

ORGANISATION, MANAGEMENT AND CONTROL MODEL

GENERAL PART

LEGISLATIVE REFERENCES: ITALIAN LEGISLATIVE DECREE NO. 231/01

APTUIT (Verona) S.r.l.

Registered office at Via Alessandro Fleming, 4 - Verona - Italy

Reg. of Companies VR - 379303

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1. ADMINISTRATIVE LIABILITY PURSUANT TO LEGISLATIVE DECREE 231/01

1.1. Regulatory Framework

Legislative Decree no. 231 of 08 June 2001, concerning "Regulations on the administrative liability of legal entities, companies and associations, including those without legal status, pursuant to art. 11 of Law no. 300 of 29 September 2000" introduced into our legal system for the first time the criminal liability of entities, in addition to that of the natural person materially committing the crime¹.

The extension of liability aims to involve the assets of entities and, ultimately, the economic interests of shareholders in the punishment of certain criminal offences, which, until the entry into force of the law in question, did not suffer consequences from the crimes committed to the benefit of the company, by directors and/or employees.

The principle of individual criminal liability left them, in fact, free from disciplinary consequences other than the possible compensation for damages, if and insofar as they existed. In terms of criminal consequences, in fact, only Articles 196 and 197 of the Criminal Code provided (and still provide) for a civil obligation for the payment of fines imposed, but only in the event of insolvency of the person materially committing the crime. Therefore, the legislative innovation is of no small consequence since neither the entity nor the shareholders of the Company or members of the association can claim to be extraneous to criminal proceedings for crimes committed to the entity's benefit or interest.

This, obviously, leads to an interest in those parties (shareholders, association members, etc.) that are involved in the financial affairs of the entity, in the control of the regularity and legality of the company's operations.

The liability outlined by the law, despite being defined as "administrative", has several peculiarities typical of criminal liability; the procedural system adopted, in fact, is that provided for criminally relevant conduct.

The report accompanying the decree specifies: "This liability, since resulting from a crime and linked (by the express will of the enabling law) to the guarantees of the criminal trial, differs in quite a few points from the paradigm of the administrative

¹ The provision of administrative (but *de facto* criminal) liability of entities for certain types of crimes was contained in Article 2 of the OECD Convention of 17 December 1997 on the corruption of foreign public officials in international business transactions. This type of liability was subsequently introduced into our legal system by art. 11 of Law no. 300 of 29 September 2000, ratifying and implementing the OECD and European Union conventions against corruption in international trade and against fraud against the European Community. Article 11, in particular, delegated the Government to regulate the articulation of this type of liability. In implementation of this mandate, the Government adopted Legislative Decree no. 231/2001.

crime now classically inferred from law 689/1981, with the consequence of giving rise to 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 inevitable, of the maximum guarantee". "Administrative liability is autonomous, but it is the consequence of the conduct of a natural person, in cases where such conduct constitutes a crime provided for by the decree.

This *tertium genus* of liability has been, according to the most recent jurisprudence, qualified as "organisational", characterised by the psychological element of the fault of the Entity, which has not been properly organised internally to prevent the commission of the crimes referred to in Legislative Decree 231/2001.

1.2. Objective profile: relevant crimes

The crimes for which the existence of administrative liability is envisaged are listed in Section III of Chapter I of Legislative Decree 231/01, which has been amended several times with the inclusion of new crimes initially not envisaged.

In relation to the type of crimes to which the legislation in question applies, the delegated legislator initially made a minimalist choice compared to the indications contained in the enabling act (Law no. 300/2000). In fact, of the four categories of crimes listed in Law no. 300/2000, the Government took into account only those relating to crimes against the Public Administration, set out in **Articles 24 - Misappropriation of public funds, Fraud against the State or other public entity or to obtain the disbursement of public funds and Cyber fraud against the State or other public entity and 25 – Bribery and Corruption**, highlighting, in the report accompanying Legislative Decree no. 231/2001, the foreseeable extension of the legislation in question to other categories of crimes. This report was prophetic, since subsequent legislative changes extended the list of crimes to which Decree 231/2001 applies.

Below is a list of all the families of crimes envisaged by Legislative Decree 231/01, updated to the date of preparation of this document.

Art. 24 - MISAPPROPRIATION OF PUBLIC FUNDS, FRAUD AGAINST THE STATE OR OTHER PUBLIC ENTITY OR TO OBTAIN THE DISBURSEMENT OF PUBLIC FUNDS AND CYBER FRAUD AGAINST THE STATE OR OTHER PUBLIC ENTITY

Included in the original nucleus of the Decree, the article identifies the conduct that has been committed intentionally against the Public Administration. It envisages fines up to 600 units, corresponding to Euro 929,400, in addition to some prohibitory sanctions.

Art. 24-bis - CYBER CRIMES AND UNLAWFUL DATA PROCESSING

Law no. 48 of 18 March 2008, on "Ratification and implementation of the Council of Europe Convention on Cybercrime, executed in Budapest on 23 November 2001, and legislations for the adaptation of the internal legal system" extended the types of crimes that may generate liability of the entity, introducing, in the Legislative Decree no. 231/2001, art. 24-bis "Cyber crimes and unlawful data processing". The new Article 24-bis of Legislative Decree no. 231/2001 extended the administrative liability of legal persons and entities to almost all cyber crimes. As specified in the report to the original draft law, in fact, the introduction of this article responds to the need to introduce forms of criminal liability for legal entities even with reference to the most serious cyber crimes.

In the light of the application requirements of the decree, entities will be considered liable for cyber crimes committed in their interest or to their benefit by persons holding positions as representatives, directors or senior managers of the entity or one of its organisational units, but also by persons subject to their direction or supervision.

The types of cyber crime, therefore, involve those illegal behaviours put in place by persons in top management or subordinate position (employees and/or contract workers), who use corporate IT/telecommunication tools and technologies for the performance of normal business activities.

The maximum fines envisaged amount up to 500 units, equal to Euro 774,500, in addition to all disqualification sanctions.

Art. 24-ter - ORGANISED CRIME

Law no. 94 of 15 July 2009, containing provisions on public safety, introduced into Legislative Decree 231/01 Article 24-ter "Organised crime", definitively approved by the Senate. The crimes referred to in Articles 416, sixth paragraph, 416-bis, 416-ter and 630 of the Criminal Code, and the crimes referred to in Article 416 of the Criminal Code, excluding the sixth paragraph, i.e. those referred in Article 407, paragraph 2, letter a), point 5) of the Code of Criminal Procedure, are thus included among the relevant crimes.

The commission of such crimes involves the maximum sanctions provided for in the form of both a fine of up to 1,000 units (maximum value of Euro 1,549,000) as well as disqualification sanctions, including a permanent disqualification from carrying on business.

Art. 25 - BRIBERY, UNDUE INDUCEMENT TO GIVE OR PROMISE GAINS AND CORRUPTION

Together with Article 24, it constitutes, in its original wording under the title "Bribery and Corruption", the original nucleus of the crimes provided for by Legislative Decree 231/01 and, like that, concerns the sphere of relations with the Public Administration.

Law no. 190² of 6 November 2012, known as the "anti-corruption law", modified the heading of this article following the introduction by the same law 190 of the crime of "Undue inducement to give or promise gains" (Art. 319 quater of the Italian Criminal Code), where the public official or public servant shows an hypothesis of advantage to anyone in exchange for the giving or promising of gains. The person who, by accepting the mere proposal made by the public official, actually gives or promises gains, commits a crime relevant to the administrative liability of entities, pursuant to Legislative Decree 231/01.

Subsequently, Law no. 3³ of 9 January 2019, known as the "*new anti-corruption law*", intervened on the content of this article and in particular:

- on **paragraph 1**, including among the crimes the one of "*Trafficking in illicit influences*" referred to in Article 346-bis of the Criminal Code, in turn amended by the same law;
- in **paragraph 5**, by increasing the thresholds for prohibitory sanctions for crimes committed by directors on the one hand and those committed by subordinates on the other;
- by inserting the **new paragraph 5-bis** which provides for a reduction in disqualification sanctions in the event of the active repentance of the entity which, acting before the first instance sentence, in order to avoid that the criminal activity is led to further consequences, to ensure the evidence of the crimes and for the identification of those responsible or for the seizure of the sums or other benefits transferred and eliminating organisational deficiencies through the adoption and implementation of suitable organisational models.

The fines for the commission of such crimes may amount to up to 800 units (maximum value of Euro 1,239,200) and involve the application of all disqualification sanctions for a period of not less than four years and not more than seven years in the case of a crime committed by directors and not less than two years and not more than four years in the case of a crime committed by subordinates.

² Law no. 190 of 06 November 2012 "Provisions for the prevention and repression of corruption and illegality in the public administration" published in Official Journal no. 265 on 13/11/2012.

³ Law 9 January 2019 no. 3 "Measures to combat crimes against the public administration, as well as on the prescription of the crime and on the transparency of political parties and movements" published in Official Journal no. 13 of 16/01/2019

Art. 25-bis - FORGERY OF MONEY, PUBLIC CREDIT CARDS, REVENUE STAMP AND RECOGNITION INSTRUMENTS OR SIGNS

Article 4 of Law no. 409⁴ of 23 November 2001, converting Legislative Decree no. 350/2001 on urgent provisions in view of the euro, a few months after the issue of the first version of Legislative Decree no. 231/01, introduced the new article of the Decree (**Article 25-bis) relating to the forgery of money, public credit card and revenue stamp**, which Law no. 99/2009, containing provisions for the development and internationalisation of businesses, as well as on energy and containing amendments to Legislative Decree no. 81 of 8 June 2001, was then to amend, at paragraph 2, by introducing the letter f bis) and with it the crimes related to the counterfeiting of trademarks, distinctive signs and patents as well as the introduction into the State and trade of products with false trademarks. This is the same legislation that then also introduced crimes against industry and trade and copyright infringement crimes.

The sanctions for the violations pursuant to Article 25-bis are envisaged up to 800 units (maximum value of Euro 1,239,200) and all disqualification sanctions for the maximum period of one year.

Art. 25.bis1 - CRIMES AGAINST INDUSTRY AND TRADE

As mentioned in the commentary on the previous article, crimes against industry became relevant for the purposes of the administrative liability of entities as a result of Law 99/2009, containing provisions for the development and internationalization of companies, as well as in the field of energy and containing amendments to Legislative Decree no. 81 of 08 June 2001. The related sanctions may amount up to 800 units (maximum value of Euro 1,239,200) and involve the application of all disqualification sanctions.

⁴ Law no. 409/2001 published in the Official Journal no. 274 of 24 November 2001.

Art. 25-ter - CORPORATE CRIMES

The introduction of this article, which took place with Legislative Decree no. 61/2002⁵, which added Article 25-ter to Decree no. 231, extending administrative liability to certain types of corporate crimes. On 15 June 2015, the new provisions on corporate crimes came into force with the amendment to Article 25-ter, which incorporates the changes made to the crime of false corporate communications, introduced by Article 12 of Law No. 69 of 27 May 2015, "Provisions on crimes against the public administration, Mafia-type associations and false accounting".

The innovations on the crime concern:

- Different classification of the crime: the conduct qualifying the crime is today, the conscious statement, for profit, of untrue facts (or omission of relevant facts) in the financial statements or in other corporate communications on the economic, equity or financial situation of the Company or of the group to which it belongs, in a way concretely suitable to induce others into errors. Falsehood, therefore, with the intent of obtaining an undue profit and no longer the intent to mislead shareholders or the public.
- The fine imposed on the company has been increased compared to the past: in case of conviction of the legal entity, the fine now ranges from 200 to 400 units.
- Introduction of the crime of false corporate communications with minor effects. The fine imposed on the company ranges from 100 to 200 units.
- Introduction of the crime of false corporate communications for listed companies. The fine imposed on the company ranges from 400 to 600 units.

