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AGCO S.p.a.

Organisation and Management Model pursuant to Legislative Decree 231/2001
General Part

Approved by the Board of Directors on **20.03.2025**

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1 DESCRIPTION OF THE REGULATORY FRAMEWORK

1.1 Introduction

With Legislative Decree No. 231 of 8 June 2001 (hereinafter, 'Legislative Decree No. 231/2001' or the 'Decree'), implementing the delegation conferred on the Government with Article 11 of Law No. 300 of 29 September 2000, the regulation of the '*liability of entities for administrative offences dependent on crime*' was dictated.

In particular, these rules apply to entities with legal personality and companies and associations, including those without legal personality.

Legislative Decree No. 231/2001 finds its primary genesis in a number of international and EU conventions ratified by Italy that require forms of liability of collective entities for certain types of offences.

According to the rules introduced by the Decree, in fact, companies can be held 'liable' for certain offences committed or attempted, even in the interest or to the advantage of the companies themselves, by members of the company's senior management (the so-called 'apical' or simply 'apical' persons) and by those who are subject to the direction or supervision of the latter (Article 5(1) of Legislative Decree No. 231/2001).

The administrative liability of companies is independent of the criminal liability of the natural person who has committed the offence, and stands alongside the latter.

This extension of liability essentially aims to involve in the punishment of certain offences the assets of companies and, ultimately, the economic interests of shareholders, who, until the entry into force of the Decree under review, did not suffer direct consequences from the commission of offences committed, in the interest or to the advantage of their company, by directors and/or employees.

Legislative Decree No. 231/2001 innovates the Italian legal system in that companies are now directly and independently subject to sanctions of both a pecuniary and disqualifying nature in relation to offences ascribed to persons functionally linked to the company pursuant to Article 5 of the decree.

The company's administrative liability is, however, excluded if the company has, among other things, adopted and effectively implemented, before the offences were committed, organisational, management and control models suitable for preventing the offences themselves; these models may be adopted on the basis of codes of conduct (guidelines) drawn up by associations representing companies, including Confindustria, and communicated to the Ministry of Justice.

The administrative liability of the company is, in any case, excluded if the senior persons and/or their subordinates have acted exclusively in their own interest or in the interest of third parties.

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1.2 Nature of liability

With reference to the nature of administrative liability *pursuant to* Legislative Decree No. 231/2001, the illustrative report on the decree emphasises the '*birth of a* tertium genus *that combines the essential features of the criminal and administrative systems in an attempt to reconcile the reasons of preventive effectiveness with those, even more inescapable, of maximum guarantee*'.

Legislative Decree No. 231/2001 has, in fact, introduced into our legal system a form of corporate liability of an 'administrative' nature - in deference to the dictates of Article 27(1) of our Constitution - but with numerous points of contact with 'criminal' liability.

In this regard, see - among the most significant - Articles 2, 8 and 34 of Legislative Decree No. 231/2001, where the first reaffirms the principle of legality typical of criminal law; the second affirms the autonomy of the entity's liability with respect to the liability of the natural person responsible for the criminal conduct; the third provides for the circumstance that such liability, depending on the commission of a crime, is ascertained in criminal proceedings and is, therefore, assisted by the guarantees of criminal proceedings. Consider, moreover, the afflictive nature of the sanctions applicable to the company.

1.3 Perpetrators of the offence: persons in senior positions and persons subject to the direction of others

As mentioned above, under Legislative Decree No. 231/2001, the company is liable for offences committed in its interest or to its advantage:

- by 'persons who hold positions of representation, administration or management of the entity or of one of its organisational units with financial and functional autonomy, as well as by persons who exercise, also de facto, the management and control of the entity itself' (the aforementioned persons 'in an apical position' or 'apical'; Article 5(1)(a) of Legislative Decree No. 231/2001);
- by persons subject to the direction or supervision of one of the senior persons (so-called persons subject to the direction of others; Article 5(1)(b) of Legislative Decree No. 231/2001).

It should also be reiterated that the company is not liable, by express legislative provision (Article 5(2) of Legislative Decree No. 231/2001), if the above-mentioned persons have acted solely in their own interest or in the interest of third parties.

1.4 Offences

Under Legislative Decree No. 231/2001, the entity can only be held liable for the offences expressly referred to in Legislative Decree No. 231/2001, if committed in its interest or to its advantage by the persons qualified *under* Article 5(1) of the Decree itself or in the case of specific legal provisions referring to the Decree, as in the case of Article 10 of Law No. 146/2006.

For the sake of ease of exposition, they can be included in the following categories:

- offences against the Public Administration. This is the first group of offences originally identified by Legislative Decree No. 231/2001 (Articles 24 and 25)[1];

- forgery of money, public credit cards, revenue stamps **and identification instruments or signs**, such as forgery of money, public credit cards and revenue stamps, provided for by Article *25-bis* of the Decree and introduced by Law No. 409 of 23 November 2001, concerning "*Urgent provisions in view of the introduction of the Euro*"[2];

- corporate offences. Legislative Decree No. 61 of 11 April 2002, as part of the reform of corporate law, provided for the extension of the administrative liability of entities to certain corporate offences (such as false corporate communications, unlawful influence on the shareholders' meeting, referred to in Article *25-ter* of Legislative Decree No. 231/2001) [3];

- offences relating to terrorism and subversion of the democratic order (referred to in Article *25-quater* of Legislative Decree No. 231/2001, introduced by Article 3 of Law No. 7 of 14 January 2003). These are "*offences for the purpose of terrorism or subversion of the democratic order, provided for in the Criminal Code and in special laws*", as well as offences, other than those indicated above, "*which have in any case been committed in violation of the provisions of Article 2 of the International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999*")[4];

- market abuse, referred to in Article *25-sexies* of the Decree, as introduced by Article 9 of Law No. 62 of 18 April 2005 ("*2004 Community Law*")[5];

- offences against the individual, provided for in Article *25-quinquies*, introduced into the Decree by Article 5 of Law No. 228 of 11 August 2003, such as child prostitution, child pornography, trafficking in persons and reduction to and maintenance in slavery[6];

- transnational offences. Article 10 of Law No. 146 of 16 March 2006 provides for the administrative liability of the company also with reference to the offences specified by the same law that have the characteristic of transnationality[7];

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- offences against life and individual safety. Article *25-quater*.1 of the Decree provides that practices of female genital mutilation are among the offences for which the company is administratively liable;

- health and safety offences. Article *25-septies*[8] provides for the administrative liability of the company in relation to the offences referred to in Articles 589 and 590, third paragraph, of the Criminal Code (manslaughter and grievous or very grievous bodily harm), committed in violation of the rules on accident prevention and on the protection of hygiene and health at work;

- offences of receiving stolen goods, money laundering and use of money, goods or benefits of unlawful origin, as well as selflaundering. Article *25-octies*[9] of the Decree establishes the extension of the liability of the entity also with reference to the offences provided for in Articles 648, *648-bis*, *648-ter* and 648 - *ter* 1 of the Criminal Code;

- Computer crimes and unlawful data processing. Article *24-bis* of the Decree provides for the administrative liability of the company in relation to the offences referred to in Articles *615-ter*, *615-quater*, 615-quinquies, 617-quater, *617-quinquies*, *635-bis*, *635-ter*, 635-quater, 625-quater.*1*, *635-quinquies*, *491-bis*, 629, third paragraph, *640-quinquies* of the Criminal Code;

- organised crime offences. Article *24-ter* of the Decree establishes the extension of the entity's liability also with reference to the offences provided for in Articles 416, sixth paragraph, *416-bis*, *416-ter* and 630 of the Criminal Code and the offences provided for in Article 74 of the Consolidated Text of the President of the Republic Decree No. 309 of 9 October 1990;

- offences against industry and trade. Article *25-bis-1* of the Decree provides for the administrative liability of the company in relation to the offences referred to in Articles 513, *513-bis*, 514, 515, 516, 517, *517-ter* and *517-quater* of the Criminal Code;

- offences relating to violation of copyright. Article *25-novies* of the Decree provides for the administrative liability of the company in relation to the offences referred to in Articles 171, first paragraph, letter a-bis), and third paragraph, *171-bis*, *171-ter* and 171-septies, *171-octies* of Law No. 633 of 22 April 1941;

- inducement not to make statements or to make false statements to the Judicial Authorities (Article *377-bis* of the Criminal Code), referred to in Article *25-decies* of the Decree[10];

- environmental offences. Article 25-*undecies* of the Decree provides for the administrative liability of the company in relation to the offences referred to in Articles *452-bis*, *452-quater*,*452-quinquies*, *452-sexies*, *452-octies*,727-bis and 733-bis of the Criminal Code (in particular, significant environmental offences, including environmental pollution and disaster), some articles of Leg.No. 152/2006 (Consolidated Environmental Act), some articles of Law No. 150/1992 on the protection of endangered and dangerous animal and plant species, Article 3, para. 6 of Law No. 549/1993 on the protection of stratospheric ozone and the environment, and some articles of Legislative Decree No. 202/2007 on ship-source pollution[11];

- offences for the employment of third-country nationals whose stay is irregular. Article *25-duodecies* of the Decree provides for the administrative liability of the company in relation to the offences of Article 2, c. 1 of Legislative Decree No. 109 of 16 July 2012, in the event of the use of foreign workers without a residence permit or even an expired permit;

- offences of corruption between private individuals. Article 25-ter *1, letter s-bis* of the Decree provides for the administrative liability of the company in relation to offences under Article 2635 of the Civil Code;

- offences of solicitation of minors. Article *25-quinquies, paragraph 1 letter c* of the Decree provides for the administrative liability of the company in relation to Article 3 of Legislative Decree 04.03.2014, No. 39 of the new case of Article 609 *undecies* of the Criminal Code;

- crimes of racism and xenophobia. Article *25-terdecies* provides for the administrative liability of the company in relation to the offences of Article 604-bis of the Criminal Code (Propaganda and incitement to commit racial, ethnic and religious discrimination)[12];

- fraud in sporting competitions, unlawful gaming or betting and gambling by means of prohibited devices[13]. Article *25-quaterdecies* provides for the administrative liability of the company in relation to the following offences: sporting fraud (Article 1, L. 401/1989) and offences and contraventions related to the exercise,

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organisation, sale of gaming and betting activities in violation of authorisations or administrative concessions (Article 4, L. 401/1989);

- tax offences, referred to in Article 25-quinquiesdecies, including several offences of Legislative Decree 74/2000, such as: fraudulent declaration using invoices or other documents for non-existent transactions, fraudulent declaration by means of other tricks, untrue declaration, issuance of invoices or other documents for non-existent transactions, undue compensation, concealment or destruction of accounting documents, omitted declaration, fraudulent evasion of tax payments;

- fraud and counterfeiting of non-cash means of payment, Article 25-octies.1, entitled 'Offences relating to non-cash means of payment', provides for the administrative liability of the company in relation to the offences of undue use and falsification of credit and payment cards (Article 493-ter of the Criminal Code), possession and dissemination of equipment, devices or computer programmes aimed at committing offences relating to non-cash means of payment (Article 493-quater of the Criminal Code), computer fraud (Article 640-ter of the Criminal Code) and the commission of any other offence against public faith, against property or which in any case offends property provided for by the Criminal Code, when it relates to non-cash payment instruments (Article 25-octies.1, paragraph 2);

- crimes against the cultural heritage, Law No. 22 of 9 March 2022, 'Provisions on crimes against the cultural heritage', introduced Article 25-septiesdecies entitled 'crimes against the cultural heritage', including the following offences of the Criminal Code: misappropriation of cultural goods (Article 518-ter), unlawful importation of cultural goods (Article 518-decies), unlawful exportation of cultural goods (Article 518-undecies), destruction, dispersal, deterioration, defacement, embellishment and unlawful use of cultural or landscape goods (Article 518-duodecies), counterfeiting of cultural goods (Article 518-duodecies), and unlawful exportation of cultural goods (Article 518-ter). 518-undecies), destruction, dispersal, deterioration, defacement, defacement and unlawful use of cultural or landscape goods (Art. 518-duodecies), counterfeiting of works of art (Art. 518-quaterdecies), theft of cultural goods (Art. 518-bis), receiving stolen cultural goods (Art. 518-quater), forgery of private writing relating to cultural goods (Art. 518-octies);

- laundering of cultural goods and devastation, Law No. 22 of 9 March 2022, 'Provisions on offences against cultural heritage', introduced Article 25-duodevicies entitled 'Laundering of cultural goods and devastation and looting of cultural and landscape assets', including the following offences of the Criminal Code: laundering of cultural goods (Article 518-sexies), and devastation and looting of cultural and landscape assets (Article 518-terdecies);

- Disturbing the freedom of invitations to tender, the procedure for choosing a contractor and the fraudulent transfer of valuables, Law No. 137 of 9 October 2023 amended Article 24(1), introducing the following Criminal Code offences: 'Disturbing the freedom of invitations to tender' (Article 353) and 'Disturbing the freedom of the procedure for choosing a contractor' (Article 353-bis); the aforementioned law also amended Article 25 octies.1, introducing the Criminal Code offence 'Fraudulent transfer of valuables' (Article 512-bis).

The categories listed above are destined to increase further in the near future, also due to the legislative tendency to broaden the scope of the Decree, also in compliance with international and EU obligations.

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1.5 Sanctioning apparatus

Articles 9-23 of Legislative Decree No. 231/2001 provide for the following sanctions against the company, as a consequence of the commission or attempted commission of the offences mentioned above:

- fine (and precautionary attachment);

- disqualification sanctions (also applicable as a precautionary measure) of a duration of no less than three months and no more than two years (with the clarification that, pursuant to Article 14(1) of Legislative Decree No. 231/2001, "*Disqualification sanctions are aimed at the specific activity to which the offence committed by the entity relates*") which, in turn, may consist of

- disqualification;

- suspension or revocation of authorisations, licences or concessions functional to the commission of the offence;

- prohibition of contracting with the public administration, except to obtain the performance of a public service;

- exclusion from benefits, financing, contributions or subsidies and the possible revocation of those granted;

- ban on advertising goods or services;

- confiscation (and precautionary seizure);

- publication of the judgment (in case of application of a disqualification sanction).

