

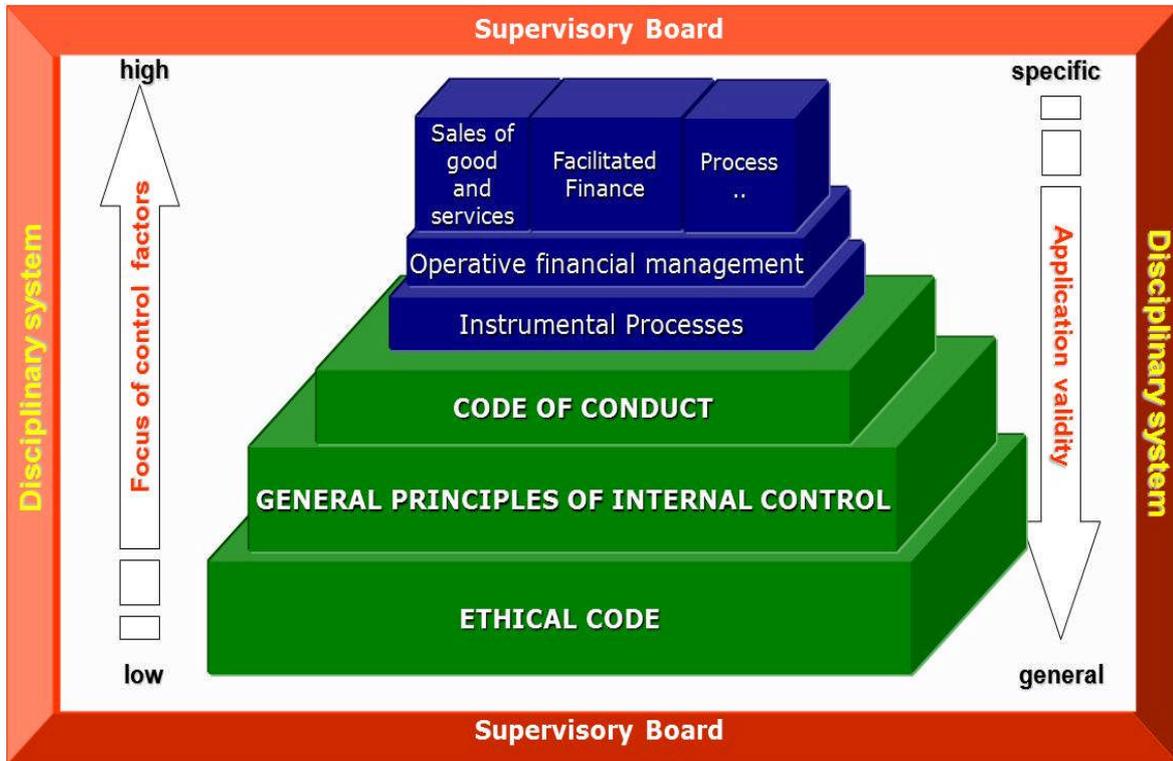
# **ORGANISATIONAL MODEL “231”**

## **SUMMARY DOCUMENT**

**Milan, November 8, 2011**

---

### Conceptual scheme of Organisational Model



O.M. comprising control factors which are based on the Company's Ethical Code and focus increasingly on risk-crime related situations.

<b>Table of Contents</b>	<b>Page</b>
<b>GENERAL ASPECTS OF THE ORGANISATIONAL MODEL</b>	4
- Reference regulatory framework	5
- The Company	7
- Model Structure	8
- Ethical Code	9
- General principles of internal control	14
- Code of Conduct	17
<b>INTERNAL CONTROL SCHEMES</b>	24
<b>SUPERVISORY BOARD</b>	25
<b>TRANSACTIONS ORIGINATING DIRECTLY FROM THE COMPANY'S TOP MANAGEMENT</b>	32
<b>DISCIPLINARY SYSTEM</b>	33
<b>DISCLOSURE OF ORGANISATIONAL MODEL AND TRAINING</b>	38
<b>ANNEX 1</b> Significant crimes, pursuant to Legislative Decree No. 231/2001	40
<b>ANNEX 2</b> PUBLIC ADMINISTRATION: criteria to define a public official and a public service officer	82
<b>ANNEX 3</b> HEALTH AND SAFETY ORGANISATION AND MANAGEMENT MODEL	83

# **General aspects of Organisational Model**

---

## REFERENCE REGULATORY FRAMEWORK

Legislative Decree No. 231/2001 (*“Provisions governing the administrative liability of legal entities, companies and associations also without legal status, in accordance with Article 11 of Law No. 300 dated September 29, 2000”*), issued on June 8, 2001 and entered into force the following July 4, intended to conform Italian legislation concerning the liability of corporate bodies to a number of international agreements with which Italy had accepted to comply (Brussels Convention dated July 26, 1995 on protecting the financial interests of European Communities, Brussels Convention dated May 26, 1997 on the fight against corruption involving officers of the European Community or the Member States and the OECD Convention dated December 17, 1997 on the fight against corruption of foreign public officials in international economic transactions).

Legislative Decree No. 231/2001 introduced in Italy, for the first time, the entities' liability for some crimes committed – or even only attempted - in the interests of or for the benefit of the entities concerned by persons who have representative, administrative or management functions within the entity concerned, or within an organisational unit of such entity with financial and functional autonomy, and lastly, by persons subjected to the management or supervision by one of the persons indicated above. This is a form of liability concerning the entity that is in addition to the liability of the natural person that materially committed the criminal action.

With reference to the crimes to which the discipline under review applies, originally the discipline concerned some crimes against the Public Administration, but these were subsequently extended to include crimes concerning counterfeiting coinage, legal tender and revenue stamps<sup>1</sup>, some forms of corporate crimes, terrorist offences or subversion of the democratic order and crimes against the individual, crimes involving abuse of privileged information and market manipulation (so-called “Market abuse”), a new kind of crime against life and personal safety, as well as the so-called “transnational crimes”<sup>2</sup>.

The legislator intervened on numerous occasions during last years extending the application of this legislation to other types of crimes, in particular, crimes of involuntary manslaughter and serious or very serious negligent injuries subsequent to breaching accident prevention laws and regulations and the protection of occupational hygiene and health; crimes involving receiving, laundering, using stolen money, goods or benefits; computer crimes and unlawful data-processing; criminal offences by organised crime; crimes against industry and trade and related to copyright; the criminal offence of incitement not to testify or to give false testimony to the Legal Authorities, already significant for the purposes of the so-called transnational crimes and lastly, crimes against the environment. Refer to Annex 1 for a complete and detailed examination of the specific cases of crimes which represent grounds for establishing liability, pursuant to Legislative Decree No. 231/2001.

The innovative significance of Legislative Decree No. 231/2001 is represented by envisaging the body corporate's liability in relation to the perpetration of a crime. Further to the coming into force of Legislative Decree No. 231/2001 companies can no longer

---

<sup>1</sup> The respective title was amended to “Counterfeiting coinage, legal tender, revenue stamps and relating to distinctive signs” with Law No. 99 dated 23/07/09: “Provisions for the development and internationalisation of businesses, as well as energy”.

<sup>2</sup> The so-called transnational crimes were introduced in our legislation with Law No. 146/2006; the crimes listed under Article 10 range from association to commit offences to crimes concerning the smuggling of migrants to crimes concerning obstructing justice; the conditions indicated by the legislator under Article 3 of the cited law must exist for the purposes of the qualifiable nature of a specific crime such as a transnational crime; refer to annex 1, paragraph K for a detailed description of the single cases.

claim to be uninvolved in the direct consequences of the crimes committed by individual natural persons in the interests of or for the benefit of the company concerned. The penalty system envisaged by Legislative Decree No. 231/2001 is particularly afflictive: in fact, in addition to monetary sanctions, there are injunctive sanctions, which may also be imposed as a precautionary measure and have permanent effects for the companies involved.

The acknowledgement of administrative liability referred to the entity, in itself, presupposes the existence of an “interest” or “benefit” for the entity concerned closely related to the criminal action committed by the senior person or by that person's direct assistant. This requires a qualified process of assessment by the criminal judge.

However, Article 6 of Legislative Decree No. 231/2001 envisages exempting the company from liability if the company demonstrates that it has adopted organisational models capable of preventing the above-mentioned crimes from being perpetrated. Naturally, this liability exemption entails the approval of the internal organisation and control system that the judge is called on to express during the criminal proceedings relating to the assessment of a crime included among the crimes specifically envisaged by Legislative Decree No. 231/2001.

In this context Pirelli & C. S.p.A. (hereinafter referred to as the “**Company**”) has adopted an Organisational Model consistent with the Company's specific business, in compliance with the requirements envisaged by Legislative Decree No. 231/2001, based on an analysis of the corporate context (risk assessment activity) that was performed by involving the competent company functions in order to highlight the so-called “risk” areas and the methods by which the crimes envisaged by Legislative Decree No. 231/2001 may be committed.

However, it is important to note that the organisational models envisaged by Legislative Decree No. 231/2001 do not represent a “*quid novi*”, since the business performed by the Company in corporate form is substantially characterised by a system (a model) and organisational structure of its own that is well defined and particularly rigorous. Accordingly, the Company was required to perform an analysis of the internal organisational functions which are already active and operational in order to verify their compliance with the provisions set out in Legislative Decree No. 231/2001.

Annex 1 illustrates a special reference matrix for the purposes of an immediate acknowledgement of the control infrastructure prepared in this Organisational Model and of the specific cases of “231 crimes” which may emerge in the abstract, in terms of risk, in the individual processes.

The Company's Board of Directors promptly adopted this Organisational Model (hereinafter, the “Organisational Model”) for the first time on July 31, 2003, subsequently introducing amendments and supplements on March 12, 2007, on November 7, 2008, on July 29, 2010 and lastly on November 8, 2011.

The Board of Directors has the function of assessing, also on the basis of the proposals expressed by the Supervisory Board, the possible need and/or advisability of proceeding to approve any additional amendments and/or supplements which may be rendered necessary as the result of (a) significant breaches of the requirements set out in the Organisational Model, (b) significant changes to the Company's organisational structure and/or the methods of performing business, (c) regulatory amendments to Legislative Decree No. 231/2001.

## THE COMPANY

Pirelli & C. S.p.A. is a company with legal status and is organised in accordance with the legislation of the Italian Republic. The Company was founded in 1872 and is listed on the Italian Stock Exchange and is a holding company that manages, coordinates and finances the business activities of the subsidiaries.

The Group's business is mainly represented by investments in:

- Pirelli Tyre S.p.A. – a company actively engaged in the tyres sector;
- Pirelli & C. Ecotechnology S.p.A. – a company actively engaged in emission containment technologies;
- Pirelli & C. Ambiente S.p.A. – a company that operates in the field of renewable energy sources.

## STRUCTURE OF ORGANISATIONAL MODEL

The Company's Organisational Model was also prepared on the basis of the “Guidelines” issued by Confindustria (Confederation of Italian Industries) and envisages the coordinated operation of a structured pyramid system of principles and procedures that can be described briefly as follows:

- **Ethical Code:** a set of general principles (transparency, fairness, loyalty) to which the business execution and management refers in the framework of a more general sustainable growth process, while at the same time assuring the efficiency and effectiveness of the Internal Control System.
- **Internal Control System:** the set of “processes” designed to ensure a reasonable guarantee of achieving the operational efficiency and effectiveness objectives, the reliability of the financial and management information, compliance with the laws and regulations, as well as protecting the business property, also against possible frauds. The Internal Control System is based on and is qualified by some general principles, specifically defined in the framework of the Organisational Model of which the field of application extends transversely to all the various organisational levels (Business Units, Central Functions and Companies).
- **Code of Conduct:** consists of an operational application of the principles set out in the Ethical Code and introduces specific rules to avoid the creation of environmental situations which favour the perpetration of crimes in general, and among these, in particular, the administrative crimes and illegal actions which are significant, pursuant to Legislative Decree No. 231/2001. Some rules are also specific to managing relations with the representatives of the Public Administration and with third parties in general, as well as the requirements and activities which are company-related or concern communications to the market.
- **Internal Control Schemes:** these have been prepared for all the high and medium risk operational processes and for the instrumental processes. These schemes have a similar structure that consists of a set of rules designed to identify the main phases of each process, the specific control activities designed to prevent, within reason, the related risks of a crime being committed, the conduct and behaviour guidelines, as well as the relevant information flows to the Supervisory Board in order to highlight situations involving a possible non-compliance with the procedures established in the organisation models. The internal control schemes were prepared considering three key rules, and more in detail:
  1. role separation when performing the main activities relating to the processes;
  2. the so-called “traceability” of choices, namely, the constant visibility of the choices concerned (for example: by means of specific documentary records), to enable the identification of precise “points” of responsibility and the “motivation” of the choices concerned;
  3. objectivation of the decision-making processes, in the sense of foreseeing that decisions are made regardless of merely subjective evaluations, referring instead to pre-established criteria.

A Supervisory Board supervises the operation and compliance with the Organisational Model and manages its up-to-date status; the Supervisory Board has independent powers of initiative and control.

# Ethical Code

## ETHICAL CODE

### ARTICLE 1 - INTRODUCTION

The Pirelli Group conducts its internal and external operations in accordance with the principles set out in this Ethical Code (the “**Code**”), in the belief that business ethics must be pursued alongside business success.

Any director, statutory auditor, manager, and employee in the Pirelli Group and, in general, anyone in Italy and abroad who works for or on behalf of the Pirelli Group, or has business dealings with it (“**Addressees of the Code**”) must, in carrying out their functions and responsibilities, comply with the principles and rules in this Code.

### ARTICLE 2 – PRINCIPLES OF CONDUCT

Integrity, transparency, rectitude, and propriety mould the action of the Pirelli Group.

In particular, the Pirelli Group:

- strives after excellence and competitiveness in the market by offering its customers high-quality products and services that provide an effective response to their needs;
- ensures that its action is fully transparent to all its stakeholders without compromising the confidentiality entailed in running its business and ensuring its commercial operations are competitive: for this reason the Addressees of the Code must observe the utmost confidentiality regarding the information acquired or derived through or when carrying out their functions;
- undertakes to champion fair competition, a vital requirement in the pursuit of its own self interest and a guarantee for all market operators, for customers, and for stakeholders in general;
- eschews and condemns the recourse to any conduct that is illegal or in any way improper as a means of securing its economic aims, the latter being pursued solely through the excellence of its performance in terms of innovation, quality, and economic, social, and environmental sustainability;
- safeguards and develops its human resources;
- subscribes to the principle of equal opportunity in the workplace regardless of sex, marital status, sexual persuasion, religious faith, political and trade-union views, skin colour, ethnic origin, nationality, age, and disability;
- pursues and endorses the protection of internationally proclaimed human rights;
- makes responsible use of resources, consistent with the aim of achieving sustainable development, having regard to the environment and the rights of future generations;
- will not tolerate corruption in any guise or form, or in any jurisdiction, or even in places where such activity is admissible in practice, tolerated, or not challenged

in the courts. For this reason, Addressees of the Code are prohibited from offering complementary gifts or other benefits that could constitute a breach of rules, or are in conflict with the Code, or might, if brought to public notice, damage the Pirelli Group or just its reputation;

- defend and protect its corporate assets, and shall procure the means for preventing acts of embezzlement, theft, and fraud against the Group;
- condemns the pursuit of personal interest and/or that of third parties to the detriment of social interests;
- is committed, within the Group and in its dealings outside, to complying and securing compliance with local national legislation, as befits its role as an active and responsible member of the communities it operates in;
- creates organizational mechanisms to prevent breaches by its employees and non-employee workers of the rules and principles of transparency, propriety, and fairness, and it checks that these rules are adhered to and put into effect.

### **ARTICLE 3 – INTERNAL CONTROL SYSTEM**

The efficiency and effectiveness of the internal control system are essential for operating the business in keeping with the rules and principles of this Code.

“Internal control system” refers to a mix of aids, activities, procedures, and organizational units that, through an integrated process of identification, measurement, and monitoring of major risks, secures the following aims:

- the efficacy and efficiency of business operations, so also guaranteeing that documents and decisions are traceable;
- the reliability of accounting and management information;
- compliance with laws and regulations;
- the safekeeping of Company assets.

For the purposes of the above the Addressees of the Code are required to contribute to the constant improvement of the internal control system.

In carrying out their work and in connection with their separate spheres of responsibility, the control and supervisory bodies, Internal Audit, and the independent auditors enjoy direct, full, and unfettered access all personnel, activities, operations, documents, archives, and assets of the business.

### **ARTICLE 4 - STAKEHOLDERS**

The Pirelli Group adopts a multi-stakeholder approach, meaning that it pursues long-term and sustainable growth intended to represent a fair compromise between the expectations of all those who interact with the Group and the companies in it.

#### **→ Shareholders, Investors and the Financial Community**

In its relations with all classes of shareholders, with institutional and private investors, financial analysts, market operators and, in general, with the financial community, the

---

Pirelli Group is fully transparent, complies with the requirements of accuracy, timeliness, and equal access, and aims to ensure that a proper valuation of Group assets can be made.

→ **Environment**

In running its operations the Pirelli Group is mindful of the Environment and public health.

A key consideration in investment and business decisions is environmental sustainability, with the Group supporting eco-compatible growth, not least through the adoption of special technologies and production methods (where this is operationally feasible and economically viable) that allow for the reduction of the environmental impact of Group operations, in some cases even below statutory limits.

The Group has adopted certified Environmental Management Systems to control its operations, chooses production methods and technologies that reduce waste and conserve natural resources, and assesses the indirect and direct environmental impact of its products and services.

The Group works alongside leading national and international organizations to promote environmental sustainability both on a local and a global scale.

→ **Customers**

The Pirelli Group bases the excellence of its products and services on non-stop innovation. Its goal is to anticipate customers' needs and meet their demands with an immediate and professional response that is delivered with propriety, courtesy, and unstinting cooperation.

→ **Human Resources**

The Pirelli Group recognizes the crucial importance of human resources, in the belief that the key to success in any business is the professional input of the people that work for it in a climate of fairness and mutual trust. The Pirelli Group safeguards health, safety and industrial hygiene in the workplace, both through management systems that are continually improving and developing and by promoting an approach to health and safety based on prevention and the effective handling of occupational risk. The Pirelli Group consider respect for workers' rights as fundamental to the business. Working relationships are managed placing particular emphasis on equal opportunity, on furthering each person's career development, and on turning their diversity to account by creating a multi-cultural working environment.

→ **Suppliers and outside workers**

Suppliers and outside workers play a key role in improving the competitiveness of the business.

While seeking the keenest competitive edge, the Group bases its relations with suppliers and outside workers on fairness, impartiality, and ensuring equal opportunities for all parties concerned.

The Pirelli Group requires that its suppliers and outside workers comply with the principles and rules in this Code.

#### → **The wider community**

Relations between the Pirelli Group and public authorities at local, national, and supranational levels are characterized by full and active cooperation, transparency, and due recognition of their mutual independence, economic targets, and the values in this Code.

The Pirelli Group intends to contribute to the prosperity and growth of the communities it operates in by providing efficient and technologically advanced services.

The Pirelli Group endorses and, where appropriate, gives support to educational, cultural, and social initiatives for promoting personal development and improving living standards.

The Pirelli Group does not provide contributions, advantages, or other benefits to political parties or trade union organizations, or to their representatives or candidates, this without prejudice to its compliance with any relevant legislation.