Art. 25-ter regulates, in particular, the crimes of: false accounting in reports and other corporate communications, false prospectuses, false reports or communications of the independent auditors, impeded control, undue return of contributions, illegal distribution of profits and reserves, illegal transactions on stocks or shares of the company or of the parent company, transactions to the detriment of creditors, failure to disclose a conflict of interest, fictitious formation of capital, undue distribution of corporate assets by the liquidator, corruption among individuals, unlawful influence over the shareholders' meeting, stock manipulation, obstacle to the exercise of the functions of the public supervisory authorities.

⁵ Legislative Decree no. 61/2002 on the regulation of criminal and administrative crimes concerning commercial companies. The decree was published on 11 April 2002 in the Official Journal - General Series No 88 of 15 April 2002. With this measure, the Government implemented art. 11 of the enabling law on the reform of company law (Law no. 366/2001), approved on 3 October 2001. These rules were subsequently amended by Law No 262/2005, cited below.

In the past, actions aimed at changing the rules on the administrative liability of entities were implemented by the Community Law for 2004⁶ (art. 9) which, inter alia, has implemented by means of immediately applicable legislation the Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider information and regulation of financial market (so-called market abuse), and by the law "Provisions for the protection of savings and the regulation of financial markets", which has made some changes to the regime of administrative liability of legal entities with regard to certain corporate crimes.

The new legislation on market abuse has broadened the scope of application of Decree 231, making the crimes of insider trading and market manipulation fall within the category of crimes for the administrative liability of entities.

The 2004 Community Law, in particular, intervened on both the Civil Code and the Consolidated Finance Act (TUF).

Law no. 262/2005⁷ on the protection of savings, on the other hand, extended the liability of entities to the new crime of failure to disclose the conflict of interest of directors, relating exclusively to listed companies, and amended the legislation on false corporate reporting and false statements in prospectuses.

With regard to the Civil Code, Article 2637, which sanctioned the crime of stock manipulation committed on both listed and unlisted financial instruments, has been amended. The legislation now applies only to cases of stock manipulation carried out with reference to financial instruments that are not listed or for which no application has been made for admission to trading on a regulated market, and not to listed financial instruments to which the TUF rules on market manipulation apply. On the other hand, the new case of insider trading refers only to privileged information relating to issuers regulated by the TUF.

In November 2012, the above-mentioned "*Anti-corruption Law*"⁸ introduced, among the types of crimes relevant to the liability of entities, the type of crime of "*Corruption between private individuals*" through the amendments to Article 2635 of the Civil Code and its reference in letter s-bis of paragraph 2. Art. 25 ter letter s-bis was then replaced by art. 6 of Legislative Decree no. 38 of 15.03.2017, with effect from 14.04.2017, which has rewritten the text of the crime of "Corruption between

⁶ Law no. 62 of 18 April 2005, containing "Provisions for the fulfilment of obligations deriving from Italy's membership of the European Communities. Community law 2004". The measure was published in the Official Journal no. 96 of 27 April 2005 - Ordinary Supplement no. 76.

⁷ Law no. 262 of 28 December 2005 on "Provisions for the protection of savings and the regulation of financial markets", published in the Official Journal no. 301 of 28 December 2005 - Ordinary Supplement no. 208.

⁸ See note 2.

private individuals" and introduced the further crime of "Instigation of Corruption between private individuals" (art. 2635 bis).

The sanctions for the crimes mentioned involve the maximum fine of 600 units (with a maximum value of Euro 929,622), which may be increased by one third in the case of the achievement of a "*significant profit*". For the crime of Corruption between private individuals (art. 2635 c.c.) and Instigation to Corruption between private individuals (art. 2635 bis c.c.) the disqualification sanctions provided for in art. 9, paragraph 2 of Legislative Decree 231/2001 also apply.

Art. 25-quater - CRIMES COMMITTED FOR THE PURPOSE OF TERRORISM OR THE SUBVERSION OF THE DEMOCRATIC ORDER

The law of "Ratification and execution of the International Convention for the Suppression of the Financing of Terrorism made in New York on 09 December 1999"⁹ included a new Art. 25-quater to Decree 231, which establishes the liability put in place in violation of the provisions of Article 2 of the International Administrative Convention of the entity also in relation to the commission of crimes for the purpose of terrorism or subversion of the democratic order. The law also applies (Art. 25-quater, last paragraph) with reference to the commission of crimes, other than those expressly mentioned, "which were, however, for the suppression of the financing of terrorism made in New York on 09 December 1999".

The sanctions envisaged are fines up to 1,000 units (maximum value of Euro 1,549,000) and the application of all the disqualification sanctions, including permanent disqualification from exercising the activity.

⁹ Law no. 7/2003, in the Official Journal no. 21 of 27 January 2003.

Art. 25-quater 1 - FEMALE MUTILATION

Law no. 7/2006¹⁰, which prohibits and punishes female circumcision extended the scope of application of Legislative Decree no. 231/2001 to the new crime of female genital mutilation practices (Article 583-bis-of the Italian Criminal Code).

The fines applied amount to a maximum of 700 units (maximum value of Euro 1,084,300) and may result in permanent disqualification from exercising the activity.

Art. 25-quinquies - CRIMES AGAINST INDIVIDUAL PERSONALITY

The law containing "Measures against people trafficking"¹¹ then introduced a new article to the Decree, 25-quinquies, which extends the regime of administrative liability of the entity also in relation to the commission of crimes against the individual governed by section I of Chapter III of Title XII of Book II of the Criminal Code.

Law no. 38¹² of 6 February 2006, containing "Provisions on the fight against the sexual exploitation of children and child pornography, including on the internet", modified the scope of application of the crimes of child pornography and possession of pornographic material (respectively, Articles 600-ter and 600-quater of the Italian Criminal Code), for which the entity was already responsible under decree 231, also including the hypotheses in which the pornographic material used represents virtual images of minors (so-called "virtual child pornography").

Article 3 of Legislative Decree no. 39 of 4 March 2014 inserted, in paragraph 1 letter c), the reference to Article 609-undecies of the Criminal Code, thus introducing the solicitation of minors among the relevant cases.

Finally, Law no. 199 of 29 October 2016, amending Art. 603-bis of the Criminal Code relating to "Illegal intermediation and labour exploitation", amended Art. 25-quinquies of Legislative Decree 231/2001 by inserting in letter a) of c. 1 also fines for the crime referred to in Art. 603 bis of the Criminal Code. In particular, the rewritten Article 603 bis of the Italian Criminal Code extends the scope of punishment of the crime of "*illegal hiring*" by extending the sanctions to the user of labour recruited under exploitative conditions. It also redefines the exploitation indices.

¹⁰ Law 9 January 2006, no. 7, on "Provisions concerning the prevention and prohibition of practices of female genital mutilation", published in the Official Journal no. 14 of 18 January 2006.

¹¹ Law 228 of 11 August 2003 on measures against people trafficking. The measure was published in the Official Journal of 23 August 2003, no. 195.

¹² Law no. 38 of 6 February 2006, containing "Provisions on the fight against the sexual exploitation of children and child pornography, including via the internet", published in the Official Journal no. 38 of 15 February 2006.

The fines applied amount to a maximum of 1,000 units (maximum value of Euro 1,549,000) and may result in permanent disqualification from exercising the activity.

Art. 25 - sexies - MARKET ABUSE

The article and the relative references to the crimes of insider dealing and market manipulation were introduced by the aforementioned Law 62/2005¹³.

For a comment on the legislation introduced, please refer to the commentary on the previous Article 25-ter of the Decree.

The fine can reach 1,000 units (maximum value of Euro 1,549,000) or be increased up to 10 times the profit deriving from the crime. No disqualification sanctions are envisaged.

Art. 25-septies - SAFETY IN THE WORKPLACE

Law no. 123 of 3 August 2007, with the introduction of art. 25-septies into the regulatory framework of Legislative Decree no. 231/2001, further extended the scope of the administrative liability of entities to the crimes of manslaughter and serious or very serious negligent injury that occur in connection with the violation of the rules for the prevention of accidents at work or relating to the protection of hygiene and health at work¹⁴.

The sanctions envisaged for are up to 1,000 units (maximum value of Euro 1,549,000) and the application of all disqualification sanctions for the maximum period of one year.

Art. 25-octies - HANDLING, LAUNDERING AND USE OF MONIES, GOODS OR PROFITS OF UNLAWFUL ORIGIN AND SELF-LAUNDERING

With Italian Legislative Decree no. 231 of 21 November 2007, the legislator implemented Directive 2005/60/EC of the Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (the "Third Money Laundering Directive")¹⁵. Art. 72 of Legislative Decree 231/2007, the introduction to this art. 25-

¹³ See note 6 above.

¹⁴ Law no. 123 of 3 August 2007, on "Measures concerning the protection of health and safety at work and delegation to the Government for the reorganisation and reform of the legislation on the subject", published in the Official Journal of the European Union. no. 185 of 10 August 2007.

¹⁵ Legislative Decree no. 231/2007, entitled "Implementation of Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and of Directive 2006/70/EC which contains implementing measures", was published in the Official Journal no. 290 of 14 December 2007 - Ordinary Supplement no. 268. The text has been in force since 29 December 2007.

octies, was then amended by art. 5 of Legislative Decree no. 90 of 25/05/2017 with effect from 04/07/2017. Law no. 186 of 15 December 2014, which introduced art. 648 ter of the Criminal Code, under the title "*Money Laundering*", simultaneously referred to the same in this article.

It follows that the entity is punishable for the crimes of receiving stolen goods, money laundering, use of illicit capital and self-laundering, even if committed in a purely "national" context, provided that an interest or advantage for the entity derives from this.

The sanctions envisaged are fines up to 1,000 units (maximum value of Euro 1,549,000) and the application of all disqualification sanctions for the maximum period of two years.

Art. 25-novies - COPYRIGHT CRIMES

Law 99/2009, containing provisions for the development and internationalisation of companies, as well as on energy, and containing amendments to Legislative Decree 81/2001, in addition to intervening on Articles 25-bis and 25-bis 1 of Legislative Decree 231/01, introduces a further Article 25-novies "Induction not to make statements or to make false statements to the legal authorities" with reference to Article 377-bis of the criminal code.

The sanctions envisaged are fines up to 500 units (maximum value of Euro 774,500) and the application of all disqualification sanctions for the maximum period of one year.

Art. 25-decies - INDUCTION NOT TO MAKE STATEMENTS OR TO MAKE FALSE STATEMENTS TO THE LEGAL AUTHORITIES

Law no. 116 of 3 August 2009 - Ratification and implementation of the United Nations Convention against Corruption, adopted by the UN General Assembly on 31 October 2003 with resolution no. 58/4, signed by the Italian State on 9 December 2003, as well as internal adjustment and amendments to the Criminal Code and the Code of Criminal Procedure, inserts in Legislative Decree 231/01 the reference to the crime referred to in Article 377-bis of the Criminal Code, so that also the inducement not to make statements by means of violence, threats or the offer or promise of money or other benefits, constitutes a crime for the administrative liability of entities.

The sanctions for the crime involve fine of up to 500 units (with a maximum value of Euro 774,500). No disqualification sanctions are envisaged.

Art. 25-undecies - ENVIRONMENTAL CRIMES

The inclusion of environmental crimes among the crimes for which the liability of companies may arise occurred with the inclusion of a new article¹⁶ in the legislative provision containing the specific discipline on the administrative liability of entities. The list of crimes introduced is particularly wide; in fact, it concerns numerous cases, both criminal and violations, contained in the Criminal Code and recently expanded with the provision of new forms of crime introduced by Law no. 68/2015 (Law on Environmental crimes) in the Environmental Code¹⁷, in the provisions for the protection of endangered animal and plant species¹⁸, the regulations for the protection of ozone¹⁹ and in the provisions relating to pollution caused by ships²⁰.

The fines can be up to 1,000 units (maximum value Euro 1,549.00) and the disqualification sanctions, where applicable, may also result in permanent disqualification from exercising the activity.

