ORGANISATION, MANAGEMENT AND CONTROL MODEL

GENERAL PART

IN ACCORDANCE WITH
LEGISLATIVE DECREE NO. 231 OF 8 JUNE 2001

AEER S.R.L.

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INTRODUCTION

AEER - Arpinge Energy Efficiency & Renewables S.r.l. (hereinafter referred to as **"AEER"** or the **"Company")** has voluntarily adopted its own Organisation, Management and Control Model (hereinafter referred to as the **"Model")** under Legislative Decree No. 231 of 8 June 2001. The Model represents a set of acts and consists of:

- this "General Part", which, on the one hand, has a training value with regard to the principles enshrined in the legal system concerning the administrative liability of legal persons and, on the other hand, identifies the key principles governing the functioning of the Model. The General Part also defines the role of the "Supervisory Board" (hereinafter also referred to in brief as the **"SB"),** the body responsible for supervising the adequacy of the Model and its effective implementation, outlining its form, duties and powers. The General Part provides that the Model is binding on all persons acting in the name of or on behalf of AEER, whether they are senior or subordinate, linked to the Company by an employment relationship (of any kind) or third parties;
- the AEER's "Code of Ethics", approved at the same time as the Model, which constitutes the set of values and principles inspiring the Company's actions. The provisions of the Code of Ethics, as part of the Model, are binding and violations of these principles will be dealt with under the rules governing the sanctioning of conduct contrary to the Model and which will be dealt with in the subsequent disciplinary system;
- the "Special Parts" document that collects the specific rules and control protocols aimed at preventing the commission of the offences referred to in the corresponding section concerning the specific types of offences that could in abstract terms be committed when carrying out the corporate activities.
- a "Disciplinary System", i.e., a suitable instrument to define an arsenal of sanctions and the relevant enforcement procedure aimed at ensuring compliance with the provisions of the Model and, where appropriate, sanctioning non-compliance. The Disciplinary System consists of the regulation of the procedure capable of ascertaining, while providing the right to be heard to the offender, the commission of the violation, and to impose sanctions proportionate to the violation carried out. The imposition of sanctions does not depend on whether or not the violation perpetrated is capable of constituting an offence within the meaning of Decree 231, and is relevant as a violation of the system of rules which the Company has adopted.

The Model is directed toward and is binding on all persons acting in the name of or on behalf of AEER, regardless of the role they hold or whether they are employees of the Company or third parties bound by a contractual relationship of any kind (hereinafter collectively referred to as the **"Recipients")**.

1. PURPOSE AND LEGAL PRINCIPLES

1.1 Legislative Decree No. 231 of 8 June 2001

Legislative Decree No. 231 of 8 June 2001, containing the "*Regulations on the administrative liability of legal persons, companies and associations, including those without legal personality"* (hereinafter also referred to as **"Decree 231"** or **"Legislative Decree No. 231/01"),** implemented the legislative delegation contained in Article 11 of Law No. 300 of 29 September 2000, in which Parliament had laid down principles and guiding criteria for regulating the administrative

liability of legal persons and entities without legal personality for offences committed by persons acting in the interest or to the advantage of the same entity[1].

Decree 231 applies to *"entities with legal personality, companies and associations also without legal personality"*, and thus to:

- subjects that have acquired legal personality according to civil law schemes, therefore associations, foundations and other institutions of a private nature that have obtained the recognition of the State;
- companies that have acquired legal personality through registration in the register of companies (and this includes AEER);
- non-personalised entities, lacking capital autonomy, but nevertheless deemed to be subjects of law.

Alongside the traditional liability for the offence committed (personal criminal liability that can only refer to natural persons by virtue of the principle enshrined in Article 27(1) of the Italian Constitution and its mirror dogma enshrined in the phrase *"societas delinquere non potest"* and the other forms of liability arising from offences), there is now a liability of legal persons that attaches, to the same fact, different sanctioning consequences depending on the subject called upon to answer for it.

Although the liability outlined in Decree 231 is qualified as "administrative", it is essentially "criminal" in nature. Decree 231 itself extends to administrative liability dependent on an offence certain principles of a criminal nature; Article 2 provides that the legal person cannot be held liable except for an act constituting an offence under criminal law (principle of legality); prior to the commission of the act, the law must expressly provide for the administrative liability of the entity in relation to that offence (principle of legal certainty and non-retroactivity).

Article 3 below sets out a regulation of the phenomenon of succession of laws over time, reproducing that provided for in Article 2(2), (3) and (4) of the Italian Criminal Code. The legal person may not be subject to administrative sanctions not only if the criminal offence, which is the basis of its liability, is no longer provided for by law as an offence, but also if for a fact that continues to constitute an offence, the liability of the entity is no longer required by law in relation thereto. Moreover, in the event of amending laws over time, the more favourable rule must apply.

The fact constituting an offence, where the conditions indicated in the legislation are met, operates on a double level, in that it integrates, at the same time, both the offence attributable to the individual who committed it (offence punished with a criminal sanction imposed on the material perpetrator), and the administrative offence (offence punished with an administrative sanction) for the entity[2]. Decree 231 introduced into the Italian legal system a principle of administrative liability for offences as a consequence of unlawful acts committed in the interest or to the advantage of the entity by those who act in the name and on behalf of the entity represented, that is, under Article 5 by:

a) persons who hold representative (organic or voluntary), management or governance offices of the entity or one of its organisational units (provided with financial and functional autonomy) or exercise, even *de facto*, the management and control of the same" (so-called "top management");

[1] This solution resulted from a series of international Conventions to which Italy has been a signatory in recent years. This involves, in particular, the Convention on the protection of the European Communities' financial interests, signed in Brussels on 26 July 1995; its first Protocol made in Dublin on 27 September 1996; the Protocol on the interpretation, by way of preliminary rulings by the Court of Justice of the European Communities of that Convention signed in Brussels on 29 November 1996; as well as the Convention on the fight against corruption involving officials of the European Communities, signed in Brussels on 26 May 1997 and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, with annex, signed in Paris on 17 December 1997.

[2] In the Italian landscape, the novelty value of Decree 231 is undoubted. Before the entry into force of this legislation, there was only a civil obligation for the entity to pay fines or penalties, but only in the event of insolvency of the perpetrator (Articles 196 and 197 of the Italian Criminal Code), while there were no consequences for the entity (except for possible compensation for damages) if the directors and/or employees had committed offences from which the entity derived a profit or advantage.

b) persons subject to the management or supervision of one of the subjects referred to in letter a (so-called "subordinate" persons).

First and foremost, the members of the management and control bodies of the entity may be qualified as top managers, whatever system is chosen among those provided by the Legislator (Sole Director, Board of Directors, Joint or Disjoint Administration).