#### → **Competitors**

The Pirelli Group acknowledges that proper and fair competition is essential if businesses and markets are to flourish. In operating its own business it embraces competition based on innovation and on the quality and performance of its products. Group companies and all their employees must eschew unfair commercial practices and, under no circumstances, does a belief that they are acting in the interest of the Group justify conduct that is at variance with these principles.

### **ARTICLE 5 – COMPLIANCE WITH THE CODE**

The Pirelli Group requires that the conduct of all Addressees of the Code is consistent with the general principles it states.

Accordingly, there is a duty on all Addressees of the Code to avoid any action that conflicts with those principles.

The Group undertakes that it will adopt procedures, rules, or instructions for specifically ensuring that the values affirmed herein are reflected in the effective conduct of the Group, its employees, and its outside workers.

A breach of the principles and content of this Code may amount to non-performance of the primary obligations under the offender's employment agreement and/or their contract, with the possibility they may face disciplinary measures as provided in legislation, collective agreements, or by contract.

# **General Principles of Internal Control**

---

## GENERAL PRINCIPLES OF INTERNAL CONTROL

The Internal Control System is defined as the set of “processes” supervised by the Board of Directors, by the management and by other members of the corporate structure that aims to give a reasonable certainty with regard to achieving the following objectives:

- effectiveness and efficiency of the operating activities;
- reliability of the economic/financial information and reporting;
- compliance with laws, regulations, and with the internal provisions and procedures;
- safeguarding the business property.

The Internal Control System is structured on the basis of general principles and its field of application extends continuously through the various organisational levels (Group, Business Unit, Function, Company – hereafter, referred to as "Business Unit").

### **Control framework**

- The powers of representation must be conferred by defining the limits in relation to the normal dimensions of the related transactions and in accordance with the areas of operation which are strictly linked to the duties assigned and to the organisational structure.
- The responsibilities must be defined and duly distributed while avoiding functional overlaps or operational allocations which concentrate critical activities on a single person.
- No transaction that is significant for the Business Unit can originate/be activated without adequate authorisation.
- The operational systems<sup>3</sup> must be consistent with Group policies and with the Group Ethical Code.

In particular, the Company's financial information must be prepared:

- in compliance with the laws and regulations, the established accounting standards and international best practices;
- in harmony with the defined administrative procedures;
- in the framework of a complete and up-to-date chart of accounts.

### **Risk assessment**

The *risk assessment* activity (*risk analysis* and *risk ranking*) that forms the basis of the Organisational Model's structure was performed with the corporate functions concerned to identify the so-called “sensitive” activities which are significant for the purposes of Legislative Decree No. 231/01<sup>4</sup>.

Furthermore, an activity is performed systematically to assess the principal risk factors which are distributed throughout the organisation, with the support of the competent functions, in accordance with the following procedures:

- The Business Unit's objectives must be defined adequately and communicated to all the levels concerned in order to clarify and share the Business Unit's general

---

<sup>3</sup> Procedures, organisation, processes, information systems, etc.

<sup>4</sup> Refer to the Introduction to the Internal Control Schemes – page 26 - for a full description of the risk assessment methodology.

- orientation, and also to be able to identify the risks associated with achieving the objectives, and to periodically foresee an adequate monitoring and updating activity.
- Negative events which may threaten the operating continuity must be the subject of a specific activity to assess the risks and upgrade the protections.
  - The innovation processes related to products/services, organisations and systems must envisage an adequate assessment of the implementation risks.

### ***Control activity***

- The operating processes must be defined envisaging an adequate documentary support (policies, operating rules and regulations, internal procedures, etc.) and/or system support to ensure the processes can always be verified in terms of fairness, consistency and responsibility.
- The operational choices must be traceable in terms of their characteristics and motivations and the persons who authorised, executed and checked the individual activities must be identifiable.
- The exchange of information between adjacent phases/processes must foresee mechanisms (reconciliation, balancing, etc.) to ensure the integrity and completeness of the data managed.
- The human resources must be selected, hired and managed in accordance with transparent criteria and in harmony with ethical values and the objectives defined by the company.
- The professional knowledge and expertise available within the Business Unit must be analysed periodically in terms of their compatibility in relation to the assigned objectives.
- The personal must be duly informed and trained to perform the duties assigned.
- The assets and services for the Company's operation must be procured on the basis of analyses performed on the requirements and from sources which have been selected and monitored adequately.

### ***Information and Communications***

- An adequate system of indicators must be foreseen per process/activity and a periodic flow of reporting to the management.
- The administrative and operating Information Systems must be designed to achieve integration and standardisation.
- The safety mechanisms must assure adequate protection/physical-logical access to the Business Unit's data and assets, in accordance with the “need to know-need to do” principle.

### ***Monitoring***

- The control system is subject to an on-going supervision activity for periodic assessments and constant compliance.

# Code of Conduct

---

## Code of Conduct

This document contains the "Code of Conduct" which Directors, Auditors, Managers, employees of the Pirelli Group, and in general all those who work in Italy and abroad in the name and/or on behalf and/or in the interest of the Pirelli Group or who have business relations therewith ("**Recipients of the Code of Conduct**") must comply with in order to prevent situations that could lead to unlawful acts in general, and in particular the crimes governed by Leg. Decree 231/2001<sup>5</sup>.

This Policy identifies, though not exhaustively, behaviour related to "do's" and "don'ts", referring in particular to relations with Public Administrations, third parties, and to the Company's activities and obligations, specifying the principles of the Ethical Code in operational terms.

### §.1 "Do's"

- The Recipients of the Code of Conduct are committed to comply with the laws and regulations in force in the countries in which the Company operates.
- The Recipients of the Code of Conduct are committed to comply with corporate procedures, and follow the principles of the Ethical Code in any decision or action pertaining to the Company's management.
- The department heads must ensure that:
  - so far as is reasonably practicable, all employees are aware of the rules and consequent behaviour required and, if at any time they have doubts on the procedures to follow, they are adequately assisted;
  - a suitable program of continuous training and awareness of issues relating to the Ethical Code is implemented.

### Code of Conduct on the Company's relations with the Public Administration

- When participating in tenders called by the Public Administration and in general in any negotiation therewith, the Recipients of the Code of Conduct must operate according to applicable laws, regulations and professional integrity.
- The department heads who regularly deal with the Public Administration must:
  - give their employees instructions on the operational mode of conduct to be followed in their formal and informal contacts with the various public offices/officers, according to the particularities of their scope of activity, giving them information about the law and making them aware of situations where there is a risk of crime;
  - provide adequate mechanisms for tracing communication/information flows towards the Public Administration.
- When applying for contributions, grants or funding from the State, other public bodies or from the European Community, all the Recipients of the Code of Conduct involved

---

<sup>5</sup> Or different provisions of law and regulations in force in the countries in which the Group operates.

in such procedures must:

- act fairly, using and presenting truthful and complete documents and statements, relating to the activities for which the benefits may be legitimately obtained;
- once the required funding is granted, use it for the purposes for which it has been requested and granted.

### **Code of Conduct on corporate matters and communications to the market**

- The Company's Directors - as well as the General Director (if appointed) and the Responsible Officer - responsible for preparing the statutory accounting documents, within their respective powers - and anyone under their supervision, are required to fully comply with company regulations; in particular, they must comply with the procedures, instructions and detailed operational rules relating to the drafting of financial statements and to the regulation of key corporate process.
- The administrative/accounting department heads, as part of their duties and within the scope of their powers, must ensure that each transaction is:
  - legitimate, fair, authorized and verifiable;
  - correctly and consistently recorded, so as to allow for the decision-making, authorization and execution process to be verified;
  - supported by documents that are such as to allow, at any time, for controls on the characteristics of and reasons for the transaction and for the identification of those who have authorized, performed, recorded and checked the transaction itself.
- The Recipients of the Code of Conduct involved in drafting the financial statements or other similar documents, must behave properly, provide full cooperation, ensure the completeness and clarity of the information provided, the accuracy of the data and calculations, report any conflicts of interest, etc..
- The Company's Directors must give notice to the Board of Directors and to the Board of Statutory Auditors of any interest they may have, whether personally or on behalf of third parties, in a Company transaction, specifying its nature, terms, origin and scope; in the case of a Managing Director, he/she must also refrain from carrying out the transaction, delegating it to the Board.
- The Recipients of the Code of Conduct and in particular the Directors:
  - when preparing the financial statements, any communications to the market or other similar documents, must represent the economic and financial situation of the Company in a truthful, clear and complete manner;
  - must comply promptly with any requests for information made by the Board of Statutory Auditors, and facilitate in every way the performance of controls lawfully attributed to shareholders, other corporate bodies or the external audit firm;
  - provide to the Supervisory Body with correct and complete information on the Company's economic and financial situation.
- Liquidators - even *de facto* liquidators - of Group companies, must behave with the utmost honesty and fairness in the liquidation process.
- Only duly authorized individuals can liaise with the press, and are required to give

truthful information about the Company, in accordance with applicable laws and regulations.

### **Code of Conduct on relations with internal subjects and third parties**

- The Recipients of the Code of Conduct, in accordance with the Ethical Code of the Group, are committed to comply with the laws and regulations in force in the countries in which the Company operates. No relation will be initiated or continued with anyone who does not intend to respect this principle. The appointment of subjects operating in the name and/or on behalf and/or in the interest of the Company must be made in writing and must include a specific clause that requires compliance with the ethical-behavioural principles adopted by the Company. Failure to comply with this specific clause will entitle the Company to terminate the contractual relationship.
- All consultants, suppliers and in general, any third party acting in the name and/or on behalf and/or in the interest of the Company, are identified and selected with complete impartiality, autonomy and independent judgment. When selecting them, the Company will take care of assessing their competence, reputation, independence, organizational skills and ability to properly and timely perform the contractual obligations and tasks assigned thereto.
- All consultants and other people serving the Company must always, without any exception, act with integrity and diligence, in full compliance with all principles of fairness and lawfulness laid down in any code of ethics adopted in case by themselves.

### **§.2 "Don'ts"**

- The Recipients of the Code of Conduct shall not perform, not even as an association, any act which is or may be deemed contrary to the law and/or applicable regulations, even if that conduct results in or might, even if only abstractly, result in any benefit or interest to the Company.
- The Recipients of the Code of Conduct are expected to avoid any conflict of interest with the Company. Should a conflict of interest nonetheless arise, they are required to report it immediately to the Company.
- The Recipients of the Code of Conduct must refrain from any conduct that is detrimental to the image of the Company.

### **Code of Conduct on the Company's relations with the Public Administration**

- When dealing with representatives of the Public Administration, whether Italian or foreign, it is forbidden to:
  - promise or offer them (or their family members, relatives, cohabitants...) money, gifts or other benefits except in the case of gifts or items of moderate value<sup>6</sup>, and incur unjustified entertainment expenses for purposes other than the mere

---

<sup>6</sup> *Moderate value is to be understood as less than 250 euro per beneficiary and transaction.*

promotion of the Company's image;

- promise or provide, including through "third parties", jobs/services of personal utility (e.g. refurbishment of buildings owned or used by them - or owned or used by their relatives, in-laws, cohabitants, friends, etc.);
- provide or promise to provide, solicit or obtain confidential information and/or documents, or any such documents or information that might compromise the integrity or reputation of either or both parties;
- favour, in the acquisition process, suppliers and subcontractors indicated by representatives of the Public Administration as a condition for the successful performance of an activity (e.g. assignment of the job, grant of funding at special terms, licence grant).

These actions and behaviours are prohibited both if carried out directly by the Company through its employees and if carried out through non-employees acting in the name and/or on behalf and/or in the interest thereof.

- Moreover, when dealing with the Public Administration, it is prohibited to:
  - produce false or altered documents/data;
  - remove or omit true documents;
  - act in such a way as to mislead the Public Administration in its technical and economic evaluation of the products and services offered/supplied;
  - omit information that should be given, thus orienting unduly the decisions of the Public Administration in one's favour;
  - behave in such a way as to unduly influence the decisions of the Public Administration;
  - abuse of the position of a civil servant to obtain personal benefits or benefits to the Company.
- In general, it is prohibited to employ or assign employed advisory tasks to former civil servants who have personally and actively participated in a business negotiation, or have supported any requests made to the Public Administration by the Company or its subsidiaries, affiliates or companies subject to joint control.
- In the course of civil, criminal or administrative proceedings, it is forbidden to engage, whether directly or indirectly, in any illegal action that can favour or damage any of the parties.
- It is prohibited, in any way, shape or form, acting in the misunderstood interest of the Company, to coerce the Recipients to respond to the judiciary authority or to induce them to invoke the right to remain silent.
- When dealing with the judiciary authority, all forms of influence that induce the Recipient to make false statements, are prohibited; in particular, with respect to any statement to be made, the Recipient cannot accept money or other benefits, not even through third parties.

#### **Code of Conduct on corporate matters and communications to the market**

- The Company's Directors - as well as the General Director (if appointed) and the Responsible Officer - responsible for preparing the statutory accounting documents,

within their respective powers - and anyone under their supervision, must refrain from behaviours that amount to the criminal conduct referred to by the Civil Code and the Finance Consolidated Act (Legislative Decree no. 98, 1998-TUF-) relating to "corporate crimes" as under Article 25-ter of Legislative Decree no. 231/2001.

- The Directors must not:
  - when pursuing the activities falling within their powers, perform or omit – following gifts or promised gifts - acts or facts in violation of the obligations set by law, including disposals of corporate assets for personal or third party interest;
  - return contributions to shareholders, or release them from the obligation to provide them, unless in case of a legitimate share capital reduction, and must not reduce the Company's share capital or carry out mergers or split-ups in violation of the law protecting creditors;
  - distribute profits or advances on profits not effectively earned or to be used according to law as reserves, or allocate non-distributable reserves;
  - have the Company acquire or subscribe shares or units issued by the Company or its parent company, except where allowed by law;
  - establish or falsely increase the capital of the Company through transactions not permitted by law.
  
- In general it is prohibited:
  - when preparing financial statements, formalizing reports or other corporate communications addressed to shareholders or the public, to represent untrue facts for the purpose of deceiving shareholders or the public, or to omit information whose disclosure is required by law, regarding the economic and financial situation of the Company or the Group it belongs to;
  - to prevent or hinder control or audit functions legally attributed to shareholders, other corporate bodies, the external audit firm, the Supervisory Body and the Group Internal Audit responsible for internal controls;
  - to omit disclosing any potential conflict of interest which Directors and/or Statutory Auditors, whether acting on their own or for third parties, might have in a determined Company transaction;
  - when preparing the communications which, according to law, must be given to public supervisory authorities, to represent – for the purpose of hindering the supervision function – untrue facts regarding the economic and financial situation of the persons subject to supervision, or to conceal, by any other fraudulent means, in whole or in part, facts that should have been disclosed concerning the same situation;
  - to damage the integrity of the Company's assets and to carry out transactions to the detriment of creditors;
  - to influence the Shareholders' Meeting and to spread false information about the Company.
  
- Directors, Statutory Auditors and employees must not:
  - buy, sell or carry out other transactions on financial instruments - including those issued by the Company, its subsidiaries, parent companies or the latter's subsidiaries - directly or indirectly, on their own or on behalf of third parties, by using inside information (i.e. precise information which has not been made public, relating directly or indirectly to one or more issuers of financial instruments or to

- one or more financial instruments and which, if made public, might significantly affect the price of such financial instruments);
- recommend or encourage others to carry out the said transactions on the basis of inside information;
  - disclose inside information outside their normal work activities.
- In general, it is also prohibited to spread false or misleading information, or engage in sham transactions or other devices that are capable of causing a significant change in the price of financial instruments, or to provide false and misleading information regarding them.
- The liquidators are prohibited from distributing corporate assets to shareholders before satisfying the demands of creditors or setting aside the resources necessary for this purpose.

## REPORTING REQUIREMENTS

The Recipients of the Code of Conduct have an obligation to report<sup>7</sup> to the Group Internal Audit Director:

- any breach or suspected breach of the Code of Conduct; reports must be not anonymous. The Company and the Group Internal Audit protect employees and third party collaborators from any adverse consequences arising from such reporting, ensuring the confidentiality of the informants, subject to the requirements of the law. By way of example, the department heads shall report to the Group Internal Audit Director:
- any conduct that gives rise to a risk of crime as under Legislative Decree 231/2001, concerning operational processes falling within their powers of which they have become aware, including through collaborators;
- any measures and/or news from the police or any other authority, of which they become officially aware, concerning unlawful acts and/or potential offences as under Legislative Decree no. 231/2001 that may have an impact on the Company.

Reporting tools are made available on the Group intranet, together with instructions on the operational procedures to be followed<sup>8</sup>.

### §.3 Sanctions

Any behaviour that does not conform to the provisions of this Code of Conduct entails, independently of and leaving aside any criminal action against the offender, the application of disciplinary sanctions pursuant to existing legislation and/or collective agreements.

---

<sup>7</sup> This reporting requirement, existing Group-wide, integrates the requirements of the “Whistleblowing” Procedure for violations, suspect violations or induction to violation about:

- Laws and regulations;
- Principles enshrined in the Ethical Code;
- Principles of internal control;
- Rules and procedures;
- And/or any other conduct which would result, directly or indirectly, in a economic/financial loss or reputational damage for the Group and/or his Companies.

<sup>8</sup> See note n.3 – Whistleblowing Procedure

## **Internal Control Schemes**

**INSTRUMENTAL PROCESSES  
OPERATIONAL PROCESSES**

***(Omissis)***

# Supervisory Board

## SUPERVISORY BOARD

### Role and structure

Article 6 of Legislative Decree No. 231/2001 relates the liability exemption of the enterprise to the adoption and effective implementation of an organisation, management and control model that is able to prevent the perpetration of the criminal offences considered by such legislation and has foreseen establishing a supervisory board within the entity (hereafter, also referred to as the “SB”) that is specifically assigned the *“function of supervising the operation and compliance of the organisational model and to manage the respective update”*.

The functions assigned to the SB require the SB to have autonomous initiative and control powers.

The Supervisory Board is characterised by the following requirements:

– **Autonomy and independence**

The autonomy and independence requirements are essential so that the SB is not involved directly in the operating activities which represent the subject of the Board's control activity. These requirements can be achieved by assuring the finality of the SB's decisions in relation to the entity's bodies and by foreseeing a reporting activity to the Board of Directors.

– **Professionalism**

The SB's members must have technical and professional expertise suited to the functions which the Board is required to perform; these characteristics combined with independence, guarantee an impartial judgement.

– **Continuous action**

The SB is required:

- to supervise constantly the Organisational Model with the required investigation powers;
- to be an internal organisation in order to assure the continuous supervision activity;
- to manage the Organisational Model's implementation and to assure the Model is constantly up-to-date;
- not to perform operational duties which may condition the overall vision of the corporate activities that the Board is required to maintain.

### Professional and personal qualifications

The members of the Supervisory Board are to be selected from among persons who are particularly well qualified and have experience in performing administration or control activities, or from among persons who have held management positions in enterprises, public entities, public administrations, or have performed or perform professional or university teaching activities in legal, economic and financial areas.

It is also necessary to ensure that the members of the Supervisory Board, in addition to professional qualifications, also have personal qualifications which render them suited to performing the duty entrusted to them, and to declare this requirement at the time the appointment is accepted.

Accordingly, the members of the Supervisory Board must not be subject to reasons of incompatibility and conflicts of interest which undermine their independence and freedom of action and judgement. The members of the Supervisory Board are required to provide a special self-executed affidavit at the time the appointment is made attesting the existence of the personal qualifications required.