Art. 25-duodecies - EMPLOYMENT OF THIRD COUNTRY CITIZENS WITH INVALID RESIDENCY PERMITS

Art. 2 of Legislative Decree 109/2012 introduced the new Article "25-duodecies" (Employment of third country citizens with invalid residency permits) into Legislative Decree 231/01. Article 30 of Law no. 161 of 17 October 2017 has added to the original Article 25 duodecies of Legislative Decree 231/2001, three further paragraphs with effect from 19.11.2017 and relating to the crime of promoting, directing, organising, financing or carrying out the transport of illegal immigrants and that of aiding and abetting the stay of illegal aliens, as per Article 12 of Legislative Decree no. 286/1998 paragraphs 3 3-bis, 3-ter and 5. The new Article 25 duodecies provides that **"1.** In relation to the commission of the crime referred to in Article 22, paragraph 12-bis, of Legislative Decree No. 286 of 25 July 1998, the company is subject to a fine of between 100 and 200 units, up to a limit of 150,000 euro. **1-bis.** In relation to the commission of the crimes referred to in Article 12, paragraphs 3, 3-bis and 3-ter, of the consolidated text of Legislative Decree 286 of 25 July 1998, as amended, the company is subject to a fine ranging from four hundred to one thousand units. **1-ter.**

¹⁶ Art. 25-undecies of Legislative Decree no. 231 of 08 June 2001.

¹⁷ Italian Legislative Decree no. 152 of 3 April 2006 - Environmental standards.

¹⁸ Law no. 150 of 7 February 1992 - Rules for crimes relating to the application in Italy of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed in Washington on 3 March 1973, referred to in Law no. 874 of 19 December 1975 and Regulation (EEC) no. 3626/82 and subsequent amendments, as well as rules for the marketing and keeping of live specimens of mammals and reptiles that may constitute a danger to public health and safety.

¹⁹ Law 28 December 1993, no.549 - Measures to protect the ozone layer and the environment.

²⁰ Italian Legislative Decree no. 202 of 6 November 2007 - Implementation of Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements.

In relation to the commission of the crimes referred to in art. 12, paragraph 5, of the consolidated text of Legislative Decree 25/07/1998 no. 286, as amended, the entity is subject to a fine of between one hundred and two hundred units. **1-quater.** In cases of conviction for the crimes referred to in paragraphs 1-bis and 1-ter of this article, the disqualification sanctions provided for in Article 9, paragraph 2, are applied for the duration of not less than one year.

Therefore, if the employer employs **foreign workers without a residence permit**, with an expired residence permit whose renewal has not been requested within the terms of the law, revoked or annulled, in addition to the criminal liability for the natural person of the employer will also take 231 liability for the company in the event of the aggravating circumstances referred to in paragraph 12 bis of Art. 22 of Legislative Decree 286/98 explained below:

- more than three workers are employed;

- the workers employed are minors of non-working age;

- the workers employed are subject to the other particularly exploitative working conditions referred to in the third paragraph of Article 603-bis of the Criminal Code.

The maximum applicable fine is 200 units within the limit of Euro 150,000. No disqualification sanctions are envisaged.

In the same way, if the entity derives interest or benefit from the commission of crimes of promotion, direction, organisation, financing or carrying out of the transport of illegal immigrants or aiding and abetting the stay of illegal foreigners, in addition to the criminal liability for the natural person who committed the crime, will also trigger the liability 231 for the Company to which the fine will be applied up to a maximum of one thousand units (maximum value Euro 1.549.370) For the crimes referred to in paragraphs 1-bis and 1-ter, the disqualification sanction referred to in Article 9, paragraph 2, is also provided for the duration of not less than one year.

Art. 25-Terdecies - RACISM AND XENOPHOBIA

Article 5 of Law no. 167 of 20/11/2017 introduced the new Article 25 Terdecies of Legislative Decree 231/2001 with effect from 12.12.2017. This crime refers to in art. 3, paragraph 3-bis (Propaganda/instigation/incitement based on the apologia of crimes of genocide, against humanity and war), introduced in Law 13/10/1975 no. 654, by art. 1 of Law 16/06/2016 no. 115 and then amended by art. 5 of Law 20/11/2017 no. 167. The fine reaches a maximum of 800 units (maximum value of Euro 1,239,496). The disqualification sanctions referred to in Article 9 are also envisaged, paragraph 2 and in the case of a permanent establishment with the sole or predominant purpose of permitting or facilitating the commission of the crimes, a definitive disqualification from carrying out the activity pursuant to art. 16, paragraph 3 of Legislative Decree 231/2001 is envisaged.

TRANSNATIONAL CRIME

The **Law no. 146/2006** of ratification and implementation of the Convention of Palermo against transnational organised crime 15 November 2006²¹ established the application of the Decree 231 to the **TRANSNATIONAL ORGANISED CRIME**. The new provisions have provided for the liability of entities for administrative crimes related to the crimes of association with crime, money laundering and use of money and goods of illegal origin, smuggling of migrants and obstruction of justice²².

1.3. Subjective profile of administrative liability and exemption

In terms of recipients, the law indicates "*entities with legal personality, companies with legal personality and companies and associations, including those without legal personality*" (Art. 1, par. 2).

The descriptive framework is completed by a negative indication of the persons to whom the law does not apply, i.e. "the State, territorial public bodies and bodies performing functions of constitutional importance" (Article 1, paragraph 3).

It is worth noting that this new liability arises only during the commission of certain types of crimes by persons connected in various ways with the entity and only in the event that the unlawful conduct was committed in the interest or to the advantage of the entity.

Therefore, not only when the illicit conduct has determined an advantage, financial or otherwise, for the entity, but also in the case in which, even in the absence of such a concrete result, the crime is justified in the interest of the entity.

A second aspect of particular importance to correctly define the hypotheses in which the discipline in question is applied, concerns the identification of the persons who, by committing a crime, may give rise to liability on the part of the entity to which they belong.

In this regard, Article 5 of the Decree identifies two different categories of employees and contract workers of the company.

This distinction, however, is not merely formal, but is particularly important in order to understand how the company can prevent and avoid the application of sanctions

²¹ Law no. 146 of 16 March 2006, entitled "Ratification and implementation of the United Nations Convention and Protocols against transnational organised crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001", published in the Official Journal of 11 April 2006, no. 85 - Ord. Supplement no. 91.

²² The provision relating to the crimes of money laundering and use of money and goods of unlawful origin having a transnational character was subsequently repealed by Legislative Decree no. 231 of 21 November 2007.

against it. The two categories of persons who can determine, because of the crimes they have committed, the incurring of liability on the part of the company are:

- persons who are representatives, directors or managers of the entity or one of its organisational units with financial and functional autonomy, as well as persons who exercise, even de facto, the management and control of the same (the so-called "top management");
- persons subject to the management or supervision of one of the persons mentioned in the previous letter (de facto employees and contract workers of a lower level).

However, Article 6 of the measure in question provides for a form of "**exemption**" from liability for the entity if it proves, during criminal proceedings for one of the crimes considered, to have adopted and effectively implemented organisation, management and control models suitable for preventing the commission of the criminal offences considered; to have appointed a body with autonomous powers of initiative and control with the task of supervising the functioning and compliance of the Model and ensuring its updating; that the crime was committed by fraudulently circumventing the Model.

The system envisages the creation of an internal control body within the entity with the task of supervising the real effectiveness of the model. Finally, the legislation states that trade associations can draw up codes of conduct, based on which the individual organisational models must be drawn up, to be communicated to the Ministry of Justice, which has thirty days to make its comments.

1.4. The Organisational Model as an essential part of the prevention system

In consideration of the purpose of the regulation, which is to stimulate companies to prevent the commission of crimes, the legislator envisaged, in Articles 6 and 7 of the decree, that companies can preventively adopt rules of conduct / policies as to reduce or exclude the liability (and consequently the sanctions) envisaged in Decree 231/01.

In particular, the two articles mentioned separately envisage the procedures to be observed to protect oneself from consequences in the two different cases referred to the crimes committed by top management or by employees and contract workers.

As far as the first case is concerned, Article 6 provides that the company shall not be held liable if it proves that:

- a) before the crime was committed, the management body adopted and effectively implemented organisational, management and control models suitable for preventing crimes of the type committed;

- b) the task of supervising the functioning of and compliance with the models and their updating has been entrusted to a body of the entity with autonomous powers of initiative and control;
- c) the persons have committed the crime by fraudulently circumventing the organisation and management models;
- d) there has been no omission or inadequacy of supervision by the body referred to in point (b).

Article 7, on the other hand, dwelling on the hypothesis of crimes committed by persons subject to the supervision of others, establishes that the company is liable if the commission of the crime has been made possible by failure to comply with the obligations of management or supervision, it being understood that failure to comply with such obligations is excluded a priori if the entity, prior to the commission of the crime, has adopted and effectively implemented an appropriate Organisation, Management and Control Model to prevent crimes of the type that have occurred.

As is clear, therefore, the two pivots around which the system of exclusion of liability revolves are the adoption of organisational models suitable for preventing the commission of crimes and the supervision of these models by a special body of the company.

With regard to the implementation of the Organisational Model, art. 6, par. 2, of Legislative Decree no. 231/2001, indicates the essential characteristics for the construction of an organisation, management and control model.

In particular, letters a) and b) of the provision mentioned expressly refer, although with the use of terminology and exposure extraneous to the business practice, to a typical system of risk management²³.

The legislation expressly mentions the two main phases of such a system:

- **risk identification:** i.e. analysis of the company context to highlight where (in which area/sector of activity) and according to which methods events prejudicial to the objectives indicated by Legislative Decree no. 231/2001 may occur;
- **design of the control system** (so-called protocols for planning of training and implementation of decisions of the entity), i.e. the evaluation of the existing system within the entity and its possible adaptation, in terms of ability to effectively counter, i.e. reduce to an acceptable level, the risks identified. From a

²³ "In relation to the extent of the delegated powers and the risk of crimes being committed, the models referred to in letter a) of paragraph 1 must meet the following requirements:
a) identify the activities in the context of which crimes may be committed;
b) provide for specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the crimes to be prevented".

conceptual point of view, reducing a risk involves having to intervene (jointly or severally) on two determining factors: (i) the probability of the event occurring and (ii) the impact of the event itself.

The system briefly outlined, however, cannot be reduced to a one-off activity in order to operate effectively, but must be translated into a continuous process (or in any case carried out with an adequate frequency), to be repeated with particular attention in times of corporate change (opening of new offices, expansion of activities, acquisitions, reorganisations, etc.).

With regard to the risk of unlawful conduct in terms of health and safety at work, this system must necessarily take into account the current safety legislation.

In fact, this complex legislation outlines a "system" of mandatory principles and requirements whose implementation - where suitably integrated/adapted according to the "organisational model" envisaged by Legislative Decree no. 231/2001 - may be suitable for reducing to an "acceptable" level, for the exempting effects of the same Legislative Decree no. 231/2001, the possibility of conduct constituting the crime of homicide or serious or very serious culpable injury committed in violation of safety regulations.

1.5. Definition of "Acceptable Risk"

An absolutely crucial concept in the construction of a preventive control system is that of acceptable risk.

In designing control systems to protect business risks, defining acceptable risk is a relatively simple operation, at least from a conceptual point of view. The risk is considered acceptable when the additional controls "cost" more than the resource to be protected (for example: ordinary cars are equipped with an anti-theft device and not also with an armed guard).

In the case of Legislative Decree no. 231/2001, however, the economic logic of costs cannot be an exclusive point of reference. It is therefore important that, for the purposes of application of the provisions of the decree, an effective threshold is defined that allows a limit to be set on the quantity/quality of the preventive measures to be introduced to prevent the commission of the crimes in question.

In the absence of a prior determination of the acceptable risk, the quantity/quality of preventive controls that can be instituted is virtually infinite, with the foreseeable consequences in terms of business operations.

