taxes.



It should be taken into account that this summary does not specify all the possible tax-related consequences of the different options related to the dividend or Capital Increase. The consequences that may occur in the countries of residence of shareholders who do not reside in Spain for tax purposes, or the variations that may result as a consequence of, as the case may be, the application of an Agreement to avoid double taxation entered into between Spain and the shareholder's state of declared fiscal residence. For this reason, it is recommended that shareholders consult with their tax advisors on the specific tax impact of the proposed compensation system, considering the particular circumstances of each shareholder or holder of free allocation rights, and also check for developments made in the legislation in force at the date of this questionnaire and the criteria of interpretation thereof.

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