### **Causes of ineligibility**

Persons who have been convicted with a judgement that is not yet final, or with a judgement imposing the penalty requested (so-called plea-bargaining) and even if with a suspended sentence, taking into consideration the effects of rehabilitation:

- 1) to imprisonment for a period of not less than one year for one of the crimes envisaged by Royal Decree No. 267 dated March 16, 1942<sup>9</sup>;
- 2) to imprisonment for a period of not less than one year for one of the crimes envisaged by the laws which discipline the banking, financial, movable property, insurance business and by the laws relating to markets and securities, payment instruments;
- 3) to imprisonment for a period of not less than one year for a crime committed against the public administration, against public faith, against property, against the national economy, for a tax-related crime;
- 4) to imprisonment for a period of not less than two years for any crime committed with criminal intent;
- 5) for one of the crimes envisaged under heading XI of book V of the Italian Civil Code, as reworded by Legislative Decree No. 61/2002<sup>10</sup>;
- 6) for a crime that entails or entailed being sentenced to a penalty resulting in a disqualification, even temporary disqualification, from public offices, or temporary disqualification from the management offices of bodies corporate and businesses;
- 7) for one or more crimes among the crimes strictly envisaged by the Decree, even if sentenced to lesser penalties compared to the penalties indicated in the preceding points:
  - persons who have been subjected to, as a final judgement, one of the preventive measures envisaged under Article 10, paragraph 3 of Law No. 575 dated May 31, 1965, as substituted by Article 3 of Law No. 55 dated March 19, 1990,<sup>11</sup> as subsequently amended;
  - persons who have been subjected to the ancillary administrative fines envisaged under Article 187-*quater* of Legislative Decree No. 58/1998

cannot be elected.

Also persons who have been disqualified and incapacitated cannot be appointed as members of the Supervisory Board.

---

<sup>9</sup> Refer to Royal Decree No. 267/1942 "bankruptcy law".

<sup>10</sup> Refer to Legislative Decree No. 61/2002 "Discipline regarding criminal and administrative offences concerning commercial companies - in accordance with Article 11 of Law No. 366/2001".

<sup>11</sup> Refer to Law No. 55/90 "New provisions to prevent mafia type delinquency and other serious forms of social dangerousness".

The Supervisory Board assumes the role of a collective body<sup>12</sup> in this framework and in relation to the dimensions and the complex nature of the activities performed by the Company.

The Board of Directors has the authority to select freely the members of the Supervisory Board from among the persons with the qualifications listed.

In particular, it is to be hoped that the members of the Supervisory Board include:

- an **independent Director**, also a member of the Internal Control, Risks and Corporate Governance Committee who has knowledge and experience gained as a member of the Board of Directors and of the foregoing Committee;
- a **member of the Internal Audit Department of Pirelli & C. S.p.A.** who can assure an incisive visibility concerning the control systems present in the various business sectors;
- a **member of the Board of Statutory Auditors**, also in view of the direct responsibility of the entity due to the perpetration of corporate crimes, in accordance with the extension to such specific cases established under Article 25-ter of Legislative Decree No. 231/2001.

The Supervisory Board reports directly and exclusively to the Board of Directors.

### **Term of office, substitution, expiry of term of office and revocation**

The Supervisory Board remains in office up to the end of the mandate of the Board of Directors that appointed the Supervisory Board.

A failure to meet even only one of the professional and/or personal requirements/qualifications set out in the paragraph above, or the change or loss of the role in relation to which that given member of the SB was identified shall entail withdrawal from the office concerned. The member of the Supervisory Board involved shall inform the Board of Directors immediately to notify that the foregoing requirements/qualifications no longer apply.

If a member of the Statutory Board resigns then the member concerned shall notify this decision immediately to the Board of Directors and the Board of Directors shall make provision to substitute the member that has resigned.

However, the Chairman of the SB, or the most senior member of the SB has an obligation to notify the Board of Directors immediately concerning the occurrence of one of the circumstances which gives rise to the need to substitute a member of the Supervisory Board.

A member of the Supervisory Board may be revoked exclusively for just cause, for reasons associated with serious defaults in relation to the mandate accepted, including breaching the confidentiality obligations listed below, subject to a resolution made by the Board of Directors, after the opinion expressed by the Board of Statutory Auditors has been received.

---

<sup>12</sup> As detailed in the paragraph, the structure of the Supervisory Body represents the best structure in accordance with the corresponding best practices; the Company's Board of Directors has the authority to depart from these principles when defining the structure of the Supervisory Board. In particular, the Supervisory Board is to be identified by endeavouring to find the technical and operational solution that is appropriate to the dimension and the organisational context of the individual corporate identities, while complying with the mandate and powers which the laws and regulations reserve to the Supervisory Board.

## Confidentiality

The members of the Supervisory Board are bound to secrecy concerning the details and information of which they become aware while performing their functions. However, this obligation does not apply in relation to the Board of Directors.

The members of the Supervisory Board shall assure the confidentiality of the information of which they become aware, in particular, if concerning reports which they may receive regarding presumed breaches of the Organisational Model. Moreover, the members of the Supervisory Board shall refrain from receiving and using confidential information for purposes other than the purposes included in the paragraph: “Duties and powers”, and however for purposes which do not comply with the Supervisory Board's own functions, without prejudice to the circumstance of express and knowing authorisation.

In any event, all information available to the members of the Supervisory Board shall be processed in accordance with the applicable legislation governing the subject and, in particular, in compliance with Legislative Decree No. 196/2003 (“Privacy Code”).

Failure to comply with the above-mentioned obligations represents just cause to revoke the office as a member of the Supervisory Board.

## Duties and powers

The following duties are assigned to the Supervisory Board:

1. to verify the efficiency and effectiveness of the Organisational Model adopted in relation to preventing and impeding the perpetration of the crimes which are currently envisaged by Legislative Decree No. 231/2001 and the crimes which may however entail the administrative liability of the body corporate in the future;
2. to verify compliance with the methods and procedures envisaged by the Organisational Model and to identify any deviations in conduct which may emerge from an analysis of the information flows and from the reports which the managers of the various functions are required to prepare;
3. to prepare proposals for the Board of Directors concerning any updates to and adjustments of the Organisational Model adopted to be implemented by means of amendments and/or supplements which may be rendered as a result of (a) significant breaches of the provisions set out in the Organisational Model, (b) significant changes to the Company's internal structure and/or the methods of performing the business activities, (c) legislative amendments to Legislative Decree No. 231/2001, or which, however, envisage new direct liability scenarios for the entity;
4. after breaches of the Organisational Model have been verified, to report such breaches promptly to the Chairman of the Board of Directors and/or to the Managing Director or to the Board of Directors for the appropriate disciplinary measures which are to be imposed, if the event is objectively serious and represents a disciplinary breach; the Supervisory Board has an obligation to inform the Board of Directors and the Board of Statutory Auditors immediately if the breaches concern persons who are members of the Company's Senior Management and/or are Company's Directors;
5. to prepare an information report for the Board of Directors, at least on a half-yearly basis, concerning the audit and control activities performed and their results;
6. to transmit the reports set out in the preceding points to the Board of Statutory Auditors.

The Supervisory Board is conferred with the broadest powers to perform the above-mentioned duties.

In particular:

- the activities performed by the Supervisory Board shall not be questioned by any other corporate body or function;
- the Supervisory Board is authorised unrestricted access to all of the Company's functions – without requiring any prior consent – in order to obtain all the information or data deemed necessary to perform the duties envisaged under Legislative Decree No. 231/2001;
- the Supervisory Board may avail itself of the support of all the Company's facilities or the facilities of which the Company avails itself (in particular, the Internal Audit Management function and the Group Compliance Function of Pirelli & C. S.p.A.), or external consultants, to obtain their collaboration to execute the mandate under the direct supervision and responsibility of the Supervisory Board itself, as well as to request the company representatives, identified from time to time by the Supervisory Board, to participate in the respective meetings;
- the Supervisory Board is conferred with full economic/operating autonomy, not conditioned by limits of expenditure in order to perform its activities.

### Information flows

Article 6, paragraph 2, sub-section d) of Legislative Decree No. 231/2001 identifies specific “*information obligations in relation to the body designated to supervise the operations and to monitor the models*”.

A systematic and structured reporting system is foreseen concerning risk areas/events, the identification and analysis of which represent the red flags which can generate confirmation and supplementary investigation actions by the SB regarding any abnormal situations and/or crimes.

The “Internal Control Schemes” for the Operational and Instrumental Processes envisage the implementation of specific information flows to the SB as an integral component for this purpose. The number and the type of information may vary over time due to:

- the information being inadequate and/or incomplete and unable to provide useful details to facilitate the activity to supervise the Organisational Model's effectiveness;
- significant changes to the Company's internal structure and/or to the methods of performing the business activities;
- regulatory amendments to Legislative Decree No. 231/2001 or which, however, envisage new direct liability scenarios for the entity.

Moreover, the Supervisory Board has to be informed of the Company's structure (structure of the Board of Directors, corporate organisation chart, etc.).

The Company is responsible for informing the Supervisory Board in the event of any changes.

In addition, the following roles and responsibilities are defined:

- Internal Contact Person, who ensures that all the information requested by the Supervisory Board is transmitted in accordance with the timing and the methods foreseen and supports the Supervisory Board in all the analyses and the

supplementary investigations requested; defines and updates the “Report Cards” together with the competent management department/function; ensures that the information transmitted to the Supervisory Board is filed and can be retrieved over time;

- data transmission Managers to coordinate the activities of collecting the data concerned, certify their completeness, consistency and accuracy and to transmit them within the cut off dates.

The information relating to the corporate flows transmitted to the Supervisory Board must be filed in electronic format and be retrievable over time by the Internal Contact Person and by the members of the SB.

### **Control initiative**

The Supervisory Board performs its functions on the basis of specific audits referred to the Company and Group business sectors, where involved, also availing itself of the Internal Audit Management function and the Group Compliance Function of Pirelli & C. S.p.A., or external consultants, if applicable, based on the following procedures:

- **“planned” audits**, in which the control activities relating to the Organisational Model's effectiveness form an integral part of a broader work schedule; this activity is considered specifically and adequately emphasised, in agreement with the Supervisory Board during the risk assessment activity in order to define the Annual Audit Plan;
- **spot audits** in the case of:
  - a specific request by one of the Company's or the Group's other control bodies;
  - in the case of red flags generated by the information flow currently in operation in the Organisational Model.

# **Transactions originating directly from the Company's Top Management**

***(Omissis)***

# **Disciplinary system**

## DISCIPLINARY SYSTEM

### Introduction

Article 6 of Legislative Decree No. 231/2001 relates the liability exemption of the enterprise to the adoption and effective implementation of an organisation, management and control model that is able to prevent the perpetration of the criminal offences considered by such legislation and has envisaged the introduction of *“an appropriate disciplinary system to punish the failure to comply with the measures set out in the model”*.

Accordingly, the importance of the disciplinary system emerges as an essential factor of the Organisational Model for the purposes of the applicability to the enterprise of the “exemption” envisaged by the cited legal provision.

The application of the disciplinary system and the respective sanctions for breaches of the principles and the code of conduct set out in the Organisational Model disregards the possible initiation of criminal proceedings and the outcome of the consequent ruling for having committed one of the forms of unlawful conduct envisaged by Legislative Decree No. 231/2001.

The Supervisory Board and the Human Resources function constantly monitor the disciplinary system.

The disciplinary measures and the imposition of penalties remain the responsibility of the Human Resources function with regard to the verification of the foregoing breaches. The Supervisory Board's necessary involvement is envisaged in the procedure to verify breaches and to impose penalties for breaches of the Organisational Model, in the sense that a disciplinary measure or the imposition of the disciplinary penalty for breaching the Organisational Model cannot be dismissed without notifying the Supervisory Board beforehand and without obtaining the Supervisory Board's opinion.

Without prejudice to the Company's right to claim back the value in relation to all damages and/or liability that may be attributed to the Company as the result of conduct by employees in breach of the Organisational Model.

The penalty measures applicable to the different professional figures are outlined below.

### **Disciplinary system – Measures applicable in the case of non-compliance by: EMPLOYEES**

Breaches of the Organisational Model committed by employees represent a disciplinary offence and are punished in full compliance with Article 7 of Law No. 300 dated May 20, 1970, with the current legislation and with the reference collective employment contract, namely, the “National Collective Employment Contract referred to workers in the rubber, electric cables industry and the like, and the plastics industry” (hereafter, the CCNL).

Non-compliance and forms of conduct by employees in breach of the rules set out in this Organisational Model entail the imposition of disciplinary penalties which are applied, by implementing Legislative Decree No. 231/2001, in accordance with the criteria of

proportionality envisaged under Article 2106 of the Italian Civil Code, taking into account – with reference to each specific case – the objective seriousness of the event that represents the disciplinary offence, the level of blame, the possible repetition of the same conduct, as well as the intentional nature of the conduct concerned.

Without prejudice to all the provisions set out in the above-mentioned Article 7 of Law No. 300/1970 and which are deemed to be duly referred to here, in relation to the disclosure of the disciplinary codes “by being affixed in a location accessible to everyone”, and the obligation for the prior notice of objection communicated to the employee, also for the purpose of permitting the employee concerned to prepare an appropriate defence and to provide any justifications.

## **MIDDLE MANAGEMENT, OFFICE WORKERS, BLUE-COLLAR WORKERS**

The disciplinary system identifies breaches of principles, forms of conduct and the specific control factors included in the Organisational Model and the penalties which the applicable laws and/or collective bargaining envisage for employees referring to these, as outlined below.

The breaches<sup>13</sup> and the consequent sanction measures applicable by adopting the cited principal of proportionality are detailed below.

### **Breaches**

- Substantial non-compliance with the provisions identified in the “General Principles of Internal Control” with reference to the Scope of Control.
- Non-compliance with the provisions identified in the “General Principles of Internal Control” with reference to Risk Assessment, Control Activity, Information and communication and Monitoring.
- Non-compliance with the conduct prescribed in the Group Ethical Code and in the Code of Conduct.
- Non-compliance with the specific control factors envisaged in the Internal Control Schemes due to negligence and without exposing the Company to an objective situation of danger.
- Omitting to forward the required notification to the Supervisory Board set out in the Internal Control Schemes.
- Forms of conduct at risk adopted in relation to the Public Administration (as listed in the Internal Control Schemes relating to the Operational and Instrumental Processes).
- Forms of conduct at risk that in essence corresponded to action that also exposes the Company to an objective situation of danger (as listed in the Internal Control Schemes relating to the Operational and Instrumental Processes).
- Conduct unambiguously and intentionally directed at perpetrating a crime envisaged by Legislative Decree No. 231/2001.
- Conduct that gave rise to the application of the measures envisaged by Legislative Decree No. 231/2001.
- Every other and different form of conduct that potentially gives rise to attributing to the Company the measures envisaged by Legislative Decree No. 231/2001.

---

<sup>13</sup> Breaching company rules may be punished, even if the breach concerned is not a crime or if expressed in the form of an attempt to commit the crime.

- Non-compliance<sup>14</sup> with the specific control tools and measures envisaged in the Annex set out in the Internal Control Schemes and included in the applicable laws, rules and regulations, also set out by the company.

### **Non-executive employees**

(Penalties, pursuant to Articles 53, 54, 55 of the CCNL, or corresponding provisions of a different national collective bargaining, where applied).

The following disciplinary sanctions are foreseen in accordance with the cited principal of proportionality, according to the seriousness of the breach committed:

- verbal warning;
- written warning;
- fine up to an amount corresponding to three hours pay and the cost of living allowance;
- temporary layoff and reduction of pay for up to three days;
- dismissal due to offences.

### **Disciplinary system – Measures applicable in the case of non-compliance by: EXECUTIVES**

The current provisions of law and/or collective bargaining are applicable to executives, without prejudice to the fact that the Company may dismiss the executive who committed the breach, in the case of more serious breaches, as identified by this disciplinary system.

Executives **failing to supervise** the correct implementation of the rules and procedures envisaged by the Model by subordinate workers, as well as breaching the information obligations in relation to the Supervisory Board concerning the perpetration of the crimes identified, and the attempted perpetration of crimes also commit a disciplinary offence.

\* \* \* \* \*

### **Disciplinary system – Measures applicable in the case of non-compliance by: DIRECTORS**

The Supervisory Board shall inform the Board of Statutory Auditors and the Board of Directors in the case of conduct by members of the Board of Directors in breach of the Organisational Model, the foregoing Boards shall adopt the appropriate measures, which include, for example, calling the Shareholders' Meeting for the purposes of adopting the most appropriate measures permitted by law (proposing to the Meeting the adoption of the relevant measures to be taken, if involving breaches which represent a just cause to revoke, without prejudice to the right to be indemnified for the damages suffered).

### **Disciplinary system – Measures applicable in the case of non-compliance by: AUDITORS**

---

<sup>14</sup> *By way of example, breaches which attract the above-mentioned penalty include the following forms of wilful conduct: the preparation of incomplete or untrue documentation; failing to prepare the documentation envisaged by the model or by the procedures to implement the model concerned; breaching or avoiding the control system envisaged by the model in whatever way achieved, including removing, destroying or changing the documentation relating to the procedure, obstructing the controls, preventing access to information and to documentation by the persons assigned to perform the controls or make the decisions.*

The Supervisory Board shall inform the Board of Statutory Auditors and the Board of Directors in the case of conduct by members of the Board of Statutory Auditors in breach of the Organisational Model, the foregoing Boards shall adopt the appropriate measures, which include, for example, calling the Shareholders' Meeting for the purposes of adopting the most appropriate measures permitted by law (proposing to the Meeting the adoption of the relevant measures to be taken, if involving breaches which represent a just cause to revoke, without prejudice to the right to be indemnified for the damages suffered).

**Disciplinary system – Measures applicable in the case of non-compliance by:  
NON-EMPLOYEE THIRD PARTIES**

Every breach<sup>15</sup> of the provisions set out in the Model by consultants, collaborators and by persons who are identified from time to time as “addressees” of the model concerned, is punished by the competent bodies based on the internal rules in accordance with the terms and conditions envisaged by the contractual clauses used, and in any event with the application of conventional penalties, which may also include the automatic termination of the agreement (pursuant to Article 1456 of the Italian Civil Code), without prejudice to indemnification for the damages suffered.

---

<sup>15</sup> Reference is made to the provisions contained in the Code of Conduct concerning relations with third parties.

# **Disclosure of Organisational Model and Training**

## **DISCLOSURE OF ORGANISATIONAL MODEL AND TRAINING**

Communications and training represent essential tools for the purpose of achieving the effective implementation and disclosure of the Organisational Model and the Group Ethical Code. The Human Resources function operates in close collaboration with and under the supervision of the Supervisory Board to assure the proper knowledge of the principles and the Code of Conduct adopted by the Company by the resources already working within the Company and by the future resources, with a different degree of detailed knowledge in relation to the different level of involvement of the human resources concerned in the operational processes considered to be sensitive and significant.

### **Communications**

The Human Resources function promotes the knowledge of the Organisational Model and the Group Ethical Code at the time a person is hired; in particular, new recruits receive an information document that refers to the application of the laws and regulations set out in Legislative Decree No. 231/2001 within the framework of the Company and the Group.

Furthermore, direct access is also foreseen to a dedicated section, via the corporate intranet, where all the reference documentation relating to Legislative Decree No. 231/2001 is available and kept constantly up-to-date.

The Human Resources function manages and promotes adequate disclosure initiatives if the Organisational Model is revised with the support of the Group Compliance Function.