Moreover, the general principle, which can also be invoked in the criminal law, of the concrete possibility of demanding the behaviour, summarised by the Latin brocard *ad impossibilia nemo tenetur*, represents an essential reference criteria, even if, often, it appears difficult to identify in concrete terms the limit.

With regard to the system of preventive control to be built in relation to the risk of committing the types of crimes covered by Legislative Decree no. 231/2001, the conceptual threshold of acceptability, in cases of intentional crimes, consistent with the provisions of the Guidelines drawn up by Confindustria (and approved by the Ministry of Justice), is represented by a system of prevention that can only be circumvented fraudulently.

This solution is in line with the logic of "fraudulent avoidance" of the organisational model as an exemption expressed by the aforementioned legislative decree for the purpose of excluding the administrative liability of the entity (Art. 6, par. 1, letter c), "the persons have committed the crime by fraudulently circumventing the organisation and management models").

On the other hand, in cases of manslaughter and culpable personal injury committed in violation of health and safety at work regulations, the conceptual threshold of acceptability, for the purposes of Legislative Decree no. 231/2001, is represented by the carrying out of a conduct (not accompanied by the will of the-death/personal injury event) that violates the prevention organisational model (and the underlying obligatory obligations prescribed by the prevention regulations) despite the precise observance of the supervisory obligations provided for by Legislative Decree no. 231/2001 by the appropriate body.

This is because the fraudulent avoidance of organisational models appears incompatible with the subjective element of the crimes of manslaughter and culpable personal injury, referred to in Articles. 589 and 590 of the Criminal Code.

1.6. Confindustria and Fise - Assoambiente Guidelines

In order to offer concrete assistance to companies and associations in developing the Models and in identifying a control body, Confindustria first drew up Guidelines, which contain a series of indications and measures, essentially taken from company practice, abstractly considered suitable to meet the needs outlined by Legislative Decree no. 231/2001.

The Guidelines therefore aim to provide concrete guidance on how to implement these Models, since it is not possible to propose the construction out-of-context cases to be applied directly to the individual operational realities.

The Guidelines therefore play an important inspiring role in the construction of the Model and of the Control Body with the related tasks by the individual entity, which, however, in order to better pursue the aim of preventing crimes, may also depart from the same, should the specific company needs require so, without this meaning that the requirements for a valid Organisation, Management and Control Model have not being fulfilled.

The first version of the document was prepared in 2002 by the Working Group on the Administrative Liability of Legal Entities set up under the Tax, Finance and Corporate Law Unit of Confindustria. Representatives of the territorial and trade associations of the confederation system, representatives of the associated companies, as well as academics and professionals with experience in the field participated in the work of the Group.

The Guidelines were sent to the Ministry of Justice, which in its communication to Confindustria (December 2003) considered them "generally adequate to achieve the objective set out in Art. 6, par. 3, of Legislative Decree no. 231/2001", identifying only minor profiles, on which it requested further clarifications and additions.

The Guidelines have therefore been updated to incorporate the comments of the Ministry - which definitively approved them in June 2004 - but also to include the adjustments suggested by the application experience acquired by associations and companies in recent years, as well as to adapt them to the new internal structure of limited liability companies, as outlined by the company law reform.

Subsequently, the Working Group set up by Confindustria periodically updated the Guidelines, the last of which was in March 2014, in consideration of the evolution of the reference legislation framework.

More recently, in February 2016, FISE-ASSOAMBIENTE also drew up guidelines for the construction of Models pursuant to Legislative Decree 231/2001 for the specific section aimed at the prevention of environmental crimes, also following the innovations introduced in 2015 by the Legislator on environmental crimes.

The update of the Company's organisational model (which, as better specified below, concerned only the crimes referred to in Articles 25 and 25-ter, letter s-bis) of Legislative Decree 231/01) was carried out based on the indications provided by the Confindustria Guidelines, in the version available at the date of preparation²⁴, with the necessary "customisation" aimed at bringing the general rules down to a single operational and company context.

1.7. Aptuit (Verona) S.r.l. approach also in light of the Board of Directors' Meeting Resolutions of 20/01/2016 and 12/12/2018

APTUIT (Verona) S.R.L. (hereinafter referred to briefly as the "Company") is a company operating in the field of pharmaceutical research on behalf of third parties (referred to as "Contract Research Operations " or "CROs"), generated by the

²⁴ The latest version of the Guidelines is updated in March 2014 and received final approval from the Ministry of Justice on 21 July 2014.

acquisition in 2010 by the Aptuit Group of the research and development business unit of GlaxoSmithKline S.p.A. As a result of this operation, the Aptuit Group proceeded to an overall reorganisation of research services on behalf of third parties in order to adapt the service provided to market needs and ensure sustainability for the research and development centre in Verona, which now employs about 600 people, most of whom are highly specialized and qualified researchers. In January 2012, the Company adopted the first version of the Organisation, Management and Control Model pursuant to Legislative Decree 231/2001. The Company's organisational decisions were thus part of the broader policy pursued by the Aptuit Group, aimed at promoting the values of fairness, transparency and legality in company management as expressed in the Group's Code of Ethics. In this first historical phase, the life of the Company appeared to be characterized by a deep commitment to the progressive organisational reorganisation of the Company, by numerous changes at the level of senior figures, by the essential need to focus much of the company's energy on the business. At the same time, the Company saw an opportunity to update the amendment pursuant to Legislative Decree 231/2001. Therefore, considering the complex changes underway, the constant commitment to the most scrupulous compliance with the rules on health and safety of workers, the frequent and penetrating controls by various public and private bodies, the mandatory submission of pharmaceutical research to ethical principles fundamental to the development, manufacture, safety and efficacy of drugs, with particular regard to Good Standard Practice (GXP), decided, by resolution of the Board of Directors of 20 January 2016, to update the 231 Model in the areas of activity and risk considered most sensitive, making a selective choice of the crimes and "limiting the updating activity as well as the operation of the Model and, consequently, the obligations and charges of the Surveillance Body to the following crimes: a) Bribery, undue induction to give or promise benefits and Corruption as per Art. 25 of Italian Legislative Decree no. 231/2001 b) Corruption amongst private individuals as per Art. 25-ter, lett. s-bis) of Legislative Decree 231/2001 (BoD Resolution of 20/01/2016).

The new corporate structure and organisation resulting from the acquisition of the Company by EVOTEC AG in Hamburg with consequent entry into the EVOTEC Group has led the Company to resume the project to complete the organisational structure pursuant to Legislative Decree 231/2001. With Board of Directors Resolution of 12 December 2018, the company therefore decided "...following the change in the regulatory framework, as well as evaluations shared by the directors, it is necessary to update and extend the Company Model to the following crimes: a) Corporate crimes referred to in Article 25 ter of Legislative Decree 231/2001 in the new wording amended by Legislative Decree no. 38 of 15/03/2017, Art. 6, in force since 14/04/2017. These crimes are not currently covered by the Model; b) Crime of corruption between private individuals pursuant to Article 25-ter, letter s-bis) of Legislative Decree 231/2001, already provided for in the current organisational model but to be updated in the new wording of the regulation amended by Legislative Decree no. 38 of 15/03/2017, Art. 6, in force since 14/04/2017;

c) Misappropriation of public grants, fraud to the detriment of the state or other public entity or to obtain public grants and computer fraud to the detriment of the state or other public entity in accordance with Italian Legislative Decree no. 231/2001 art. 24. These crimes are not currently covered by the Model. “

The current framework is therefore given by the monitoring of the crimes referred to in Articles 24, 25 and 25 ter of Legislative Decree 231/01, without prejudice, also in the new corporate structure within the EVOTEC Group, to the constant commitment to the most scrupulous compliance with the rules on health and safety of workers.

In particular, the path taken for the implementation of the "231" project by the Company aimed to:

- identify the risk profiles through the mapping of the activities/processes existing within the scope of the activity carried out, the subsequent analysis and monitoring of the functional and organisational peculiarities and the identification of the areas that represent the main potential sources of criticality in relation to the crimes listed in point 1.1 above;
- assess the compatibility of existing organisational and control mechanisms with the requirements expressed by the Decree;
- identify any shortcomings and define an Improvement Plan to overcome them;
- implement an Organisational Model in compliance with the provisions of the regulations and the indications of Confindustria.

Apart from the strictly legal-sanctioning aspect mentioned above, the adoption of a system of rules aimed at reaffirming the compliance of the entity not only with legal regulations, but also with ethical values can represent an opportunity.

The adoption of an organisational model that makes internal procedures more transparent and increases accountability, as well as guaranteeing exemption from administrative liability, **is in fact an opportunity for growth and development** for stakeholders, improving, on the one hand, their relationship with the company and, therefore, their public image and, on the other, reducing transaction costs arising from any legal action and bargaining processes.

Aware of these advantages, the Company has adopted: **a)** a Code of Ethics as early as 2012 (at the time of adoption of the first version of the Model pursuant to Italian Legislative Decree no. 231/2001), which will soon be replaced by the Code of Conduct adopted by the entire EVOTEC group, which is similar in content and principles; **b)** an Organisation, Management and Control Model, in order to implement the organisational system through the adoption of behavioural models which are now of considerable importance in competition on the markets and which

are often decisive, as are the sophisticated rules of corporate governance, in influencing the company's performance.

The commitment to ethical values must therefore be perceived as a means of achieving better performance, improving the organisational structure and giving a positive image.

The "moralization" of the entity and the pursuit of the "integrity" of the entity itself is therefore a clear opportunity to optimise entrepreneurial activities.

2. THE PREPARATION OF THE ORGANISATIONAL MODEL

2.1. Principles for defining the Model drafting processes

The Company's Organisational Model was drawn up in accordance with the guidelines provided by current legal framework, also in light of the most recent case-law, as well as the procedural guidelines drawn up by Confindustria and set out in the Guidelines, which have already been assessed and deemed suitable by the Ministry of Justice.

The Ministry has in fact specified that "in addition to containing a brief illustration of the contents of the legislative decree that introduced the administrative liability of companies, the guidelines provide members with clear and precise indications on almost all aspects that the aforementioned art. 6 lists for the purposes of preparing the models of business organisation, proposing for each of these aspects various alternatives, warning against the possible dangers or disadvantages arising from the adoption of certain business strategies, identifying areas of risk for each type of crime".

The question that every entity must ask itself when deciding to adopt an Organisational Model for the purposes of the exemption from liability pursuant to Legislative Decree 231/2001, in fact, is the **assessment of the suitability of this Model to achieve the purpose for which it was adopted**, that is to prevent the commission of crimes and therefore, as a mediated effect, to exclude the liability of the entity on the basis of the similar assessment that the judge will have to make of this Model.

Obviously, this assessment must be made ex ante, i.e. based on the data of experience and the Organisational Model must be adapted to the reality of each individual, with specific reference to the structure considered and the activity actually carried out.

The implementation phase of the organisational model, therefore, followed the pattern followed in drawing up the guidelines for the construction of the models, based, as

already mentioned, on the most widespread processes of risk assessment and risk management normally implemented in companies.

It is clear, however, that the concrete preparation of the Organisational Model, in order to achieve the result of ensuring sufficient preventive effectiveness, has been defined and concretely implemented on the basis of the characteristics of the person to whom it applies.

The risk of crime, in fact, is strictly dependent on the economic sector in which it operates, the company structure, the operating procedures adopted in practice, and the size of the entity.

Consequently, the structure and articulation of the Organisational Model that will be outlined later in the special part have taken into account all these specificities.

2.2. Essential Organisational Model preparation phases

This Organisational Model must be suitable for preventing the crimes provided for by Legislative Decree 231/2001 included in the scope resolved by the Board of Directors.

Consequently, the first objective for the construction of an Organisational Model is the preparation of procedures governing activities that entail a risk of crime, or alternatively the identification of specific control points, in order to avoid their commission.

In this regard, it should be noted that it is clear that the same crimes can still be committed even once the Model has been implemented but, in this case, in the case of intentional crimes, they can only be committed if the perpetrator really wants them both as conduct and as an event, regardless of the internal directives the company has adopted.