It should be pointed out that, in addition to directors, the list of persons in a so-called "top position" also includes, pursuant to Article 5 of Decree 231, other figures such as management personnel with financial and functional autonomy, as well as the Managers in charge of secondary offices. Such persons may be linked to the companies either by an employment relationship, or by other relationships of a private nature (e.g., mandate, agency, representation, etc.).

Persons in a subordinate position are those who must carry out the directives of the aforementioned persons or are subject to their supervision.

In addition, the liability of the entity exists even if the perpetrator of the offence has not been identified but certainly falls within the categories of persons referred to in points a) and b) of Article 5 of Decree 231, or the offence is extinguished against the natural person perpetrator for a reason other than amnesty (see Article 8(1) of Decree 231).

It must be considered that not all offences committed by the aforementioned persons imply administrative liability attributable to the entity, since only specific types of offences are identified as relevant[3]. Section IlI of Chapter I of Decree 231 exhaustively outlines[4] the catalogue of predicate offences from the commission of which the administrative liability of the entity may derive, if committed by one of its "agents" in a top management position or subject to the direction of others.

Over the years, there has been a gradual expansion of this catalogue (originally limited by the provisions of Articles 24 and 25) and this mostly on the occasion of the transposition of the contents of International Conventions to which Italy acceded and which also provided for forms of accountability of collective entities.

Below is a brief indication of the categories of relevant offences under Decree 231 and under the amendments which, over the years, have expanded the number of so-called "predicate offences", progressively extending the applicability of Decree 231.

The adoption of an Organisation, Management and Control Model is not a regulatory obligation but a voluntary act by the company for the purpose of improving its internal control system as well as a voluntary act by the management aimed at strengthening corporate ethics.

Misappropriation of funds, fraud to the detriment of the State, a public body or the European Union or for the purpose of obtaining public funds, computer fraud to the detriment of the State or a public body and fraud in public supply (Article 24 of Decree 231) and Embezzlement, malfeasance in office, improperly inducing [a person] to give or to promise to give anything of value, bribery and misconduct in public office (Articles 25 of Decree 231). This "type" of offence was included from the very first draft of Decree 231 - although it was subsequently amended and supplemented - and is regulated in detail in Articles 24 and 25 of Decree 231, referring to the following cases:

[3] It must also be considered that the "catalogue" of predicate offences relevant under Decree 231 is constantly expanding. While, on the one hand, there is a strong input from the EU bodies, on the other hand, several draft laws have been submitted, also at the national level, which aim to include additional cases. For a period, the hypothesis of the direct inclusion of the liability of entities within the Italian Criminal Code was also under consideration (see, work of the Pisapia Commission), with a consequent change in the nature of the liability (which would become for all intents and purposes criminal and no longer - formally - administrative) and the expansion of the relevant cases. More recently, there have been proposals for amendments to Decree 231 aimed at reaping the benefits of its application experience and, ultimately, at "remedying" certain aspects that appeared excessively burdensome.

[4] Almost all of the predicate offences are included in the body of Decree 231. However, Article 10 of Law No. 146 of 16 March 2006 introduced sanctions under 231 for transnational offences not referred to in the body of Legislative Decree No. 231/01. These offences will be analysed in detail below.

- fraud against the State or other public body (Article 640, paragraph 2, No. 1 of the Italian Criminal Code);
- aggravated fraud to obtain public funds (Article 640-bis of the Italian Criminal Code);
- cyber fraud to the detriment of the State or another public entity (Article 640-ter of the Italian Criminal Code);
- bribery in the exercise of the function (Articles 318 and 321 Italian Criminal Code);
- bribery for an act contrary to official duties (Articles 319 [where applicable, aggravated pursuant to Article 319-bis] and 321 of the Italian Criminal Code);
- bribery in judicial proceedings (Articles 319-ter and 321 of the Italian Criminal Code);
- improperly inducing [a person] to give or to promise to give anything of value (Article 319-*quater* of the Italian Criminal Code);
- incitement to bribery (Article 322 of the Italian Criminal Code);
- bribery of persons entrusted with a public service (Articles 320 and 321 of the Italian Criminal Code);
- embezzlement, malfeasance in public office, bribery, improperly inducing [a person] to give or to promise to give anything of value and incitement to bribery of members of bodies of the European Communities or Foreign States (Article 322-bis of the Italian Criminal Code);
- illegal abuse of a position or office for personal gain (Article 317 of the Italian Criminal Code);
- embezzlement to the detriment of the State or other public body (Article 316-bis of the Italian Criminal Code);
- unlawful receipt of contributions, funding or other payments by a public body (Article 316 ter of the Italian Criminal Code);
- influence peddling (Article 346-bis of the Italian Criminal Code)[5];
- fraud in public procurement (Article 356 of the Italian Criminal Code);
- offence of fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development (Article 2 of Law No. 898/1986)[6];
- embezzlement (Article 314, paragraph 1, of the Italian Criminal Code)[7];
- embezzlement through profiting from the error of others (Article 316 of the Italian Criminal Code);
- misconduct in public office (Article 323 of the Italian Criminal Code)[8].

Cyber offences and unlawful data processing crimes – Article 24 *bis* of Decree 231). Article 7, paragraph 1 of Law No. 48 of 18 March 2008, in force since 5 April 2008, introduced Article 24-*bis* into Decree 231, which extends the liability of Entities also to the so-called Cyber offences:

[5] This offence was introduced into the list of predicate offences under Legislative Decree No. 231/01 by Law No. 3 of 9 January 2019.

[6] The offences of fraud in public procurement (Article 356 of the Italian Criminal Code) and fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development (Article 2 of Law No. 898/1986) were introduced by Legislative Decree No. 75 of 14 July 2020 "*Implementation of Directive (EU) 2017 / 1371 on the fight against fraud to the Union's financial interests by means of criminal law*" published in the Official Journal on 15 July 2020.

[7] The cases of the embezzlement offence (Article 314, paragraph 1 of the Italian Criminal Code), embezzlement through profiting from the error of others (Article 316 of the Italian Criminal Code) and misconduct in public office (Article 323 of the Italian Criminal Code) were introduced by Legislative Decree No. 75 of 14 July 2020 "*Implementation of Directive (EU) 2017 / 1371 on the fight against fraud affecting the financial interests of the Union by means of criminal law*" published in the Official Journal on 15 July 2020 where there is damage to the financial interests of the European Union.

[8] The cases of the embezzlement offence (Article 314, paragraph [8]1 of the Italian Criminal Code), embezzlement through profiting from the error of others (Article 316 of the Italian Criminal Code) and misconduct in public office (Article 323 of the Italian Criminal Code) were introduced by Legislative Decree No. 75 of 14 July 2020 "Implementation of Directive (EU) 2017 / 1371 on the fight against fraud affecting the financial interests of the Union by means of criminal law" published in the Official Journal on 15 July 2020 where there is damage to the financial interests of the European Union.