### **Training**

The training activity is designed to promote knowledge of the laws and regulations set out in Legislative Decree No. 231/2001, to provide an exhaustive overview of the Decree, the practical aspects which derive from it, as well as the contents and principles on which the Organisational Model is based and the Group Ethical Code among all the employees which, therefore, are required to be familiar with them, comply with them and respect them, thereby contributing to their implementation.

The training activities are implemented by the Human Resources function with the support of the Group Compliance Function in relation to the contents of the training initiatives.

The training initiative is differentiated in terms of the content and the methods adopted to provide the training, possibly also via on-line courses, and according to the role played by the recipients, the risk level of the area in which the employees operate, whether or not the recipients are empowered to represent the Company.

The Company organises ad hoc classroom training courses in the case of persons who are more greatly involved in activities which are deemed to be sensitive for the purposes of Legislative Decree No. 231/2001.

The Human Resources function makes the training courses available on the corporate intranet in an electronic format; the Human Resources function assures the traceability of all the completed initiatives.

Participation in the training courses is a mandatory requirement.

## **Annex 1:**

### **Significant crimes, pursuant to Legislative Decree No. 231/2001**

**MAPPING SIGNIFICANT CRIMES FOR THE PURPOSES OF  
LEGISLATIVE DECREE No. 231/01 / CONTROL INFRASTRUCTURE**

***(Omissis)***

---

## SIGNIFICANT CRIMES, PURSUANT TO LEGISLATIVE DECREE No. 231/2001

### A) Crimes against the Public Administration (Article 24 and Article 25 of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures<sup>16</sup>)

This category of crimes is associated with the relations established with the Public Administration.

All business areas which have relations with the Public Administration when they engage in their activity are deemed to be functions subject to a crime risk within the Company, as well as the functions which, although they do not have relations with the Public Administration, can support the perpetration of crimes which are significant, pursuant to Legislative Decree No. 231/2001 (for example: by managing financial instruments or alternative means).

#### – **Corruption for an official function or action contrary to official duties (Articles 318- 319 of the criminal code)**

This alleged crime applies if a public official receives money or other benefits for himself/herself or for others for executing, omitting or delaying documents of his/her office (producing an advantage in favour of the offeror).

The public official's activity may be in the form of a required action (for example: to speed up a formality where the processing comes within the official's responsibility), or an action contrary to the official's duties (for example: a public official that accepts money to assure a tender is awarded).

This crime differs from extortion, since an agreement exists between the corrupted person and the corrupter intended to achieve a mutual advantage, whereas, in the case of extortion the private individual is subjected to the conduct of the public official or of the public service officer.

For example, the crime of corruption for an official function or action contrary to official duties could be committed:

1. to favour unduly the award of a contract;
2. to influence unduly the inspection result during the execution of a contract;
3. to favour unduly obtaining an authorisation or the result of an inspection;

---

<sup>16</sup> *The prohibitory measures are imposed in relation to crimes for which such measures are expressly foreseen, when at least one of the following conditions applies, in accordance with provisions envisaged under Article 13 of Legislative Decree No. 231/01:*

- a) *the enterprise has benefited from a significant profit as a result of the crime and the crime was committed by persons in a senior management position or by persons subjected to the management of others when, in this case, perpetration of the crime was determined or facilitated by serious organisational shortcomings;*
- b) *if the crimes are committed repeatedly*

*Prohibitory measures have a duration of not less than three months and not more than two years.*

*The measures are structured in the following forms:*

- *Prohibition from engaging in the business activity;*
- *Suspension or revocation of authorisations, licenses and concessions functional to perpetrating the crime;*
- *Disqualification from negotiating with the Public Administration, except to obtain a public service;*
- *Exclusion from facilities, financing, grants or allowances and the possible revocation of those already granted;*
- *Prohibition to advertise goods or services;*
- *Court-appointed receiver.*

4. to pursue unlawfully purposes for which the requirements/qualifications are not satisfied in the obligations management phases and in the context of inspections and audits of any nature, including the release of authorisations, the release of certificates attesting compliance with the provisions of law, failing to impose sanctions, etc.;
5. in every phase of relations with Institutions and Authorities to influence unduly positions and to obtain decisions in the Company's favour for which the requirements/qualifications are not satisfied;
6. to facilitate unduly the assignment of a soft loan in the Company's favour.

For example, the crime of corruption could be committed by means of one of the following instrumental methods (processes which are analysed in the chapter «“instrumental” Processes»):

7. establishing financial funds – in Italy and abroad - assignable to the Public Administration employee (operative finance process);
8. selecting and hiring persons who are “close” to the Public Administration employees from whom the favours are intended to be obtained;
9. gifts to Public Administration employees;
10. business and entertainment expenses sustained for the benefit of Public Administration employees;
11. consultancy service appointments assigned either in a non-transparent form (for example, by creating funds by means of contracted services at prices which are higher than market prices), or to persons or companies approved by the Public Administration employees from whom the favours are intended to be obtained;
12. anomalous sponsorships for the benefit of Public Administration employees;
13. non-transparent management of the process to purchase goods and services (for example: by creating funds by means of agreements entered into at prices which exceed market prices or by assigning contracts to persons or companies approved by Public Administration employees);
14. resorting to agents and brokers who have inadequate levels of expertise, honesty and moral integrity that operate representing the Group, and grant a wage/salary or any other benefit to Public Administration employees;
15. concluding false settlement agreements to establish financial means necessary to assure the “funding” to be allocated to Public Administration employees.

– **Judicial corruption (Article 319-ter of the criminal code)**

This alleged crime applies if the facts indicated in Article 318 and Article 319 of the criminal code (“Corruption for an official function or action contrary to official duties”) are committed to favour or damage a party in civil, criminal or administrative proceedings. The crime of judicial corruption could be committed against Judges or members of the Arbitration Panel responsible for ruling on the litigation/arbitration of interest to the Group (including auxiliaries and court-appointed experts) and/or Public Administration representatives, when the foregoing is the counterparty in the litigation, in order to obtain favourable court and/or out of court judgements unlawfully.

– **Corruption of a public service officer (Article 320 of the criminal code)**

---

The provisions set out under Article 319 of the criminal code (“Corruption for action contrary to official duties”) are applicable even if the fact is committed by a public service officer; the provisions set out under Article 318 of the criminal code (“Corruption for an official function”) are also applicable to a public service officer, if the person concerned is a public employee.

– **Incitement to corruption (Article 322 of the criminal code)**

This alleged crime applies if the public official refuses the offer made unlawfully in the case of conduct intended to corrupt.

– **Embezzlement, extortion, corruption and incitement to corruption of members of the bodies of European Communities and officers of the European Communities and of foreign countries (Article 322-bis of the criminal code)**

It is necessary to remember that the presumed crimes of extortion, corruption, incitement to corruption are also important if they are committed against:

1. members of community institutions;
2. officers and agents of the Communities' administrative functions;
3. persons employed by the Member States or by any public or private entity within the European Communities;
4. members and officers of entities established on the basis of founding Treaties of the European Communities;
5. persons who perform functions or activities which correspond to those of public officials or public service officers in the framework of the other European Union Member States;
6. persons who perform functions and activities which correspond to those of public officials and public service officers in the framework of foreign countries which are not members of the European Union, or of international public organisations other than the community organisations.

It is important to remember that the persons indicated from points 1 to 4 are deemed to be equivalent to public service officers, in accordance with law (refer to Article 322-bis, paragraph 3 of the criminal code), unless they perform functions corresponding to the functions of a public official (in this case the latter qualification will prevail). With regard to the persons indicated under points 5 and 6, their respective qualification will depend on the type of functions they actually perform.

Lastly, it is important to consider that the importance of the persons indicated under point 6 is limited to the circumstances in which the payment, the offer or the promise of money or other benefit is made in order to «obtain an undue advantage directly or for others in international economic transactions **or in order to obtain or to maintain an economic or financial activity**»<sup>17</sup>.

– **Extortion (Article 317 of the criminal code)**

This alleged crime applies if a public official or a public service officer abuses his/her position and forces a person to procure money or other benefits which are not due for himself/herself or for others.

---

<sup>17</sup> The law has been amended by Article 3 of Law No. 116 dated August 3, 2009.

The crime of extortion could be committed by abusing the status and the powers of the public service officer (when the company acts as the principal), to force or induce a person to give or to promise money or other benefits unduly (for example: services) to a group company.

– **Fraud against the State, against another public body or the European Union (Article 640, paragraph 2, sub-section 1 of the criminal code)**

This alleged crime arises if ploys or scams are used to deceive and to damage the State (or another public body or the European Union) in order to achieve an undue profit.

This crime could be committed to obtain an unfair profit for a Group company causing equity damage to the State, for example:

- the preparation of false documents or by deceptive conduct (for example: the amount paid for goods supplied/services rendered being higher than the market prices or services reported which were not rendered or reported for a greater quantity compared to the quantity supplied);
- analogous conduct that, for example, in the case of agreements for excavations in which payment is foreseen on a unit rate basis, gives rise to a smaller amount due and payable to the State, or to another public body or to the European Union (for example: by declaring a given work to be quantitatively less than the work actually executed);
- producing false and/or altered documentation or conduct that is deliberately underhand/affected when fulfilling the obligations to dispose of waste and polluting emissions, and which render environmental clean-up operations necessary following the non-compliance with the applicable laws and regulations;
- the preparation and transmission of false documents to fulfil Social Security obligations or the unlawful negotiation of lower penalties during audits (for example: by forwarding astutely incorrect DM10 forms);
- the preparation and transmission of false documents in the phases relating to the presentation of the application for a soft loan, implementing the project and the respective reporting, testing and possible inspections.

– **Aggravated fraud in order to receive public funds (Article 640-bis of the criminal code)**

This alleged crime arises if the fraud is perpetrated to receive unduly public funds.

This specific circumstance may arise when ploys or deception are used, for example: by communicating false data or by preparing false documentation to obtain public financing.

– **Misappropriation to the detriment of the State or the European Union (316-bis of the criminal code)**

This crime arises if, after receiving loans or grants from the Italian government or the European Union, the sums obtained are not used for the purposes for which they

were intended (in fact, the conduct entails diverting the sum obtained, even partially, regardless of the fact that the scheduled activity was however performed).

Taking into account that the time the crime was committed coincides with the execution phase, the crime concerned may also arise with reference to loans already obtained in the past and which are now not allocated to the purposes for which they had been given.

Accordingly, the crime of misappropriation could be committed by allocating facilitated funds obtained for purposes other than the declared purposes.

– **Unlawful receipt of funds to the detriment of the State or the European Union (Article 316-ter of the criminal code)**

This alleged crime arises in the cases when grants, loans, facilitated mortgages or other funds of the same type granted or paid by the State, by other public bodies or by the European Community are unduly obtained through the use or presentation of false declarations or documents or by omitting necessary information.

In this case, contrary to the scenario envisaged for the crime of “Misappropriation to the detriment of the State or the European Union”, the way the funds are used is of no consequence, since the crime is committed at the time the loans were obtained. Lastly, it is important to note that this alleged crime is a residual scenario compared to the specific case of fraud against the State, in the sense that the crime only arises in the cases in which the conduct does not establish the elements of fraud against the State.

The crime of unlawfully receiving funds to the detriment of the State could be committed in the phase when applying for disbursement of a loan granted (also as an advance payment) and acquiring the soft loan by submitting applications which include false declarations or documents or attesting untrue facts or by omitting the required information.

– **Computer fraud against the State or other public body (Article 640-ter of the criminal code)**

This alleged crime arises when someone obtains an unfair profit for himself/herself or for others, to the detriment of others by changing the operation of an IT system in any way or by intervening on the data, information or programs included in an IT or telematic system or a related system without authorisation by using any procedure.

Accordingly, the crime of computer fraud could be committed by changing the operation of IT or telematic systems or by intervening on the data, information or programs contained in IT or telematic systems to obtain an unfair profit for Group companies to the detriment of the State or other public body (for example: to pay taxes or Social Security contributions which are lower than the amount due).

**B) Computer crimes and unlawful data processing (Article 24-bis of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

The enterprise may be sanctioned in relation to computer crimes and unlawful data processing.

– **Unauthorised access to an IT or telematic system (Article 615-ter of the criminal code)**

Article 615-ter punishes anyone that enters unlawfully an IT or telematic system protected by security measures or remains in the system against the express or tacit wishes of whoever has the right to exclude such person.

– **Unlawful interception, impediment or interruption of IT or telematic communications (Article 617-quater of the criminal code)**

Article 617-quater of the criminal code punishes anyone that fraudulently intercepts communications relating to an IT or telematic system or communications existing among several systems, or prevents or interrupts such communications.

The same penalty is imposed on anyone that reveals the contents of the foregoing communications to the general public, in whole or in part, using any information means, unless the act constitutes a more serious offence.

– **Installation of equipment capable of intercepting, preventing or interrupting IT or telematic communications (Article 617-quinquies of the criminal code)**

Article 617-quinquies of the criminal code punishes anyone that installs equipment capable of intercepting, preventing or interrupting communications relating to an IT or telematic system or communications existing among several systems, besides the cases permitted by law.

– **Damage to information, data and IT programmes (Article 635-bis of the criminal code)**

Article 635-bis of the criminal code punishes anyone that destroys, deteriorates, cancels, changes or suppresses the information, data, or IT programmes of others, unless the act constitutes a more serious crime.

– **Damage to information, data and IT programs used by the State or by another public body or however of public interest (Article 635-ter of the criminal code)**

Article 635-ter of the criminal code punishes anyone that commits an act intended to destroy, deteriorate, cancel, change, or suppress information, data or IT programs used by the State or by another public body, or related thereto or however of public interest, unless the act constitutes a more serious crime.

– **Damage to IT or telematic systems (Article 635-quater of the criminal code)**

Article 635-quater of the criminal code punishes anyone that destroys, damages, renders unserviceable, in whole or in part, the IT or telematic systems of others, or

seriously obstructs their operation based on the conduct set out under Article 635-*bis*, or via the introduction or transmission of data, information or programs, unless the act constitutes a more serious crime.

– **Damage to IT or telematic systems of public interest (Article 635-*quinquies* of the criminal code)**

The penalty is imposed if the act set out under Article 635-*quater* of the criminal code is intended to destroy, damage, render unserviceable, in whole or in part, IT or telematic systems of public interest or to seriously obstruct their operation.

Moreover, the punishment is imposed if the act causes the destruction or damage of the IT or telematic system of public interest or if the system is rendered unserviceable, in whole or in part.

– **Unauthorised possession or disclosure of access codes to IT or telematic systems (Article 615-*quater* of the criminal code)**

Article 615-*quater* of the criminal code punishes anyone that unlawfully obtains, reproduces, discloses communicates or delivers codes, passwords or other means able to access an IT or telematic system protected by security measures, or whoever provides information or instructions to achieve the foregoing purpose, in order to obtain a profit for himself/herself or for others or to cause damage to others.

– **Distribution of equipment, devices or IT programs intended to damage or interrupt an IT or telematic system (Article 615-*quinquies* on the criminal code)**

Article 615-*quinquies* of the criminal code punishes anyone that procures, produces, reproduces, imports, distributes, communicates, delivers or however makes available to others equipment, devices or IT programs for the purpose of unlawfully damaging an IT or telematic system, the information, data or programs contained therein or related to it or to favour the total or partial interruption or the change of its operation.

– **Electronic documents (Article 491-*bis* of the criminal code)**

Article 491-*bis* of the criminal code punishes the falsifications envisaged under heading III of the criminal code concerning a public or private electronic document having evidentiary effectiveness (the terms “public documents” and “private agreements” include the original documents and their authenticated copies, when they substitute missing originals, in accordance with the applicable law).

Falsifications committed by public officials also apply to State employees, or the employees of another public body and public service officers relating to the documents they prepare when performing their functions.

– **Computer fraud by the person providing electronic signature certification services (Article 640-*quinquies* of the criminal code)**

Article 640-*quinquies* of the criminal code punishes a person that provides electronic signature certification services and breaches the obligations envisaged by law to issue a qualified certificate, in order to procure an unfair profit for himself/herself or for others or to damage others.

**C) Crimes related to organised crime (Article 24-*ter* of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

The company can be sanctioned in relation to crimes related to organised crime.

– **Organisations dedicated to committing criminal acts (Article 416 of the criminal code)**

The prohibited act also consists in merely participating in an organisation dedicated to committing criminal acts (namely, a group consisting of at least three persons who have formed an organisation in order to commit criminal acts): the form of participation includes any contribution to the organisation made with the awareness of the organisation's bond, since it is unnecessary for the crimes-purpose to have been achieved. It is important to consider that any kind of assistance is sufficient to represent a form of contribution that is significant for participation purposes, for example: facilitating obtaining the availability of real estate for whatever reason.

– **Organisations dedicated to committing criminal acts for the purpose of enslavement, trafficking in human beings, purchase/sale of slaves (Articles 600, 601, 602 of the criminal code, mentioned in Article 4163, paragraph 3<sup>18</sup> of the criminal code)**

– **Mafia-type organisations, also Mafia-type organisations from outside Italy (Article 416-*bis* of the criminal code).**

The most serious organisation-related crime envisaged under Article 416-*bis* of the criminal code only differs from the prior crime in terms of the type of criminal organisation, defined by paragraph 2 of the same Article 416-*bis* of the criminal code. The description provided under Article 416 of the criminal code is applicable with regard to the minimal form of perpetrating the crime (namely, mere participation).

– **Political Mafia electoral exchange (Article 416-*ter* of the criminal code)**

– **Kidnapping individuals for the purpose of robbery or extortion (Article 630 of the criminal code)**

Article 630 of the criminal code punishes with a term of imprisonment from twenty-five to thirty years anyone that kidnaps a person in order to obtain an unfair profit for himself/herself or for others in the form of the price of release. The perpetrator, however, is punished with thirty years imprisonment if the kidnapping results in the death of the kidnapped person, as a consequence not intended by the offender. Life

---

<sup>18</sup> Paragraph 3 was added by Article 4 of Law No. 228/2003 containing measures to counter the trafficking of human beings.

imprisonment is inflicted if the perpetrator causes the death of the kidnapped person. The punishments envisaged under Article 605 of the criminal code are imposed on the participant that disassociates himself/herself from the others, and works so that the victim regains his/her freedom, without this result being the outcome of paying the price for freedom. If, however, the victim dies as a result of the kidnapping, after having been set free, the punishment is a term of imprisonment from six to fifteen years. In relation to the participant that dissociates himself/herself from the others and works to prevent the criminal activity giving rise to further consequences, besides the case envisaged in the paragraph above, or helps the police authorities or judicial authorities in a tangible form to collect decisive proof to identify or capture the participants, the penalty of life imprisonment is substituted by the penalty of imprisonment from twelve to twenty years and the other penalties are decreased from one third to two thirds.

The punishment envisaged by the second paragraph is substituted by a term of imprisonment from twenty to twenty-four years when an extenuating circumstance applies; the punishment envisaged by the third paragraph is substituted by a term of imprisonment from twenty-four to thirty years. If several extenuating circumstances are applicable, the punishment to be imposed as a result of the decreases cannot be less than ten years, in the circumstance envisaged in the second paragraph, and cannot be less than fifteen years in the circumstance envisaged in the third paragraph. The punishment limits envisaged in the preceding paragraph can be exceeded, if the extenuating circumstances outlined in the fifth paragraph of this Article apply.