The pecuniary sanction is determined by the criminal court through a system based on "quotas" in a number of not less than one hundred and not more than one thousand and in an amount varying between a minimum of Euro 258.22 and a maximum of Euro 1549.37. In the commensuration of the pecuniary sanction the judge determines:

- the number of shares, taking into account the seriousness of the offence, the degree of the company's liability and the activity carried out to eliminate or mitigate the consequences of the offence and to prevent the commission of further offences;

- the amount of the individual share, on the basis of the company's economic and asset conditions.

Disqualification penalties apply only in relation to offences for which they are expressly provided for (i.e. offences against the public administration, certain offences against public faith - such as counterfeiting currency - offences relating to terrorism and subversion of the democratic order offences against the individual, female genital mutilation practices, transnational offences, health and safety offences, as well as offences of receiving, laundering and using money, goods or benefits of unlawful origin, computer crimes and unlawful processing of data, organised crime offences, offences against industry and commerce, offences relating to violation of copyright, certain environmental offences, offences relating to the employment of illegally staying third-country nationals, undue inducement to give or promise benefits, tax offences and smuggling offences, offences relating to non-cash means of payment, offences against cultural heritage and money laundering, and the devastation and looting of cultural and landscape heritage) and provided that at least one of the following conditions is met

- the company derived a significant profit from the commission of the offence and the offence was committed by persons in a senior position or by persons subject to the direction of others when, in the latter case, the commission of the offence was determined or facilitated by serious organisational deficiencies;

- in the event of repeated offences[14].

The judge determines the type and duration of the disqualification sanctions, taking into account the suitability of the individual sanctions to prevent offences of the type committed and, if necessary, may apply them jointly (Article 14(1) and (3) of Legislative Decree No. 231/2001).

The sanctions of disqualification from carrying on business, prohibition from contracting with the public administration and prohibition from advertising goods or services may be applied - in the most serious cases - on a definitive basis[15]. It is also worth noting the possible continuation of the company's activity (instead of the imposition of the sanction) by a commissioner appointed by the judge pursuant to and under the conditions of Article 15 of Legislative Decree No. 231/2001[16].

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1.6 Attempt

In the event of the commission, in the form of attempt, of the offences sanctioned on the basis of Legislative Decree No. 231/2001, the pecuniary sanctions (in terms of amount) and the prohibitory sanctions (in terms of duration) are reduced by between one third and one half.

The imposition of sanctions is excluded in cases where the entity voluntarily prevents the performance of the action or the realisation of the event (Article 26 of Legislative Decree No. 231/2001).

1.7 Changes in the entity

Legislative Decree No. 231/2001 regulates the entity's asset liability regime also in relation to events modifying it, such as the transformation, merger, demerger and sale of a company.

According to Article 27(1) of Legislative Decree No. 231/2001, the body is liable for the obligation to pay the pecuniary penalty with its assets or with the common fund, where the notion of assets must be referred to companies and bodies with legal personality, while the notion of 'common fund' concerns unrecognised associations[17].

Articles 28 to 33 of Legislative Decree No. 231/2001 regulate the impact on the liability of the entity of the modifying events connected to transformation, merger, demerger and company transfer operations. The legislator has taken into account two opposing requirements:

- on the one hand, to prevent such transactions from constituting a means of easily evading the entity's administrative liability;

- on the other hand, not to penalise reorganisation measures without evasive intentions.

The Explanatory Report to Legislative Decree No. 231/2001 states: '*The general criterion followed in this respect was to regulate the fate of pecuniary sanctions in accordance with the principles dictated by the Civil Code with regard to the generality of the other debts of the original entity, while maintaining, conversely, the connection of disqualification sanctions with the branch of activity in the context of which the offence was committed*'.

In the event of a transformation, Article 28 of Legislative Decree No. 231/2001 provides (consistently with the nature of this institution, which implies a mere change in the type of company, without determining the extinction of the original legal entity) that the body's liability for offences committed prior to the date on which the transformation took effect remains unaffected.

In the event of a merger, the entity resulting from the merger (including by incorporation) is liable for the offences for which the merging entities were liable (Article 29 of Legislative Decree No. 231/2001).

Article 30 of Legislative Decree No. 231/2001 provides that, in the case of a partial demerger, the demerged company remains liable for offences committed prior to the date on which the demerger took effect.

The entities benefiting from the demerger (whether total or partial) are jointly and severally liable to pay the pecuniary penalties owed by the demerged entity for offences committed prior to the date on which the demerger took effect, up to the actual value of the net assets transferred to the individual entity.

This limitation does not apply to beneficiary companies to which the branch of activity in the context of which the offence was committed is transferred, even in part.

Disqualification penalties relating to offences committed prior to the date on which the demerger took effect apply to the entities to which the branch of activity in which the offence was committed remained or was transferred, even in part.

Article 31 of the Decree lays down provisions common to mergers and demergers, concerning the determination of penalties in the event that such extraordinary transactions have taken place before the conclusion of the proceedings. In particular, it clarifies the principle that the judge must commensurate the financial penalty, in accordance with the criteria laid down in Article 11(2)[18] of the Decree, referring in any event to the economic and asset conditions of the entity originally liable, and not to those of the entity to which the penalty should be imputed following the merger or demerger.

In the event of a disqualification sanction, the entity that will be held liable following the merger or demerger may ask the court to convert the disqualification sanction into a fine, provided that (i) the organisational fault that made it possible for the offence to be committed has been eliminated, and (ii) the entity has compensated the damage and made available (for confiscation) the portion of profit that may have been made. Article 32 of Legislative Decree No. 231/2001 allows the court to take into account convictions already imposed on the merging or demerged entities in order to configure recurrence, pursuant to Article 20 of Legislative Decree No. 231/2001, in relation to the offences committed by the merged or demerged entity in relation to offences subsequently committed[19]. For the cases of the sale and transfer of a business, there is a single set of rules (Article 33 of Legislative Decree No. 231/2001)[20]; the transferee, in the case of the transfer of the business in whose activity the offence was

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committed, is jointly and severally liable to pay the financial penalty imposed on the transferor, with the following limitations:

- the benefit of the assignor's prior enforcement is not affected;

- the transferee's liability is limited to the value of the business transferred and the fines resulting from the compulsory books of account or due for administrative offences of which it had knowledge.

Conversely, disqualification sanctions imposed on the transferor do not extend to the transferee.

1.8 Offences committed abroad

According to Article 4 of Legislative Decree No. 231/2001, the entity may be held liable in Italy in relation to offences - covered by the same Legislative Decree No. 231/2001 - committed abroad[21]. The explanatory report to Legislative Decree No. 231/2001 emphasises the need not to leave a frequently occurring criminal situation without a sanction, also in order to avoid easy circumvention of the entire regulatory framework in question.

The prerequisites on which the liability of the entity for offences committed abroad is based are:

- the offence must be committed by a person functionally linked to the entity, pursuant to Article 5(1) of Legislative Decree No. 231/2001;

- the entity must have its head office in the territory of the Italian State;

- the body can only be held liable in the cases and under the conditions provided for in Articles 7, 8, 9 and 10 of the Criminal Code (in cases where the law provides that the offender - a natural person - is punished at the request of the Minister of Justice, proceedings are brought against the body only if the request is also made against the body itself)[22] and, also in accordance with the principle of legality set out in Article 2 of Legislative Decree no. 231/2001, only in respect of offences for which its liability is provided for by an *ad hoc* legislative provision;

if the cases and conditions provided for in the aforementioned articles of the criminal code exist, the State of the place where the act was committed shall not prosecute the entity.

1.9 Tort Procedure

Liability for administrative offences resulting from a criminal offence is established in the context of criminal proceedings. In this regard, Article 36 of Legislative Decree No. 231/2001 provides*: 'The jurisdiction to hear administrative offences committed by the entity belongs to the criminal court having jurisdiction over the offences on which the offences depend. The provisions on the composition of the court and the related procedural provisions relating to the offences on which the administrative offence depends shall be observed for the proceedings to determine the administrative offence of the entity'.*

Another rule, inspired by reasons of effectiveness, homogeneity and procedural economy, is that of the mandatory joinder of proceedings: the proceedings against the entity must be joined, as far as possible, to the criminal proceedings instituted against the natural person who committed the offence underlying the liability of the entity (Article 38 of Legislative Decree No. 231/2001). This rule is counterbalanced by the wording of the same Article 38 which, in paragraph 2, regulates the cases in which separate proceedings are brought for the administrative offence[23].

The entity participates in the criminal proceedings with its legal representative, unless the latter is charged with the offence on which the administrative offence depends; when the legal representative does not appear, the incorporated entity is represented by its defence counsel (Article 39(1) and (4) of Legislative Decree No. 231/2001).

1.10 Exempting Value of Organisational, Management and Control Models

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A fundamental aspect of Legislative Decree No. 231/2001 is the attribution of an exempting value to the company's organisation, management and control models.

If the offence has been committed by a person in an apical position, in fact, the company is not liable if it proves that (Article 6(1) of Legislative Decree No. 231/2001):

- the management body has adopted and effectively implemented, prior to the commission of the offence, organisational and management models capable of preventing offences of the kind committed;

- the task of supervising the operation of and compliance with the models and ensuring that they are updated has been entrusted to a body of the company endowed with autonomous powers of initiative and control;

- the persons committed the offence by fraudulently circumventing the organisation and management models;

- there was no or insufficient supervision by the supervisory body.

In the case of offences committed by senior persons, there is, therefore, a presumption of liability on the part of the company due to the fact that such persons express and represent the policy and, therefore, the will of the entity itself. This presumption, however, can be overcome if the company succeeds in demonstrating its extraneousness to the facts alleged against the apical subject by proving the existence of the above-mentioned competing requirements and, consequently, the circumstance that the commission of the offence does not derive from its own 'organisational fault'[24].

In the case, on the other hand, of an offence committed by persons subject to the management or supervision of others, the company is liable if the commission of the offence was made possible by the breach of the management or supervision obligations with which the company is required to comply[25].

In any case, the violation of management or supervisory obligations is excluded if the company, prior to the commission of the offence, has adopted and effectively implemented an organisation, management and control model capable of preventing offences of the kind committed.

In the case of an offence committed by a person subject to the direction or supervision of a senior person, there is an inversion of the burden of proof. The prosecution must, in the hypothesis envisaged by the aforementioned Article 7, prove the failure to adopt and effectively implement an organisational, management and control model capable of preventing offences of the kind committed.

Legislative Decree No. 231/2001 outlines the content of the organisation and management models, providing that they must, in relation to the extent of the delegated powers and the risk of offences being committed, as specified in Article 6(2), be

- identify the activities within the scope of which offences may be committed;

- provide for specific protocols aimed at planning the formation and implementation of the company's decisions in relation to the offences to be prevented;

- identify ways of managing financial resources that are suitable for preventing the commission of offences;

- provide for information obligations vis-à-vis the body in charge of supervising the functioning of and compliance with the models;

- introduce an appropriate disciplinary system to sanction non-compliance with the measures indicated in the model.

Article 7(4) of Legislative Decree No. 231/2001 also defines the requirements for the effective implementation of organisational models:

- periodic verification and possible amendment of the model when significant violations of the requirements are discovered or when changes occur in the organisation and activity;

- a disciplinary system suitable for penalising non-compliance with the measures indicated in the model.

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1.11 Codes of Conduct (Guidelines)

Article 6(3) of Legislative Decree No. 231/2001 provides that '*Organisational and management models may be adopted, guaranteeing the requirements set out in paragraph 2, on the basis of codes of conduct drawn up by the associations representing the entities, communicated to the Ministry of Justice which, in agreement with the competent Ministries, may, within thirty days, formulate observations on the suitability of the models to prevent offences'*.

Confindustria, in implementing the provisions of the aforementioned article, has defined the Guidelines[26] for the construction of organisation, management and control models (hereinafter, 'Confindustria Guidelines') providing, inter alia, methodological indications for the identification of risk areas (sectors/activities in which offences may be committed), the design of a control system (the so-called protocols for planning the formation and implementation of the entity's decisions) and the contents of the organisation, management and control model.

In particular, the Confindustria Guidelines suggest that member companies use *risk assessment* and *risk management* processes and provide for the following steps to define the model:

- identification of risks and protocols;
- adoption of some general tools, the main ones being a Code of Conduct and Business Ethics with reference to offences *under* Legislative Decree 231/2001 and a disciplinary system;
- Identification of the criteria for the selection of the Supervisory Board, indication of its requirements, tasks and powers, and information obligations.

The Confindustria Guidelines were forwarded, before their dissemination, to the Ministry of Justice, pursuant to Article 6, paragraph 3, of Legislative Decree No. 231/2001, so that the latter could express its observations within thirty days, as provided for by Article 6, paragraph 3, of Legislative Decree No. 231/2001, mentioned above.

The latest version was published in June 2021 (with approval by the Ministry of Justice on 8 June 2021).

The Company has adopted its organisation, management and control model on the basis of the Guidelines drawn up by the main trade associations and, in particular, the Confindustria Guidelines.

Informal translation for internal use

1.12 Eligibility Syndicate

The ascertainment of the company's liability, attributed to the criminal court, takes place by means of:

- the verification of the existence of the predicate offence for the liability of the company;

- the review of suitability of the organisational models adopted.

The judge's review of the abstract suitability of the organisational model to prevent the offences referred to in Legislative Decree No. 231/2001 is conducted according to the criterion of the so-called 'posthumous prognosis'.