- unauthorised access to an IT or telematic system (Article 615-ter);
- unlawful interception, obstruction or interruption of IT or telematic communications (Article 617-quater of the Italian Criminal Code);
- installation of equipment to intercept, obstruct or interrupt IT or telematic communications (Article 617 quinquies of the Italian Criminal Code);
- harm to computer information, data and programmes (Article 635-bis of the Italian Criminal Code);
- harm to computer information, data and programmes used by the State or another public body or otherwise of public benefit (Article 635-ter of the Italian Criminal Code);
- harm to IT or telematic systems (Article 635 quater of the Italian Criminal Code);
- harm to IT or telematic systems of public benefit (Article 635 quinquies of the Italian Criminal Code);
- unauthorised possession and dissemination of access codes to IT or telematic systems (Article 615 *quater* of the Italian Criminal Code);
- dissemination of computer equipment, devices or programmes to damage or disrupt a computer or electronic system (Article 615 quinquies of the Italian Criminal Code);
- electronic documents (Article 491 *bis* of the Italian Criminal Code)[9].

  The aforementioned provision ("*if any of the falsehoods provided for in this chapter concern a public or private electronic document with evidentiary effect, the provisions of this chapter concerning public documents and private writings shall apply")* extends the provisions on forgery of public documents to falsehoods relating to an electronic document; the offences referred to are as follows:
  - forgery as to the form of public deeds committed by a public official (Article 476 of the Italian Criminal Code);
  - forgery as to the form of certificates or administrative authorisations committed by a public official (Article 477 of the Italian Criminal Code);
  - forgery as to the form of certified copies of public or private deeds and certifications of the contents of deeds committed by a public official (Article 478 of the Italian Criminal Code);
  - forgery as to the content of public deeds committed by a public official (Article 479 of the Italian Criminal Code);
  - forgery as to the content of certificates or administrative authorisations committed by a public official (Article 480 of the Italian Criminal Code)
  - forgery as to the content of certificates committed by persons providing a service of public interest (Article 481 of the Italian Criminal Code);
  - forgery as to the form of deeds committed by a private individual (Article 482 of the Italian Criminal Code);
  - forgery as to the content of public deeds committed by a private individual (Article 483 of the Italian Criminal Code);
  - forgery of registers and notifications (Article 484 of the Italian Criminal Code);

[9] Article 3(1)(b) of Law No. 48 of 18 March 2008 repealed the second part of the provision that read: "*For this purpose, electronic document means any computer medium containing data or information having evidentiary effect or programmes specifically intended to process them*". Now, therefore, reference is made to the administrative legislation, specifically to Article 1, letter p), of Legislative Decree No. 82 of 7 March 2005 (Digital Administration Code), which defines an electronic document as the electronic representation of legally relevant deeds, facts or data.

- forgery of a signed blank sheet. Public deed (Article 487 of the Italian Criminal Code);
- other forgery of a signed blank sheet. Applicability of provisions on forgery as to the form of deeds (Article 488 of the Italian Criminal Code);
- use of a forged deed (Article 489 of the Italian Criminal Code);
- suppression, destruction and concealment of authentic deeds (Article 490 of the Italian Criminal Code);
- forgery of a holographic will, bill of exchange or other debt instrument (Article 491 of the Italian Criminal Code);
- authentic copies in lieu of missing originals (Article 492 of the Italian Criminal Code);
- forgery committed by civil servants in charge of a public service (Article 493 of the Italian Criminal Code);

- computer fraud by a person providing electronic signature certification services (Article 640 *quinquies* of the Italian Criminal Code).

Lastly, the Legislator has also introduced into the catalogue of relevant offences those relating to Cybersecurity by introducing Article 1, paragraph 11, of Decree-Law No. 105/2019, converted with amendments by conversion Law No. 133 of 18 November 2019, which provides: "*Anyone who, in order to hinder or condition the procedures referred to in paragraph 2, letter b) or paragraph 6, letter a), or the inspection and supervision activities referred to in paragraph 6, letter c), provides inaccurate information, data or factual elements relevant to the preparation or updating of the lists referred to in paragraph 2, letter b), or for the purposes of the communications referred to in paragraph 6, letter a), or for carrying out the inspection and supervision activities referred to in paragraph 6), letter c), or fails to communicate the aforementioned data, information or facts within the prescribed time limits, shall be punished by imprisonment of from one to five years and the entity, liable pursuant to Legislative Decree No. 231 of 8 June 2001, will be applied the pecuniary sanction of up to four hundred quotas*".

Organised crime offences (Article 24 *ter* of Decree 231)[10]. Article 2, paragraph 29 of Law No. 94 of 15 July 2009, containing provisions on public security, introduced Article 24 ter of Decree 231 and, therefore, the liability of entities for the commission of organised crime offences:

- criminal association for the purpose of enslavement, trafficking in persons or the purchase or sale of slaves (Article 416 of the Italian Criminal Code);
- mafia-type criminal association (Article 416-*bis* of the Italian Criminal Code);
- electoral exchanges between politicians and the mafia (Article 416 of the Italian Criminal Code)[11];

[10] Organised crime offences were previously relevant, for the purposes of Decree 231, only if they were transnational in nature.

[11] Prior to the reforming intervention of Law No. 62 of 17 April 2014, Article 416 *ter* of the Italian Criminal Code provided that "*The penalty established by the first paragraph of Article 416-bis shall also apply to anyone who obtains the promise of votes provided for in the third paragraph of the same Article 416-bis in exchange for the disbursement of money*". The old version of Article 416 *ter* of the Italian Criminal Code, provided for an improper multi-subjectivism, i.e., the participation of at least two persons and the incrimination of only one of the participants (the politician). Following the 2014 reform and as a result of Article 1, paragraph 5, of Law No. 103 of 23 June 2017, which increased the penalties, Article 416 *ter* of the Italian Criminal Code provides that: "*Whoever accepts the promise to procure votes by means of the methods referred to in the third paragraph of Article 416-bis in exchange for the disbursement or promise of disbursement of money or other benefits shall be punished by imprisonment of six to twelve years. The same punishment shall apply to anyone who promises to procure votes in the manner referred to in the first paragraph*". The update concerned, on the one hand, the mitigation of the punishment (from six to ten years), and on the other hand it now describes a multi-subjective crime of its own (the conduct of both necessary participants being incriminated). With the subsequent intervention of Law No. 43 of 21 May 2019, the case was further amended. The reform intervention has made a number of changes that can be briefly summarised as follows: (i) punishability is also extended to offences committed through intermediaries; (ii) it is no longer necessary for the promise to procure votes to involve the use of mafia methods (third paragraph of Article 416-bis), but it is sufficient for it to be made by a person belonging to a mafia association; (iii) the punishments are made more severe, going from six to twelve years to ten to fifteen years; (iv) in the event of the election of the person who accepted the promise to procure votes, the punishment is increased

- kidnapping for purposes of extortion (Article 630 of the Italian Criminal Code);
- offences committed by benefitting from the conditions of subjugation and the code of silence resulting from the existence of mafia influence referred to in Article 416-*bis* of the Italian Criminal Code or in order to facilitate the activities of the associations referred to in the same Article;
- criminal association aimed at drug trafficking or dealing in psychotropic substances (Article 74, Italian Presidential Decree No. 309 of 9 October 1990);
- illegal manufacture, introduction into the (Italian) State, sale, transfer, possession and carrying in a public place or place open to the public of weapons of war, warlike weapons or components thereof, explosives, clandestine weapons and several common firearms (Article 407, paragraph 2, letter a), No. 5 of Italian Code of Criminal Procedure).