Organisation dedicated to committing criminal acts for the purpose of enslavement or maintaining in slavery, child prostitution, child pornography, crimes relating to breaching the provisions governing clandestine immigration (Article 12 of Legislative Decree No. 286/98).

- **Organisation dedicated to committing criminal acts for the purpose of trafficking drugs (Article 73 and Article 74 of the Consolidated Act on drugs - Presidential Decree (DPR) No. 309, dated October 9, 1990)**
- **Illegal manufacture, introduction into the national domain, sale, transfer, holding and carrying military weapons or similar weapons or parts thereof, explosives, clandestine weapons, including common firearms in a public place or a place open to the general public, excluding those envisaged under Article 2, paragraph 3 of Law No. 110 dated April 18, 1975, (crimes pursuant to Article 407, paragraph 2, sub-section a - No. 5 of the code of criminal procedure)**

**D) Crimes relating to counterfeiting money, public credit cards, revenue stamps and instruments or identifying signs (Article 25-bis of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

As clarified in the Annex to the internal control schemes, these refer to crimes which are not significant in view of the Company's statutory activities and purposes, accordingly, this section will be limited to stating the relative cases without describing them.

- 
- Counterfeiting money, spending and complicit introduction of counterfeit money into the national domain (Article 453 of the criminal code)
  - Alteration of money (Article 454 of the criminal code)
  - Spending and non-complicit introduction of counterfeit money into the national domain (Article 455 of the criminal code)
  - Spending counterfeit money received in good faith (Article 457 of the criminal code)
  - Falsification of revenue stamps, introduction into the national domain, purchase, possession or distribution of counterfeit revenue stamps (Article 459 of the criminal code)
  - Counterfeiting watermarked paper in use to manufacture public credit cards or revenue stamps (Article 460 of the criminal code)
  - Manufacture or possession of watermarks or equipment intended to manufacture currency, revenue stamps or watermarked paper (Article 461 of the criminal code)
  - Using counterfeit or altered revenue stamps (Article 464 of the criminal code)
  - Counterfeiting, alteration or use of trademarks, distinctive signs or patents, models or drawings (Article 473 of the criminal code)<sup>19</sup>
  - Introduction into the national domain and trading of products with fake signs (Article 474 of the criminal code)

**E) Crimes against industry and commerce (Article 25-bis. 1 of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

As clarified in the Annex to the internal control schemes this section will be limited to listing the respective cases and the articles of law, since these crimes refer to a type of crime for which the company has already implemented control instruments which are guaranteed in general terms by the provisions of the Ethical Code and the Code of Conduct, in addition to the General Principles of internal control and by the corporate Procedures.

– **Disturbed freedom of industry or commerce (Article 513 of the criminal code)**

Article 513 of the criminal code punishes, with a term of imprisonment for up to two years and with a fine from euro 103 to euro 1,032, anyone that performs violent acts against property or adopts fraudulent means to prevent or disturb the operation of an

---

<sup>19</sup> *The risks of perpetration, however, are covered in general terms by the provisions of the Ethical Code and the Code of Conduct, in the General Principles of Internal Control and in the set of corporate Procedures.*

---

industry or a commerce, subject to a complaint filed by the injured party, unless the act constitutes a more serious offence.

– **Unlawful competition with threats or violence (Article 513-bis of the criminal code)**

Article 513-bis of the criminal code punishes, with a term of imprisonment from two to six years, anyone that engages in competition with violence or threats when performing a commercial, industrial, or however, a productive activity. The term is increased if the acts of competition concern a financial business, in whole or in part, in any form concerning the State or concerning other public bodies.

– **Fraud against national industries (Article 514 of the criminal code)**

Article 514 of the criminal code punishes, with a term of imprisonment from one to five years and with a fine of not less than euro 516, anyone selling or otherwise putting into circulation on domestic or foreign markets, industrial products with names, brands or distinctive signs which have been counterfeited or altered, causing damage to the domestic industry. The punishment is increased and the provisions of Article 473 and Article 474 of the criminal code are not applied if the provisions of domestic laws or international conventions which govern the protection of industrial property have been complied with for the brands or distinctive signs concerned.

– **Fraud in the exercise of trade (Article 515 of the criminal code)**

Article 515 punishes, with a term of imprisonment of up to two years or with a fine up to euro 2,065, anyone that delivers to the buyer a movable item that is different from the agreed item, or a movable item that is different from the item stated or agreed due to its origin, source, quality or quantity, when engaging in a commercial business activity, or in a point of sale open to the general public, unless the act constitutes a more serious offence. If precious items are involved the punishment is a term of imprisonment for up to three years or a fine of not less than euro 103.

– **Sale of non-genuine foodstuffs as genuine (Article 516 of the criminal code)**

– **Sale of industrial products with false signs (Article 517 of the criminal code)**

Article 517 of the criminal code punishes, with a term of imprisonment for up to one to two years and with a fine of up to twenty thousand euro, anyone that sells or otherwise puts into circulation original works or industrial products with domestic or foreign names, brands or distinctive signs which are likely to mislead the buyer concerning the source, origin or quality of the works or product, if the act is not envisaged as a crime by another provision of law.

– **Aggravating circumstance (Article 517-bis<sup>20</sup> of the criminal code)**

---

<sup>20</sup> The punishments established by Articles 515, 516 and 517 of the criminal code are increased if the acts envisaged by them refer to foodstuffs or beverages for which the designation of origin or geographical designation or the specific characteristics are protected by the current laws and regulations.

[II]. In the same cases, when passing sentence if the act is particularly serious or in a specific case of habitual offender, the judge can order the production facility or premises in which the act was committed to be closed from a minimum of

---

– **Manufacture and trade of goods carried out by misappropriating industrial property rights (Article 517-ter of the criminal code)**

The provision punishes, with a term of imprisonment for up to two years and with a fine of up to euro 20,000, anyone that while aware of the existence of the industrial property rights, manufactures or uses industrially items or other goods produced by misappropriating an industrial property right or infringing such industrial property right, subject to a complaint filed by the injured party, without prejudice to the application of Article 473 of the criminal code and Article 474 of the criminal code. The same punishment is imposed on anyone that introduces into the national domain, possesses for sale, sells with an offer that targets consumers or however puts into circulation the goods indicated in the first paragraph in order to make a profit. The provisions set out under Articles 474-bis of the criminal code, 474-ter of the criminal code, paragraph 2, and 517-bis of the criminal code, paragraph 2 are applicable. The crimes envisaged under paragraphs 1 and 2 are punishable as long as the provisions of domestic laws, the community regulations and the international conventions to protect intellectual or industrial property have been complied with.

– **Infringement of geographical indications or designations of origin for agri-food products (Article 517-quater of the criminal code)**

– **Extenuating circumstance (Article 517-quinquies the criminal code)**

**F) Corporate crimes (Article 25-ter of Legislative Decree No. 231/2001 – monetary sanctions)**

The business activities engaged in by the Company are governed by special internal procedures which comply with the requirements set out in the applicable laws and regulations and in Legislative Decree No. 231/2001.

– **False corporate communications (Article 2621 of the Italian Civil Code)**

– **False corporate communications which damage the company, the shareholders or creditors (Article 2622 of the Italian Civil Code)**

The new wording of the crime of false corporate communications represents the most innovative aspect introduced by the corporate crimes reform (Legislative Decree No. 61/2002). Previously, the three specific cases were formerly envisaged and disciplined by Articles 2621, 2622 and 2623 of the Italian Civil Code and set out to protect separate legal assets, and were all grouped together in the repealed Article 2621, sub-section 1 of the Italian Civil Code. Article 2623 of the Italian Civil Code (false statements in a prospectus) was repealed with Law No. 262/2005 and merged into Article 173-bis of Legislative Decree No. 58/1998, however, this Law was not mentioned in Legislative Decree No. 231/2001 among the crimes presumed to be under the enterprise's direct responsibility. The crimes envisaged by Article 2621 and Article 2622 of the Italian Civil Code can be committed exclusively by the company's

---

*five days to a maximum of three months, or to revoke the licence, the authorisation or the analogous administrative provision that permits the commercial activity to be performed in the production facility or in the premises concerned.*

---

Directors, by General Managers, by Executive Managers designated to prepare the corporate accounting documents, by Statutory Auditors or by liquidators. The specific case foreseen under Article 2621 of the Italian Civil Code is envisaged as a transgression, while the case foreseen under Article 2622 of the Italian Civil Code is envisaged as a crime, and punished subject to a complaint to be filed by the injured party, if committed by Directors, General Managers, Executive Managers designated to prepare the corporate accounting documents, Statutory Auditors or liquidators of an unlisted company (Article 2622, paragraph 1 of the Italian Civil Code) and punishable directly if committed by the same representatives of a listed company (Article 2622, paragraph 3 of the Italian Civil Code). The feature that distinguishes the transgression, pursuant to Article 2621 of the Italian Civil Code from the two criminal offences set out under Article 2622 of the Italian Civil Code is represented by having caused property damage to the company, the shareholders or the creditors in the latter two cases. The punishable conduct concerns the financial statements, the reports or the other corporate communications envisaged by law, intended for the shareholders or the general public. The falsehood that is punishable refers to the economic, equity or cash flow position of the company or the group (if consolidated financial statements are involved). Punishability is also extended to the circumstance in which the information concerns assets owned or administered by the enterprise on behalf of third parties (consider, for example, that according to some authors this legal provision – undoubtedly applicable to communications made by investment firms and by the undertakings in collective investment – would also concern customer deposits held by banks, goods which are hired, leased or subject to a lien agreement). The offending conduct can be expressed in an active form (disclosing untrue material facts, even if subject to valuation) and in the form of omission. With regard to the active form, it is appropriate to consider that the more rigorous interpretation approach also includes in the significant criminal offence area the valuations which are verifiable by means of appropriate parameters (excluding the plainly subjective valuations). With regard to the omission form, the act is integrated by the omission of information required by law (accordingly, every law that imposes a communication with specific obligations, as well as with general clauses referring to the principle of complete information must be taken into consideration): with reference to valuations, it can be assumed that the omitted information concerning the criteria used to perform the valuations can constitute a significant omission.

The failure to satisfy even one of the established quantity thresholds (5% variation in the net income for the period, before taxes; 1% variation in the shareholders' equity; 10% variation compared to the correct assessment referred to estimated assessments) is only important in terms of the act having no criminal implications. However, these scenarios retain the definition of an administrative offence for which the Directors, General Managers, Executive Managers designated to prepare the corporate accounting documents, Statutory Auditors or liquidators are held liable. The administrative offence in question that does not entail the enterprise's direct liability, pursuant to Legislative Decree No. 231/2001, is punished with a monetary penalty from 10 to 100 stakes and with the measures of «disqualification from holding the management offices of bodies corporate and companies from six months to three years, from holding office as a Director, Statutory Auditor, liquidator, General Manager and Executive Manager designated to prepare the corporate accounting documents, as well as every other office with the authority to represent the body corporate or the company».

---

Article 2622 of the Italian Civil Code envisages an aggravated scenario (concerning only companies with listed shares) that applies when «the act causes serious harm to savers». Article 2622, paragraph 5 of the Italian Civil Code provides the definition of “serious harm”, establishing that it applies when «involving a number of savers exceeding 0.1 per thousand of the population resulting from the last ISTAT census, or if entailing the destruction or reduction of the value of the securities by an aggregate amount exceeding 0.1 per thousand of the gross domestic product».

– **Falsehoods in reports and in notifications from audit companies (Article 27 of Legislative Decree No. 39, dated January 27, 2010)**<sup>21</sup>

The crime in question can emerge with reference to the statutory audit managers that - in the reports and in other notices - make a false declaration or hide information concerning the economic, equity or cash flow position of the company, enterprise or the party subject to audit, so as to mislead the addressees of the notifications concerning the foregoing position, in order to obtain an unfair profit for themselves or for others, while being aware of the fraudulent statements and with the intention of misleading the addressees of the notifications.

The punishment is more severe in the cases in which the conduct caused a property damage to the addressees of the notifications.

The provision also envisages a particularly serious scenario when the foregoing action is committed by the statutory audit manager of a public interest body, as well as if committed by the statutory audit manager of a public interest body for money or other benefits given or promised, or committed jointly with the Directors, the General Managers or the Statutory Auditors of the audited company. The same punishment established by the law in the cases mentioned last is applicable to whoever gives or promises a benefit, as well as to the general managers and the members of the administrative body and control body of the public interest body subjected to a statutory audit that participated in committing the act.

– **Prevented control (Article 2625<sup>22</sup> of the Italian Civil Code)**

The current wording punishes Directors that, by concealing documents or by means of other appropriate ploys, prevent or however hinder the performance of the control activities<sup>23</sup> legally attributed to the shareholders and to other corporate bodies<sup>24</sup>.

More severe penalties are envisaged if the act involves companies with shares listed on Italian regulated markets or on regulated markets of other European Union Member States, or are distributed among the general public in significant quantities, pursuant

---

<sup>21</sup> Legislative Decree No. 39/2010, (implementing directive 2006/43/EC concerning the statutory audits of annual accounts and consolidated accounts, and amending directives 78/660/EEC and 83/349/EEC and repealing directive 84/253/EEC), contains a new wording for the crimes of “falsehood in reports and in notifications from audit companies”, with the consequent repeal of the respective provisions set out in the Italian Civil Code. However, the new articles do not envisage any link with Article 25-ter of Legislative Decree No. 231/2001.

<sup>22</sup> Refer to previous note.

<sup>23</sup> The words “or audit” contemplated in the previous wording have been suppressed by Article 37, paragraph 35, sub-section a) of Legislative Decree No. 39/2010. Accordingly, the activities to prevent the control by auditors, since no longer disciplined by Article 2625 of the Italian Civil Code (expressly included among the presumed crimes, pursuant to Legislative Decree No. 231), are no longer to be considered significant for the purposes of the enterprises’ administrative liability. The new case of prevented control by audit companies remains disciplined by Article 29 of Legislative Decree No. 39/2010 and is not expressly mentioned by Legislative Decree No. 231/2001.

<sup>24</sup> The words “to other corporate bodies or to audit companies” are replaced by the following: “or to other corporate bodies” (Article 37, paragraph 35, sub-section b) of Legislative Decree No. 39/2010).

to Article 116 of the Consolidated Act set out in Legislative Decree No. 58, dated February 24, 1998.

– **Unlawful return of contributions (Article 2626 of the Italian Civil Code)**

Besides the cases of the legitimate reduction of share capital, the crime attracts a penalty to be imposed on the Director that returns the contributions to the shareholders, also in a simulated form, or releases the shareholders from the obligation of making such contributions, providing the act caused damage, entailing a reduction of the shareholders' equity to a value below the nominal share capital (regardless of the qualification assigned by the Directors, any impact on the nominal share capital must be ascertained after the possible absorption of the optional and mandatory reserves, not protected by this law).

Since the prohibited conduct has the effect of damaging the equity, and therefore, prejudicial to the company, it is not easy to speculate that this form of conduct can be adopted in the interests of or to the advantage of the company concerned: which appears to preclude the administrative liability envisaged by Legislative Decree No. 231/2001.

– **Illegal sharing of profits and reserves (Article 2627 of the Italian civil code)**

The provision punishes as a transgression the conduct of Directors that share profits or advances on profits not actually earned or are allocated to a reserve by law or that share out reserves, even if not established using profits, which cannot be distributed in accordance with the law, (and therefore, the act is significant even if committed due to mere negligence). The conduct in question may be in the interests of or to the advantage of the company, and accordingly, is significant for the purposes of the company's administrative liability, when sharing profits which are intended to be allocated to a reserve according to law; it is important to consider that a more serious crime could emerge in such a scenario (for example: fraud).

– **Unlawful transactions involving the company's shares or stakes or those of the parent company (Article 2628 of the Italian Civil Code)**

The provision protects the integrity of the share capital and the restricted reserves by prohibiting the purchase (this term is to be understood in a broad sense, including every negotiation that entails transferring the ownership of shares) or subscribing to the company's shares or stakes or those of the parent company, besides the cases permitted by law. The criminal offence arises when there is an actual negative impact on the share capital or on reserves which are restricted according to law.

Article 2628, last paragraph of the Italian Civil Code envisages a condition that extinguishes the crime and entails replenishing the share capital or the restricted reserves «before the date foreseen to approve the financial statements for the period in relation to which the conduct occurred».

– **Transactions to the detriment of creditors (Article 2629 of the Italian Civil Code)**

The transactions which can represent the criminal offence in question concern reducing the share capital or mergers with another company or spin-offs.

The structure of the specific case requires that the damage event constituting the criminal offence (damage to creditors) must be the causal consequence of having executed one of the transactions indicated above, transactions which must be completed – for the crime to exist – «in breach of the legal provisions which protect creditors» in relation to the reduction of share capital, merger or spin-off. The crime is eligible for legal action subject to a complaint to be filed by the offended party (for example: one of the damaged creditors), and has an extinguishing condition that consists in «indemnifying the damage to the creditors before legal proceedings».

This scenario refers to a criminal offence that could entail the company's administrative liability, since committed by the Directors in order to protect the company's interest to the detriment of creditors, for example, in the event of a merger between one company in robust conditions and another non-performing company without complying with the procedure envisaged under Article 2503 of the Italian Civil Code to guarantee the creditors of the first company.

– **Failure to disclose a conflict of interest (Article 2629-bis of the Italian Civil Code)**

The criminal offence punishes the act committed by the director that damages the company or third parties by failing to comply with the obligation set out under Article 2391, paragraph 1 of the Italian Civil Code. This refers to a crime specific to certain classes of offender (the qualified perpetrator is the director or member of a management board of «a company with shares listed on regulated Italian markets or another European Union Member State or distributed among the general public in significant numbers, pursuant to Article 116» of Legislative Decree No. 58/1998, «or a party subjected to supervision, pursuant to the Consolidated Act set out in Legislative Decree No. 385, dated September 1, 1993, the cited Consolidated Act set out in Legislative Decree No. 58 of 1998, Law No. 576 dated August 12, 1982, or Legislative Decree No. 124 dated April 21, 1993»).

The conduct involves failing to disclose to the other Directors and to the Board of Statutory Auditors every interest that the Director has in a given transaction executed by the company, for his/her own account or on behalf of third parties; if the Managing Director is involved, he/she is required to abstain from executing the transaction and shall appoint the collective body to execute such transaction; if the sole administrator is involved, then the sole administrator shall notify such information at the first regularly convened meeting, without prejudice to the obligation of notifying the Board of Statutory Auditors.

The damage, consequential to the transaction executed in breach of the obligations established under Article 2391 of the Italian Civil Code, corresponds to property damage.

It is appropriate to highlight the relations between this criminal law provision and Article 136 of Legislative Decree No. 385/1993 (consolidated banking law), since the framework of the scenarios of potential conflict (establishing the precondition for the obligation set out under Article 2629-bis of the Italian Civil Code) is increased significantly, above all, after the amendment to this last provision made by Law No. 262/2005, being extended to all the transactions executed between the company and the bank, in which, it can be assumed, a company representative has the function of director (even if non-executive or with no powers of attorney).

– **Fictitious formation of capital (Article 2632 of the Italian Civil Code)**

The provision protects the integrity of the share capital and the act that constitutes the crime is represented by the fictitious formation or increase of the share capital concerned. The criminal offence (specific to Directors and to contributing shareholders) has three distinct forms of conduct: (a) assigning shares or stakes with an overall value that exceeds the share capital amount; (b) mutual subscription of shares or stakes; (c) significant overvaluation of the contributions in kind or receivables or of the company's equity in the case of transformation. Overvaluation may arise in the company's formation phase or in the share capital increase phase; in relation to the overvaluation of equity, this is to be understood as referred to the shareholders' equity, therefore, after deduction of liabilities.