The judgement of suitability must be formulated according to an essentially *ex ante* criterion whereby the judge places himself, ideally, in the company's situation at the time when the offence occurred in order to test the congruity of the model adopted. In other words, the organisational model that, prior to the commission of the offence, could and should be deemed 'suitable to prevent offences' should be judged to eliminate or, at least, minimise, with reasonable certainty, the risk of the offence subsequently being committed.

2 DESCRIPTION OF THE COMPANY - ELEMENTS OF THE GOVERNANCE MODEL AND GENERAL ORGANISATIONAL STRUCTURE OF THE COMPANY

2.1 Organisation within AGCO S.p.A.

AGCO S.p.A. (also Laverda AGCO S.p.A.) is a *leading* international company specialising in the production of agricultural machinery and equipment and the provision of related after-sales technical services.

AGCO S.p.A., wholly owned by AGCO GmbH, is part of the AGCO Group, a multinational company that operates a broad portfolio of brands (Fendt, Massey Ferguson Challenger) through an extensive dealer network.

The company is managed by a Board of Directors consisting of three to nine members, according to the resolutions of the shareholders' meeting. The management of the company is the sole responsibility of the directors, who carry out the operations necessary for the implementation of the company's object.

At the date of updating this Model, the Board of Directors consists of three members and has appointed a General Manager (Director, Site Leader & General Manager).

The following Functions depend on the General Manager, as shown in the Organigram attached to the Model (Annex 1):

- *Sales & Operation and Business Process Transformation;*
- *Manufacturing engineering*;
- *Purchasing;*
- *Operations*;
- *Quality;*
- *Parts and Technical Service;*
- *Finance*;
- *Marketing*
- *Human Resources;*
- *Environment Health & Safety*;
- *Information Technology* (IT)

Informal translation for internal use

2.2 Governance Model

Legal representation of the Company is attributed to the Chairman of the Board of Directors

The Board of Statutory Auditors monitors compliance with the law and the articles of association, compliance with the principles of proper administration and, in particular, the adequacy of the organisational, administrative and accounting structure adopted by the Company and its actual functioning.

The Board of Statutory Auditors meets at least every ninety days at the initiative of any one of the auditors and is validly constituted with the presence of the majority of the auditors and passes resolutions with the favourable vote of the absolute majority of the auditors.

2.3 Corporate Duties and Responsibilities

The company's tasks and responsibilities are summarised as follows:

***Sales & Operation and Business Process Transformation*:** the Function contributes to the definition of the planning of the Company's production activities, through sales forecasts defined on the basis of market

requirements and purchase orders issued by the Group companies. Once the production cycle is concluded, the Function also deals with the *intercompany* shipment of vehicles ready for sale.

Manufacturing Engineering**:** the Function deals with the process of conception, design and development of new products. In particular, the Function co-ordinates with other entities of the Company in order to develop (also by means of prototyping) and start up for production, new machinery.

Purchasing**:** the Function is in charge of the Company's procurement management, providing for the search and selection of suppliers, as well as the issuing of the relevant purchase orders.

Operations**:** this function manages the production phase of the company, dealing with the production cycle, assembly and painting of machines.

*Quality***: the** *Quality* Function deals with the qualification of new suppliers, conformity analyses of purchased products, and quality control of assembly lines. The function also manages and archives the procedures issued by the Company and handles relations with customers in the event of complaints.

Parts and Technical Service: the Function is involved in the support activities provided to customers through the dealer network, which consist of testing products before delivery and supporting the dealer through maintenance at the customer's premises.

*Finance***:** the *Finance Manager* is in charge of managing tax activities and drafting the relevant declarations; he is also responsible for managing cash flows and accounting controls and oversees the proper management of cash. The Function is in charge of the management of any judicial initiative and the management of inspections, audits and assessments.

The *Finance Manager* also manages the Company's accounting and treasury activities; oversees the preparation of the financial statements, manages intercompany relations, handles relations with corporate and supervisory bodies, as well as activities aimed at applying for and obtaining public subsidies/contributions/funding aimed at research and technological innovation.

Marketing**:** the Function manages the promotional activities of the Company's products and those of *merchandising* and distribution of free gifts; it also contributes, together with the *Finance* Function, to the drafting of the price list.

Human Resources**:** this function handles personnel management for AGCO S.p.A.; in particular, it manages the process of selecting, hiring, training and evaluating personnel; it takes care of activities inherent to the personnel bonus system and financed training; it manages activities relating to compulsory hiring, as well as, together with the *Finance* Function, inspections, audits and assessments.

Environment, Health & Safety**:** the Function deals with the management of health and safety aspects in the workplace within the Company, taking care of the fulfilment of safety and environmental obligations and coordinating with the Functions involved from time to time.

Information *Technology* **(IT):** the *Information Technology* Manager is responsible for the management of information systems, IT security measures, *hardware* equipment (*personal computer* telephones and *intranet* network) within the Company.

Informal translation for internal use

2.4 Code of Ethics

The Code of Ethics, adopted and distributed by AGCO S.p.a. to all employees when they are hired, is intended to provide the ethical framework on which every decision is based, both individually and as members of the global organisation. It contains the guiding principles that should be applied by all employees in order to guide their behaviour in the various areas of activity.

Compliance with the rules of the Code of Ethics is a specific duty arising from the employment relationship.

In addition to the Code of Ethics of AGCO S.p.a., the Company also applies:

- the *Global Code of Conduct*, which defines the Group's principles and values

- the *Supplier Code of* Conduct, which sets out the rules of conduct to be followed by all suppliers, consultants and business *partners* of AGCO

The effective application of the latter document, in particular, is also pursued by means of specific contractual clauses, with which suppliers undertake to behave, within the framework of the relations established with the Company, in a manner that is correct and compliant with the applicable regulatory provisions and, in particular, suitable to prevent the commission of the offences in relation to which the sanctions set out in the Decree apply.

3 ORGANISATION, MANAGEMENT AND CONTROL MODEL AND THE METHODOLOGY FOLLOWED FOR ITS PREPARATION

3.1 Foreword

The adoption of an organisational, management and control model pursuant to Legislative Decree No. 231/2001 (hereinafter also referred to as the 'Model'), in addition to representing grounds for exemption from the Company's liability with regard to the commission of the types of offences included in the Decree, is an act of social responsibility on the part of the Company from which benefits accrue to all *stakeholders*: shareholders, managers, employees, creditors and all other parties whose interests are linked to the Company's fortunes.

The introduction of a control system of entrepreneurial action, together with the establishment and dissemination of ethical principles, improving the already high *standards of* conduct adopted by the Company performs a regulatory function insofar as it regulates the conduct and decisions of those who are called upon to work in favour of the Company on a daily basis in accordance with the aforementioned ethical principles and *standards of* conduct.

The Company adopted the Model for the first time with a resolution dated 29.05.2017. Since then, AGCO S.p.a. has periodically verified the adequacy of its Model in relation to regulatory developments and, in particular, to new predicate offences introduced over time.

Although the Model (now in force) was adequately and effectively adopted and no significant changes had occurred in AGCO S.p.A.'s organisation, the Company deemed it appropriate to update the Model itself, starting from a new risk assessment and launching a series of activities (hereinafter, the 'Project') aimed at making its organisational model compliant with the requirements of Legislative Decree no. 231/2001 and consistent both with the principles already rooted in its *governance* culture and with the indications contained in the Confindustria Guidelines.

3.2 The Project for the definition of the organisation, management and control model pursuant to Legislative Decree No. 231/2001

The methodology chosen to execute the Project, in terms of organisation, definition of the operating methods, structuring in phases, allocation of responsibilities among the various company functions, was elaborated in order to guarantee the quality and authority of the results.

The Project is divided into the four phases summarised in the table below.

- *Phase 1 -* ***Initiation of the Project and identification of the processes and activities within the scope of which the offences referred to in Legislative Decree No. 231/2001 may be committed***.

- *Presentation of the Project in its complexity, collection and analysis of the documentation, and preliminary identification of the processes/activities within the scope of which the offences referred to in Legislative Decree No. 231/2001 may theoretically be committed ("sensitive" processes/activities).*

- *Step 2 -* ***Analysis of sensitive processes and activities.***

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- *Identification and analysis of sensitive processes and activities and the control mechanisms in place, with a focus on preventive controls and other compliance elements/activities.*
- *Phase 3 -* ***Gap analysis and Action Plan***.
- *Identification of the organisational requirements characterising a suitable organisation, management and control model pursuant to Legislative Decree No. 231/2001 and the actions to 'strengthen' the current control system (processes and procedures).*
- *Step 4 -* ***Definition of the organisation, management and control model***.
- *Definition of the organisation, management and control model pursuant to Legislative Decree No. 231/2001 articulated in all its components and operating rules and consistent with the Confindustria Guidelines.*

The methodologies followed and the criteria adopted in the various phases of the project are outlined below.

3.3 Initiation of the Project and identification of the processes and activities within the scope of which the offences referred to in Legislative Decree No. 231/2001 may be committed

Article 6(2)(a) of Legislative Decree No. 231/2001 indicates, among the requirements of the model, the identification of the processes and activities within the scope of which the offences expressly referred to in the Decree may be committed. In other words, these are those company activities and processes that are commonly defined as 'sensitive' (hereinafter, 'sensitive processes' and 'sensitive activities').

The purpose of Phase 1 was precisely the identification of the company areas subject to intervention and the preliminary identification of sensitive processes and activities.

In particular, following the presentation of the Project, a Working Team was set up consisting of external professionals and internal resources of the Company with the assignment of their respective tasks and operational roles.

Preliminary to the identification of sensitive activities was the analysis, mainly in documentary form, of the Company's corporate and organisational structure, carried out in order to better understand the Company's activities and to identify the corporate areas subject to intervention.

The collection of the relevant documentation and its analysis from both a technical-organisational and a legal point of view allowed an initial identification of sensitive processes/activities and a preliminary identification of the functions responsible for these processes/activities.

At the end of Phase 1, a detailed work plan was prepared for the subsequent phases, which can be revised according to the results achieved and the considerations that emerged during the course of the Project.

The activities carried out in Phase 1, which ended with the sharing of identified sensitive processes/activities with the Working Team, are listed below:

- collection of documentation relating to the corporate and organisational structure (e.g.: organisation charts, main organisational procedures, main task sheets, powers of attorney, etc.);

- analysis of the documentation collected for the understanding of the Company's business model;

- recognition of company areas of activity and related functional responsibilities;

- preliminary identification of sensitive processes/activities pursuant to Legislative Decree No. 231/2001;

preliminary identification of the departments/functions responsible for the identified sensitive processes.

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3.4 Analysis of sensitive processes and activities

The objective of Phase 2 was to analyse and formalise for each sensitive process/activity identified in Phase 1: i) its main phases, ii) the functions and roles/responsibilities of the internal and external actors involved, iii) the existing control elements, in order to verify in which areas/sectors of activity the offences referred to in Legislative Decree No. 231/2001 could theoretically be committed.

At this stage, therefore, a map was created of the activities that, in view of their specific contents, could be exposed to the potential commission of the offences referred to in Legislative Decree No. 231/2001.

The analysis was carried out by means of personal interviews with the *key officers*, which also had the purpose of establishing for each sensitive activity the management processes and control tools, with particular attention to the elements of *compliance* and preventive controls in place to protect them.

In surveying the existing control system, the following control principles, among others, were taken as reference:

- existence of formalised procedures;

- *Ex-post* traceability and verifiability of activities and decisions through appropriate documentary/informative support;

- segregation of duties;

- existence of formalised delegations/proxies consistent with the assigned organisational responsibilities.

The interviews were conducted by experienced *risk management* and *process analysis* professionals.

The results of the interviews, conducted as described above, were shared with the Working Team.

Below is a list of the various activities that characterised Phase 2, at the end of which the 'Risk Area Identification Matrix' document was drawn up, the key contents of which are:

- carrying out structured interviews with key officers, as well as with the personnel indicated by them, in order to gather, for the sensitive processes/activities identified in the previous phases, the information necessary to understand

- the elementary processes/activities performed;

- the functions/internal/external actors involved;

- their respective roles/responsibilities;

- the system of existing controls;

- sharing with key officers what emerged during the interviews;

formalisation of the map of sensitive processes/activities in a special form that gathers the information obtained and any critical points identified on the controls of the sensitive process analysed.

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3.5 Gap Analysis and Action Plan

The purpose of Phase 3 was to identify i) the organisational requirements characterising an organisational model capable of preventing the offences referred to in Legislative Decree No. 231/2001 and ii) the actions to improve the existing organisational model.

In order to identify and analyse in detail the existing control model to guard against the risks identified and highlighted in the *risk assessment* activity described above and to assess the conformity of the model itself with the provisions of Legislative Decree No. 231/2001, a comparative analysis (the so-called '*gap analysis*') was carried out between the existing organisational and control model ('*as is*') and an abstract reference model assessed on the basis of the content of the provisions of Legislative Decree No. 231/2001 ('*to be*').

Through the *gap analysis*, it was possible to deduce areas for improvement in the existing internal control system and, on the basis of the findings, an implementation plan was drawn up to identify the organisational requirements characterising an organisational, management and control model compliant with the provisions of Legislative Decree No. 231/2001 and the actions to improve the internal control system.

Below is a list of the activities carried out in this Phase 4, which ended after the *gap analysis* document and implementation plan (the so-called *Action Plan*) were shared with the Working Team and Top Management:

- gap analysis: comparative analysis between the existing organisational model ("as is") and an organisational, management and control model "to be" compliant with the provisions of Legislative Decree No. 231/2001 ("to be") with particular reference, in terms of compatibility, to the system of delegations and powers, the Code of Conduct and Business Ethics, the system of company procedures, and the characteristics of the body entrusted with the task of supervising the functioning and observance of the model;

- Preparation of an implementation plan for the identification of the organisational requirements characterising an organisational, management and control model pursuant to Legislative Decree No. 231/2001 and the actions to improve the current control system (processes and procedures).