Counterfeiting money, legal tender (carte di pubblico credito), revenue stamps and distinctive signs (Article 25 *bis*). Article 25 *bis* of Decree No. 231 was introduced by Article 6, paragraph 1, of Decree-Law No. 350 of 25 November 2001, converted with amendments by Law No. 409 of 23 November 2001, and refers to the following cases:

- counterfeiting money, circulating counterfeit money and concerted introduction of counterfeit money into the national domain (Article 453 of the Italian Criminal Code);
- alteration of currency (Article 454 of the Italian Criminal Code);
- non-concerted circulation and introduction of counterfeit currency into the national domain (Article 455 of the Italian Criminal Code);
- circulation of counterfeit currency received in good faith (Article 457 of the Italian Criminal Code);
- counterfeiting revenue stamps, introduction into the national domain, purchase, possession or circulation of counterfeit revenue stamps (Article 459 of the Italian Criminal Code);
- counterfeiting watermarked paper used to produce legal tender or revenue stamps (Article 460 of the Italian Criminal Code);
- manufacture or possession of watermarks or equipment intended to produce counterfeit currency, revenue stamps or watermarked paper (Article 461 of the Italian Criminal Code);
- use of counterfeit or altered revenue stamps (Article 464, paragraphs 1 and 2, of the Italian Criminal Code);
- counterfeiting, alteration or use of trademarks or distinctive marks or patents, models and drawings (Article 473 of the Italian Criminal Code) [12];
- introduction into the national domain and trading in products with false trademarks (Article 474 of the Italian Criminal Code).

Offences against industry and trade (Article 25 *bis* 1 of Decree 231). Article 15, paragraph 7, letter b) of Law No. 99 of 23 July 2009, introduced Article 25 *bis* 1 of Decree 231 and, therefore, the liability of entities for the commission of the

by a further 50%; (v) the disqualification from public office is provided for. However, some legal scholars have criticised the intervention, considering the expansion of criminally sanctioned conduct to be substantially irrelevant and the sanctioning treatment of the intermediary to be unreasonable, as the intermediary would be sanctioned more harshly than the participant in the criminal organisation. However, the intervention introduces, as a relevant novelty of the institution, the provision of the accessory punishment.

[12] Law No. 99 of 23 July 2009, containing provisions for the development and internationalisation of enterprises, as well as on energy, extended the offences of forgery provided for by Article 25-bis of Decree 231, including in the list of predicate offences also the cases provided for and sanctioned by Articles 517 *ter* of the Italian Criminal Code and 517 *quater* of the Italian Criminal Code included in Article 25 *bis* 1 of Decree 231.

offences that follow:

- disruption to industry or trade (Article 513 of the Italian Criminal Code);
- unlawful competition with threats or duress (Article 513-bis of the Italian Criminal Code);
- fraud against domestic industries (Article 514 of the Italian Criminal Code);
- fraud in the exercise of trade (Article 515 of the Italian Criminal Code);
- sale of non-genuine foodstuffs as genuine (Article 516 of the Italian Criminal Code);
- sale of industrial products with counterfeit marks (Article 517 of the Italian Criminal Code);
- manufacture and trade of goods produced in violation of industrial property rights (Article 517 ter of the Italian Criminal Code);
- falsifying the geographic origin or designations of origin of agricultural products (Article 517-quater, of the Italian Criminal Code).

Corporate Offences (Article 25 *ter* of Decree 231). Article 3, paragraph 2, of Legislative Decree No. 61 of 11 April 2002 introduced Article 25 *ter* of Decree 231 which identifies the following offences as amended by Law No. 262 of 28 December 2005:

- false corporate communications (Article 2621 of the Italian Civil Code, in the new wording provided for by Law No. 69 of 27 May 2015, containing provisions on offences against the Public Administration, mafia-type associations and false accounting)[13];
- minor offences (Article 2621-bis of the Italian Civil Code);
- false corporate communications by listed companies (Article 2622 of the Italian Civil Code, in the new wording provided for by Law No. 69 of 27 May 2015, containing provisions on offences against the Public Administration, mafia-type associations and false accounting);
- false statement in a prospectus (Article 2623 of the Italian Civil Code, repealed by Article 34 of Law No. 262/2005, which however introduced Article 173 bis of Legislative Decree No. 58 of 24 February 1998)[14];
- false statements in the reports or communications of the auditing company (Article 2624 of the Italian Civil Code)[15];

[13] Article amended by Bill No. 3008, finally approved by the Chamber of Deputies on 21 May 2015. The new law came into force on 14 June 2015.

[14] Article 2623 of the Italian Civil Code. (False statement in a prospectus) was repealed by Law No. 262/2005, which, however, reproduced the same offence provision by introducing Article 173 *bis* of Legislative Decree No. 58 of 24 February 1998 (hereinafter also Italian Consolidated Law on Finance). This new incriminating provision, at present, is not textually included among the offences referred to in Legislative Decree No. 231/2001. Some legal scholars consider, however, that Article 173 *bis* of the Italian Consolidated Law on Finance, although not referred to by Legislative Decree No. 231/2001, is relevant for the administrative liability of entities, since it must be considered in regulatory continuity with the previous Article 2623 of the Italian Civil Code. Case-law, on the other hand, has ruled to the contrary, albeit on the different offence under Article 2624 of the Italian Civil Code. (False statements in the reports or communications of the Auditing Company) [see note below], considering that offence to no longer be a source of liability under Legislative Decree No. 231/01 and relying on the principle of legality of the rules contained in Decree 231. Given the lack of a specific ruling on Article 2623, similar to that made for Article 2624, as a precautionary measure, it was decided to abstractly consider the offence in the Model.