In this case, the Model and the relative measures must be such that the perpetrator must not only "want" the criminal event (for example, bribe a public official) but can only carry out his criminal intent by fraudulently circumventing (for example, by means of tricks and/or deceptions) the indications of the entity. The set of measures that the perpetrator, if he wants to commit a crime, will be forced to "force", must be carried out in relation to the specific activities of the entity considered at risk and the individual crimes hypothetically related to them.

This logic is consistent with the consolidated international references in terms of internal control and corporate governance and is the basis for the best systems of risk self-assessment (Control Self Assessment).

The international reference commonly accepted as a reference model in terms of governance and internal control is the Internal Control Integrated Framework ("CoSO Report"), produced in the USA in 1992 by the Committee of Sponsoring

Organisations of the Treadway Commission updated in May 2013 on the subject of the internal control system and the Enterprise Risk Management Framework (the “ERM”), also issued by the CoSo in 2014 on risk management.

In the case, on the other hand, of crimes of negligence, these must be intended by the perpetrator only in terms of conduct and not also in terms of event.

Despite the necessary customization of the implementation procedures and the characteristics of the model, it is still possible to identify the basic characteristics of the correct methodology for the implementation of a risk management system.

In this regard, it is worth remembering that, with reference to the extension of Legislative Decree no. 231 to the crimes of manslaughter and serious or very serious bodily harm committed in violation of the regulations on health and safety at work, the current legislation on the prevention of occupational risks sets out the principles and criteria essential for the management of health and safety at work in the company and therefore, in this context, the Organisational Model cannot disregard this precondition.

More generally, the updating of the Model prepared by the Company is the result of the documented methodological application of the indications that will now be outlined, depending on the internal operating context (organisational structure, territorial articulation, size, etc.) and external (economic sector, geographical area), as well as the individual crimes hypothetically related to the specific activities of the entity considered at risk, but within the scope of updating outlined by the Board of Directors, which, as specified above, includes only malicious crimes. From now on, therefore, the discussion will refer exclusively to crimes within the perimeter.

The concrete implementation methods will be subsequently and in detail identified in the Special Part of this Model.

This section, on the other hand, describes the procedural rules followed to define the Model, regardless of its concrete application to the company.

In particular, the operational phases carried out are as follows:

a) Inventory of business areas of activity

The performance of this phase involves, in particular, an exhaustive review of the company, with the aim of identifying the areas that are affected by potential cases of crime.

As part of this process of reviewing processes/functions at risk, it is advisable to identify the persons subject to monitoring activities who, with reference to malicious crimes, in certain particular and exceptional circumstances, could also include those

who are linked to the company by mere relationships of para-subordination, such as agents, or by other relationships of collaboration.

Finally, it should be stressed that each company/sector presents its own specific areas of risk, which can only be identified through a precise internal analysis. However, the processes of the financial area are clearly of importance for the purposes of the application of Legislative Decree no. 231/2001. The rule, probably for this very reason, highlights them with a separate treatment (art. 6, par. 2, letter c)), even though a careful analysis of the evaluation of the company's "at risk" areas should nevertheless bring out the financial one as one of certain importance.

b) Analysis of potential risks

The analysis of potential risks must take into account the possible methods of committing crimes in the various company areas (identified according to the process referred to in the previous point).

The analysis, preparatory to the correct planning of preventive measures, must result in an exhaustive representation of how the types of crimes can be committed with respect to the internal and external operating context in which the company operates.

c) Evaluation/construction/adjustment of the preventive control system

The activities described above under (a) and (b) shall be complemented by an assessment of any prior checking system in place and its adjustment where necessary.

The system of preventive controls must be such as to ensure that the risks of committing crimes, according to the methods identified and documented in the previous phase, are reduced to an "acceptable level", as defined above.

This, in essence, concerns the design of what Legislative Decree no. 231/2001 defines as "specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the crimes to be prevented".

The components of an internal (preventive) control system, for which there are consolidated methodological references, are many and must be integrated into an organic system, in which not all must necessarily coexist and where the possible weakness of a component can be counterbalanced by the strengthening of one or more of the other components in a compensatory key.

This is particularly true in view of the company's size,

However, it should be reiterated that, for all entities, whether large, medium or small, the system of prior checks must be such that it cannot be circumvented without intent in the case of intentional crimes.

2.3. Control Principles underlying Aptuit (Verona) S.r.L.'s Organisational Model

The procedures described above for the implementation of the Organisational Model are aimed at implementing a system of suitable preventive controls.

These control mechanisms, however, must necessarily integrate organically into a system architecture that respects a set of **control principles**.

The principles underlying the Organisational Model adopted by the Company are as follows:

"Every operation, transaction, action must be: verifiable, documented, consistent and appropriate".

For each operation there must be an adequate documentary support on which it is possible to proceed at any time to carry out controls that certify the characteristics and reasons for the operation and identify who authorised, carried out, recorded and verified the operation itself.

"No one can handle an entire process on their own."

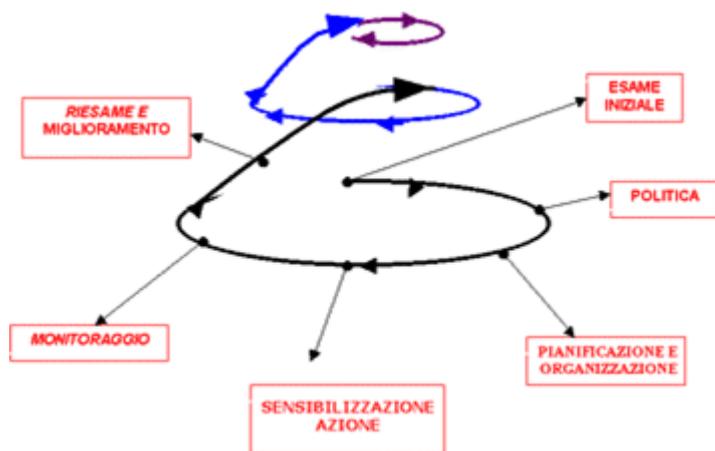
The system must ensure the application of the principle of separation of functions, so that the authorisation to carry out a transaction must be under the liability of a person other than the person who accounts for, performs operationally or controls the transaction.

Also, it is necessary that:

- no one is given unlimited powers;
- powers and responsibilities are clearly defined and known within the organisation;
- the powers of authorisation and signature are consistent with the organisational responsibilities assigned.

"Control documentation".

The control system should document (possibly through the drafting of minutes) the performance of controls, including supervision.



2.4. Main Model implementation phases

After its preparation, the Model is submitted for approval to the Board of Directors of the Company which, at the same time, identifies and appoints the Surveillance Body, as better specified in the following paragraph 4, with the assignment of remuneration and budget.

The Company, considering it essential to fully disseminate and disseminate the Model to all interested parties, whether internal or external, is responsible for ensuring that the contents of the Model and, in particular, of the Code of Ethics, are subject to specific information and training activities, using all available tools and methods. For operating procedures, please refer to the specific procedures included in the Special Part.

Finally, the monitoring of initiatives for the dissemination of knowledge and understanding of the Model is one of the tasks assigned to the Surveillance Body, as better explained in the following paragraph 4.3.

3. COMPANY PROFILE

In accordance with the requirements of Confindustria Guidelines and based on the information provided by the best case law on the subject, the Organisational Model adopted by the Company has been conceived and designed in relation to the specific characteristics of the company, from which inevitably derive the risk profiles and the most coherent structuring of the internal controls and protocols aimed at preventing significant crimes.

3.1. Company history and activity

APTUIT (Verona) S.R.L. is a recently established company and has its origins in the sale by GlaxoSmithKline of the research and development business unit located on the Verona Campus in 2010.

The Company mainly carries out pharmaceutical research activities on behalf of third parties (referred to as "Contract Research Operations" or "CROs"). Moreover, in the context of the relationships between the EVOTEC Group Companies to which Aptuit (Verona) S.r.L. belongs, the Companies provide each other with various services, mainly IT and support to the commercial network. The acquisition in 2010 of GlaxoSmithKline's Research and Development business unit allowed the Company to maintain the scientific expertise of its research centre in the fields of neuroscience, cardiovascular, infectious diseases and, in general, all the scientific disciplines necessary for the discovery and development of new drugs in order to offer customers a highly integrated and articulated service.

Currently the Company employs about 612 people, most of whom are highly specialized researchers, which allows it to be considered a centre of excellence for pharmaceutical research in Italy. It is also characterised by the presence of the following three main Business Lines:

- **Drug Development**, involved in the validation processes of innovative biological targets for the treatment of diseases with unmet therapeutic needs, the identification, development and synthesis of innovative and patentable chemical molecules, suitable to be developed as new drugs;
- **Preclinical Development**, involved in the pre-clinical activities aimed at characterizing the molecules to allow clinical trials in compliance with the specific requirements of current national and international legislation. These activities include, *inter alia*, the evaluation of the safety or possible toxicity of the drug, the development of bio-analytical techniques to measure the concentrations of drugs in biological matrices, the studies necessary to understand the phenomena of absorption, distribution, metabolism and elimination by complex living organisms and the identification of therapeutic doses to be evaluated in clinical research;
- **Pharmaceutical Development**, involved in the activities aimed at the production of pharmaceutical principles and products according to Good Manufacturing Practice (GMP). The latter are necessary to ensure the safety requirements of pharmaceutical products for their testing in humans and to identify the pathways of chemical synthesis and the pharmaceutical forms most suitable for the transfer of production processes on an industrial scale.

In order to carry out its specific pharmaceutical research and development activities, the Company is subject to strict controls and authorizations by various public bodies

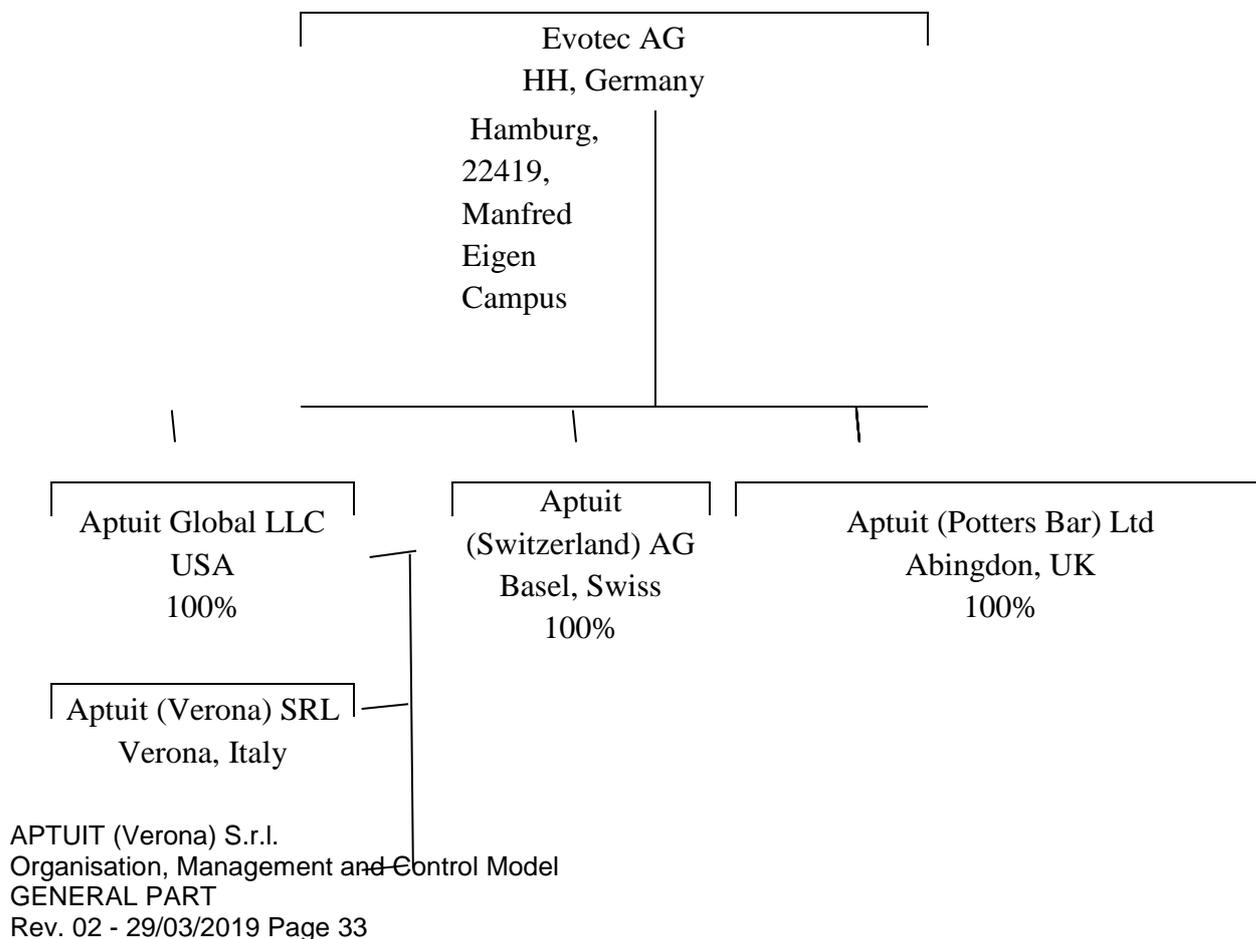
with which it has constant relations, among which are listed, in order to proceed with the testing and development phases of the final product: Ministry of Health, ISS (the Italian Institute of Health) AIFA (the Italian Medicines Agency) EMA (European Medicine Agency), ULSS (local health authorities) and others.