For example, consider the fictitious increase of share capital through an overvaluation of the assets owned in order to give a false representation that the company has a solid equity position: such a purpose, entailing the assumption of an advantage or interest for the company - in the presence of the other requirements - could readily give rise to the administrative liability envisaged by the decree.

– **Unjustified distribution of company assets by liquidators (Article 2633 of the Italian Civil Code)**

The crime in question contemplates the action by the liquidator that damages the creditors by distributing the company assets among the shareholders before paying the company's creditors or by allocating the sums required to satisfy the creditors concerned: any act of distribution that gives rise to the damage event constitutes the punishable act.

An extinguishing condition is envisaged represented by compensating the damage caused to the creditors before the legal proceedings.

Although referring to a crime that is specific to the liquidator in relation to the company in liquidation, a situation where the enterprise's liability may be involved, however, can be conjectured. Consider the scenario of a company executive manager, appointed as the liquidator of a company participated by the company concerned, who engages in acts of distribution to the advantage of the latter and damaging for the creditors.

– **Illegal influence on the shareholders' meeting (Article 2636 of the Italian Civil Code)**

The provision punishes the act of whoever determines the majority in the shareholders' meeting (the event constituting the crime) by means of two specific forms of conduct: (a) using simulated deeds (namely, with deeds which are misleading: for example: by exercising the voting rights allocated to Treasury shares under another name, or enabling a person to exercise voting rights other than the person actually entitled to cast a vote, if the latter person has been disqualified from voting under the law or under statutory regulations); (b) using fraudulent deeds (for example: by availing of unplaced shares or by misleading the shareholders concerning the resolution's expediency by means of false statements or only by reticent statements).

The act is punishable if the agent has obtained an unfair profit for himself/herself or for others.

– **Market manipulation (Article 2637 of the Italian Civil Code)**

---

The crime envisaged under Article 2637 of the Italian Civil Code is now applied exclusively to companies with unlisted shares. For this reason and also considering that the structure of this specific case is similar to the case envisaged under Article 185 of Legislative Decree No. 58/1998 relating to listed companies, reference is to be made to the considerations which refer to the latter provision (see above).

– **Hindering public supervisory authorities from performing their functions (Article 2638 of the Italian Civil Code)**

Article 2638 of the Italian Civil Code incorporates the crimes already envisaged by Legislative Decree No. 385/1993 (Article 134) and by Legislative Decree No. 58/1998 (Article 171 and Article 174), in particular, concerning the supervisory activities performed by the Bank of Italy and by Consob (Companies and Stock Exchange Commission).

The provision envisages two separate incrimination events.

The first paragraph considers the act by the Director, the General Manager, the Executive Manager designated to prepare the corporate accounting documents, the Statutory Auditor or the liquidator that (a) discloses material facts to the supervisory authorities concerning the economic, equity or cash flow position of the company subject to supervision in the communications foreseen in accordance with law which are untrue even though subject to valuations; or (b) conceals facts, in whole or in part, which should have been disclosed concerning the foregoing position using other fraudulent means.

Having explained that punishability is also extended to information concerning assets administered or held on behalf of third parties, it is important to clarify that reference is made to a crime that merely relates to conduct (accordingly, it does not foresee a damage event occurring).

With regard to the form of conduct indicated under sub-section (a) this considers the area of false corporate communications, therefore, reference can be made to the description reported under Article 2621 and Article 2622 of the Italian Civil Code, with the precaution that no quantity thresholds of any kind are foreseen with reference to this Article 2638 of the Italian Civil Code, which entails the criminal importance of any false disclosure regardless of the quantitative aspect.

With reference to the form of conduct represented by concealment using fraudulent means, the structure of the legislative definition implies that a *quid pluris* is required compared to mere silence (that however constitutes the less serious case set out in Article 2638, paragraph 2 of the Italian Civil Code that will be described later).

Article 2638, paragraph 2 of the Italian Civil Code punishes actions to hinder the supervisory functions implemented in any form, also by omitting the required communications to the supervisory authorities concerned.

This concerns a result crime (a result consisting in hindering the supervisory function) and represents a residual aspect compared to the aspect considered in paragraph 1. It is important to consider that the wording adopted by the legislator (“in any form”) significantly extends the provision's application framework, in essence, attributing to the offence the nature of a crime that may take any form, where the significant aspect is distinctively the result as the causal consequence of the conduct (whatever it may be) adopted by the agent.

Reference is made, also in this case, to a crime specific to the Director, General Manager, Executive Manager designated to prepare the corporate accounting documents, Statutory Auditor or liquidator of companies subjected to supervision.

**G) Crimes for the purposes of terrorism or subversion of the democratic order (Article 25-*quater* of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

Article 25-*quater* of Legislative Decree No. 231/2001 does not list specifically the crimes for the purposes of terrorism or subversion of the democratic order for which the enterprise's liability is envisaged, and limits itself to mentioning in paragraph 1, the crimes envisaged by the criminal code and by the special laws and in paragraph 3 the crimes which differ from those disciplined in paragraph 1, but committed in breach of the conditions established by the International Convention for the suppression of the funding of terrorism signed in New York on December 9, 1999.

As clarified in the Annex to the internal control schemes, these refer to crimes, the importance of which is – in itself – marginal, in view of the Company's statutory activities and purposes, and this section will be limited to clarifying the following details.

In particular, the following specific cases are mentioned among the crimes envisaged by the criminal code:

- **Subversive associations (Article 270 of the criminal code)**
- **Associations for the purposes of terrorism and subversion of the democratic order (Article 270-*bis* of the criminal code)**
- **Assistance to associates (Article 270-*ter* of the criminal code)**
- **Attack for the purposes of terrorism or subversion (Article 280 of the criminal code)**
- **Kidnapping for the purposes of terrorism or subversion (Article 289-*bis* of the criminal code)**
- **Instigation to commit a crime against the State (Article 302 of the criminal code)**
- **Political conspiracy by agreement (Article 304 of the criminal code)**
- **Political conspiracy by association (Article 305 of the criminal code)**
- **Armed gangs: Constitution and participation (Article 306 of the criminal code)**
- **Assistance to participants of conspiracies or armed gangs (Article 307 of the criminal code)**

The crimes of terrorism foreseen by the special laws are to be envisaged in that part of Italian legislation issued in the '70s and '80s designed to counter terrorism.

Whereas, the crimes included in the application framework of the Convention of New York concern the crimes designed to provide funds, directly or indirectly, but in any event voluntarily, to favour persons who intend to perpetrate crimes of terrorism, including hijacking aircraft, attacks against diplomatic personnel, kidnapping hostages, the illegal construction of nuclear devices, hijacking vessels and setting off explosive devices, etc. In these cases, whoever (natural person or entity with or without legal status) provides the funds, or however, collaborates to collect such funds must be aware of the use that subsequently will be made of such funds.

#### **H) Crimes against the life and safety of the individual (Article 25-*quater.1* ) of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

The crime concerning “practices involving the mutilation of female genitals” (Article 583-*bis* of the criminal code) is exclusively of significance for the purposes of Legislative Decree No. 231/2001 in the framework of this category of crimes, since, as clarified in the Annex to the internal control schemes, this crime is – in itself – marginal, in view of the Company's statutory activities and purposes.

#### **I) Crimes against the individual (Article 25-*quinquies*<sup>25</sup> of Legislative Decree No. 231/2001 – monetary sanctions and prohibition)**

As clarified in the Annex to the internal control schemes, since these refer to crimes which are not significant, in view of the Company's statutory activities and purposes, this section will be limited to listing the specific cases without describing them.

- **Reduction to or maintenance in a state of slavery or servitude (Article 600 of the criminal code)**
- **Child prostitution (Article 600-*bis* of the criminal code)**
- **Child pornography (Article 600-*ter* of the criminal code)**
- **Possession of pornographic material (Article 600-*quater* of the criminal code)**
- **Tourism initiatives aimed at the exploitation of child prostitution (Article 600-*quinquies* of the criminal code)**
- **Trafficking in human beings (Article 601 of the criminal code)**
- **Purchase and sale of slaves (Article 602 of the criminal code)**

---

<sup>25</sup> Law No. 108 dated July 2, 2010, concerning the trafficking of human beings (published in the Official Journal on 15.7.2010) amended Articles 600; 601; 602 of the criminal code expressly mentioned by Article 25-*quinquies* of Legislative Decree No. 231/2001.

---

## **J) Administrative Crimes and Offences of Market abuse – (Article 25-sexies of Legislative Decree No. 231/2001 – monetary sanctions)**

The business performed by the Company is regulated by special Group internal procedures which comply with the requirements set out by the current laws and regulations and by Legislative Decree No. 231/2001.

### **– Crime of abusing privileged information – insider trading (Article 184 of Legislative Decree No. 58/1998)**

The crime envisaged under Article 184, paragraph 1 of Legislative Decree No. 58/1998 considers three distinct criminal offences:

- prohibition to purchase, sell or execute other transactions, directly or indirectly, on his/her own behalf or on behalf of third parties, using privileged information;
- prohibition to disclose privileged information to third parties, unless the disclosure is made during the normal course of the work, a profession, a function or an office (so-called tipping);
- prohibition to make a recommendation or induce others to execute a purchase, sale transaction or other transactions on the basis of privileged information (so-called tuyautage).

These operational prohibitions concern the persons that have privileged information by virtue of their position as a member of the issuer's administrative, control, management bodies, participation in the issuer's share capital, or during the course of work, a profession, a function, also public function or an office. The illegal act exists even if the transaction has not generated a profit for the perpetrator or for the third party.

In addition, more specifically, it is important to note that:

- a) § 1)** the reference to “purchasing, selling and other transactions” includes any form of negotiation in the prohibition area referred to the financial instrument “impacted” by the information; the use of the adverbs ‘directly or indirectly’ and the wording ‘on his/her own behalf or on behalf of third parties’ on the one hand concerns every form of association between the prohibited person and the person that executes the transaction, while, on the other hand, it includes in the criminally significant area not only negotiations for which the economic effect impacts (perhaps indirectly) the prohibited person concerned, but also the negotiations executed indirectly by the inhibited person on behalf of a person not concerned with the operational prohibitions;  
**§ 2)** the use of the gerund «using» denotes emphatically the importance of the privileged information in the motivational process that governs the transaction's execution;
- b) § 1):** (tipping) the prohibited conduct consists simply in disclosing privileged information to a third-party: therefore, the crime is constituted by merely disclosing the privileged information to a third party. This conduct is not punishable when occurring in the «normal course of performing work, a profession, a function or an office». Communications inside the areas denominated in this way must necessarily be considered non-typical, pursuant to Article 184, paragraph 1, sub-section b) of the Unified Finance Act (TUF): correspondingly, communications which flow from these areas towards persons

who are “third parties” in relation to the work environment (or the professional, or function or office environment) constitute the crime;

**§ 2)** it is not useful to define the value of the term “normal” that qualifies the lawfulness of the communication. To a first approximation, the term “normal”, since referred directly to the activity performed, would appear to involve a difficult and however uncertain assessment regarding the overall performance of the work (or the profession or function or office) in the tangible case parameterised with the activity that the model person would have performed. If consideration is given to the fact that, instead, it is the form of the disclosure of the information that is considered, it can be deemed that the “normality” requirement must be referred to the circumstance of the disclosure of the information within the context of performing the activity: therefore, it can be said that the communication functional and instrumental to performing the work concerned falls within the normal course of performing the work, etc., taking into account the type of activity that is actually performed;

→ the area of attention concerning the so-called one to one meetings or also meetings with restricted groups of analysts or specialised journalists must not be overlooked, in view of the distinctive nature of the activities performed by the persons responsible for the disclosure and for investor relations (and, more in general, anyone that comes into contact with third parties “speaking on behalf of the issuer”). Possible anticipations of privileged information constitute the punishable act (only an administrative offence will be involved if the disclosure occurs due to negligence), this could apply if the cause of non-punishability referred to the “normal course of performing the work”, provided this form of disclosure – by generating a situation of information imbalance not justified by requirements functional to the professional activity – does not fall within the grounds to exclude punishability (obviously, the case where one of the persons indicated contacts an advisor requesting the adviser to make an assessment concerning the type of appreciation the market could have to the disclosure of given information that is still privileged is quite a different matter).

**c) § 1):** (*tuyautage*) the prohibition includes the scenario of anyone that makes a recommendation or induces a third party to execute one of the transactions indicated under sub-section a) (purchase, sale, other transactions): naturally, the person punished is only the person that provided the information and not the “beneficiary”;

**§ 2)** the provision considers the circumstance that the person with the privileged information makes the recommendation on the basis of the information that is available to him/her, however without disclosing the information concerned to the person who receives the “advice”.

Article 184, paragraph 2 envisages an indictment that punishes anyone who perpetrates one of the forms of conduct indicated under sub-sections a), b) or c) «being in possession of privileged information as a motive for the preparation or perpetration of criminal offences».

**§ 1)** the mechanism of this expectation originates from the events associated with acts of terrorism, which in terms of their intrinsic seriousness, can generate significant effects on the market trend (the persons preparing the terrorist act or are about to execute the terrorist act, in fact, are in possession of privileged information concerning the attack). However, the reference legislation is also able

---

to cover other events, in which the assumption of the operational inhibition derives from other unlawful situations;

§ 2) the wording adopted refers, in generic terms, to «criminal offences» not characterised further, therefore, the possession of privileged information may originate from the preparation or from the perpetration of any form of conduct constituting a crime. For example, consider the execution (or the preparation) of a market manipulation crime, or a false corporate communication. The person that is preparing to provide the market with false information, or that has disclosed the false corporate communication is undoubtedly included in the specific case indicated under Article 184, paragraph 2 of the Unified Finance Act (TUF) – obviously, since that person is preparing or has perpetrated a criminal offence – and by using the privileged information (consisting in his/her knowledge of the false nature of the information disclosed to the market), can effectively decide to execute transactions by taking advantage of having privileged information (imbalance generated by the circumstance that the agent is aware of the difference between the actual situation and the situation as disclosed).

– **Administrative offence of abusing privileged information – insider trading (Article 187-bis of Legislative Decree No. 58/1998)**

The administrative offences envisaged under Article 187-bis, paragraph 1 and paragraph 2 of Legislative Decree No. 58/1998 envisage cases which are identical to the cases contemplated as crimes by Article 184, paragraph 1 and paragraph 2: they concern the same forms of conduct which at the same time give rise to a criminal offence and an administrative offence when they are committed with the same psychological aptitude (wilful wrongdoing: namely, representation and volition of the act described by the law). To a first approximation, it is to be considered that the penalties envisaged by the two crimes are compounded, giving rise to combined penalties.

Administrative offences are also punishable when the act is committed due to negligence, in accordance with the general principles governing administrative offence (therefore, also in the absence of representation and volition of the act concerned). The structure of negligence in our legal system consists essentially in a regulatory judgement that measures the possible difference between the conduct actually adopted by the agent and the conduct that the so-called model agent would have adopted (therefore, the references to negligence, imprudence, carelessness are applicable in this sense, which constitute the essential reference parameters in order to assess negligence). If it may be difficult to imagine conduct involving the purchase, sale or execution of other transactions as the result of negligence, imprudence or carelessness, it is much easier to assume a culpable case of tipping (consider the disclosure of privileged information to third parties arising from a clumsy telephone conversation) or tuyautage (consider a piece of advice given imprudently).

A type of administrative offence that is entirely autonomous (and is not identified in a corresponding criminal offence) now consists in the provision set out under Article 187-bis, paragraph 4 of the Unified Finance Act.

Whoever is «in possession of privileged information, knowing or able to know the privileged nature of the information concerned based on ordinary diligence» and adopts forms of prohibited conduct concerning the purchase, sale, execution of

other transactions; discloses privileged information to others outside the normal course of performing the work, profession, function or office; makes a recommendation or induces a third party to execute a transaction based on privileged information shall be punished.

**§ 1)** the operational prohibitions considered here depend on the simple possession of the privileged information, regardless of the source, the reason of the origin and even the methods of acquisition (for example: either a casual perception or the result of a deliberate activity intended to obtain the information): indeed, the legislative wording focuses the constituting aspect of the situation from which the prohibitions arise on the fact of possession that is not qualified further;

**§ 2)** the selective criteria to establish the punishability in relation to the administrative aspect of violating the operational prohibitions consists in the knowledge/knowability of the privileged nature of the information. The legislator has selected the criteria of wilful wrongdoing and negligence based on the legislative data: on the one hand, by adopting the gerund “knowing”, the legislator has certainly made reference to a positive knowledge condition by the agent concerning the privileged nature of the information possessed by the agent. On the other hand, by adopting the wording “able to know based on ordinary diligence” the legislator has clearly introduced a culpable liability profile since, quite evidently, besides the use of the auxiliary verb “to be able”, the introduction of the wording concerning “ordinary diligence” makes it certain that a case of negligence is applicable.

– **Crime of market manipulation (Article 185 of Legislative Decree No. 58/1998)**

The crime envisaged under Article 185 of Legislative Decree No. 58/1998 considers two separate market manipulation scenarios:

- a) spreading false information actually able to cause an appreciable price change of financial instruments (so-called information manipulation);
- b) executing simulated transactions or other ploys actually able to cause an appreciable price change of financial instruments (so-called manipulative market rigging).

The punishable acts can be perpetrated by anyone. The perpetrator is not required to target an appreciable price change of financial instruments as the purpose of his/her conduct. The requirement of causing an appreciable change must be assessed beforehand (namely, at the time one of the forms of prohibited conduct is adopted: therefore, it is irrelevant whether the change occurs or not). The judgement concerning the ability to alter in an appreciable form is based on a prognostic assessment, therefore, is essentially of a probabilistic nature, and that moreover must necessarily take into account the quantitative profile represented by the “appreciable” nature of the change.

In addition, more specifically, it is important to note:

- a) **§ 1)** the term spreading means any communication to an unspecified number of persons (or also to a single person, when the recipient is a person that, by profession, trade or effectively engages in a communication activity towards the general public: consider a journalist) executed using any medium;
- § 2)** The term “false” means information that is untrue concerning an event or a series of circumstances which have occurred or which are intended to occur in the future;

b) § 1) the clause “execution of simulated transactions” refers to the execution of any kind of transactions of a simulated nature: according to the case law interpretation, the term “simulated” includes any simulation scenario (absolute or relative: transactions which the parties absolutely did not desire, and transactions which appear to be different from the transactions the parties desired, or transactions in which the appearance of the legal negotiation conceals a different economic situation). Even though many reasons are involved, in the sense that the simulation must also be characterised by an extreme artificiality, case law disregards this characterization;

§ 2) the note “other ploys” is a closing phrase and includes acts or conduct characterised by a deceptive component or by a fraudulent aspect, inferable by their mode of execution, or by their intrinsic nature. In this regard, it is important to remember that the artificiality does not refer to the outcome, but to the means, therefore, the “ploys” referred to in the law are operational devices which differ from spreading false information, namely, means to induce the conduct of others on the market.