[15] It should be noted that Legislative Decree No. 39 of 27 January 2010 (Implementation of Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, amending Directives 78/660/EEC and 83/349/EEC and repealing Directive 84/253/EEC), which entered into force on 7 April 2010, repealed Article 2624 of the Italian Civil Code - False statements in the reports or communications of auditing companies - reinserting, however, the same case within the same Legislative Decree No. 39/2010 (Article 27), which, however, is not referred to by Legislative Decree No. 231/2001. The Joint Divisions of the Italian Supreme Court, in Judgment No. 34776/2011, ruled that the case of audit falsity already provided for in Article 2624 of the Italian Civil Code can no longer be considered a source of criminal liability of entities, given that the aforementioned article was repealed by Legislative Decree No. 39/2010. In fact, the Court pointed out how the legislative intervention that reformed the subject matter of auditing had intentionally wanted to remove auditor offences from the scope of Legislative Decree No. 231/2001 and how, therefore, in light of the principle of legality that governs it, it can only be concluded that the offence of misrepresentation in auditing has been substantially abolished.

- obstruction of supervisory activities [16](Article 2625 fo the Italian Civil Code);
- undue repayment of contributions (Article 2626 of the Italian Civil Code);
- unlawful distribution of profits or reserves (Article 2627 of the Italian Civil Code);
- unlawful transactions involving the shares or quotas of the company or the parent company (Article 2628 of the Italian Civil Code);
- transactions to the detriment of creditors (Article 2629 of the Italian Civil Code);
- failure to disclose a conflict of interest (Article 2629-bis of the Italian Civil Code);
- fictitious capital creation (Article 2632 of the Italian Civil Code);
- improper distribution of company assets by liquidators (Article 2633 of the Italian Civil Code);
- bribery among private individuals (Article 2635(3) of the Italian Civil Code)[17];
- incitement to bribery among private individuals (Article 2635 bis of the Italian Civil Code)[18];
- undue influence on the shareholders' meeting (Article 2636 of the Italian Civil Code);
- agiotage (Article 2637 of the Italian Civil Code, amended by Law No. 62 of 18 April 2005);
- hindering public supervisory authorities in the performance of their functions (paragraphs 1 and 2, Article 2638 of the Italian Civil Code, by Law No. 262/2005).

Offences for purposes of terrorism or to subvert the democratic order (Article 25 *quater* of Decree 231). Article 3, paragraph 1, of Law No. 7 of 14 January 2003 introduced Article 25 *quater* of Decree 231, further extending the scope of administrative liability for offences to include crimes for the purposes of terrorism and to subvert the democratic order provided for by the Italian Criminal Code and special laws. The law in question also penalises conduct in violation of the provisions of Article 2 of the International Convention for the Suppression of the Financing of Terrorism, done in New York on 9 December 1999.

Female genital mutilation (Article 25 *quater 1* of Decree 231). Article 8, paragraph 1, of Law No. 7 of 9 January 2006 introduced Article 25 *quater 1*, which identifies the following case:

- Practices of female genital mutilation (Article 583-bis of the Italian Criminal Code)

Offences against the individual (Article 25 *quinquies* of Decree 231). Article 5, paragraph 1, of Law No. 228 of 11 August 2003 introduced Article 25 *quinquies* of Decree 231, according to which the entity is liable for the commission of crimes against the individual:

- reduction to or maintenance in slavery (Article 600 of the Italian Criminal Code);
- human trafficking (Article 601 of the Italian Criminal Code);
- purchase and sale of slaves (Article 602 of the Italian Criminal Code);
- illegal intermediation and exploitation of labour (Article 603 *bis of* the Italian Criminal Code)[19];

[16] It should be noted that Legislative Decree No. 39 of 27 January 2010 amended Article 2625 of the Italian Civil Code by eliminating the reference to auditing activities and auditing companies; therefore, the conduct of impeding control only concerns hindering or preventing the performance of control activities legally attributed to shareholders or other corporate bodies.

[17] Introduced in the list of offences provided for under Article 25 ter of Decree 231 by Law No. 190 of 6 November 2012 (so-called "Anti-Corruption Law").

[18] Introduced in the list of offences under Article 25 ter of Decree 231 by Legislative Decree No. 38 of 15 March 2017, which came into force on 14 April 2017.

[19] Introduced in the list of offences provided for under Article 25 quinquies of Decree 231 by Law No. 199/2016, which came into force on 4 November 2016.

- child prostitution (Article 600 *bis*, paragraphs 1 and 2 of the Italian Criminal Code);
- child pornography (Article 600 *ter*, paragraphs 1, 2, 3 and 4 of the Italian Criminal Code);
- virtual pornography (Article 600 *quater* 1 of the Italian Criminal Code);
- tourism to exploit child prostitution (Article 600 *quinquies* of the Italian Criminal Code);
- possession of pornographic material (Article 600 *quater* of the Italian Criminal Code);
- solicitation of minors (Article 609 *undecies* of the Italian Criminal Code).

Market abuse (Article 25 *sexies* of Decree 231). Article 9, paragraph 3, of Law No. 62 of 18 April 2005, so-called *"Community Law"*, introduced into Decree 231 Article 25 *sexies*, which punishes the offences of insider trading and market manipulation provided for in Part V, Title I-bis, Chapter II, of the Consolidated Law on Financial Intermediation (Testo Unico), pursuant to Legislative Decree No. 58 of 24 February 1998 (hereinafter the "Italian Consolidated Law on Finance"):

- insider trading (Article 184 of Legislative Decree No. 58/1998);
- market manipulation (Article 185 of Legislative Decree No. 58/1998)[20].

Manslaughter and serious or very serious bodily harm committed in violation of the rules on workplace health and safety regulations (Article 25 *septies* of Decree 231). Article 9, paragraph 1, of Law 123 of 3 August 2007 introduced Article 25 *septies* of Decree 231. The article was subsequently replaced by Article 300, paragraph 1, of Legislative Decree No. 81 of 9 April 2008. This provision provides for the liability of entities for the offences of:

- manslaughter (Article 589 of the Italian Criminal Code), in violation of occupational health and safety regulations;
- bodily harm due to negligence (Article 590(3) of the Italian Criminal Code), in violation of the rules on accidents and the protection of health and hygiene at work.

Handling stolen goods, laundering and use of money, goods or benefits of illegal origin, as well as self-laundering (Article 25 *octies* of Decree 231) Article 63 (now Article 72), paragraph 3, of Legislative Decree No. 231 of 21 November 2007 introduced Article 25 *octies* of Decree 231, according to which the entity is liable for the commission of the offences of:

- receiving stolen goods (Article 648 of the Italian Criminal Code);
- money laundering (Article 648 *bis* of the Italian Criminal Code);
- use of money, goods or anything of value of criminal origin (Article 648 *ter* of the Italian Criminal Code);
- self-laundering (Article 648 *ter* 1 of the Italian Criminal Code[21]) [22].

[20] Italian Legislative Decree No. 58/98, Article 187 quinquies autonomously prescribes administrative liability for offences for entities in relation to the cases in question by providing for significantly higher fines in order to make them an instrument characterised by a deterrent effect on the conduct.