3.6 Definition of the organisation, management and control model

The purpose of Phase 4 was to prepare the organisation, management and control model of the Company, articulated in all its components, according to the provisions of Legislative Decree No. 231/2001 and the indications provided by the Confindustria Guidelines.

The realisation of Phase 4 was supported both by the results of the previous phases and by the policy choices of the Company's decision-making bodies.

3.7 The Organisation, Management and Control Model

The construction by the Company of the Model therefore entailed an *assessment of* the existing organisational model in order to make it consistent with the control principles introduced by Legislative Decree No. 231/2001 and, consequently, suitable for preventing the commission of the offences referred to in the Decree itself.

Legislative Decree No. 231/2001, in fact, attributes, together with the occurrence of the other circumstances provided for in Articles 6 and 7 of the Decree, a discriminating value to the adoption and effective implementation of organisational, management and control models to the extent that the latter are suitable for preventing, with reasonable certainty, the commission or attempted commission of the offences referred to in the Decree.

In particular, pursuant to Article 6(2) of Legislative Decree No. 231/2001, an organisation, management and control model must meet the following requirements:

- identify the activities within the scope of which offences may be committed;

- provide for specific control protocols aimed at planning the formation and implementation of the entity's decisions in relation to the offences to be prevented;

- identify ways of managing financial resources that are suitable for preventing the commission of offences;

- provide for information obligations vis-à-vis the body in charge of supervising the functioning of and compliance with the models;

- introduce an appropriate disciplinary system to sanction non-compliance with the measures indicated in the model.

In the light of the above considerations, the Company intended to prepare a Model that, on the basis of the indications provided by the Confindustria Guidelines, would take into account its peculiar corporate reality, consistent with its *governance* system and capable of enhancing the existing controls and bodies.

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The adoption of the Model, pursuant to the aforementioned Decree, does not constitute an obligation. The Company has, however, deemed such adoption to be compliant with its corporate policies in order to:

- Establish and/or reinforce controls enabling the Company to prevent or promptly react to prevent the commission of offences by apical persons and persons subject to the management or supervision of the former that entail the administrative liability of the Company;

- sensitise, with the same purpose, all persons who collaborate, in various capacities, with the Company (external collaborators, suppliers, etc.), requesting them, within the limits of the activities carried out in the interest of the Company, to conform to conduct such as not to entail the risk of commission of offences;

- guarantee its integrity by adopting the fulfilments expressly provided for in Article 6 of the Decree;

- improve effectiveness and transparency in the management of business activities;

- determine a full awareness in the potential perpetrator of the offence of committing an offence (the commission of which is strongly condemned and contrary to the interests of the Company even when it could apparently gain an advantage).

The Model, therefore, represents a coherent set of principles, procedures and provisions that: i) affect the internal functioning of the Company and the ways in which it relates to the outside world and ii) regulate the diligent management of a control system of sensitive activities, aimed at preventing the commission, or attempted commission, of the offences referred to in Legislative Decree No. 231/2001.

The Model, as approved by the Company's Board of Directors, comprises the following constituent elements:

- process of identifying the company activities within the scope of which the offences referred to in Legislative Decree No. 231/2001 may be committed;

- provision of control *protocols (or standards)* in relation to the sensitive activities identified;

- process of identifying the methods of managing financial resources suitable for preventing the commission of offences;

- supervisory body;

- information flows to and from the supervisory body and specific reporting obligations to the supervisory body;

- disciplinary system designed to penalise the violation of the provisions contained in the Model;

- training and communication plan for employees and others interacting with the Company;

- criteria for updating and adapting the Model;

- code of ethics

The above-mentioned constituent elements are represented in the following documents:

- Organisation, management and control model *pursuant to* Legislative Decree 231/01 (consisting of this document);

- Code of Ethics;

- *Global code of conduct* (group);

- Supplier code of Conduct;

- Whistleblowing Procedure, in accordance with Legislative Decree 24/2023.

The document 'Organisation, management and control model *pursuant to* Legislative Decree 231/01' contains:

(i) in the General Part, a description thereof:

- to the regulatory framework of reference;

- to the company's reality, *governance* system and organisational set-up;

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- the characteristics of the Company's supervisory body, specifying its powers, tasks and information flows;

- the function of the disciplinary system and its sanctioning apparatus;

- the training and communication plan to be adopted in order to ensure awareness of the measures and provisions of the Model;

- the criteria for updating and adapting the Model.

(ii) in the Special Part, a description thereof:

- the types of offences referred to in Legislative Decree No. 231/2001 that the Company has decided to take into consideration due to the characteristics of its business;

- sensitive processes/activities and related control *standards*, also by means of a check list, as an operational tool for the periodic verification of procedures.

Also an integral part of the Model are the *Global code of* Conduct (group) and the Supplier code of Conduct, which form a coherent and effective *body of* internal regulations, with the aim of preventing misconduct or behaviour not in line with Company and Group directives, and are fully integrated with the Organisation, Management and Control Model.

4 THE SUPERVISORY BODY PURSUANT TO LEGISLATIVE DECREE NO. 231/2001

4.1 The Supervisory Body

Pursuant to the provisions of Legislative Decree No. 231/2001 - Article 6(1)(a) and (b) - the entity may be exonerated from liability resulting from the commission of offences by persons qualified *under* Article 5 of Legislative Decree No. 231/2001, if the management body has, inter alia:

- adopted and effectively implemented an organisation, management and control model suitable for preventing the offences in question;

- entrusted the task of supervising the functioning of and compliance with the model and of updating it[27] to a body of the entity endowed with autonomous powers of initiative and control.

The task of continuously supervising the widespread and effective implementation of the Model, its observance by the addressees, as well as proposing its updating in order to improve its efficiency in preventing offences and offences, is entrusted to this body set up internally by the company.

The entrusting of the aforementioned tasks to a body endowed with autonomous powers of initiative and control, together with the correct and effective performance thereof, therefore represents an indispensable prerequisite for exemption from liability under Legislative Decree No. 231/2001.

The Confindustria Guidelines[28] suggest that it should be a body characterised by the following requirements:

(i) autonomy and independence;

(ii) professionalism;

(iii) continuity of action.

The requirements of autonomy and independence would require the absence of operational tasks on the part of the supervisory body, which, by making it a participant in operational decisions and activities, would jeopardise its objectivity, the provision of reports of the supervisory body to the highest corporate management, and the provision, within the annual *budgeting* process, of financial resources for the functioning of the supervisory body.

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Moreover, the Confindustria Guidelines provide that '*in the case of mixed composition or with internal members of the Body, since total independence from the entity cannot be demanded of the internal members, the degree of independence of the Body must be assessed as a whole*'.

The requirement of professionalism is to be understood as the theoretical and practical knowledge of a technical-specialist nature necessary to effectively perform the functions of a supervisory body, i.e. the specialised techniques of those who perform inspection and consultancy activities.

The requirement of continuity of action makes it necessary for the supervisory body to have an internal structure continuously dedicated to supervising the Model.

Legislative Decree No. 231/2001 does not provide any indication as to the composition of the supervisory body[29].

In the absence of such indications, the Company has opted for a solution that, taking into account the purposes pursued by the law, was able to ensure, in relation to its size and organisational complexity, the effectiveness of the controls to which the supervisory body is subject, in compliance with the requirements, including those of autonomy and independence, highlighted above.

Within this framework, the Supervisory Board (hereinafter referred to as the 'Supervisory Board' or 'SB') of the Company is a collegial body, made up of three professionals, selected and appointed on the basis of their professional skills and personal characteristics, such as a marked capacity for control, independence of judgement and moral integrity.

4.2 General principles on the establishment, appointment and replacement of the Supervisory Board

The Company's Supervisory Board was established by resolution of the Board of Directors; it remains in office for the period established at the time of its appointment and in any case as long as the Board of Directors that appointed it remains in office, and may be re-elected.

Appointment as a member of the Supervisory Board is conditional on the presence of the subjective eligibility requirements[30].

In the selection of the member, the only relevant criteria are those relating to the specific professionalism and competence required to perform the functions of the Body, honourableness and absolute autonomy and independence thereof; the Board of Directors, at the time of appointment, must acknowledge the existence of the requirements of independence, autonomy, honourableness and professionalism[31].

In particular, following the approval of the Model or, in the case of new appointments, at the time the appointment is made, the person appointed as a member of the Supervisory Board must issue a declaration in which he/she certifies the absence of the following grounds for ineligibility:

- conflicts of interest, even potential, with the Company such as to undermine the independence required by the role and tasks of the Supervisory Board;

- ownership, direct or indirect, of shareholdings of such a size as to enable it to exercise a significant influence on the Company;

- administrative functions - in the three financial years preceding the appointment as member of the Supervisory Board or the establishment of the consultancy/collaboration relationship with the same Board - of companies subject to bankruptcy, compulsory administrative liquidation or other insolvency procedures;

- a conviction, even if not final, or a judgement applying the penalty on request (so-called plea bargaining), in Italy or abroad, for the offences referred to in Legislative Decree No. 231/2001 or other offences in any event affecting professional morality and integrity;

- Conviction, with sentence, even if not final, to a punishment entailing disqualification, even temporary, from public offices, or temporary disqualification from the executive offices of legal persons and companies;

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- pendency of proceedings for the application of a preventive measure under Law No. 1423 of 27 December 1956 and Law No. 575 of 31 May 1965 or pronouncement of the seizure decree *under* Article 2 *bis* of Law No. 575/1965 or decree of application of a preventive measure, whether personal or real;

- lack of the subjective requisites of honourability provided for by Ministerial Decree No. 162 of 30 March 2000 for the members of the Board of Statutory Auditors of listed companies, adopted pursuant to Article 148 paragraph 4 of the Consolidated Law on Finance.

Should any of the above-mentioned reasons for ineligibility arise for an appointed person, ascertained by a resolution of the Board of Directors, he/she shall automatically forfeit his/her office.

The Supervisory Board may avail itself - under its direct supervision and responsibility - in the performance of the tasks entrusted to it, of the collaboration of all the functions and structures of the Company or of external consultants, making use of their respective skills and professionalism. This power enables the Supervisory Board to ensure a high level of professionalism and the necessary continuity of action.

The above-mentioned grounds of ineligibility must also be considered with reference to any external consultants involved in the activity and performance of the tasks of the Supervisory Board.

In particular, at the time of appointment, the external consultant must make a declaration in which he or she certifies:

- the absence of the aforementioned reasons of ineligibility or reasons preventing the appointment (e.g.: conflicts of interest, family relations with members of the Board of Directors, top management in general, auditors of the Company and auditors appointed by the auditing firm, etc.);

- the fact of having been adequately informed of the provisions and rules of conduct laid down in the Model.

The revocation of the powers of the Supervisory Board and the assignment of such powers to another person, may only occur for just cause (also related to organisational restructuring of the Company) by means of a specific resolution of the Board of Directors and with the approval of the Board of Statutory Auditors.

In this regard, 'just cause' for the revocation of the powers connected with the office of member of the Supervisory Board includes, by way of example and without limitation

- serious negligence in the performance of the tasks connected with the office, such as: failure to draw up the half-yearly information report or the annual summary report on the activity carried out, which the Body is required to do; failure to draw up the supervisory programme;

- the "omitted or insufficient supervision" on the part of the Supervisory Board - in accordance with the provisions of Article 6(1)(d) of Legislative Decree No. 231/2001 - resulting from a conviction, even if not final, issued against the Company pursuant to Legislative Decree No. 231/2001, or from a sentence applying the penalty on request (so-called plea bargaining);

- in the case of an internal member, the assignment of operational functions and responsibilities within the corporate organisation that are incompatible with the requirements of "autonomy and independence" and "continuity of action" of the Supervisory Board. In any case, any provision of an organisational nature concerning him/her (e.g. termination of employment, transfer to another position, dismissal, disciplinary measures, appointment of a new manager) must be brought to the attention of the Board of Directors;

- in the case of an external member, serious and established grounds of incompatibility that would frustrate their independence and autonomy;

- the loss of even one of the eligibility requirements.

Any decisions concerning the Supervisory Board regarding revocation, replacement or suspension are the sole responsibility of the Board of Directors, after hearing the opinion of the Board of Auditors.

4.3 Functions and powers of the Supervisory Board

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The activities carried out by the Supervisory Board cannot be reviewed by any other body or function of the Company. The verification and control activity performed by the Body is, in fact, strictly functional to the objectives of effective implementation of the Model and cannot replace or substitute the institutional control functions of the Company.

The Supervisory Board is vested with the powers of initiative and control necessary to ensure effective and efficient supervision of the operation of and compliance with the Model in accordance with Article 6 of Legislative Decree No. 231/2001.

The Body has autonomous powers of initiative, intervention and control, which extend to all the sectors and functions of the Company, powers that must be exercised in order to effectively and promptly perform the functions provided for in the Model and its implementing rules.