3.2. Organisation

A - The EVOTEC Group

Aptuit (VERONA) S.r.L. belongs, as mentioned above, to the German multinational group EVOTEC. In particular, the Company is subject to activity and coordination by EVOTEC AG, a multinational company based in Hamburg (Germany), 22419, Manfred Eigen Campus, Essener Bogen 7, a company particularly active in the field of "Drug Discovery" as well as a partnership company for development focused on innovative product approaches in rapid evolution with major pharmaceutical and biotechnology companies.

The entire share capital of the Company, equal to Euro 8,010,000.00, is instead held by the Sole Shareholder Aptuit Global LLC, a US Company with registered office at 303B COLLEGE ROAD EAST, PRINCETON, NJ 08540, USA. In turn, Aptuit Global LLC is a full subsidiary of EVOTEC AG. The following shows the structure of the EVOTEC Group as at 29 March 2019.



100%

Aptuit (Oxford) Ltd.
Abingdon, UK
100%

The Company has in place with the other companies of the Evotec Group - Aptuit Division (Aptuit Global LLC, Aptuit (Oxford) Ltd, Aptuit (Switzerland) AG, Aptuit (Potters Bar) Ltd), an intra-company service contract under which it provides these companies mainly with "IT & Site Services" and "Sales and Marketing". The Company has also entered into a specific intra-company management fees agreement with Evotec AG and Evotec UK, under which the Company receives from the two subsidiaries costs relating to the members of the Board of Directors.

Finally, a "Service Charges" contract is being finalised between the Company, Evotec AG, Evotec International GmbH and Evotec UK, under which the Companies exchange intra-company services relating to the activities of the Members of the Board of Directors and the sales forces, charging each other for the related costs.

B - The Internal Operating Structure

With regard to the Company's operating structure, it is useful to enclose the Company's organisational chart updated to February 2019 and to describe it briefly:

Within the Site Service Management - IT structure, the Information Technology (IT) function supports in particular the entire activity of the Group and in fact, in the Verona site, most of the IT personnel of the Group are employed. In particular, the IT function manages the technological platforms supporting the applications used by the entire Group. The services provided by the Company's IT department can be divided into (i) Enterprise services (ii) Site services: i) Enterprise services are general services for the benefit of all Group companies, sometimes outsourced (e.g.: management of e-mail, operating packages, ii) Site services are services closely linked to the Group's scientific activities which, due to their strategic-and operational nature, are never outsourced, but are managed entirely by the IT team.

The Site Services Management structure, on the other hand, with the Site Engineering and Facilities functions, manages site maintenance and all services across the Business.

The structure of Business Development & Marketing consists mainly of all those activities 'to develop industrial alliances with other companies in the sector, specific business areas, evaluate and exploit the possibilities of access to European public funds for scientific research,

develop sales, provide market analysis and prepare CRM reports to monitor business performance, maintain and develop relationships with existing customers.

The Global Quality Management and Health & Safety structures are both functions responsible for quality assurance management of the processes typical of the Company's business, with particular attention, for the Health & Safety function, to the health and safety profiles in the workplace as well as to the environmental profiles

The Drug Development structure is involved in the validation processes of innovative biological targets for the treatment of diseases with unmet therapeutic needs, the identification, development and synthesis of innovative and patentable chemical molecules, suitable to be developed as new drugs.

The Preclinical Development structure is involved in the preclinical activities aimed at characterizing the molecules in order to allow their clinical experimentation in compliance with the specific requirements of current national and international legislation. These activities include, *inter alia*, the evaluation of the safety or possible toxicity of the drug, the development of bio-analytical techniques to measure the concentrations of drugs in biological matrices, the studies necessary to understand the phenomena of absorption, distribution, metabolism and elimination by complex living

organisms and the identification of therapeutic doses to be evaluated in clinical research;

The Pharmaceutical Development structure is involved in the activities aimed at the production of pharmaceutical principles and products according to Good Manufacturing Practice (GMP). The latter are necessary to ensure the safety requirements of pharmaceutical products for their testing in humans and to identify the pathways of chemical synthesis and the pharmaceutical forms most suitable for the transfer of production processes on an industrial scale.

The **Finance structure** is responsible for the management of administrative, fiscal and management reporting aspects. The department includes the functions of the CFO and the Management Control, which supervise and coordinate the activities carried out locally by the Company.

The **Human Resources structure** is the function responsible for staff management. In particular, the department is involved in the planning of human resources, their recruitment, selection and hiring within the Company, training, personnel assessment, career and mobility plans, remuneration policy and trade union relations.

C- Administration and Internal Control System

The **system of administration** adopted is that of the Board of Directors. There are currently four members of the Board of Directors, one of whom is Chairman of the Board of Directors. In accordance with the Articles of Association, the directors are granted with legal representation of the Company within the limits of the proxies received. The Directors have powers with single or joint signature with other directors or first-level managers identified by subject and/or value, which may be delegated pursuant to the Articles of Association; a Director is identified as Employer pursuant to Article 2, letter B, of Legislative Decree no. 81/2008; another Director is delegated for the purposes of processing personal data.

The **First Level Managers** are identified and appointed by means of a Board resolution reported in the report, which also gives evidence of certain **proxies for company areas considered particularly sensitive**.

The **external control system** is entrusted, as far as legality control is concerned, to the Board of Statutory Auditors composed of three standing members and two alternates and, as far as Accounting Auditors is concerned, to a primary Auditing Firm.

The graphic representation of the various company functions is expressed in the organisational chart attached to the Special Part, the latest version updated in February

2019, as regards the definition of the relevant roles for the purposes of applying internal procedures.

4. THE SURVEILLANCE BODY

4.1. Identification, composition and appointment

Given that the Surveillance Body is responsible for controlling and proposing to update the Model and the Code of Ethics, it should be noted that the Company pays attention to ensuring that it possesses particularly qualified skills in the areas relevant for the purposes of the Decree and the integrity requirements pursuant to Art. 109 of the Legislative Decree 85/93. The Company also establishes that it has autonomous powers of intervention in the areas under its responsibility, involving for this purpose internal staff and/or external consultants to ensure continuity of verification concerning the adequacy and suitability of the Model. The specific skills are identified according to the crime risks that this Model intends to prevent.

For the verification and actions requested of the Surveillance Body and related to specific topics, the same may use professionals identified at its discretion, informing in advance the Board of Directors. Funding will be ensured by the spending budget made available at the time of appointment, with the sole obligation of spending reporting.

4.2. Requirements

The requirements that characterize the Surveillance Body and make it effective are:

- **autonomy and independence**, as clarified in the Confindustria Guidelines, the position of the Surveillance Body within the Entity "must guarantee autonomy of control from any form of interference and/or influence by any body of the Entity", including the Board of Directors. The Surveillance Body must be guaranteed hierarchical independence and its members must neither be directly involved in operational activities that are subject to control by the said Body, nor linked to managers of the entity or to the entity by any type of family relation constraint, by significant economic interests (shares) or by any situation that might generate conflicts of interest;
- **professionalism**, for this purpose the members of the aforementioned Body must have specific knowledge in relation to any technique useful to prevent the commission of crimes, to discover those already committed and to identify the causes, as well as to verify compliance with the Organisational Model by

members of the company organisation and, when necessary, to propose the necessary updates of the Organisational Model;

- **continuity of action**, through a structure dedicated to constant supervision of compliance with the Organisational Model, able to constantly monitor the effectiveness and efficiency of the Model and ensure its continuous updating. This structure should be characterised by limited revocability and limited renewability. The duration of the charge must also be long enough to allow a stable and professional execution of the function, but not so long as to create strong links with the top management which could give rise to situations of influence.

In consideration of the above and of the specific nature of its own business framework, with particular regard to its current internal legal skills compared to the past and to the opportunity to outsource skills of business nature, the Company has deemed it as appropriate, in light of the features of the Organisational Model adopted, to constitute a collegial Surveillance Body composed of two members with proven experience, competence and professionalism, as indicated below:

- a) **an external member** with specific surveillance, statutory and accounting auditing expertise;
- b) **an internal member** with specific legal skills, a contact person in the Legal area, who is not in any way involved in the operational activities of the Company and who ensures a high level of professionalism and autonomy.

The persons who will assume the role of members of the Surveillance Body of the Company must perform their duties with the diligence required by the nature of the task, the nature of the activity carried out and their specific skills.

The members of the Company's Surveillance Body must meet the **integrity requirements set out in Article 109 of Legislative Decree no. 385 on 01 September 1993**. The lack of such requirements is cause for ineligibility and/or forfeiture of the Surveillance Body and its members.

In particular, the following constitute grounds for ineligibility and/or forfeiture:

- the conditions set out in Article 2382 of the Italian Civil Code;
- conviction, even without a final sentence or with a sentence with a plea bargain, for having committed a crime among those provided for by Legislative Decree 231/01;
- the imposition of a sanction by CONSOB, for having committed one of the administrative crimes in the field of market abuse, as per the TUF.

It should be noted that the spouse, relative and similar up to the fourth degree of the Company's directors, the directors, the spouse, relative and similar up to the fourth degree of directors of its subsidiaries, parent companies and those under joint control cannot be appointed as member of the Surveillance Body and, if appointed, shall cease to hold office.

Those appointed must self-certify not to be in any of the above-mentioned situations, expressly undertaking to inform the Board of Directors of any changes to the content of such declaration, as and when they occur.

In cases of particular and proven severity, the Board of Directors, following to the positive opinion of the Board of Statutory Auditors of the Company, may nevertheless order the suspension of the powers of the Surveillance Body and the appointment of an interim body.

The appointment and revocation of the Surveillance Body is the sole liability of the Company's Board of Directors.

In order to ensure the effective and consistent implementation of the Model, as well as continuity of action, the term of office of the Surveillance Body is set as three financial years, expiring with the approval of the financial statements referring to the last of the three, renewable once only, by resolution of the Company's Board of Directors. The termination of the Surveillance Body due to expiry of the term takes effect from the moment of appointment of the new Surveillance Body by resolution of the Board of Directors, unless renewed.

The Company's Board of Directors reserves the right to establish for the entire duration of the office the annual remuneration, adequately remunerative of the skills and professionalism expressed, as well as the frequency and characteristics of the verification activities provided for by the Model for the participation of individual members in the Surveillance Body.