[21] Introduced in the list of offences under Article 25 octies of Decree 231 by Law No. 186 of 15 December 2014.

[22] Legislative Decree No. 90 of 25 May 2017 transposing EU Directive 2015/849 (so-called IV Anti-Money Laundering Directive) on "the prevention of the use of the financial system for the purpose of money laundering and terrorist financing" was published in the Official Journal on 19 June 2017 and entered into force on 4 July of the same year. This measure introduces, on the one hand, significant novelties in the anti-money laundering regulations established in Legislative Decree No. 231/2007 and, on the other hand, important changes in the criminal field tout court and in the area of the administrative liability of entities. With regard to the former, it should be noted, inter alia, that the Supervisory Board no longer appears to be subject to any anti-money laundering reporting obligation and to the consequent criminal sanction (imprisonment of up to 1 year and a fine of between EUR 100 and EUR 1,000) referred to in the former Article 55, paragraph 5, of Legislative Decree No. 231/2007. In fact, the new Article 46 of Legislative Decree No. 231/2007, which replaces the old Article 52, provides that the only obligated parties are: Board of Statutory Auditors, Supervisory Board and Management Control Committee. The amendment also changed the wording of Article 55 of Legislative Decree No. 231/2007 on criminal sanctions. Among the further interventions, it should also be noted that:

Offences involving copyright infringements (Article 25 *novies* of Decree 231). Article 15, paragraph 7, letter c) of Law No. 99 of 23 July 2009 introduced Article *25-novies* of Decree 231, aimed at providing for the liability of entities for the commission of the offences envisaged by Law No. 633 of 22 April 1941 in Articles 171, first paragraph, letter a-bis), and 171 third paragraph, 171 *bis*, 171 *ter*, 171 *septies* and 171 *octies*.

Solicitation not to provide statements or to provide mendacious statements to the judicial authorities (Article 25-*decies*of Decree 231). Article 4, paragraph 1 of Law No. 116 of 3 August 2009, as replaced by Article 2, paragraph 1, of Legislative Decree No. 121 of 7 July 2011, introduced Article 25 *decies* of Legislative Decree No. 231/01, according to which the entity is held liable for the commission of the offence of:

- solicitation not to provide statements or to provide mendacious statements to the judicial authorities (Article 377 *bis* of the Italian Criminal Code).

Environmental offences (Article 25 *undecies* of Decree 231). Article 2, paragraph 2, of Legislative Decree No. 121 of 7 July 2011 introduced Article 25 *undecies* into Decree 231, which extended the administrative liability of entities for criminal offences to environmental offences:

- environmental pollution (Article 452 *bis* of the Italian Criminal Code);
- environmental disaster (Article 452 *quater* of the Italian Criminal Code);
- negligent offences against the environment (Article 452 *quinquies* of the Italian Criminal Code);
- environmental crime associations, including mafia-type (Article 452 *octies* of the Italian Criminal Code);
- traffic and abandonment of highly radioactive material (Article 452 *sexies* of the Italian Criminal Code);
- Killing, destruction, capture, taking, possession of specimens of protected wild animal or plant species (Article 727-*bis* of the Italian Criminal Code);
- Destruction or deterioration of habitat in a protected site (Article 733 *bis* of the Italian Criminal Code);
- Unauthorised discharge of industrial waste water containing hazardous substances and discharge of the same substances in breach of the requirements imposed by the authorisation (Article 137, paragraphs 2 and 3 respectively of Legislative Decree No. 152 of 3 April 2006);
- Discharge of industrial waste water in violation of the tabular limits (Article 137, paragraph 5, first and second sentences, Legislative Decree No. 152 of 3 April 2006);
- Violation of the prohibitions on discharges into the ground, underground water, soil or subsoil (Article 137, paragraph 11, of Legislative Decree No. 152 of 3 April 2006);

- the prerequisites for due diligence as well as the way in which risk assessment and customer profiling are carried out have changed;
- the reference to the Centralised Computer Archive and registration obligations has disappeared, with the exception of the obligation for the retention of information and data acquired during customer due diligence;
- a Register of beneficial owners of legal entities and trusts is introduced at the Companies Register for the purpose of greater transparency within entities.

From a strictly criminal point of view, Article 648 *quater* of the Italian Criminal Code has been amended by eliminating the reference to the offence of self-laundering. Compulsory confiscation or its equivalent, now, should therefore affect the product/profit of only the offences of money laundering and the reuse of illicit capital.

On the corporate liability front, Article 25 octies of Legislative Decree No. 231/2001 has been revised, which, as things stand, would appear no longer to contemplate self-laundering among the predicate offences. It would appear that the omission was the result of a mere oversight. This hypothesis was confirmed by a correction statement issued on 28 June 2017. If the interpretation of the rule oriented by the principle of legal certainty suggests that the offence of self-laundering is irrelevant under Legislative Decree No. 231/01, it is not possible, at present, to exclude risks. Moreover, any conduct constituting self-laundering could well be qualified by the use of other similar cases for the purposes of being able to proceed also under Legislative Decree No. 231/01.

- Discharges into the sea by ships and aircraft of substances the dumping of which is prohibited (Article 137, paragraph 13, of Legislative Decree No. 152 of 3 April 2006);
- Collection, transport, recovery, disposal, trading and brokering of waste, without the required authorisation, registration or communication (Article 256, paragraph1, letters a) and b), Legislative Decree No. 152 of 3 April 2006);
- Setting up or management of an unauthorised landfill (Article 256, paragraph 3, first and second sentences, Legislative Decree No. 152 of 3 April 2006);
- Failure to comply with the requirements of the authorisation to operate a landfill or other waste-related activities (Article 256, paragraph 4, of Legislative Decree No. 152 of 3 April 2006);
- Unauthorised mixing of waste (Article 256, paragraph 5, of Legislative Decree No. 152 of 3 April 2006);
- Temporary storage of hazardous medical waste at the place where it was produced (Article 256, paragraph 6, of Legislative Decree No. 152 of 3 April 2006);
- Preparation or use of a false waste analysis certificate (Article 258, paragraph 4, second sentence, and Article 260-bis, paragraphs 6 and 7, second and third sentences, of Legislative Decree No. 152 of 3 April 2006);
- Illegal waste trafficking (Article 259, paragraph 1, of Legislative Decree No. 152 of 3 April 2006);
- Illegal organised waste trafficking activities (Article 260, Italian Legislative Decree No. 152 of 3 April 2006[23]);
- Violations of the waste traceability control system (Article 260-bis, paragraph 8, Legislative Decree No. 152 of 3 April 2006);
- Remediation of polluted sites, soil, subsoil, surface water and groundwater pollution and failure to inform the competent authorities thereof (Article 257, paragraphs 1 and 2, Legislative Decree No. 152 of 3 April 2006);
- Air pollution, exceeding of the air quality limit values provided for by the regulations in force (Article 279, paragraph 5 of Legislative Decree No. 152 of 3 April 2006);
- International trade in endangered species of wild fauna and flora (so-called Washington Convention of 3 March 1973);
- Illegal import, export, transport and use of animal species and trade in artificially reproduced plants (Article 1, paragraphs 1 and 2, Article 2, paragraphs 1 and 2, Article 6, paragraphs 1 and 4 of Law No. 150 of 7 February 1992)
- Falsification or alteration of certifications and permits and use of false or altered certifications and permits for importing animals (Article 3 bis, paragraph 1, Law No. 150 of 7 February 1992);
- Violation of the provisions on the use of ozone-depleting substances (Article 3, paragraph 6, Law No. 549 of 28 December 1993);
- Intentional dumping of harmful substances into the sea (Article 8 of Legislative Decree No. 202 of 6 November 2007);
- Negligent dumping of harmful substances into the sea (Article 9, paragraphs 1 and 2, of Legislative Decree No. 202 of 6 November 2007).