In particular, the Supervisory Board is entrusted with the following tasks and powers for the performance and exercise of its functions[32]:

- regulate its own functioning also through the introduction of a regulation of its own activities that provides for: the scheduling of activities, the determination of the time intervals of controls, the identification of criteria and analysis procedures, the regulation of information flows from corporate structures;

- supervise the functioning of the Model both with respect to the prevention of the commission of the offences referred to in Legislative Decree No. 231/2001 and with reference to its capacity to bring to light the occurrence of any unlawful conduct;

- carrying out periodic inspection and control activities, of a continuous nature - with a time frequency and manner predetermined by the Schedule of Supervisory Activities - and spot checks, in consideration of the various sectors of intervention or types of activities and their critical points in order to verify the efficiency and effectiveness of the Model;

- freely access any department and unit of the Company - without the need for any prior consent - to request and acquire information, documents and data, deemed necessary for the performance of the tasks provided for by Legislative Decree No. 231/2001, from all employees and managers. If a reasoned refusal of access to the documents is opposed, the Body draws up a report to be forwarded to the Board of Directors;

- requesting relevant information or the production of documents, including computerised documents, relevant to the activities at risk, from directors, control bodies, auditing firms, collaborators, consultants and, in general, from all persons required to comply with the Model. The obligation of the latter to comply with the request of the Body must be included in individual contracts;

take care of, develop and promote the constant updating of the Model, formulating, where necessary, proposals to the management body for any updates and adjustments to be made by means of amendments and/or additions that may become necessary as - a consequence of: i) significant violations of the provisions of the Model; ii) significant changes to the internal structure of the Company and/or the way in which business activities are carried out; iii) regulatory changes;

- verifying compliance with the procedures laid down in the Model and detecting any behavioural deviations that may emerge from the analysis of the information flows and from the reports to which the heads of the various functions are subject, and proceeding in accordance with the provisions of the Model;

- ensure the periodic updating of the system for identifying sensitive areas, mapping and classifying sensitive activities;

- handling relations and ensuring the relevant information flows to the Board of Directors, as well as to the Board of Auditors;

- promote communication and training activities on the contents of Legislative Decree No. 231/2001 and the Model, on the impact of the regulations on the company's activities and on the rules of conduct, also establishing frequency controls. In this respect, it will be necessary to differentiate the programme by paying particular attention to those who work in the various sensitive activities;

- verify that an effective internal communication system is in place to allow the transmission of relevant information for the purposes of Legislative Decree No. 231/2001, guaranteeing the protection and confidentiality of the reporter;

Informal translation for internal use

- ensure knowledge of the conduct to be reported and how to report it;

- provide clarification on the meaning and application of the provisions contained in the Model;

- formulate and submit for the approval of the management body the expenditure forecast necessary for the proper performance of the tasks assigned, with absolute independence. This expenditure forecast, which must guarantee the full and proper performance of its activities, must be approved by the Board of Directors. The Body may autonomously commit resources exceeding its spending powers, if the use of such resources is necessary to deal with exceptional and urgent situations. In such cases, the Body must inform the Board of Directors at the immediately following meeting;

- promptly report to the management body, for the appropriate measures, any ascertained violations of the Model that may give rise to liability for the Company;

- verify and assess the suitability of the disciplinary system pursuant to and for the purposes of Legislative Decree No. 231/2001;

In carrying out its activities, the Body may avail itself of the functions present in the Company by virtue of the relevant competences, also through the establishment of a Technical Secretariat.

4.4 Reporting Obligations to the Supervisory Board - Information Flows

The Supervisory Board must be promptly informed, by means of a specific internal communication system, of those acts, behaviours or events from which a situation emerges that may lead to a breach, even potential, of the Model or which, more generally, may be relevant for the purposes of Legislative Decree No. 231/2001.

The Supervisory Board has the task of monitoring potentially sensitive operations and of setting up an effective internal communication system to allow the transmission and collection of relevant information pursuant to Legislative Decree No. 231/2001, which provides, in Article 6(2)(d), in order to facilitate the proper performance of the tasks assigned to it, for the obligation to inform the Supervisory Board on the part of the Recipients of the Model.

Reports to the Supervisory Board may concern all violations of the Model, even if only presumed, and facts, both ordinary and extraordinary, relevant to its implementation and effectiveness.

In particular, reports must be sent to the Supervisory Board concerning

- the pendency of criminal proceedings against employees and reports or requests for legal assistance made by staff in the event of legal proceedings being initiated for one of the offences provided for in Legislative Decree No. 231/2001;

- reports prepared by the heads of other corporate functions and/or operating units as part of their control activities, from which information on the actual implementation of the Model may emerge, as well as facts, acts, events or omissions with critical profiles with respect to compliance with the provisions of Legislative Decree No. 231/2001;

- information on disciplinary proceedings carried out and any sanctions imposed, in relation to the offences provided for in Legislative Decree No. 231/2001, or on the measures for dismissing such proceedings and the reasons therefor.

This obligation is also incumbent on all persons (directors, auditors, employees, collaborators, external consultants, suppliers, etc.) who, in the course of their activities, become aware of the aforementioned violations.

Legislative Decree 24/2023, with the provisions repealing Article 23, c.1-b, and the transitional and coordinating provisions of Article 24, c.5, repealed Article 6, paragraphs 2-ter and 2-quater, of Legislative Decree 231/2001, and replaced Article 6, c.2-bis of Legislative Decree 231/2001, providing, for the organisation and management models adopted pursuant to paragraph 2, letter e) of Legislative Decree 231/2001, the internal reporting channels, the prohibition of retaliation and the disciplinary system pursuant to Legislative Decree 24/2023 (implementing Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019, known as "Whistleblowing").

Informal translation for internal use

The Company, in compliance with Legislative Decree 24/2023, has adopted the internal whistleblowing channel, via web platform, after consultation with trade union representatives. The Company's Whistleblowing procedure (which is an integral part of the Model) establishes the general principles, the procedures for handling whistleblowing, the principle of prohibition of retaliation and the criteria for data processing.

4.5 Information gathering and storage

Every information, indication, report provided for in the Model is kept by the Supervisory Board in a special file (computerised or on paper) for a period of at least 10 years.

4.6 Reporting by the Supervisory Board to the Corporate Bodies

Informal translation for internal use

The Supervisory Board reports on the implementation of the Model, on the emergence of any critical aspects, and on the need for amendments. Separate reporting lines are provided for by the Supervisory Board:

- on an ongoing basis, reports to the General Manager;

- on a regular basis, at least every six months, submit a report to the Board of Directors.

Meetings with corporate bodies to which the Supervisory Board reports must be documented. The Supervisory Board takes care of the archiving of the relevant documentation.

The Supervisory Board prepares:

- periodically (at least every six months), an information report on the activities carried out, to be submitted to the Board of Directors and the Board of Auditors;

- on an ongoing basis, written reports concerning punctual and specific aspects of its activities, deemed of particular importance and significance in the context of prevention and control activities, to be submitted to the Board of Directors;

- immediately, a communication concerning the occurrence of extraordinary situations (e.g. significant violations of the principles contained in the Model, legislative innovations concerning the administrative liability of entities, significant changes in the organisational structure of the Company, etc.) and, in the case of reports received that are of an urgent nature, to be submitted to the Board of Directors.

The periodical reports prepared by the Supervisory Board are also drawn up in order to allow the Board of Directors to make the necessary evaluations in order to make any updates to the Model, and must at least contain

- any problems that have arisen concerning the way in which the procedures provided for in the Model or adopted in implementation or in the light of the Model have been implemented;

- reports received from internal and external parties concerning the Model;

- disciplinary procedures and any sanctions applied by the Company, with exclusive reference to activities at risk;

- an overall assessment of the functioning of the Model with possible indications for additions, corrections or modifications.

5 DISCIPLINARY SYSTEM

5.1 Function of the disciplinary system

Article 6(2)(e) and Article 7(4)(b) of Legislative Decree No. 231/2001 indicate, as a condition for the effective implementation of the organisation, management and control model, the introduction of a disciplinary system capable of sanctioning non-compliance with the measures indicated in the model.

Therefore, the definition of an adequate disciplinary system constitutes an essential prerequisite of the model's exculpatory value with respect to the administrative liability of entities.

The adoption of disciplinary measures in the event of violations of the provisions contained in the Model is irrespective of the commission of an offence and of the conduct and outcome of any criminal proceedings instituted by the judicial authorities[33].

Compliance with the provisions contained in the Model adopted by the Company must be considered an essential part of the contractual obligations of the 'Recipients' defined below.

Violation of their rules damages the relationship of trust established with the Company and may lead to disciplinary, legal or criminal action. In the most serious cases, the violation may lead to the termination of the employment relationship, if carried out by an employee, or to the interruption of the relationship, if carried out by a third party.

For this reason, each Addressee is required to be familiar with the rules contained in the Company's Model, in addition to the reference rules governing the activity carried out within the scope of his or her function.

This system of sanctions, adopted pursuant to Article 6, paragraph 2, letter e) of Legislative Decree No. 231/2001, must be considered complementary and not alternative to the disciplinary system established by the C.C.N.L. in force and applicable to the different categories of employees working for the Company.

The imposition of disciplinary sanctions for violations of the Model is irrespective of the possible institution of criminal proceedings for the commission of one of the offences provided for in the Decree.

The penalty system and its application are constantly monitored by the Supervisory Board.

No disciplinary proceedings may be filed, nor may any disciplinary sanction be imposed, for breach of the Model, without prior information and opinion of the Supervisory Board.

[34] "*The disciplinary assessment of conduct carried out by employers, subject, of course, to any subsequent review by the employment judge, need not, in fact, coincide with the judge's assessment in criminal proceedings, given the autonomy of the breach of the Code of Ethics and of internal procedures with respect to the breach of the law entailing the commission of an offence. The employer is therefore not obliged, before acting, to wait for the end of any criminal proceedings that may be in progress. In fact, the principles of timeliness and immediacy of the sanction make it not only not necessary, but also inadvisable, to delay the imposition of the disciplinary sanction while awaiting the outcome of any judgement before the criminal court*". Confindustria, Guidelines.

5.2 Sanctions and Disciplinary Measures

Violation, infringement, circumvention, imperfect or partial application of the individual rules of conduct set out in this Model, AGCO's Code of Ethics and the Group's *Global Code of Conduct* by Company employees constitutes a disciplinary offence punishable in accordance with the following.

For the purposes of this Disciplinary System, disciplinary measures are imposed against employees who are not Executives in accordance with the procedures set forth in Article 7 of Law No. 300 of 20 May 1970, as amended and supplemented (hereinafter the "Workers' Statute") and the National Collective Labour Agreement for employees of private metalworking and plant installation industries (hereinafter the "CCNL"), as well as any special regulations, including covenants, that may apply.

More specifically, for the purposes of this Disciplinary System, the disciplinary measures that may be imposed may consist of:

- verbal warning
- written warning

Informal translation for internal use

- fine not exceeding three hours' hourly pay calculated on the minimum wage;
- suspension from work and pay up to a maximum of three days;
- dismissal.

Without prejudice to the Company's obligations arising from the Workers' Statute, any applicable special regulations, and applicable internal regulations, the types of conduct constituting violations of the Model, accompanied by the relevant sanctions, are as follows:

1) An employee who violates one of the internal procedures referred to in the Model (e.g. fails to observe the prescribed procedures, fails to notify the Supervisory Board of the prescribed information, fails to carry out the required checks, etc.), or adopts, in the performance of activities in sensitive areas, a conduct that does not comply with the requirements of the Model itself, shall be subject to the measure of "**verbal warning**". Such conduct constitutes a failure to comply with the provisions issued by the Company.

2) A worker who is recidivist in violating the procedures referred to in the Model or in adopting, in the performance of activities in sensitive areas, a conduct that does not comply with the provisions of the Model, incurs the measure of '**written warning**'. Such conduct constitutes a repeated failure to comply with the provisions issued by the Company.

3) A worker incurs the measure of "**fine**", not exceeding the amount of 3 hours of his normal remuneration, who, in violating the procedures referred to in the Model, or adopting in the performance of activities in sensitive areas a conduct that does not comply with the prescriptions of the Model, exposes the integrity of corporate assets to a situation of objective danger. Such conduct, carried out with a failure to comply with the provisions issued by the Company, determines a situation of danger for the integrity of the Company's assets and/or constitutes acts contrary to its interests.

4) Any worker who, in breach of the procedures set out in the Model, or by adopting, in the performance of activities in sensitive areas, a conduct not compliant with the provisions of the Model, is guilty of more than three times in the calendar year of the offences referred to in points 1, 2 and 3, shall incur the measure of "**suspension**" from work with related reduction in remuneration for a period not exceeding three days. Such conduct, committed for failure to comply with the provisions issued by the Company, causes damage to the Company and, in any case, constitutes acts objectively contrary to its interests.

5) Any worker who adopts, in the performance of activities in sensitive areas, a conduct that does not comply with the provisions of the Model and is unequivocally directed towards the commission of an offence sanctioned by the Decree shall incur the measure of "**dismissal with notice**". Such conduct constitutes a serious failure to comply with the provisions issued by the Company and/or a serious breach of the worker's obligation to cooperate in the development of the Company.

6) The measure of "**dismissal without notice**" shall be applied to any worker who, in the performance of activities in sensitive areas, adopts a conduct in breach of the provisions of the Model, such as to determine the concrete application against the Company of the measures laid down in the Decree, as well as to any worker who is a repeat offender more than three times in the calendar year in the offences referred to in point 4. Such behaviour radically undermines the Company's trust in the worker, constituting serious moral and/or material damage to the Company.

In any case, the sanctions shall be commensurate with the employee's level of responsibility and autonomy, the intentionality of the conduct, and its seriousness, meaning both the relevance of the obligations breached and the effects to which the Company may reasonably be deemed to be exposed, also pursuant to and for the purposes of the Decree. Where several offences, punished with different penalties, are committed in a single act, the most serious penalty shall apply. Repeating offences within three years automatically entails the application of the immediately more serious sanction.

The person in charge of the concrete application of the disciplinary measures described above for non-managerial employees is the HR Manager, who will impose the sanctions upon any report by the Supervisory Board, after hearing the opinion of the hierarchical superior of the author of the conduct censured and of the General Manager for the most serious violations.

In any case, the Supervisory Board receives timely information of any act concerning disciplinary proceedings against a worker for breach of this Model, from the moment of the disciplinary notice.

Informal translation for internal use

The Supervisory Board is in any case entrusted with the task of verifying and assessing the suitability of the Disciplinary System pursuant to and for the purposes of the Decree. Provision is made for the necessary involvement of the Supervisory Board in the procedure for the imposition of sanctions for breach of the Model, by means of adequate information on the content of the charge and the type of sanction to be imposed.