The Board of Directors of the Company may revoke the Surveillance Body members only for just cause. In the event of revocation or forfeiture, the Company's Board of Directors shall promptly replace the revoked or forfeited member, subject to verification that the new member meets the subjective requirements indicated above.

In order to give the Surveillance Body the capacity to gather information and therefore to act effectively towards the Company's organisation, this Model also establishes the procedures for information flows to and from the Surveillance Body.

4.3. Functions and powers

The Surveillance Body, with regard to the provisions of the Decree, is required to perform the following **functions**:

- to ensure constant and independent surveillance of the **compliance** and **adequacy** of the Company's procedures and processes in order to prevent, as established in the Board of Directors' Resolution of 20 January 2016, the commission of crimes limited to a) Extortion, undue induction to give or promise benefits and Corruption as per art. 25 of Legislative Decree no. 231/2001 b) Corruption between private individuals as per art. 25-ter, lett. s-bis) of Legislative Decree 231/2001 and identified in the mapping of the Company's risks, according to the provisions of the Decree;
- to ascertain the **effectiveness** of the Model, i.e. ensure that the behaviours provided for therein are consistent with the actual operations of the Company;
- to verify the **functionality** of the Model, i.e. its ability to effectively prevent the commission of crimes;
- to analyse the applicability of the Model in order to evaluate, over time, the **maintenance** of its solidity and functionality;
- to take care of the necessary **updating** of the Model, in a dynamic sense, both by presenting proposals for alignment to the Board of Directors, as well as by ascertaining, then, the implementation and functionality of the proposals made and accepted;
- to verify the real **effectiveness** of the Model, in relation to the Company's structure, in preventing the commission of the crimes identified;
- to verify the adequacy of the **sanction system** in relation to its applicability, effective application and effectiveness;
- to monitor initiatives for the **dissemination of knowledge** and understanding of the Model and preparation of the internal documentation necessary for its functioning, containing instructions, clarifications or updates;
- **to report periodically**, or promptly if necessary, to the Board of Directors on the implementation of the Model's policies, with reference to the activities carried out, the reports received, the corrective actions implemented and any corrections or implementations of the Model.

Therefore, in the context of the activities described above, the Surveillance Body ensures the fulfilment of the following **requirements**:

- to verify in the Company's context, the knowledge and understanding of the principles outlined in the Model and, in particular, of the Code of Ethics;

- to establish specific "dedicated information channels", aimed at facilitating the flow of reports and information to the Body by employees of the Company or other recipients of the directives issued by the Company through the adoption of the Model itself, also on the basis of the new Article 6 of Legislative Decree 231/2001, paragraphs 2-bis, 2-ter and 2-quater ("Whistleblower") inserted by Article 2 of Law no. 179 of 30/11/2017, with effect from 29/12/2017;
- to promote, when necessary, the periodic review of the Code of Ethics and of its implementation mechanisms.

For the purpose of an adequate and effective performance of the functions, duties and obligations listed above, the Surveillance Body is granted with the powers to:

1. access directly, or by delegation on their own behalf, any and all documents relevant to the performance of the functions assigned to the Surveillance Body pursuant to the Decree, recognizing for this purpose appropriate discretion within the scope and within the limits of the purposes of their activities;
2. carry out periodic checks, even if not pre-agreed, on the application of and compliance with the Model by all recipients with regard to the provisions established in relation to the different types of crimes covered by the Decree;
3. conduct surveys on the Company's activities in order to update the Company's procedures;
4. propose training programmes for personnel on the Model and its contents in collaboration with the directors/departmental managers;
5. collect, process and store relevant information regarding compliance with the Model, as well as update the list of information that must be transmitted to him or kept at his disposal, constituting the "formal" database of internal control activities;
6. coordinate with the other company functions in carrying out the monitoring activities for which they are responsible and provided for in the procedures;
7. verify the adequacy of the internal control system in relation to such regulatory requirements, also availing itself of specific legal advice;
8. check the effective presence, regular maintenance and effectiveness of databases and archives supporting the activity deriving from compliance with the Decree.

Furthermore, in order to allow the Body to correctly exercise the tasks and powers assigned to it, within the limits and under the conditions required by law, it is established that:

- the Surveillance Body must always be kept informed of the organisational, management and operational structure of the Company, in particular with regard

to the facts listed in the following paragraph dedicated to the flow of information to the Body itself;

- the Surveillance Body is allocated an autonomous expenditure budget that can and must be used exclusively for disbursements that may be necessary for the performance of verification and control activities;
- all Company Bodies, employees, consultants, "project-based" collaborators and third parties acting on behalf of the Company in any capacity whatsoever, are required to cooperate fully in facilitating the performance of the functions assigned to the Surveillance Body;
- taking into account, on the one hand, the purposes of investigation and verification connected with the tasks assigned to the Surveillance Body and, on the other hand, the structure of the Company, the control activity carried out by the Surveillance Body also has as its object the work of the administrative body;
- The Surveillance Body is obliged to maintain absolute confidentiality with regard to any and all information that it may learn in the exercise of its functions, both towards internal and external subjects, with the exception of the persons to whom the Body must report under this Model;
- the Surveillance Body itself has its own regulations for the performance of the duties and functions required.

4.4 Reports, Information Flow to the Surveillance Body and provisions on the protection of whistleblowing activities

The Recipients of the Model are required to promptly inform the Surveillance Body of those acts, behaviours or events that may constitute significant illegal conduct pursuant to Legislative Decree 231/2001 and/or lead to a violation of the Model or, more generally, are relevant for the purposes of preventing or sanctioning the crimes envisaged by Legislative Decree 231/2001.

The Surveillance Body is bound to secrecy with regard to news and information acquired in the exercise of its functions and to guarantee the confidentiality of the identity of the whistleblower in the management of the report.

The 'reports' and 'information' in question may not be anonymous, but must be detailed and based on precise and consistent factual elements.

Reports must be made to the e-mail address of the Surveillance Body, through:

- the forms and the online guided procedure referred to in the link "*Reporting to the Surveillance Body*" on the company website:

- the forwarding of the report to the ordinary mail address of the external member of the Surveillance Body by filling in the forms downloaded from the link referred to in the previous point.

Pursuant to the **new provisions of Article 6 of Legislative Decree 231/2001, paragraphs 2-bis, 2-ter, 2-quater ("Whistleblowing")** reports of significant illegal conduct pursuant to Legislative Decree 231/2001 or violations of the Organisational Model must be detailed and based on precise and consistent factual elements. Special protection is provided to ensure the confidentiality of the identity of the whistleblower in the activities of management of the report. A disciplinary sanction is imposed on anyone who intentionally or grossly negligently makes reports that prove to be unfounded and anyone who violates the measures to protect the whistleblower. It is forbidden to retaliate or discriminate, directly or indirectly, against the whistleblower for reasons directly or indirectly related to the whistleblower. The adoption of discriminatory measures against persons who make reports may be reported to the National Labour Inspectorate, for measures within its competence, not only by the whistleblower, but also by the trade union organisation indicated by the same. Retaliatory or discriminatory dismissal of the whistleblower shall be null and void. Any change of duties pursuant to art. 2103 of the Italian Civil Code, as well as any other retaliatory or discriminatory measure adopted against the person making the report, are also null and void. It is the Employer's liability, in the event of disputes related to the imposition of disciplinary sanctions, or the demotion, dismissal, transfer, or subjection of the whistleblower to another organisational measure having a negative effect, direct or indirect, on working conditions, after the submission of the report, to demonstrate that such measures are based on reasons unrelated to the report itself.

With regard to the **information flows to the Surveillance Body**, this one must be promptly informed or receive adequate documentation regarding:

- behaviours and/or information relating to the violation of the Model;
- any initiative concerning the prevention of the commission of crimes and, in any case, the effective functioning of this Model;
- measures and/or information from judicial police bodies, or from any other authority, from which the existence of ongoing investigations emerges, even against unknown persons, for crimes (and administrative crimes) of relevance for the purposes of administrative liability of entities and which may involve the Company;
- requests for legal assistance made by employees upon initiation of legal proceedings against them and in relation to crimes relevant for the purposes of administrative liability, unless expressly forbidden by the judicial authority;

- reports prepared by managers of other company functions within the scope of their control activities and from which facts, acts, events or omissions of a critical nature with respect to compliance with the provisions of the Decree may emerge;
- information relating to the effective implementation, at all company levels, of the Model, with evidence of disciplinary proceedings carried out and of any sanctions imposed for violation of the Model or of dismissal of such proceedings with the related reasons;
- any other information that is relevant for the purposes of proper and full supervision and updating of the Model;
- information related to organisational changes;
- updates to the system of proxies and powers;
- internal reports/communications from which liability for the crimes referred to in the Decree arises;
- changes in situations of risk or potential risk;
- any communication from the independent auditors concerning aspects that may indicate deficiencies in the internal control system, censurable facts and comments on the Company's financial statements;
- minutes of the Board of Directors' Meetings, as well as any meetings with the external auditors;
- periodic reporting on health and safety in the workplace and any accidents that may have occurred;
- reports prepared by the auditors concerning the audits carried out, including also IT processes.

The Surveillance Body may propose to the Board of Directors any changes to the above list.

The Surveillance Body shall act in such a way as to guarantee the whistleblowers against any form of retaliation, discrimination or penalisation, also ensuring the confidentiality of the identity of the whistleblower, without prejudice to legal obligations.

All "information" or "reports" must be kept by the Surveillance Body in a special computer and/or paper file. The data and information stored in the archive are made available to persons outside the Surveillance Body with the prior authorisation of the Surveillance Body.

The implementation of the whistleblowing regulation and the related procedure is coordinated with the new rules introduced by the European General Data Protection Regulation no. 679/2016 (GDPR) and the Italian Code on the Protection of Personal

Data as adapted to the European Regulation. For this purpose, the specific processing of personal data is classified and managed by the technical and organisational measures implemented to conform the processing of personal data by the company to the provisions of the GDPR and the Italian Privacy Code, with particular attention to:

- assessing the risk of breach of the data and its consequences;
- defining the roles attributed to the various actors involved from the point of view of the privacy organisation chart;
- entering the processing in the Processing Register;
- ensuring adequate security measures for the personal data processed;
- identifying the prerequisites for the lawfulness of the processing;
- providing ad hoc information to those concerned by the processing;
- regulating the right of access of the person reported and possibly limiting it to reconcile his right with the obligation to protect the confidentiality of the identity of the whistleblower, as established by the new art. 2-undecies letter f) of the Personal Data Protection Code.

4.5 Periodic checks by the Surveillance Body

The Model envisages four types of periodic checks:

- checks **on documents**, i.e. on all those procedures that involve the Company's commitment;
- checks **on internal procedures, regulations and instructions**, i.e. on the documentation that contains indications suitable to outline the prevention activities for the purposes of the Decree according to the procedures established by the Surveillance Body;
- checks **on reports to the Surveillance Body**, i.e. on what has been reported by any interested party in relation to any event considered at risk or harmful;
- checks **on the degree of implementation of the Model**, i.e. on the level of awareness and knowledge of the personnel on the hypotheses of crime contemplated in the Decree, also through personal interviews.

As already stated in the previous paragraphs, the Surveillance Body prepares a report for each audit, keeping any supporting documentation at its care.

4.6 Reporting procedures and frequency

As already mentioned with regard to the functions assigned to it, the Surveillance Body reports **at least once a year**, or in a timely manner in case of need, to the Board

of Directors and the Board of Statutory Auditors on the implementation of the Model's policies, with reference to:

- activities carried out;
- reports received;
- corrective measures implemented;
- any corrective measures or implementations of the Model;
- any possible application of the disciplinary system, in case of violation of the Model or of the direction and supervisory duties by top management.

The Board of Directors may request convening the Surveillance Body at any time. Likewise, the Surveillance Body may, if necessary, request convening the Board of Directors to report on any crimes or serious failures encountered. Each meeting between them shall be recorded in minutes to be drawn up by the Surveillance Body.