Employment of illegally staying third-country nationals (Article 25 *duodecies* of Decree 231). Article 2, paragraph 1, of Legislative Decree No. 109 of 16 July 2012, implementing EU directive 2009/52/EC, introduced into Decree 231 Article 25 *duodecies*, which extended the administrative liability for offences of entities to the offences provided for in the

[23] Article 260 of Legislative Decree No. 152/2006 was repealed by Article 7, paragraph 1, letter q) of Legislative Decree No. 21 of 1 March 2018. The same penalty provisions have, however, been included in Article 452 *quaterdecies* of the Italian Criminal Code.

Consolidated Act of the provisions concerning the regulation of immigration and rules on the status of foreigners (Article 22, paragraph 12 *bis*, Article 12, paragraphs 3, 3 bis, 3 *ter* and 5, of Legislative Decree No. 286 of 25 July 1998) [24].

Racism and xenophobia (Article 25 *terdecies* of Decree 231). Article 5, paragraph 2, Law No. 167 of 20 November 2017, introduced Article 25 *terdecies*[25] into Decree 231, which extended the administrative criminal liability of entities to the offences:

- Ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature in New York on 7 March 1966 (Article 3, paragraph 3 bis, of Law No. 654 of 13 October 1975).

Fraud in sporting competitions, unlawful gaming or betting and gambling by means of prohibited devices (Article 25 *quaterdecies of Decree 231). Article 5, paragraph 1, Law No. 39 of 3 May 2019, which entered into force on 17 May 2019, introduced Article 25 quaterdecies into Decree 231, which extended the administrative liability of entities to include the following offences:*

- Interventions in the field of gambling and illegal betting and protection of fairness in the conduct of sporting events (Articles 1 and 4 of Law No. 401 of 13 December 1989).

Tax offences (Article 25 *quinquiesdecies* of Decree 231). Article 39, paragraph 2, of Decree-Law No. 124 of 26 October 2019, reformulated by Conversion Law No. 157 of 2019, introduced Article 25 *quinquiesdecies* into Decree 231, which provided for the administrative criminal liability of entities in relation to the commission of the following offences:

- offences of fraudulent declaration through the use of invoices or other documents for non-existent transactions (Article 2, paragraphs 1 and 2-bis, of Legislative Decree No. 74/2000);
- offences of fraudulent declaration through other means (Article 3 of Legislative Decree No. 74/2000)
- offences of issuing invoices or other documents for non-existent transactions (Article 8, paragraphs 1 and 2-bis, of Legislative Decree No. 74/2000);
- offences of concealment or destruction of accounting documents (Article 10 of Legislative Decree No. 74/2000)
- offences of fraudulent evasion of tax payments (Article 11 of Legislative Decree No. 74/2000).

The Council of Ministers of 6 July 2020 definitively approved the text of Legislative Decree No. 75-2020, which implements the so-called PIF Directive (EU Directive 2017/1371). Legislative Decree No. 75 of 14 July 2020 "*Implementation of Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of*

[24] Recently, then, Law No. 161 of 17 October 2017, which was published in the Official Journal on 4 November 2017 and entered into force on 19 November 2017, made further amendments to Article 25 *duodecies*by introducing three additional paragraphs (numbered respectively 1 *bis*, 1 *ter* and 1 *quater* respectively) expanding the range of offences relating to the fight against illegal immigration, consisting, in particular, in the promotion, direction, organisation, financing or carrying out of the transport of foreigners into the territory of the State, or in the performance of other acts aimed at illegally procuring their entry into the territory of the State, as well as in favouring the permanence of the foreigner in the territory of the State, in order to gain an unfair profit from his/her illegal status or in the context of the aforementioned prohibited activities, in violation of the provisions of the Consolidated Act on Immigration (pursuant to Article 12, paragraph 3, 3 *bis*, 3 *ter* and 5 of the Consolidated Act pursuant to Legislative Decree No. 286 of 25 July 1998).

[25] Article 25 *terdecies* was amended by Legislative Decree No. 21 of 1 March 2018 "*Provisions implementing the principle of exception to the obligation for modifications to the criminal code in accordance with Article 1, paragraph 85, letter q) of Law No. 103 of 23 June 2017*" which entered into force on 6 April 2018. With regard to the Liability of entities, the changes concern the deletion of Article 3 of Law No. 654/1975 (referred to in Article 25 *terdieces* of Decree 231 "Racism and Xenophobia"). The repealed provision does not, however, remain without criminal relevance, since the same offence is now regulated within the Italian Criminal Code by the new Article 604 *bis* of the Italian Criminal Code ("*Propaganda and incitement to commit offences on grounds of racial, ethnic and religious discrimination*").

criminal law". The Legislative Decree in question was published in the Official Journal on 15 July 2020 and supplemented Article 25 *quinquiesdecies* of Decree 231 by including among the relevant types of offences those indicated below, which, however, only become relevant if committed as part of cross-border fraudulent schemes and for the purpose of evading value added tax for a total amount of no less than ten million Euro:

- offences of submission of a fraudulent tax return (Article 4 of Legislative Decree No. 74/2000);
- failure to provide a tax return (Article 5 of Legislative Decree No. 74/2000);
- improper set-off (Article 10 *quater* of Legislative Decree No. 74/2000).

Smuggling (Article 25 *sexiesdecies* of Decree 231).

On 6 July 2020, the Council of Ministers definitively approved the text of Legislative Decree No. 75 of 2020, which implements the so-called PIF Directive (EU Directive 2017/1371). Legislative Decree No. 75 of 14 July 2020: *"Implementation of Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law"* published in the Official Journal on 15 July 2020 introduced into the list of predicate offences also the cases of Smuggling regulated within Title VII (Customs violations), Chapter I (Smuggling, Articles 282 et seq.) of Presidential Decree No. 43 of 23 January 1973.