– **Administrative offence of market manipulation (Article 187-ter of Legislative Decree No. 58/1998)**

Article 187-ter of Legislative Decree No. 58/1998 - Unified Finance Act (TUF) punishes the following forms of market manipulation conduct with distinct administrative sanctions:

1. spreading false or misleading rumours or information which provide or which can provide false or misleading details in relation to financial instruments (administrative offence of market manipulation, so-called information manipulation);
2. perpetrating (administrative offence of market manipulation, so-called manipulative market rigging):
  - a. transactions or trading orders which provide or which can provide false or misleading information in relation to the offer, the demand or the price of financial instruments;
  - b. transactions or trading orders which permit the market price of one or more financial instruments to be fixed at an anomalous or artificial level through the action of one or more persons who act jointly;
  - c. transactions or trading orders which adopt ploys or every other type of deception or expedient;
  - d. other ploys able to provide false or misleading information in relation to the offer, demand or price of financial instruments.

In accordance with the general principles which govern administrative offence, the punishability of the forms of conduct summarised above is also possible when the act is committed through negligence (therefore, also without representation and volition of the act concerned). In our legal system the scheme related to negligence consists essentially in a regulatory judgement that measures the possible difference between the agent's actual conduct and the conduct the so-called model agent would have adopted (therefore, the references to negligence, imprudence, carelessness, which constitute the essential reference parameters to assess negligence are applicable in this sense).

Having said that Article 187-ter, paragraph 2 of the Unified Finance Act (TUF) envisages a distinctive discipline if the act of dissemination is committed by journalists when performing their professional activity, it is worthwhile mentioning that the term “misleading” (that appears in separate descriptions of conduct in this specific case) is intended to describe the information, rumours or details characterised by the vocation to provide the respective receiver information that can alter the judgement or the assessment. Reference is not made to something that is “untrue” (namely, something that corresponds to “falsehood”), but an altered representation of reality, in which some parts differ from the qualitative aspect or from the quantitative aspect: in other words the distortion concerns the qualitative or quantitative details.

Article 187-ter of the Unified Finance Act (TUF) makes no reference to the “appreciable” nature, by contrast with the situation envisaged in the specific criminal case: the absence of a similar reference to the quantitative aspect could induce to believing that the administrative offence area also includes situations in which the potential incidence of the prohibited conduct is minimal in relation to the valuation of financial instruments, the demand, offer or the respective price. Whereas, by way of interpretation the scope of the provision could be limited only to forms of price sensitive conduct, by arguing the importance that the wording “provide or can provide false or misleading information in relation to financial instruments” – alternatively alluding to an effect that has already occurred or that could occur – implies that the significant forms of conduct are those which are tangibly able to guide a reasonable investor towards a given choice rather than towards a different choice, in accordance with the general scheme indicated under Article 181, paragraph 4 of the same Legislative Decree No. 58/1998.

In addition, it is important to consider that the Consob regulation will make a significant contribution concerning the application of the definition of forms of conduct able to constitute market manipulation: indeed, Article 187-ter, paragraph 6 of the Unified Finance Act (TUF) delegates Consob to confirm “the factors and circumstances to be taken into consideration to assess the forms of conduct which can constitute market manipulation”.

In addition, more specifically, it is important to note that:

1. in relation to the administrative offence of market manipulation (so-called information manipulation):

**a) § 1)** the term “spreading” has the same value indicated in relation to the criminal offence set out under Article 185 of the same Legislative Decree, therefore, this concerns any communication to an unspecified number of persons (or even to only one person, when the receiver is a person by profession, trade or effectively engages in an activity of communication towards the general public: consider a journalist) executed using any means (in this sense, the list of the forms of communication set out under Article 187-ter is entirely superfluous and unnecessary);

**§ 2)** also the wording “false information” has the same meaning seen with reference to Article 185 (untrue information concerning a fact, or a series of circumstances which occurred or are intended to occur in the future);

**§ 3)** the reference to “rumours” as the subject of the prohibited dissemination extend the scope of applicability of the provision: in fact, every piece of information is included in the unlawful area, regardless of its validity (also so called “rumours” and gossip);

§ 4 reference is to be made to the preceding comments with regard to the value to be attributed to the term “misleading”;

§ 5) concerning the clause “provide or can provide false or misleading information relating to financial instruments” on the one hand, it is important that the prohibited act must involve to some extent making available information content concerning financial instruments, the demand, offer or the respective price to an unspecified number of persons (information content that is directly included in the dissemination of the information or rumour, and obtainable indirectly by executing the transactions indicated under sub-sections 2.a., 2.c. and 2.d.); on the other hand, the reference under review – by alluding alternatively to an effect that has already occurred or that could occur (this appears to be the sense to be attributed to the use of the verbal forms “provide”/“can provide”) – implies that the significant forms of conduct must be characterised by an effective ability to guide the reasonable investor towards a given choice rather than towards another choice (data obtainable systematically from the definition under Article 181, paragraph 4 of the same Legislative Decree that qualifies as being significant “information that presumably a reasonable investor would use as one of the factors on which to base its investment decisions”).

2. in relation to the administrative offence of market manipulation (so-called manipulative market rigging):

§ 1) the prohibition concerns transactions or trading orders for which the unlawful nature arises exclusively from their ability to provide false or misleading information;

§ 2) the falsehood and “misleading” characteristics are to be understood in the sense indicated previously;

§ 3) the subject of the information content inferable from the transaction is represented by the financial instrument, or the price, demand, offer related to the instrument concerned;

§ 4) without any further specification, the transactions or the orders considered by the provision could also be readily understood as representing transactions or orders which are intrinsically legal, therefore, not characterised by a further objective negative value;

b) § 1) the prohibited conduct concerns the execution of a specific type of transactions or orders, essentially consisting in operating jointly with at least another person;

§ 2) the unlawful nature of the transactions does not arise only by acting jointly (a situation that, in itself, is insufficient to constitute the typical act), but also by the circumstance that an operation of this nature has given rise to the price of the financial instrument being fixed at an “anomalous or artificial” level. This latter requirement of the specific case does not appear to be easily characterised, since qualitative terms are used, which refer to a relational judgement: however, it is likely that the valuation will be performed by assuming as a reference the average prices for the period;

c) § 1) the prohibited forms of conduct concern the execution of transactions or trading orders for which the unlawful nature consists in the intrinsic characteristics of the operating procedures adopted: in this sense the terms “ploys”, “deception”, “expedient” serve to define the characteristics in question, and however, appear to concern particularly broad clauses

(probably secondary sources – for example: the Consob regulation – will provide greater details concerning the types of prohibited conduct);

§ 2) the transaction or order is not expressly required to have an information content that can alter the investor's valuation for this specific case to exist;

d) § 1) the prohibited conduct concerns any form of artificial conduct (this evidently refers to a closing provision): the reference to the artificial aspect necessarily implies that the conduct is of an intrinsically deceptive or misleading nature;

§ 2) the provision requires the sanctioned act to envisage ploys able to provide “false or misleading information concerning the offer, the demand or the price of financial instruments”, therefore, the artificial conduct must have an information content that can alter the investor's valuation.

Article 187-ter, paragraph 4 of the Unified Finance Act (TUF) considers a cause of justification that is expressly limited to the criminal offences set out under points 2.a and 2.b, consisting in the fact “of having acted for legitimate reasons and in accordance with accepted market practices permitted in the market concerned”. The discriminating factor – the existence of which must be demonstrated by the accused – consists in two separate elements: having acted for legitimate reasons and having complied with accepted market practices.

With regard to the requirement of the legitimate nature of the reasons for the action, albeit in relation to the vagueness of the legislative wording, it can be deemed that the intention is to designate situations in which the impact on the market follows a transaction or a series of transactions characterised by a legal economic significance, integrated by motivations consistent with the economic significance of the transactions concerned.

With reference to the final accepted market practices, Article 187-ter, paragraph 6 delegates their definition to Consob that will set out the definition with its own regulation.

– **Causes of non-punishability (Article 183 of Legislative Decree No. 58/1998)**

Article 183 of Legislative Decree No. 58/1998 envisages two causes of non-punishability which establish the non-applicability of the provisions relating to offences (criminal and administrative) concerning the abuse of privileged information (insider-trading) and market manipulation:

a) Article 183, paragraph 1 of the Unified Finance Act (TUF): non-applicability to transactions relating to monetary policy, to foreign exchange policy or public debt management performed by the Italian government, by a European Union Member State, by the European system of Central Banks, by a Central Bank of a European Union Member State or by another officially designated body or by a party that acts on behalf of the foregoing.

b) Article 183, paragraph 2 of the Unified Finance Act (TUF): non-applicability to:

- “trading own listed shares, bonds and other financial instruments executed in the framework of buy-back programmes by the issuer or by subsidiary or associated companies”;
- “transactions to stabilise financial instruments which comply with the terms and conditions established by Consob with settlement”.

The discriminating situations are only applicable if the trading and transactions indicated are executed in compliance with the provisions established by the supervisory authorities. The content of these provisions is already included in Regulation (EC) No. 2273/2003 that introduced precise technical conditions (consisting in operational limits and information requirements).

### **K) Transnational crimes (monetary sanctions and prohibition measures)**

The enterprise's direct liability is associated with the perpetration of one of the crimes listed under Article 10 of Law No. 146/2006, when such crimes are also transnational crimes.

As clarified in the Annex to the internal controls schemes these concern specific crimes for which the Company has already implemented control functions which are guaranteed, in general terms, by the provisions of the Ethical Code and the Code of Conduct, as well as by the General Principles of internal control and by the corporate Procedures, accordingly, this section will be limited to describing briefly the respective cases and the articles of law.

Before examining separately the crimes set forth under Article 10 (which range from organisations dedicated to committing criminal acts to crimes concerning the trafficking of migrants to crimes to pervert the course of justice), firstly, it is important to identify the notion of transnational crime, since the crimes in question can only constitute the assumption of the enterprise's direct liability if they are characterised in this distinctive way.

The notion of transnational crime (not included in our legal system before Law No. 146/06) is set out in a mandatory form by Article 3 of the cited Law, according to which: «*a transnational crime, for the purposes of this law, is deemed to be the crime punished with a term of imprisonment of no less than the maximum of four years, if an organised crime group is involved, as well as:*

- a) if committed in more than one State;
- b) or if committed in one State, but a substantial part of its preparation, planning, management or control occurs in another State;
- c) or is committed in one State, but an organised crime group dedicated to committing criminal acts in more than one State is implicated;
- d) or is committed in one State, but has substantial effects in another State».

The provision set out under Article 4 of Law No. 146/2006 is also required for a precise overview of the definition of transnational crime, and considers an aggravating circumstance «*for crimes punished with a term of imprisonment of no less than a maximum of four years where an organised crime group dedicated to committing criminal acts in more than one State has made its contribution to their perpetration*».

Accordingly, the notion of transnational crime depends on the combination of three requirements defined in Article 3, paragraph 1: two of the requirements (indicated in the first part of paragraph 1) refer respectively to the seriousness of the crime (imprisonment – prescribed by law – not less than a maximum of four years) and a subjective component (“if an organised crime group is involved”); the third requirement (defined in the doctrine as “transnationality in a strict sense”) is supplemented alternatively by one of the types defined in sub-sections from a) to d) of the same paragraph 1.

Use of the terms “**involved**” and “**implicated**” in Article 3, paragraph 1, especially if compared with the use of the wording “an organised crime group dedicated to committing criminal acts in more than one State has made its **contribution** when **perpetrating** the [crimes]” – in relation to the weak technicalities of the form in which the

provisions were drawn up – suggests an interpretation in which the value to be attributed to the defining term “involved” (as well as “implicated”) refers to a situation that does not achieve the specific case of accomplice in the crime not even the situation of real or personal aiding and abetting, but rather to a context in which the advantage, profit, benefit, interest of the crime event reverberate in favour of the organised crime group. Indeed, such an interpretation makes it possible to keep distinct the criteria adopted in relation to the aggravating circumstance, where “the contribution made to perpetrating” the crime appears to designate a situation in which one of the participants of the organised crime group adopted at least a fraction of the typical conduct related to the crime concerned.

By combining these parameters with the parameters indicated under Article 10 of Law No. 146/2006 (a provision that, as has been said, establishes the enterprise's direct liability), it has to be considered that the enterprise's direct liability can be assumed in the circumstance that a person employed by the enterprise committed one of the crimes indicated under Article 10 (for example: personal aiding and abetting) when such a crime is a transnational crime, as defined under Article 3 of the Law cited, in other and more specific terms that the crime of aiding and abetting has a reverberation in favour of the organised crime group and that the crime was committed in one of the alternative contexts indicated in sub-sections from a) to d) of Article 3, paragraph 1 of Law No. 146/2006, without prejudice to the required awareness (even in the form of a possibility) of the enterprise's representative concerning the transnational nature of the act.

**Relevant crimes strictly listed under Article 10 of Law No. the 146/2006:**

- **Criminal association dedicated to smuggling tobacco products processed abroad (Article 291-*quater* of Presidential Decree (D.P.R.) No. 43/1973)**

Having said that the requirements to participate in this type of criminal organisation are the same requirements set out under Article 416 of the criminal code, it is important to note that Article 291-*quater* of Presidential Decree (D.P.R.) No. 43/1973, refers to Article 291-*bis* of the cited Presidential Decree, and considers among the organisation-related crimes the act of whoever «introduces, sells, transports, purchases or possesses in the national domain a quantity of tobacco processed abroad that exceeds ten kilograms».

- **Personal aiding and abetting (Article 378 of the criminal code)**

The crime of real aiding and abetting consists in the fact of a person who, after a crime has been committed and while not having participated in the crime concerned, helps someone to evade investigations or to escape from the search.

According to the interpretation of case law, this concerns a mere conduct crime that may take any form and that can be perpetrated with any form of conduct (active or omission) suited to the purpose and is not significant since the conduct did not have an outcome.

After further interventions by the legislator, the following categories of crimes are significant, if the related forms of conduct are perpetrated in the national domain and if such crimes are transnational crimes. The description of the following crimes is provided mainly in the following paragraphs:

- 
- **Criminal association**<sup>26</sup> (Article 416 of the criminal code)
  - **Association dedicated to smuggling drugs or psychotropic substances** (Article 74 of Presidential Decree (D.P.R.) No. 309/1990)
  - **Crimes concerning the trafficking of migrants** (Article 12, paragraphs 3, 3-bis, 3-ter and 5 of Legislative Decree No. 286/1998)
  - **Mafia-type criminal organisations, including those from outside Italy** (Article 416-bis of the criminal code)
  - **Criminal organisation dedicated to reduction to or maintenance in a state of slavery, child prostitution, child pornography, crimes concerning breaches of the provisions governing illegal immigration** (Article 12 of Legislative Decree No. 286/98)
  - **Criminal organisation dedicated to selling drugs** (Article 74 of the Consolidated Act on drugs - Presidential Decree (DPR) No. 309, dated October 9, 1990)
  - **Incitement not to make statements or to make fraudulent statements before the judicial authorities** (Article 377-bis of the criminal code)<sup>27</sup>
- L) Manslaughter and serious or very serious injuries committed by breaching occupational health and safety regulations**<sup>28</sup> (Article 25-septies of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)

The enterprise's liability is associated with the perpetration of crimes involving serious or very serious injuries and manslaughter (Article 589 of the criminal code referred to manslaughter and Article 590 to the criminal code referred to culpable personal injuries), if committed by breaching the regulations to prevent occupational injuries or work-related illnesses.

Article 583 of the criminal code establishes that:

- the personal injury is serious if: (i) the event causes an illness that endangers the person's life or an illness or an inability to cope with ordinary activities for a time exceeding forty days; (ii) the event causes permanent weakening of a sense or an organ;
- the personal injury is very serious if the event causes: (i) an illness that is certainly or probably incurable; (ii) the loss of a sense; (iii) the loss of a limb or mutilation that renders the limb useless, or the loss of the use of an organ or a permanent and serious difficulty of speech; (iv) the deformation or permanent disfigurement of the face.

---

<sup>26</sup> Significant also in accordance with the provisions introduced with Article 24-ter of Legislative Decree No. 231/01.

<sup>27</sup> Significant also in accordance with the provisions introduced with Article 25-novies of Legislative Decree No. 231/01.

<sup>28</sup> Refer to Unified Act on Safety.

The criminal offences envisaged under Article 589 and Article 590 of the criminal code are characterised by the aggravating circumstance of the negligent non-compliance with the accident prevention regulations, consisting in so-called specific negligence, namely, the voluntary non-compliance of precautionary regulations designed to prevent the harmful events foreseen by the criminal law provision.

**M) Receiving, money-laundering and handling money, goods or utilities of illegal origin (Article 25-octies of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

A penalty can be imposed on the enterprise in relation to crimes concerning receiving, money-laundering and handling goods or money of illegal origin.

As clarified in the Annex to the internal control schemes, since these concern specific crimes for which the Company has implemented control measures, which in general terms, are guaranteed by the provisions of the Ethical Code and the Code of Conduct, in addition to the General Principles of internal control and the corporate Procedures, accordingly, this section will be limited to providing a brief description of the respective cases and the articles of law.

– **Receiving (Article 648 of the criminal code)**

Article 648 of the criminal code imposes a penalty on whoever purchases, receives or conceals money or objects originating from any crime, or however, intervenes to cause the foregoing articles to be purchased, received or concealed in order to make a profit for himself/herself or for others, except in cases of participation in the crime.

One of the specific factors that the legal theory deems necessary in order to refer correctly to the crime of receiving is the existence of “specific” malice by the person who acts, in other words, the knowledge and intention of gaining a profit, for himself/herself or for others by purchasing, receiving or concealing the goods of illegal origin. According to legal theory, the actual knowledge of the criminal unlawfulness of the presumed act is implied with regard to the psychological factor required.

A further requirement concerns the concept of the “illegal origin” of the goods received.

– **Money-laundering (Article 648-bis of the criminal code)**

Article 648-bis of the criminal imposes a penalty on any person that substitutes or transfers money, goods or other utilities originating from an offence committed with criminal intent, or executes other transactions in relation to them so as to hinder the identification of their illegal origin, except in the cases of participation in the crime.

The crime of money-laundering attracts a penalty for whoever substitutes or transfers money or other utilities originating from an offence committed with criminal intent, or executes other transactions also in relation to such goods in order to hinder the identification of their illegal origin, except in the circumstances of an accomplice in the crime.

The “substitution” action includes every activity intended to influence the criminal scenario by separating every possible link with the crime. The actual operating methods can entail banking, financial, commercial transactions by means of which the economic utilities of illegal origin are exchanged with other lawful utilities; or by

changing paper money into different currencies, speculating on exchange rates, investing the money in government securities, shares, jewels, etc.

The “transfer” action is, in essence, a specification of the first method: in this circumstance the goods of illegal origin are not substituted, but are moved from one person to another so as to lose track of their origin and of their actual destination. In reality, this conduct is complemented by changes in the registered name of a property or a parcel of shares, or by movements of credit money using electronic fund transfer systems.

The assumption of “other transactions” is undoubtedly a closing clause and includes any conduct with forms defined and identifiable in a specific fraudulent activity that consists in obstructing or hindering the search of the perpetrator of the presumed crime.

The phrase “so as to hinder the identification” according to one interpretation refers exclusively to the “other transactions” and not instead to the forms of conduct referring to “substitution” or “transfer”, which therefore, would appear to be criminally significant regardless of their ability to hinder identification. The other interpretation – that now seems to prevail – attributes this characterisation to all forms of conduct concerning money-laundering, which must be performed in such a way that in fact make it difficult to discover the illegal origin of the goods.

The subject of the forms of prohibited conduct concern money, goods or other utilities: this concerns an all-inclusive formula (accordingly, the regulatory provision includes real estate, companies, securities, precious metals, credit rights, etc.).