The Supervisory Board is likewise notified of any decision to dismiss disciplinary proceedings under this chapter.

Workers are given immediate and widespread information about the introduction of any new provision by issuing an appropriate internal communication explaining the reasons and summarising its content.

5.2.1 Sanctions against Employees

The Code of Conduct and Business Ethics and the Model constitute a set of rules with which the employees of a company must comply, also pursuant to the provisions of Articles 2104 and 2106 of the Civil Code and the National Collective Labour Agreements (CCNL) on the subject of rules of conduct and disciplinary sanctions. Therefore, all conduct by employees in violation of the provisions of the Code of Conduct and Business Ethics, the Model and its implementation procedures, constitute a breach of the primary obligations of the employment relationship and, consequently, offences, entailing the possibility of the initiation of disciplinary proceedings and the consequent application of the relevant sanctions.

The measures provided for in Articles 8-11 of Title VII, Section IV of the National Collective Labour Agreement for Employees in the Mechanical Engineering and Plant Installation Industry are applicable to employees with blue collar, white collar and middle management qualifications in the present case, in compliance with the procedures provided for in Article 7 of Law No. 300 of 20 May 1970 (Workers' Statute).

Disciplinary infringements may be punished, depending on the seriousness of the offence, by the following measures:

1) verbal warning;

2) written warning;

(3) fine;

4) Suspension;

(5) dismissal.

For disciplinary measures more serious than a warning or verbal reprimand, a written reprimand must be made to the employee with a specific indication of the facts constituting the infringement.

The measure may not be issued until eight days have elapsed since that dispute, during which the employee may present his justifications. If the measure is not issued within the following eight days, these justifications shall be deemed to have been accepted.

In the event that the alleged infringement is serious enough to lead to dismissal, the employee may be suspended from work as a precautionary measure until such time as the measure is imposed, which must be justified and communicated in writing.

Informal translation for internal use

5.2.2 Sanctions against Managers

The management relationship is characterised by its eminently fiduciary nature. In addition to being reflected within the Company, constituting a model and example for all those who work there, the executive's conduct also has repercussions on the Company's external image. Therefore, compliance by the Company's executives with the provisions of the Code of Ethics, *Global Code of Conduct*, the Model and the relevant implementation procedures constitutes an essential element of the executive employment relationship.

With regard to Executives who have committed a violation of the Code of Ethics, the Model or the procedures established to implement it, the function holding disciplinary power initiates the procedures within its competence to make the relevant charges and apply the most appropriate sanctions, in accordance with the provisions of the CCNL for Industry Executives and, where necessary, in compliance with the procedures set forth in Article 7 of Law No. 300 of 30 May 1970.

Sanctions must be applied in compliance with the principles of gradualness and proportionality with respect to the seriousness of the act and guilt or possible malice. Among other things, with the notification, the revocation of any powers of attorney entrusted to the person concerned may be ordered as a precautionary measure, up to the possible termination of the relationship in the presence of violations so serious as to break the fiduciary relationship with the Company.

5.2.3 Sanctions against Directors

In the event of violations of the provisions contained in the Model by one or more Directors, the Board of Directors and the Board of Statutory Auditors will be informed so that the appropriate measures can be taken in accordance with the law or the provisions adopted by the Company. It is recalled that pursuant to Article 2392 of the Civil Code, directors are liable to the company for failing to perform the duties imposed by law with due diligence. Therefore, in relation to the damage caused by specific prejudicial events strictly ascribable to the failure to exercise due diligence, an action for corporate liability pursuant to Article 2393 et seq. of the Italian Civil Code may be related in the opinion of the Shareholders' Meeting.

In order to guarantee the full exercise of the right of defence, a time limit must be provided within which the person concerned may submit justifications and/or defence papers and may be heard.

5.2.4 Sanctions against Auditors

Upon receiving notice of a breach of the provisions and rules of conduct of the Model by one or more Auditors[35], the Supervisory Board shall promptly inform the entire Board of Auditors and the Board of Directors.

The recipients of the information from the Supervisory Board may, in accordance with the provisions of the Articles of Association, take the appropriate measures, including, for instance, convening the Shareholders' Meeting, in order to adopt the measures deemed most appropriate.

In order to guarantee the full exercise of the right of defence, a time limit must be provided within which the person concerned may submit justifications and/or defence papers and may be heard.

5.2.5 Sanctions against suppliers, consultants, agents and business partners

For the purposes of this Disciplinary System, the following conduct is punishable against suppliers, consultants, agents and business *partners* and in general any person having relations with the Company:

- breach, infringement, imperfect or partial application of contractual provisions that have not produced consequences or that, while not constituting criminal offences, constitute violations of AGCO's Code of Ethics or the Group's *Supplier Code of Conduct*;
- breach, infringement, evasion, imperfect or partial application of the contractual prescriptions directed unequivocally at the commission of an offence sanctioned by the Decree;
- breach, infringement, evasion, imperfect or partial application of the contractual provisions that have led to the Company being prosecuted.

Informal translation for internal use

In particular, for the purposes of this Disciplinary System, the sanctions that may be imposed on the persons referred to in this paragraph are:

- written reminder of the strict observance of the rules of conduct infringed to be recorded in the supplier's register or by some other means to be remembered *pro futuro* (always applicable);
- activation of the specific negotiation clauses included in the relevant contracts by which the consequences of such infringements are regulated, having regard also to the damage suffered by the Company as a consequence of the act.

With regard to the procedure for ascertaining such breaches and the subsequent written warning or activation of the aforementioned clauses, the Supervisory Body verifies that the Referring Function has contested the fact to the author of the breach with the specific indication of the facts alleged, issuing a contextual written warning to strictly comply with the rules of conduct infringed with a formal notice and with an invitation to remedy the ascertained breach, or terminating the contractual relationship.

The right to compensation for damages suffered by the Company as a result of such breaches remains unaffected.

5.2.6 Measures against the Supervisory Board

In the event of negligence and/or inexperience on the part of the Supervisory Board in supervising the proper application of the Model and compliance therewith and in failing to identify cases of violation thereof and proceeding to their elimination, the Board of Directors shall, in agreement with the Board of Statutory Auditors, take the appropriate measures in accordance with the procedures provided for by the laws in force, including the revocation of the appointment and without prejudice to the claim for damages.

In order to guarantee the full exercise of the right of defence, a time limit must be provided within which the person concerned may submit justifications and/or defence papers and may be heard.

In the event of alleged unlawful conduct on the part of members of the Supervisory Board, the Board of Directors, upon receipt of the report, investigates the actual wrongdoing and then determines the relevant sanction to be applied.

6 TRAINING AND COMMUNICATION PLAN

6.1 Foreword

The Company, in order to effectively implement the Model, intends to ensure proper dissemination of its contents and principles within and outside its organisation.

In particular, the Company's objective is to communicate the contents and principles of the Model not only to its employees but also to persons who, although not formally employees, operate - even occasionally - for the achievement of the Company's objectives by virtue of contractual relations. The recipients of the Model are, in fact, both the persons who hold representative, administrative or management positions in the Company, and the persons subject to the management or supervision of one of the aforementioned persons (pursuant to Article 5 of Legislative Decree No. 231/2001), but also, more generally, all those who work to achieve the Company's purpose and objectives. The addressees of the Model therefore include members of corporate bodies, persons involved in the functions of the Supervisory Board, employees, collaborators, external consultants, suppliers, etc..

The Company, in fact, intends to:

- determine, in all those who work in its name and on its behalf in 'sensitive areas', the awareness that they may incur an offence punishable by sanctions in the event of violation of the provisions contained therein;

Informal translation for internal use

- inform all those who work in any capacity in its name, on its behalf or in its interest that violation of the provisions contained in the Model will result in the application of appropriate sanctions or termination of the contractual relationship;

- reiterate that the Company does not tolerate unlawful conduct of any kind and for any purpose whatsoever, since such conduct (even if the Company were apparently in a position to take advantage of it) is in any case contrary to the ethical principles to which the Company intends to adhere.

The communication and training activity is diversified according to the addressees to whom it is addressed, but is, in any case, marked by principles of completeness, clarity, accessibility and continuity in order to enable the various addressees to be fully aware of those corporate provisions they are required to comply with and of the ethical standards that must inspire their conduct.

These recipients are required to comply punctually with all the provisions of the Model, also in fulfilment of the duties of loyalty, fairness and diligence arising from the legal relations established by the Company.

Communication and training activities are supervised by the Supervisory Board, which is assigned, inter alia, the tasks of 'promoting and defining initiatives for the dissemination of knowledge and understanding of the Model, as well as for the training of personnel and making them aware of the principles contained in the Model' and of 'promoting and developing communication and training activities on the contents of Legislative Decree No. 231/2001, on the impact of the regulations on the company's activities and on the rules of conduct'.

6.2 Employees

Each employee is required to: i) acquire awareness of the principles and contents of the Model and of the Code of Ethics; ii) know the operating methods with which his or her activities must be carried out; iii) contribute actively, in relation to his or her role and responsibilities, to the effective implementation of the Model, reporting any shortcomings found in it.

In order to guarantee an effective and rational communication activity, the Company promotes the knowledge of the contents and principles of the Model and the implementation procedures within the organisation that apply to them, with a degree of in-depth knowledge that varies according to the position and role held.

Employees and new recruits are given an extract of the Model and the Code of Ethics or are guaranteed the possibility of consulting them directly on the company *Intranet* in a dedicated area; and they are made to sign a declaration of knowledge of and compliance with the principles of the Model and the Code of Ethics described therein.

In any case, for employees who do not have access to the *Intranet*, this documentation must be made available to them by alternative means such as attaching it to their pay slip or posting it on company notice boards.

Communication and training on the principles and contents of the Model and the Code of Ethics are ensured by the heads of the individual functions who, according to the indications and plans of the Supervisory Board, identify the best way to use these services.

Training initiatives may also take place at a distance through the use of IT systems (e.g. video conferencing, e-learning, staff meetings, etc.).

At the end of the training event, participants will have to fill in a questionnaire, thus certifying that they have received and attended the course.

Completion and submission of the questionnaire will serve as a declaration of knowledge of and compliance with the contents of the Model.

Appropriate communication tools will be adopted to update the addressees of this paragraph on any changes made to the Model, as well as on any relevant procedural, regulatory or organisational changes.

Informal translation for internal use

6.3 Members of corporate bodies and persons with representative functions for the Company

The members of the corporate bodies and persons with functions of representation of the Company shall be provided with a hard copy of the Model when they accept the office conferred upon them and shall be made to sign a declaration of compliance with the principles of the Model and the Code of Ethics.

Appropriate communication and training tools will be adopted to update them on any changes made to the Model, as well as any relevant procedural, regulatory or organisational changes.

6.4 Supervisory Board

Specific training or information (e.g. on any organisational and/or business changes in the Company) is intended for the members of the Supervisory Board and/or the persons it uses in the performance of its duties.

6.5 Other recipients

The activity of communicating the contents and principles of the Model must also be addressed to third parties who have contractually regulated cooperation relations with the Company (for example: suppliers, consultants and other self-employed collaborators), with particular reference to those who operate within the scope of activities deemed sensitive pursuant to Legislative Decree No. 231/2001.

To this end, the Company will provide third parties with an extract of the reference Principles of the Model and the Code of Ethics and will assess the opportunity to organise ad hoc training sessions if it deems it necessary.

Training initiatives may also take place at a distance through the use of IT systems (e.g. video conferencing, e-learning).

7 ADOPTION OF THE MODEL - CRITERIA FOR SUPERVISION, UPDATING AND ADAPTATION OF THE MODEL

7.1 Checks and Controls on the Model

The Supervisory Board must draw up an annual supervisory programme through which it plans, in principle, its activities, providing for a calendar of activities to be carried out during the year, the determination of the time intervals of the checks, the identification of the criteria and procedures for analysis, and the possibility of carrying out unscheduled checks and controls.

In the performance of its activities, the Supervisory Board may avail itself of the support of both functions and structures within the Company with specific competences in the corporate sectors from time to time subject to control and, with reference to the performance of the technical operations necessary for the performance of the control function, of external consultants. In this case, the consultants must always report the results of their work to the Supervisory Board.

During audits and inspections, the Supervisory Board is granted the broadest powers in order to effectively perform the tasks entrusted to it.

7.2 Updating and Adaptation

Informal translation for internal use

The Board of Directors decides on the updating of the Model and its adaptation in relation to changes and/or additions that may become necessary as a result of

- significant violations of the provisions of the Model;

- changes in the internal structure of the Company and/or in the way the business activities are carried out;

- regulatory changes;

- audit findings.

Once approved, the amendments and the instructions for their immediate application shall be communicated to the Supervisory Board, which shall, without delay, make the same operational and ensure the correct communication of their contents within and outside the Company.

The Supervisory Board retains, in any case, precise duties and powers with regard to the care, development and promotion of the constant updating of the Model. To this end, it formulates observations and proposals, concerning the organisation and the control system, to the relevant corporate structures or, in cases of particular importance, to the Board of Directors.

In particular, in order to ensure that the changes to the Model are made with the necessary timeliness and effectiveness, without at the same time incurring any lack of coordination between the operational processes, the prescriptions contained in the Model and the dissemination of the same, the Company periodically makes changes to the Model that relate to aspects of a descriptive nature, where necessary. It should be noted that the expression 'aspects of a descriptive nature' refers to elements and information that derive from acts decided by the Board of Directors (such as, for example, the redefinition of the organisational chart) or from corporate functions with specific delegated powers (e.g. new corporate procedures).

On the occasion of the presentation of the annual summary report, the Supervisory Board shall submit to the Board of Directors an information note of the changes made in the implementation of the delegation received in order for the Board of Directors to ratify them.