4.7 Criminal profiles of the Surveillance Body liability

The general duty of surveillance by the Surveillance Body has an absolutely central role in the context of effectiveness of the Model, so much so that failure to do so would result in inapplicability of exemption from liability for the Company. In this regard, however, it must be said that the supervision obligation does not imply an obligation to prevent the crime. The Surveillance Body is not invested with the obligation to supervise the commission of crimes, but rather the functioning of and compliance with the Model, taking care of its updating and any alignment, since it is, basically, the advisory body of the Company's Board of Directors which is solely responsible for amending the Model, according to the indications and proposals of the Surveillance Body itself.

That said, the legislator had nevertheless required specific monitoring and reporting obligations on the Surveillance Body in relation to **anti-money laundering**, as provided for in the case of failure to report significant facts pursuant to Article 52 of Legislative Decree 231/07, violation of which is a crime. Following Legislative Decree 90/2017 and its amendments to Legislative Decree 231/2007 and with particular reference to the new Article 46 of Legislative Decree 231/2007 (Disclosure Obligations), the obligation of the Surveillance Body to supervise compliance with specific anti-money laundering legislation has been deleted, with consequent exemption from any criminal liability.

5 DISCIPLINARY MEASURES AND SANCTION SYSTEM

An aspect of particular importance in the construction of the Model is the inclusion of an adequate system of sanctions for the violation of the Code of Ethics rules, the

procedures provided for in the Model and the provisions of the new Article 6 of Legislative Decree 231/2001 on reporting to the Surveillance Body.

Such violations affect the relationship of trust established with the entity, also pursuant Articles 2104 and 2105 of the Italian Civil Code, which establish obligations in terms of diligence and loyalty of the employee towards his employer and may, therefore, lead to disciplinary action, regardless of possible criminal proceedings in cases where the conduct constitutes a crime.

The disciplinary assessment of conduct carried out by employers, without prejudice, of course, to any subsequent verification by the labor court, must not, in fact, necessarily coincide with the assessment of the court in criminal proceedings, given the autonomy of violation of the Code of Ethics and of internal procedures in relation to violation of the law involving the commission of a crime. The employer is not required therefore, before acting, to await the completion of any criminal proceedings.

The principles of timeliness and immediacy of the sanction make it not only a duty, but also inadvisable to delay the disciplinary dispute pending the outcome of any criminal proceedings before the courts.

With regard to the type of sanctions which may be imposed, it should be firstly noted that, in case of employment, any disciplinary measure must comply with the procedures provided for by Art. 7 of Law no. 300/70 (the so-called “Workers’ Statute”) and/or special regulations, where applicable, characterized not only by the principle of the typicality of violations, but also by the principle of the typicality of sanctions.

Failure to comply with the requirements of the Code of Ethics and, more generally, with the protocols adopted with the Organisation, Management and Control Model pursuant to Legislative Decree 231/2001, constitutes a disciplinary crime both when committed by an employee of the Company and when committed by a contract worker, in consistency with the activities this latter may carry out. Following the new Article 6, paragraph 2-bis letter d), the disciplinary system provides for disciplinary measures against those who violate the measures of protection of the whistleblower as well as those who make reports with intent or gross negligence that prove unfounded.

By virtue of their disciplinary value, the Code of Ethics and the disciplinary procedures adopted in the context of the Organisation, Management and Control Model pursuant to Legislative Decree no. 231/2001, whose violation constitutes a disciplinary crime, are formally declared to be binding for all employees at the time of communication of the adoption of the Model.

Below, therefore, is a description of the Disciplinary System, an integral part of the Organisation, Management and Control Model pursuant to Legislative Decree no. 231/2001, containing the disciplinary sanctions as well as the related procedural

aspects applicable as a consequence of the conduct that violates the provisions of the Code of Ethics or the protocols of the Company's Model.

The disciplinary sanctions which may be imposed are identified below.

5.1 Sanctions for employees

With regard to employees, the Company must comply with the limits set forth in Art. 7 of Law 300/1970 (the so-called "Workers' Statute") and the provisions contained in the applicable National Collective Bargaining Agreements (CCNL) both with regard to the sanctions that may be imposed and to the procedures for exercising disciplinary power.

Failure by employees to comply with the procedures and provisions indicated in the Organisational Model pursuant to Legislative Decree 231/2001, as well as violations of the provisions and principles laid down in the Code of Ethics, constitute a breach of the obligations arising from the employment relationship pursuant to Article 2104 of the Italian Civil Code and a disciplinary crime.

More specifically, the adoption, by a Company's employee, of behaviour that may be qualified as a disciplinary crime, as indicated in the previous paragraph, also constitutes a violation of the obligation of employees to perform the tasks assigned to them with the utmost diligence, in compliance with the Company's directives, as provided for by the applicable current National Collective Bargaining Agreement for the category.

It is also a disciplinary crime, following the new Article 6, paragraph 2-bis letter d), to intentionally or seriously report significant illegal conduct pursuant to Legislative Decree 231/2001 and violations of the Model that prove to be unfounded.

Employees may be subject to the following sanctions: i) verbal warning, ii) written warning, iii) fine, iv) suspension from work and v) dismissal. Ascertainment of any violations may result in the worker being suspended from work as a precautionary measure.

These sanctions will be imposed based on the importance of the individual cases considered and will be proportionate according to their severity. The procedure, timing and methods for imposing sanctions shall be those provided for in the applicable CCNL, i.e. the Chemical Industry Agreement, Chapter VII.

In order to clarify in advance the criteria of correlation between violations by employees and the disciplinary measures adopted, it should be noted that:

- Precautionary disciplinary measures are imposed on employees who:
 - violates internal procedures or adopt behaviours not compliant with the provisions of the Code of Ethics and the rules of conduct contained in this

Model (i.e. who fails to comply with the prescribed information to the Surveillance Body, fails to inform the Surveillance Body on the prescribed information, fails to carry out controls, etc.) or adopts, in the performance of activities in at-risk areas, adopts conduct that does not comply with the provisions contained in the Model itself;

- makes reports with gross negligence that prove to be unfounded.
- Dismissal disciplinary measures are also imposed on employees who:
 - adopt, in the performance of activities in areas considered to be at risk by the Company, a conduct that does not comply with the provisions contained in the Model and in the Code of Ethics, unequivocally aimed at committing a crime sanctioned by the Legislative Decree. 231/2001, since such conduct must be considered an infringement of discipline and diligence in their duties, so severe as to damage the trust of the Company in the employee himself;
 - adopt, in the performance of the activities related to at-risk area, a conduct that is clearly in contrast with the provisions contained in the Model and in the Code of Ethics, such as to determine the concrete application to the Company of the measures provided for by the Legislative Decree 231/2001, since such conduct must be seen as an act that causes serious moral and material damage to the Company that does not allow the continuation of the relationship, even on a temporary basis;
 - intentionally makes Article 6 2-bis reports that prove to be unfounded.

Disciplinary measures may be challenged by the worker in the trade union, according to the applicable contractual rules. The dismissal may be challenged in accordance with the rules, procedures and terms of the laws in force. The worker may be assisted by a representative of the trade union associations to which he or she belongs or confers a mandate, or by the trade union representative.

No account will be taken of the disciplinary measures taken two years after their imposition.

The principles of correlation and proportionality between the violation committed and the sanction imposed are guaranteed by compliance with the following criteria:

- severity of the violations committed;
- the employee's position, role, liability and autonomy;
- predictability of the event;
- intentionality of behaviour or degree of negligence, imprudence or inexperience;

- overall behaviour of the author of the violation, with regard to the existence or otherwise of previous disciplinary measures;
- other particular circumstances characterizing the violation.

Disciplinary sanctions (as provided for by Art. 7 of Law 300/70) and the Code of Ethics are brought to the attention of employees by posting them in a place accessible to all.

5.2 Sanctions for employees with managerial status

Violation - by managers - of laws, of the provisions of the Code of Ethics and of the of this Model, including violation of the information obligations to inform the Surveillance Body and the lack of supervision of proper implementation, by the hierarchically subordinate employees, of rules and procedures envisaged in the Model, as well as, in general, adopting behaviours likely to expose the Company to the application of administrative sanctions provided for by Legislative Decree no. 231/2001, determines the application of the sanctions referred to in collective bargaining for other categories of employees, in compliance with Articles 2106, 2118 and 2119 of the Italian Civil Code, as well as Article 7 of Law 300/1970.

It is also a disciplinary crime, following the new Article 6, paragraph 2-bis letter d), to report violations of illegal conduct, violation of the measures to protect the confidentiality of the whistleblower, the adoption of retaliatory measures against whistleblowers as well as the intentional or grossly negligent reporting of unlawful conduct pursuant to Legislative Decree 231/2001 and violations of the Model that prove to be unfounded.

As a general rule, management staff may be subject to the following sanctions:

- i. fine;
- ii. suspension from duties;
- iii. early termination of the employment relationship.

The ascertainment of any violations, as well as of inadequate supervision and lack of information to the Surveillance Body in a timely manner, may result in employees with managerial status, in precautionary suspension from their duties, without prejudice to the manager's right to remuneration, as well as, again provisionally and as a precautionary measure for a period not exceeding three months, being assigned to different positions in compliance with art. 2103 of the Italian Civil Code.

In cases of serious violations, including conduct that does not comply with the prescriptions contained in the Model and the Code of Ethics, unambiguously aimed at the commission of an crime sanctioned by Legislative Decree no. 231/2001 or the

intentional making of reports that prove to be unfounded, the Company may proceed with the early termination of the employment contract without notice pursuant to and for the purposes of Article 2119 of the Italian Civil Code.

5.3 Measures against Directors

In the event of an ascertained violation of the Model or the Code of Ethics by the Board of Directors or of its violation of the measures for the protection of the whistleblower, the adoption of retaliatory measures against the whistleblowers as well as the malicious or grossly negligent reporting of illegal conduct pursuant to Legislative Decree 231/2001 and violations of the Model that prove to be unfounded, the Surveillance Body shall promptly inform the Shareholders' Meeting, the Board of Statutory Auditors.

The sanctions (such as, by mere way of example and not limited to, temporary suspension from office and, in the most severe cases, its revocation) will be adopted by the Shareholders' Meeting, which shall act according to the provisions of the Bylaws.

5.4 Sanctions against Statutory Auditors

In the event of violation of the Model or the Code of Ethics by one or more Statutory Auditors or of its violation of the measures for the protection of the whistleblower, the Board of Statutory Auditors and the Board of Directors must take the appropriate measures provided for by law and by the Bylaws.

5.5 Parties having contractual/commercial relationships

Violation by commercial partners, agents, consultants, external contractors, including those referring to other companies of the group or other entities having contractual relationships with the Company of the provisions and rules of conduct provided for by the Model applicable to them, or the possible commission of crimes (and administrative crimes) relevant for the purpose of the administrative liability of entities by the same, shall be punished according to the provisions of the specific contractual clauses included in the relevant related contracts.

In particular, the contracts entered into by the Company with self-employed workers and consultants may include a specific declaration of knowledge of the existence of the Code of Ethics and its principles, of the obligation to comply with these, or, in case of a foreign entity or of one operating abroad, to comply with international and

local risk prevention regulations that may determine the liability resulting from the commission of crimes by the Company.

The above, of course, without prejudice to the right of Aptuit to claim for compensation for damages resulting from the violation of the provisions and of the rules of conduct provided for in the Model by the aforementioned third parties remains unaffected.

5.6 Application of sanctions

The Board of Directors is responsible for the necessary investigations, initiation of disciplinary proceedings and imposition of sanctions, following a possible violation of the Model. The Company also keeps adequate documentation to support any sanctions imposed.

Given its function of monitoring the effective implementation and compliance of the Model and all its components, the Surveillance Body will be required to make appropriate reports of any possible violations identified or notified in carrying out its activities and to ensure, in the event of a positive assessment of the violation, the effective application by the Company of the sanction proportionate to the severity of the event that occurred.