Money, goods or other utilities must have originated from any offence committed with criminal intent, not specified further. It is not even necessary for the presumed crime to be judicially ascertained and it is irrelevant that the crime concerned was committed by a person who is not indictable or not punishable, or that a condition required for prosecution is missing and it is not even significant that the presumed crime was committed abroad.

According to the standard interpretation established by the Court of Cassation the concept of origin is to be understood in a broad sense, including every circumstance where it can be recognised that the money, goods or utilities originate from the crime.

The crime is punishable as general malice that corresponds to an awareness (also assuming a possibility: it is important to remember that the condition of doubt or uncertainty corresponds to integrating the intellectual moment of malice as regards established case law) of the illegal origin of the goods and of perpetrating the prohibited forms of conduct.

The crime can be committed by transferring property in such a way (for example: by means of trust registrations) as to hinder the identification of the person to whom the property is transferred in exchange for money or other goods of illegal origin.

– **Handling money, goods or utilities of illegal origin (Article 648-ter of the criminal code)**

Article 648-ter of the criminal code imposes a penalty on anyone that uses money, goods or other utilities of illegal origin in economic or financial activities, except in the cases of participation in the crime and the cases envisaged under Article 648 of the criminal code and Article 648-bis of the criminal code.

The punishable conduct is described using the verb ‘to handle’ that does not have a precise technical significance and ends up having a particularly broad effect, since it

can refer to any way of using money, goods or other utilities originating from the crime regardless of any objective or beneficial result for the agent.

The expression “economic and financial activities” is also interpreted by case law in a broad sense, so as to include almost any type of use, provided it can be categorised as activities performed to produce or exchange goods or services.

Reference is to be made to the comments indicated under Article 648-*bis* of the criminal code with regard to the material subject of the conduct (money, goods or other utilities of illegal origin).

A similar reference is to be made with regard to the origin of the foregoing goods, with the only note that in the case of Article 648-*ter* of the criminal code the provision does not include the specification “criminal intent”, therefore – at least theoretically – this provision could also be applicable in the case in which the presumed crime is a culpable crime.

With regard to the psychological aspect of the crime under review, the same considerations apply as the considerations indicated under Article 648-*bis* of the criminal code.

The crime can be committed by using the goods of illegal origin to purchase property formally registered in the name of companies which are not formally referable to the persons from which the “illegal” asset originates.

#### **N) Offences relating to breach of copyright (Article 25-*novies* of Legislative Decree No. 231/2001<sup>29</sup> – monetary sanctions and prohibition measures)**

As clarified in the Annex to the internal control schemes, since these concern specific crimes for which the Company has implemented control measures, which in general terms, are guaranteed by the provisions of the Ethical Code and the Code of Conduct, in addition to the General Principles of internal control and the corporate Procedures, accordingly, this section will be limited to providing a brief description of the respective cases and the articles of law.

– **Article 171 of Law No. 633 dated April 22, 1941 Protecting copyright and other rights associated with its operation**

Article 171 envisages that anyone who: a) ... (omissis) ...; a-*bis*) makes protected intellectual property or a part thereof, available to the general public without authorisation, for whatever purpose, and in any form, by uploading it into a system of telematic networks by means of links of any kind is punished with a fine ranging from euro 51 to euro 2,065, without prejudice to the provisions of Article 171-*bis* and Article 171-*ter*.

– **Article 171-*bis* of Law No. 633 dated April 22, 1941**

1. Article 171-*bis* imposes a penalty on whoever abusively copies computer programs, to make a profit, or for the same reasons imports, distributes, sells, possesses for a commercial or entrepreneurial purpose or leases programs contained on support media not marked by “Società italiana degli autori ed editori” - Italian Authors and Publishers' Society (SIAE) consisting of imprisonment from six months to

---

<sup>29</sup> Legislative Decree No. 231/2001 presents two distinct provisions in the current wording recorded as Article 25-*novies*.

three years and a fine ranging from euro 2,582 to euro 15,493. The same penalty is imposed if the act concerns any means intended solely to permit or facilitate the arbitrary removal or functional avoidance of devices applied to protect a computer program. The penalty is not less than the minimum of two years imprisonment and a fine of euro 15,493 if the act is significantly serious.

2. Whoever copies on support media not marked with the SIAE sticker, transfers onto another support media, distributes, communicates, presents or discloses the contents of a databank to the general public, in order to make a profit, in breach of the provisions set out under Article 64-*quinquies* and Article 64-*sexies*, or extracts data or reuses the databank in breach of the provisions set out under Article 102-*bis* and Article 102-*ter*, or distributes, sells or leases a databank is subject to the penalty of imprisonment from six months to three years and a fine ranging from euro 2,582 to euro 15,493. The penalty is not less than the minimum of two years imprisonment and a fine of euro 15,493 if the act is significantly serious.

– **Article 171-ter of Law No. 633 dated April 22, 1941**

1. The crime envisaged under Article 171-*ter* considers multiple criminal scenarios which foresee the punishability of anyone who for the purposes of making a profit:

- a) illegally copies, reproduces, transmits or broadcasts in public using any procedure, in whole or in part, intellectual property intended for the television, cinema, sale or hire circuit, discs, tapes or analogous support media or every other support media containing phonograms or videograms of musical, cinema or similar audio-visual works or sequences of moving images;
- b) illegally reproduces, transmits or broadcasts in public using any procedure, literary, dramatic, scientific or educational, musical or dramatic-musical, or multimedia works or parts thereof, even if included in collective or composite works or databanks;
- c) introduces into the national domain, possesses for sale or distribution, or distributes, puts up for sale, hires or whoever transfers for whatever reason, projects in public, broadcasts by television using any procedure, transmits by radio, arranges for the illegal duplications or reproductions set out under subsections a) and b) to be listened to in public, even if not having participated in the duplication or reproduction;
- d) possesses for sale or distribution, puts up for sale, sells, hires, transfers for whatever reason, projects in public, transmits by radio or by television using any procedure, video cassettes, audio cassettes, any support media containing phonograms or videograms of musical, cinema or audio-visual works or sequences of moving images or other support media for which affixing the marker sticker of “Società italiana degli autori ed editori” - Italian Authors and Publishers' Society (S.I.A.E.) is duly prescribed pursuant to this law, but without the marker sticker concerned or with a counterfeit or falsified marker sticker;
- e) transmits or broadcasts an encrypted service using any means received by means of apparatus or parts of apparatus able to decode transmissions subject to conditional access without having an agreement with the lawful distributor;
- f) introduces into the national domain, possesses for sale or distribution, distributes, sells, hires, transfers for whatever reason, promotes commercially, installs devices or special decoding elements which allow access to an encrypted service without paying the fee due;

f-*bis*) manufactures, imports, distributes, sells, hires, transfers for whatever reason, advertises for sale or for hire or possesses for commercial purposes equipment, products or components or provides services which have the prevalent purpose or commercial use of avoiding the effective technological measures set out under Article 102-*quater* or are mainly designed, manufactured, adapted or produced with the aim of rendering it possible or to facilitate the avoidance of the foregoing measures. The technological measures include those applied, or which remain after removal of the measures concerned consequent to the voluntary initiative of the holders of the rights or agreements between the latter and the beneficiaries of exemptions, or following the enforcement of provisions issued by the administrative or judicial authority;

g) illegally removes or modifies the electronic information set out under Article 102-*quinquies*, or distributes, imports for purposes of distribution, broadcasts by radio or by television, communicates or makes available to the general public protected works or other materials from which the electronic information concerned has been removed or modified.

A term of imprisonment is foreseen for these crimes from six months to three years and with a fine ranging from euro 2,582 to euro 15,493, if the act is committed for non-personal use.

2. Moreover, any person who perpetrates the following crimes is also punishable with a term of imprisonment from one to four years and with a fine ranging from euro 2,582 to euro 15,493:

a) illegally reproduces, duplicates, transmits or broadcasts, sells or otherwise puts up for sale, transfers for whatever reason or illegally imports more than fifty copies or specimens of works protected by copyright and by related rights;

a-*bis*) communicates intellectual property protected by copyright, or a part thereof to the general public by uploading to a system of telematic networks, using links of any kind, in order to make a profit, in breach of Article 16 (exclusive right to communicate the works to the general public using wired or wireless means);

b) is guilty of perpetrating the acts envisaged under paragraph 1 when performing activities in an entrepreneurial form to reproduce, distribute, sell, or trade, import works protected by copyright and by related rights;

c) promotes or organises the illegal activities set out in paragraph 1.

3. The penalty is reduced if the act is particularly minor.

4. The sentence for one of the crimes envisaged under paragraph 1 entails:

- the application of the ancillary penalties set out under Article 30 and Article 32-*bis* of the criminal code;

- publishing the sentence in one or more daily newspapers, including at least one national daily and in one or more specialised periodicals;

- suspending the radio television broadcasting licence or authorisation to engage in the production or commercial activity for a period of one year.

5. The amounts arising from the imposition of the monetary sanctions envisaged by the paragraphs above are paid to the National Social Security and Welfare Institute for painters and sculptors, musicians, writers and dramatic authors.

– **Article 171-*septies* of Law No. 633 dated April 22, 1941**

The penalty envisaged under Article 171-*ter*, paragraph 1 is also imposed on:

- manufacturers or importers of support media not subject to the marker sticker set out under Article 181-*bis* that fail to notify SIAE with the data required for the unambiguous identification of the support media concerned within thirty days from the date of marketing or importing to the national domain;
- anyone making a false declaration stating that the obligations set out under Article 181-*bis*, paragraph 2 of this law have been satisfied, unless the act constitutes a more serious offence.

- **Article 171-*octies* of Law No. 633 dated April 22, 1941**

Article 171-*octies* imposes a penalty on whoever, for fraudulent purposes, manufactures, puts up for sale, imports, promotes, installs, changes, utilises apparatus or parts of apparatus for public and private use that is able to decode audio-visual transmissions subject to conditional access broadcast over the airwaves, by satellite, by cable both in analogue and digital form. Conditional access means all audio-visual signals transmitted by Italian or foreign broadcasting stations in a form that renders such signals visible exclusively to closed groups of users selected by the party that broadcasts the signal, regardless of the imposition of a fee to use this service. The perpetrator is punished with a term of imprisonment from six months to three years and with a fine ranging from euro 2,582 to euro 25,822, unless the act constitutes a more serious offence. The punishment is not less than two years imprisonment and the fine amounts to euro 15,493, if the act is significantly serious.

- **Article 174 -*quinquies* of Law No. 633 dated April 22 1941**

**O) Crime of inducing others not to issue statements or to issue untrue statements to the judicial authorities (Article 25-*novies*<sup>30</sup> of Legislative Decree No. 231/2001 – monetary sanctions)**

As clarified in the Annex to the internal control schemes, since these concern specific crimes for which the Company has implemented control measures, which in general terms, are guaranteed by the provisions of the Ethical Code and the Code of Conduct, in addition to the General Principles of internal control and the corporate Procedures, accordingly, this section will be limited to providing a brief description of the respective cases and the articles of law.

- **Inducing others not to issue statements or to issue untrue statements to the judicial authorities (Article 377-*bis* of the criminal code)**

Article 377-*bis* punishes the action of those who induce (by violence or threat or with the offer or promise of money or other utilities) a person called to make statements usable in criminal proceedings not to issue statements or to issue untrue statements, when such person has the right not to answer<sup>31</sup>. The conduct of inducing others not to issue statements (namely, to avail themselves of the right not to answer or to issue

---

<sup>30</sup> Refer to preceding note.

<sup>31</sup> The person subjected to the conduct is necessarily a person to whom the law reserves the right not to answer: the person suspected (or accused) of committing a related or associated crime (provided the forgoing have not already been considered as a witness by the court, as well as that restricted category of witnesses (close relatives), whom Article 199 of the code of criminal procedure reserves the right not to testify.

false statements) must be perpetrated in a typical form (by violence or threat or with the offer of money or any other utility).

**P) Environmental Crimes (Article 25-undecies of Legislative Decree No. 231/2001 – monetary sanctions and prohibition measures)**

As clarified in the Annex to the internal control schemes, since these concern specific crimes for which the Company has implemented control measures, which in general terms, are guaranteed by the provisions of the Ethical Code and the Code of Conduct, in addition to the General Principles of internal control and the corporate Procedures, and by the ISO 14001 Certification activities, accordingly, this section will be limited to providing a brief description of the respective cases and the articles of law.

– **Killing, destroying, collecting or possessing specimens of protected wild animal or plant species (Article 727-bis of the criminal code)**

Article 727-bis imposes a penalty on whoever kills, captures or possesses specimens included in a protected species of wild animal, excluding the cases permitted and except for the cases in which the action involves a negligible quantity of such specimens and has a negligible impact on the state of preservation of the species concerned.

In addition, Article 727-bis punishes whoever destroys, collects or possesses a specimen belonging to a protected wild plant species, excluding the cases permitted and except for the cases in which the action involves a negligible quantity of such species and has a negligible impact on the state of preservation of the species concerned.

The protected wild animal or plant species are understood to refer to the species indicated in annex IV of directive 92/43/EC and in annex I of directive 2009/147/EC for the purposes of applying Article 727-bis of the criminal code.

– **Damage to habitat (Article 733-bis of the criminal code)**

Article 733-bis imposes a penalty on whoever destroys a habit inside a protected site or however, deteriorates the habitat jeopardising its state of preservation, excluding the cases permitted.

The term “habitat inside a protected site” means any habitat of species for which an area have been classified as a special protection area, pursuant to Article 4, paragraphs 1 or 2 of directive 79/409/EC, or any natural habitat or a habitat of species for which a site has been designated as a special preservation area, pursuant to Article 4, paragraph 4 of directive 92/43/EC, for the purposes of applying Article 733-bis of the criminal code.

– **Crimes related to discharging industrial waste water containing dangerous substances (Article 137, paragraphs 2-3-5-11-13 of Legislative Decree No. 152 dated April 3, 2006)**

The criminal law protection is based on 4 types of crime:

- a) unauthorised discharge or discharge with suspended or revoked authorisation;
- b) exceeding the maximum limit values contained in the tables annexed to the 'TUA' or exceeding the more restrictive values established by the Regions, by the autonomous Provinces and by administrative authorities;
- c) failing to comply with the provisions contained in the authorisation or the requirements or measures established by the competent authorities or the prohibitions established in other government (administrative) or regional provisions;
- d) breaching the obligations to store data relating to automatic controls or their notification and the obligation of permitting access to the production facilities by persons appointed to perform the inspection.

– **Unauthorised waste management activity (Article 256, paragraphs 1-3-5-6 of Legislative Decree No. 152 dated April 3, 2006)**

The Article imposes a penalty on:

- a) whoever performs an activity involving the collection, transport, recovery, disposal, trading and intermediation of waste material without the prescribed authorisation, registration or notification set out in Articles 208, 209, 210, 211, 212, 214, 215 and 216;
- b) whoever establishes or manages an unauthorised landfill site;
- c) whoever performs prohibited activities of mixing waste materials, in breach of the prohibition set out under Article 187;
- d) whoever stores temporarily dangerous sanitary waste at the production site, breaching the provisions set out under Article 227, paragraph 1, sub-section b).

– **Clean-up of sites (Article 257, paragraphs 1-2 of Legislative Decree No. 152 dated April 3, 2006)**

The Article imposes a penalty on whoever causes pollution to the soil, to the subsoil, to surface waters or to underground waters by exceeding the risk threshold concentrations. The crime is punished in the cases in which the perpetrator does not make arrangements to clean-up the pollution.

– **Breaching notification obligations, keeping mandatory registers and questionnaires (Article 258, paragraph 4, second sentence of Legislative Decree No. 152 dated April 3, 2006)**

The penalty set out under Article 483 of the criminal code is imposed on whoever provides untrue information concerning the nature, the composition and the chemical and physical characteristics of waste materials when preparing a waste analysis certificate and whoever uses a false certificate when transporting waste.

– **Illegal waste traffic (Article 259, paragraph 1 of Legislative Decree No. 259 dated April 3, 2006)**

The Article imposes a penalty on whoever dispatches waste that constitutes illegal traffic, pursuant to Article 26 of (EEC) Regulation No. 259 dated February 1, 1993 or

---

dispatches the waste listed in Annex II of the cited regulation, in breach of Article 1, paragraph 3, sub-sections a), b), c) and d) of the regulation concerned.

- **Organised activities for illegal waste traffic also involving highly radioactive waste (Article 260, paragraphs 1-2 of Legislative Decree No. 152 dated April 3, 2006)**

The Article imposes a penalty on whoever illegally transfers, receives, transports, exports, imports, or however, manages large quantities of waste materials by means of numerous operations and by equipping vehicles and based on continues organised activities, in order to make an unfair profit. The penalty of imprisonment from three to eight years is imposed if highly radioactive waste is involved.

- **IT system to control waste traceability (Article 260-bis, paragraphs 6-7, second and third sentence of Legislative Decree No. 152 dated April 3, 2006)**

The Article imposes a penalty on the forgery of a waste analysis certificate in the framework of the system to control the traceability of the waste concerned, using a certificate or a printed copy of the Sistri (waste traceability control system) datasheet that has been fraudulently altered.

- **Breach of the maximum emission limit values when operating a facility (Article 279, paragraph 5 of Legislative Decree No. 152 dated April 3 2006)**

The Article imposes a penalty on:

- a) whoever starts to install or operates a facility without the prescribed authorisation or continues to operate when the authorisation has expired, has become null and void, has been suspended or revoked;
- b) whoever, when operating a facility, breaches the maximum emission values or the requirements established by the authorisation, by the plans and the programmes or by the laws and regulations set out under Article 271 or the requirements otherwise imposed by the competent authority;
- c) whoever operates a facility or starts to perform an activity without having given the required prior notification;
- d) whoever fails to notify the competent authority to communicate the data relating to emissions, pursuant to Article 269, paragraph 6.

- **Crimes related to the protection of animal and plant species (Article 1, paragraph 1 and Article 2, paragraphs 1-2 of Law 7 No. 150 of February 1992)**

The law imposes a penalty on the importation and exportation of protected animal and plant species without certificates or a licence or with an invalid certificate or licence, or possession of the foregoing to make a profit or selling the foregoing without authorisation. The possession of wild live mammals and reptiles or mammals and reptiles which originate from reproduction in captivity and which constitute a danger to the health and safety of the general public, except the cases envisaged under Law No. 157/1992.

- **Crimes of falsehood mentioned in the criminal code (Article 3 bis, paragraph 1 of Law No. 150 dated February 7, 1992)**

The Article refers to crimes concerning the falsification or alteration of certificates, licenses, import notices, declarations, information notifications in order to acquire a licence or certificate, the use of forged or altered certificates or licences and orders the imposition of the penalties set out in book II, heading VII, chapter III of the criminal code.

- **Production, import, export and placing on the market or use of substances which reduce the ozone layer (Article 3, paragraph 6 of Law No. 549 dated December 28, 1993 - measures to protect the stratospheric ozone and the environment)**

The Article imposes a penalty on the production, consumption, import, export, possession, use for production purposes and marketing of substances which damage the atmospheric ozone layer.

- **Malicious pollution caused by ships (Article 8 of the Legislative Decree No. 202 dated November 6, 2007)**
- **Culpable pollution caused by ships (Article 9 of Legislative Decree No. 202 dated November 6, 2007)**

## **Annex 2:**

**Public Administration: criteria to define a public official and a public service officer**

***(Omissis)***

# **Annex 3**

**HS**

***(Health and Safety)***

**ORGANISATION AND MANAGEMENT MODEL**

***(Omissis)***