It remains, in any case, the sole responsibility of the Board of Directors to decide on updates and/or adjustments to the Model due to the following factors:

- regulatory changes in the area of the administrative liability of entities;

- identification of new sensitive activities, or variation of those previously identified, also possibly connected with the start-up of new business activities;

- formulation of observations by the Ministry of Justice on the Guidelines pursuant to Article 6 of Legislative Decree No. 231/2001 and Articles 5 et seq. of Ministerial Decree No. 201 of 26 June 2003;

- commission of the offences referred to in Legislative Decree No. 231/2001 by the recipients of the provisions of the Model or, more generally, of significant violations of the Model;

- detection of deficiencies and/or gaps in the Model's provisions following audits of its effectiveness.

The Model shall, in any case, be subject to periodic review every three years to be decided by resolution of the Board of Directors.

Informal translation for internal use

8 NOTES

[1] Si tratta dei seguenti reati: malversazione a danno dello Stato o dell'Unione Europea (art. *316-bis* c.p.), indebita percezione di erogazioni a danno dello Stato (art. *316-ter* c.p.), truffa in danno dello Stato o di altro ente pubblico (art. 640 comma 2, n. 1 c.p.), aggravated fraud to obtain public funds (Article *640-bis* of the Criminal Code), computer fraud to the detriment of the State or other public body (Article *640-ter* of the Criminal Code), extortion (Article 317 of the Criminal Code), bribery for the exercise of a function and bribery for an act contrary to official duties (Articles 318, 319 and *319-bis* of the Criminal Code), bribery in judicial proceedings (Art. *319-ter* of the Criminal Code), undue induction to give or promise benefits (Art. 319-quater of the Criminal Code), bribery of a

person in charge of a public service (Art. 320 of the Criminal Code), bribery of the corruptor (Art. 321 of the Criminal Code), incitement to bribery (Article 322 of the Criminal Code), extortion, bribery and incitement to bribery of members of the bodies of the European Communities and officials of the European Communities and foreign states (Article *322-bis* of the Criminal Code).

[2] Article *25-bis* was introduced into Legislative Decree no. 231/2001 by Article 6 of Legislative Decree 350/2001, converted into law, with amendments, by Article 1 of Law 409/2001. These are the offences of counterfeiting money, spending and introduction into the State, in concert, of counterfeit money (Article 453 of the Criminal Code), altering money (Article 454 of the Criminal Code), spending and introduction into the State, without concert, of counterfeit money (Article 455 of the Criminal Code), spending counterfeit money received in good faith (Article 457 of the Criminal Code), counterfeiting revenue stamps, introduction into the State, purchase, possession or putting into circulation of counterfeit revenue stamps (Article 459 of the criminal code), counterfeiting watermarked paper in use for the manufacture of public credit cards or revenue stamps (Article 460 of the criminal code), manufacture or possession of watermarks or instruments intended for the counterfeiting of money, revenue stamps or watermarked paper (Article 461 of the criminal code), use of counterfeit or altered revenue stamps (Article 464 of the criminal code). Law No. 99 of 23 July containing 'Provisions for the development and internationalisation of enterprises, as well as on energy matters' in Article 15, paragraph 7, amended Article 25-bis, which now also punishes the counterfeiting and alteration of trademarks or distinctive signs (Article 473 of the Criminal Code) as well as the introduction into the State of products with false signs (Article 474 of the Criminal Code).

[3] Article *25-ter* was introduced into Legislative Decree No. 231/2001 by Article 3 of Legislative Decree No. 61/2002 and subsequently supplemented and amended, most recently by Law No. 69 of 27 May 2015. These are the offences of false corporate communications (Article 2621 of the Civil Code), including minor offences (Article *2621-bis* of the Civil Code), false corporate communications of listed companies (Article 2622 of the Civil Code), and false reporting or communications by auditing companies (Article 2624 of the Civil Code; Article 35 of Law no. 262 has added to Article 175 of the Consolidated Act referred to in Legislative Decree no. 58 of 24 February 1998, as amended, in Part V, Title I, Chapter III, Article *174-bis* and 174-ter*)*, obstruction of control (Article 2625, second paragraph, of the Italian Civil Code), fictitious capital formation (Article 2632 of the Italian Civil Code), undue return of contributions (Article 2626 of the Civil Code), unlawful distribution of profits and reserves (Article 2627 of the Civil Code), unlawful transactions on shares or quotas of the company or of the parent company (Article 2628 of the Civil Code), transactions to the detriment of creditors (Article 2629 of the Civil Code), failure to disclose a conflict of interest (Article *2629-bis* of the Civil Code) of Article *25-ter* of Leg.Legislative Decree no. 231/2001), improper distribution of corporate assets by liquidators (Article 2633 of the Civil Code), bribery among private individuals (Article 2635 of the Civil Code) unlawful influence on the shareholders' meeting (Article 2636 of the Civil Code), market rigging (Article 2637 of the Civil Code), obstructing the exercise of the functions of public supervisory authorities (Article 2638 of the Civil Code). Legislative Decree No. 39/2010, which implements Directive 2006/43/EC on the statutory audit of accounts, in repealing Article 2624 of the Civil Code and amending Article 2625 of the Civil Code, did not coordinate with Article *25-ter* of Legislative Decree No. 231. Article 54 of Legislative Decree No. 19 of 2 March 2023 on cross-border company transformations, mergers and demergers, adopted in implementation of EU Directive 2019/2121, introduced the offence of 'False or omitted statements for the issue of the preliminary certificate'.

[4] Article *25-quater* was introduced into Legislative Decree No. 231/2001 by Article 3 of Law No. 7 of 14 January 2003. It deals with "*offences for the purpose of terrorism or subversion of the democratic order, provided for by the Criminal Code and special laws*", as well as offences, other than those indicated above, "*which have in any case been committed in violation of the provisions of Article 2 of the International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999*". This Convention punishes anyone who unlawfully and maliciously provides or collects funds knowing that they will be used, even partially, to carry out: (i) acts intended to cause the death - or serious injury - of civilians, when the action is aimed at intimidating a population, or coercing a government or an international organisation; (ii) acts constituting an offence under the conventions on: flight and navigation safety, protection of nuclear material, protection of diplomatic agents, repression of attacks using explosives. The category of '*offences for the purposes of terrorism or subversion of the democratic order, provided for by the Criminal Code and special laws' is* mentioned by the legislator in a generic manner, without indicating the specific rules whose violation would entail the application of this Article. In any case, the main predicate offences are Article *270-bis* of the Criminal Code (*Associations for the purpose of terrorism, including international terrorism or subversion of the democratic order*), which punishes anyone who promotes, sets up, organises, directs or finances associations that propose the perpetration of violent acts for terrorist or subversive purposes, and Article 270-ter of the Criminal Code (*Associations* for the purpose of terrorism or subversion *of the*

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democratic order). Article *270-ter* of the Criminal Code (*Assistance to associates*), which punishes anyone who gives refuge or provides food, hospitality, means of transport, means of communication to any of the persons participating in associations with terrorist or subversive aims.

[5] The provision provides that the company may be held liable for the offences of insider trading (Article 184 of the Consolidated Law on Finance) and market manipulation (Article 185 of the Consolidated Law on Finance). Pursuant to Article *187-quinquies* of the Consolidated Law on Finance, the company may also be held liable for payment of a sum equal to the amount of the administrative fine imposed for the administrative offences of insider trading (Article *187-bis* of the Consolidated Law on Finance) and market manipulation (Article *187-ter* of the Consolidated Law on Finance), if committed in its interest or to its advantage by persons falling within the categories of "senior persons" and "persons subject to the direction or supervision of others".

[6] Article *25-quinquies* was introduced into Legislative Decree No. 231/2001 by Article 5 of Law No. 228 of 11 August 2003. It deals with offences of reduction to or maintenance in slavery or servitude (Article 600 of the criminal code), trafficking in persons (Article 601 of the criminal code), purchase and sale of slaves (Article 602 of the criminal code), offences related to child prostitution and its exploitation (Article *600-bis* of the criminal code), child pornography and its exploitation (Article 600-bis of the criminal code), and the exploitation of child prostitution (Article 600-bis of the criminal code).), child pornography and the exploitation thereof (Article *600-ter* of the criminal code), possession of pornographic material produced through the sexual exploitation of minors (Article *600-quater* of the criminal code), tourist initiatives aimed at the exploitation of child prostitution (Article *600-quinquies* of the criminal code).

[7] The offences set out in Article 10 of Law no. 146 (criminal conspiracy, mafia-type conspiracy, conspiracy for the purpose of smuggling foreign processed tobacco, conspiracy for the purpose of illicit trafficking in narcotic drugs or psychotropic substances, illegal immigration, inducement not to make statements or to make false statements to the judicial authorities, aiding and abetting) are considered **transnational** when the offence has been committed in more than one State, or, if committed in one State, a substantial part of the preparation and planning of the offence has taken place in another State, or if, committed in one State, an organised criminal group engaged in criminal activities in several States is involved.

In this case, no further provisions have been included in the body of Legislative Decree No. 231/2001. The liability arises from an autonomous provision contained in the aforementioned Article 10 of Law No. 146/2006, which establishes the specific administrative sanctions applicable to the offences listed above, providing - by way of a reminder - in the last paragraph that '*the provisions of Legislative Decree No. 231 of 8 June 2001 shall apply to the administrative offences provided for in this Article*'. Legislative Decree no. 231/2007 repealed the provisions contained in Law no. 146/2006 with reference to Articles *648-bis* and *648-ter* of the Criminal Code (money laundering and use of money, goods or benefits of unlawful origin), which became punishable, for the purposes of Legislative Decree no. 231/2001, regardless of the characteristic of transnationality.

[8] Article added by Article 9, Law No 123 of 3 August 2007.

[9] Article 63(3) of Legislative Decree No. 231 of 21 November 2007, published in the Official Gazette No. 290, S.O. No. 268 of 14 December 2007, implementing Directive 2005/60/EC of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, and Directive No. 2006/70/EC, which lays down implementing measures, introduced a new article into Legislative Decree No. 231 of 8 June 2001, which provides for the administrative liability of the entity also in the case of offences committed by a person who has committed an offence of criminal activity. 2006/70/EC, which sets out the measures for its implementation, introduced the new article into Legislative Decree No. 231 of 8 June 2001, which provides for the administrative liability of the entity also in the case of offences of receiving, money laundering and using money, goods or benefits of unlawful origin. Lastly, Article 3, paragraph 5 of Law No. 186 of 15 December 2014 amended Article 25 *octies* of Legislative Decree No. 231/2001 by extending the administrative liability of entities to the new offence of self money laundering provided for in Article 648 *ter.1 of* the Criminal Code.

[11] Article *25-novies* was added by Article 4 of Law 116/09.

[12] In this regard, Law No. 68 of 22 May 2015 was introduced with the aim of severely combating all illegal activities that have been set up by multiple criminal organisations and that concern the non-regular handling of waste and hazardous products in general.

[13] The article was added by Law No. 167/2017 and amended by Legislative Decree No. 21/2018.

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[14] The article was added by Law No. 39/19.

[15] Article 13(1)(a) and (b) of Legislative Decree No. 231/2001. In this regard, see also Art. 20 of Legislative Decree no. 231/2001, pursuant to which "*A recurrence occurs when the entity, already definitively convicted at least once for an offence, commits another offence within five years following the final conviction*."

[16] See, in this regard, Article 16 of Legislative Decree No. 231/2001, according to which: "*1. A definitive disqualification from exercising the activity may be ordered if the entity has derived a significant profit from the offence and has already been sentenced, at least three times in the last seven years, to temporary disqualification from exercising the activity. 2. The judge may impose the sanction of a definitive ban on contracting with the public administration or a ban on advertising goods or services on the entity if it has already been sentenced to the same sanction at least three times in the last seven years. 3. If the entity or one of its organisational units is permanently used for the sole or prevalent purpose of enabling or facilitating the commission of offences for which it is held liable, a definitive prohibition from carrying out the activity is always ordered and the provisions of Article 17 do not apply*.

[17] See Article 15 of Legislative Decree no. 231/2001: "Judicial commissioner - *If the conditions exist for the application of a disqualification penalty which results in the interruption of the body's activity, the judge, instead of applying the penalty, orders the continuation of the body's activity by a commissioner for a period equal to the duration of the disqualification penalty which would have been applied, when at least one of the following conditions occurs (a) the entity performs a public service or a service of public necessity, the interruption of which may cause serious harm to the community; (b) the interruption of the entity's activity may cause, taking into account its size and the economic conditions of the territory in which it is located, significant repercussions on employment. In the judgement ordering the continuation of the activity, the judge indicates the duties and powers of the commissioner, taking into account the specific activity in which the offence was committed by the entity. Within the scope of the tasks and powers indicated by the judge, the commissioner takes care of the adoption and effective implementation of organisation and control models suitable to prevent offences of the kind that have occurred. He may not perform acts of extraordinary administration without authorisation from the judge. The profit resulting from the continuation of the activity is confiscated. The continuation of the activity by the commissioner cannot be ordered when the interruption of the activity follows the definitive application of a disqualification sanction*'.

[18] The provision in question makes explicit the legislator's intention to identify an entity's liability that is autonomous not only from that of the perpetrator of the offence (see, in this regard, Article 8 of Legislative Decree no. 231/2001) but also from that of the individual members of the corporate structure. Art. 8 "*Autonomy of the liability of the body*" of Legislative Decree no. 231/2001 provides that "*1. the liability of the body exists even when: a) the perpetrator of the offence has not been identified or cannot be charged; b) the offence is extinguished for a reason other than amnesty. Unless the law provides otherwise, an entity is not prosecuted when an amnesty is granted for an offence for which it is responsible and the defendant has renounced its application. 3. The entity may renounce the amnesty*."

[19] Art. 11 of Legislative Decree no. 231/2001: "Criteria for the commensuration of the pecuniary sanction - *1. In the commensuration of the pecuniary sanction, the judge determines the number of quotas, taking into account the seriousness of the offence, the degree of liability of the entity as well as the activity carried out to eliminate or mitigate the consequences of the offence and to prevent the commission of further offences. 2. The amount of the quota is fixed on the basis of the economic and patrimonial conditions of the entity in order to ensure the effectiveness of the sanction.*(...)'.

[In cases of liability of the entity resulting from the merger or benefiting from the division for offences committed after the date on which the merger or division took effect, the judge may consider that there has been a recurrence, in accordance with Article 20, also in relation to convictions handed down against the merging or divided entities for offences committed before that date. To this end, the judge shall take into account the nature of the offences and the activity in which they were committed as well as the characteristics of the merger or division. 3. With regard to the entities benefiting from the demerger, recurrence may be considered, pursuant to paragraphs 1 and 2, only if the branch of activity within the scope of which the offence for which the demerged entity was convicted was transferred, even partially, to them". The Explanatory Report to Legislative Decree No. 231/2001 makes it clear that '*Repetition, in this case, does not operate automatically, but is subject to discretionary assessment by the judge, in relation to the concrete circumstances. With regard to the entities benefiting from the demerger, it may also be recognised only when the entity to which the branch of activity in the context of which the previous offence was committed has been transferred, even in part*'.

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[21] Art. 33 of Legislative Decree no. 231/2001: "Transfer of business. - *In the event of the transfer of the business in whose activity the offence was committed, the transferee is jointly and severally liable, subject to the benefit of prior enforcement of the transferring entity and within the limits of the value of the business, to pay the pecuniary penalty. 2. The transferee's obligation is limited to the pecuniary sanctions resulting from the mandatory books of account, or due for administrative offences of which he was in any case aware. 3. The provisions of this Article shall also apply in the case of the transfer of a business*". On this point, the Explanatory Report to Legislative Decree No. 231/2001 clarifies: "*It is understood that such transactions are also susceptible to evasive manoeuvres of liability: and, nevertheless, the opposing requirements of the protection of trust and of the safety of legal traffic are more pregnant than they are, since they are in the presence of hypotheses of succession in a particular capacity that leave the identity (and liability) of the transferor or the transferee unaltered*".

[22] Article 4 of Legislative Decree No. 231/2001 provides as follows: "*In the cases and under the conditions laid down in Articles 7, 8, 9 and 10 of the Penal Code, entities having their head office in the territory of the State shall also be liable in respect of offences committed abroad, provided that the State of the place where the offence was committed does not take proceedings against them. In cases where the law provides that the offender shall be punished at the request of the Minister of Justice, proceedings shall be brought against the entity only if the request is also made against it.*"

[23] Art. 7 of the penal code.*Crimes* committed abroad - *Any citizen or foreigner who commits any of the following offences on foreign soil is punishable under Italian law:1) offences against the personality of the Italian State; 2) offences of counterfeiting the seal of the State and the use of such counterfeit seal; 3) offences of counterfeiting money that is legal tender in the territory of the State, or in revenue stamps or in Italian public credit cards; 4) offences committed by public officials in the service of the State, abusing their powers or violating the duties inherent in their functions; 5) any other offence for which special legal provisions or international conventions establish the applicability of Italian criminal law*". Art. 8 of the penal code: "Political offence committed abroad - *A citizen or a foreigner who commits a political offence on foreign soil that is not included among those indicated in number 1 of the previous article, is punishable under Italian law, at the request of the Minister of Justice. If it is a crime punishable on complaint by the offended person, the complaint is required in addition to this request. For the purposes of criminal law, a political offence is any offence, which offends a political interest of the State, or a political right of the citizen. A common crime determined, in whole or in part, by political motives is also considered a political crime*." Art. 9 of the Penal Code: "Common crime *committed by a citizen* abroad - *A citizen who, apart from the cases indicated in the two previous articles, commits on foreign soil a crime for which Italian law establishes life imprisonment, or imprisonment for a minimum of no less than three years, is punished in accordance with the same law, provided he is on State territory. If it is a crime for which a penalty restricting personal liberty of a lesser duration is established, the offender is punished at the request of the Minister of Justice or at the request or on complaint of the offended person. In the cases provided for in the preceding provisions, if it is a crime committed to the detriment of the European Communities, a foreign State or a foreigner, the guilty party is punished at the request of the Minister of Justice, provided that his extradition has not been granted, or has not been accepted by the Government of the State where he committed the crime.*" Art. 10 of the penal code: "Common offence of the foreigner abroad - *A foreigner who, apart from the cases indicated in Articles 7 and 8, commits on foreign soil, to the detriment of the State or of a citizen, an offence for which Italian law establishes life imprisonment, or imprisonment of not less than a minimum of one year, is punishable according to the same law, provided that he is on State territory, and there is a request from the Minister of Justice, or an application or complaint from the offended person. If the offence is committed to the detriment of a foreign State or a foreigner, the offender shall be punished according to Italian law, at the request of the Minister of Justice, provided that 1) he is in the territory of the State; 2) it is a crime for which the penalty is life imprisonment or imprisonment of not less than a minimum of three years; 3) his extradition has not been granted, or has not been accepted by the Government of the State in which he committed the crime, or by that of the State to which he belongs*".

[24] Art. 38(2) of Legislative Decree No. 231/2001: "*Separate proceedings are brought for the administrative offence committed by the entity only when: a) proceedings have been ordered to be suspended pursuant to Article 71 of the Code of Criminal* Procedure [suspension of proceedings due to the inability of the defendant, Ed.]*; b) the proceedings have been finalised with the abbreviated judgement or with the application of the penalty pursuant to Article 444 of the Code of Criminal Procedure* [application of the penalty on request, Ed. note]*, or the criminal decree of conviction has been issued; c) compliance with the procedural provisions makes it necessary*." For the sake of completeness, reference should also be made to Article 37 of Legislative Decree No. 231/2001, pursuant to which '*No action shall be taken to establish the administrative offence committed by the entity when criminal proceedings cannot be commenced or continued against the author of the offence for lack of a condition of*

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prosecution' (i.e. those provided for under Title III of Book V of the Criminal Code: lawsuit, *complaint*, *action for* damages, etc.), *or when the prosecution cannot be commenced or continued against the author of the offence for lack of a condition of prosecution*' (i.e. those provided for under Title III of Book V of the Criminal Code: lawsuit, action *for* damages, etc.).Criminal Code: complaint, application for proceedings, request for proceedings or authorisation to proceed, referred to, respectively, in Articles 336, 341, 342, 343 of the Code of Criminal Procedure).

[25] The illustrative report of Legislative Decree no. 231/2001 expresses the following: "*For the purposes of the entity's liability, therefore, it will be necessary not only that the offence be objectively attributable to it (the conditions under which this occurs, as we have seen, are governed by Article 5); moreover, the offence must also be an expression of company policy or at least derive from organisational fault*". And again: '*one starts from the presumption (empirically well-founded) that, in the case of an offence committed by a top management, the "subjective" requirement for the body's liability [i.e. the so-called* "organisational fault" *of the body] is satisfied, since the top management expresses and represents the body's policy; where this does not occur, it will be up to the company to prove its extraneousness, and this it can only do by proving the existence of a series of competing requirements'*.

[26] Article 7(1) of Legislative Decree no. 231/2001: "Persons subject to the direction of others and organisational models of the entity - *In the case provided for in Article 5(1)(b), the entity is liable if the commission of the offence was made possible by the failure to comply with management or supervisory obligations*".

[27] It should be noted that the reference to the Guidelines of that trade association is made by reason of the registration of the Company, and/or of its branch offices, with both Confcommercio and Confindustria. However, since the Confindustria Guidelines present a more complete and organic treatment of the topics relating to the implementation of Legislative Decree. 231/2001 than the more restricted "Code of Ethics" issued by Confcommercio (and moreover largely inspired in its contents by the Confindustria Guidelines, the first version of which predates that of the aforementioned Code of Ethics), it was deemed preferable to use as the primary reference in this document the reference to the provisions of the Confindustria Guidelines, without prejudice to the constant verification of the compatibility of the references made with the corresponding principles expressed by the Confcommercio Code of Ethics.

[28] The Explanatory Report to Legislative Decree no. 231/2001 states, in this regard: "*The entity* (...) *shall also supervise the actual operation of the models, and therefore their compliance: to this end, in order to ensure the maximum effectiveness of the system, it is provided that the company shall make use of a structure that must be set up internally (in order to avoid easy manoeuvres aimed at pre-establishing a licence of legitimacy for the company's actions through recourse to compliant bodies, and above all to establish a real fault of the entity), endowed with autonomous powers and specifically assigned to these tasks* (...) *of particular importance is the provision of a duty to provide information to the aforementioned internal control body, in order to guarantee its own operational capacity* (...)'.

[29] Confindustria Guidelines: "...*the requisites necessary to fulfil the mandate and thus be identified in the Body required by Legislative Decree No. 231/2001 can be summarised as follows:*

- Autonomy and independence: *these qualities are achieved by placing the Body under review as a staff unit in as high a hierarchical position as possible and by providing for 'reporting' to the company's top operational management or to the Board of Directors as a whole.*

- Professionalism: *this connotation refers to the baggage of tools and techniques that the Body must possess in order to effectively perform the assigned activity. These are specialised techniques proper to those who perform "inspection" activities, but also consultancy activities of control system analysis and of a legal and, more specifically, criminal law nature. With regard to inspection and control system analysis activities, there is an obvious reference - by way of example - to statistical sampling; risk analysis and assessment techniques; risk containment measures (authorisation procedures; task contraposition mechanisms; etc.);* flow-charting *of procedures and processes to identify weak points; interview and questionnaire processing techniques; elements of psychology; fraud detection methodologies; etc. These techniques can be used a posteriori, in order to ascertain how an offence of the species under consideration could have occurred and who committed it (inspection approach); or preventively, in order to adopt - at the time of the design of the Model and subsequent amendments - the most appropriate measures to prevent, with reasonable certainty, the commission of such offences (consultancy approach); or, again, currently to verify that day-to-day conduct actually complies with those codified.*

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***- Continuity of action**: in order to be able to guarantee the effective and constant implementation of such an articulated and complex model as the one outlined, especially in large and medium-sized companies, it is necessary to have a structure dedicated exclusively and full-time to the activity of supervising the Model without, as mentioned, operational tasks that could lead it to take decisions with economic and financial effects.*

[30] The Confindustria Guidelines specify that the discipline dictated by Legislative Decree no. 231/2001 "*does not provide indications as to the composition of the Supervisory Board (SB). This makes it possible to opt for a single or multi-subjective composition. In the multi-subjective composition, internal and external members of the Supervisory Board may be called upon* (...). *Although in principle the composition seems indifferent to the legislator, however, the choice between one or the other solution must take into account the purposes pursued by the law and, therefore, must ensure the profile of effectiveness of controls in relation to the size and organisational complexity of the entity*'. Confindustria, *Guidelines, June 2021*.

[31] *"This applies, in particular, when a multi-subjective composition of the Supervisory Board is opted for and all the various professional skills that contribute to the control of company management in the traditional model of corporate governance are concentrated in it (e.g. a non-executive or independent director who is a member of the internal control committee; a member of the Board of Statutory Auditors; the person in charge of internal control). In these cases, the existence of the requirements referred to is already ensured, even in the absence of further indications, by the personal and professional characteristics required by law for independent directors, statutory auditors and the person in charge of internal controls*'. Confindustria, *Guidelines*, June 2021.

[32] In the sense of the need for the Board of Directors, at the time of appointment, "*to acknowledge the existence of the requisites of independence, autonomy, honourableness and professionalism of its members*", Order of 26 June 2007 Naples Tribunal, Office of the Judge for Preliminary Investigations, Sec. XXXIII.

[33] *In detail, the activities that the Body is called upon to perform, also on the basis of the indications contained in Articles 6 and 7 of Legislative Decree No. 231/2001, can be summarised as follows:*

*- supervision of the **effectiveness of** the model, which takes the form of verifying the consistency between the concrete conduct and the established model;*

*- Examination of the **adequacy** of the model, i.e. of its real (and not merely formal) capacity to prevent, in principle, unwanted conduct;*

*- analysis of the **maintenance of** the model's robustness and functionality requirements over time;*

*- taking care of the necessary **updating** of the model in a dynamic sense, in the event that the analyses carried out make it necessary to make corrections and adjustments. This care, as a rule, takes place in two distinct and integrated moments;*

*- presentation of **proposals for adaptation of** the model to the corporate bodies/departments capable of giving them concrete implementation in the corporate fabric.*

***- follow-up**, i.e. verification of the implementation and actual functionality of the proposed solutions.* Confindustria, Guidelines, June 2021.

[34] "*The disciplinary assessment of conduct carried out by employers, subject, of course, to any subsequent review by the employment judge, need not, in fact, coincide with the judge's assessment in criminal proceedings, given the autonomy of the breach of the Code of Ethics and of internal procedures with respect to the breach of the law entailing the commission of an offence. The employer is therefore not obliged, before acting, to wait for the end of any criminal proceedings that may be in progress. In fact, the principles of timeliness and immediacy of the sanction make it not only not necessary, but also inadvisable, to delay the imposition of the disciplinary sanction while awaiting the outcome of any judgement that may be brought before the criminal court*". Confindustria, *Guidelines, cit.*, June 2021.

[35] Although the Statutory Auditors cannot be considered - in principle - to be persons in an apical position, as stated by the same Explanatory Report of Legislative Decree No. 231/2001 (p. 7), it is nevertheless abstractly conceivable that the Statutory Auditors themselves may be involved, even indirectly, in the commission of the offences referred to in Legislative Decree No. 231/2001 (possibly as accomplices to persons in an apical position).

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