In addition, Law No. 146 of 16 March 2006, which ratified the United Nations Convention and Protocols against Transnational Organised Crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001, provided for the liability of Entities for certain **offences of a transnational nature**.

The criminal offence shall be considered as such if an organised criminal group is involved in the commission of the offence and a sentence of not less than a maximum of 4 years' imprisonment is imposed, as well as, as regards territoriality, when the offence is committed in more than one State; it is committed in one State, but has material effects in another State; it is also committed in only one State, but a substantial part of its preparation or planning or direction and control takes place in another State; it is committed in one State, but an organised criminal group is involved in criminal activities in more than one State.

The offences relevant for this purpose are:

- criminal association (Article 416 of the Italian Criminal Code);
- mafia-type associations, including foreign ones (Article 416 bis of the Italian Criminal Code);
- criminal association to smuggle foreign processed tobacco (Article 291 *quater* of Presidential Decree No. 43 of 23 January 1973);
- criminal association aimed at drug trafficking or dealing in psychotropic substances (Article 74 of Presidential Decree No. 309 of 9 October 1990);
- smuggling of migrants (Article 12, paragraphs 3, 3 *bis*, 3 *ter* and 5, Legislative Decree No. 286 of 25 July 1998).
- obstruction of justice in the form of not making statements or making false statements to the judicial authorities and of aiding and abetting (Articles 377 bis and 378 of the Italian Criminal Code).

The Italian Legislature amended the Decree by means of Law No. 123 of 3 August 2007 and, subsequently, by means of Legislative Decree No. 231 of 21 November 2007.

Having identified all the relevant offences, it should be noted that, pursuant to **Article 26** of Decree 231, the entity's punishability is linked not only to the consummation (and, therefore, commission) of the offences indicated above, but in the hypothesis that it remains even if they are committed in the form of an attempt, i.e., when suitable acts are carried

out, unequivocally directed at committing an offence, but the action is not carried out or the event does not occur. In this case, the pecuniary and disqualification sanctions are reduced by between one third and one half, while the entity is not liable when it voluntarily prevents the performance of the action or the realisation of the event.

Although the operation of AEER is limited to the national territory, for the sake of completeness it is appropriate to recall the profiles of the territorial scope of application of Decree 231. More specifically, the issue is addressed by Article 4, which specifies that in the cases of: offences committed abroad (Article 7 of the Italian Criminal Code); political offences committed abroad (Article 8 of the Italian Criminal Code); common offences committed by citizens abroad (Article 9 of the Italian Criminal Code); common offences committed by foreigners abroad (Article 10 of the Italian Criminal Code), entities having their main office in the territory of the State (for the identification of which it is necessary to refer to the civil law rules established for legal persons and companies), are also liable in relation to offences committed abroad, provided that the State of the place where the offence was committed does not prosecute them.

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

1) the offence must have been committed abroad by a person that is functionally connected to the entity under Article 5, paragraph 1 of Decree 231;
2) the entity has its main office in the territory of the Italian State;
3) the entity is liable only in the cases and under the conditions set forth in Articles 7, 8, 9 and 10 of the Italian Criminal Code;

If the cases and conditions set forth in the above articles of the Italian Criminal Code are met, the entity will be liable provided that the government of the State where the offence was committed does not take action against it.

1.2 Sanctions

The sanctions arising from administrative liability, following the commission of an offence (offences are specifically set out in section 1.1.), are governed by Articles 9 to 23 of Decree 231 and are as follows:

a) fines (Articles 10 to 12): they are always applied for every administrative offence and have an afflictive and non-compensatory nature; only the entity is liable for the obligation to pay the fine with its assets or with the common fund; the sanctions are calculated on the basis of a system *"by quotas in a number not less than one hundred nor more than one thousand"* whose commensuration is determined by the Court on the basis of the seriousness of the fact and the degree of the entity's liability, the activity carried out by the entity to eliminate or mitigate the consequences of the offence and to prevent the commission of further unlawful acts; each individual quota ranges from a minimum of EUR 258.00 to a maximum of EUR 1,549.00, and the amount of each quota is determined by the Court taking into consideration the economic and financial conditions of the entity; the amount of the fine, therefore, is determined by multiplying the first factor (number of quotas) by the second factor (amount of the quota);
b) disqualification sanctions (Articles 13 to 17): these apply only in cases where they are expressly provided for and are (Article 9, paragraph 2):
    - disqualification from the exercise of business activity;
    - suspension or revocation of permits, licenses or concessions functional to the commission of the offence;
    - prohibition of contracting with the public administration, except for obtaining a public service; This prohibition may also be limited to certain types of contracts or to certain administrations;
    - exclusion from benefits, loans, grants or subsidies and the possible revocation of those granted;

- prohibition of advertising goods or services.

Disqualification sanctions have the characteristic of limiting or influencing the corporate activity, and in the most serious cases go so far as to completely paralyse the entity (disqualification from exercising the business activity); they are also aimed at preventing conduct associated with the commission of offences.

These sanctions apply, as mentioned, in the cases expressly provided for by Decree 231 when at least one of the following conditions is met:

i the entity has derived a significant profit and the offence was committed by persons in a top management position or by subordinate staff and, in this case, the commission of the offence was determined or facilitated by serious organisational deficiencies;

ii in case of repeated offences.

Disqualification sanctions have a duration of no less than three months and no more than two years[26]. However, the definitive application of disqualification sanctions is possible in the most serious situations described in Article 16 of Decree 231. It is very important to note that Article 45 of Decree 231 provides for the application of the disqualification sanctions indicated in Article 9, paragraph 2, also as a precautionary measure if there are serious indications to believe the existence of the entity's liability for an administrative offence resulting from the offence and there are well-founded and specific elements that give rise to the belief that there is a concrete danger that offences of the same nature as the one for which the offence is being prosecuted may be committed.

Finally, it should be noted that Decree 231 provides in Article 15 that, instead of applying the disqualification sanction resulting in the interruption of the entity's activity, if particular conditions are met, the court may appoint a commissioner to continue the entity's activity for a period equal to the duration of the disqualification punishment.

c) confiscation (Article 19): this is an autonomous and compulsory sanction that is applied with the sentence against the entity, and has as its object the price or profit of the offence (except for the part that can be returned to the injured party), or, if this is not possible, sums of money or other benefits of equivalent value to the price or profit of the offence; the rights acquired by a third party in good faith are not affected; the purpose is to prevent the entity from exploiting unlawful conduct for the purposes of "profit";

d) publication of the sentence (Article 18): it may be ordered when a disqualification sanction is imposed on the entity; the sentence is published for one time only, in excerpts or in full, in one or more newspapers chosen by the court, and by posting it in the register of the municipality where the entity has its main office; the publication is at the expense of the entity, and is carried out by the court registry; the purpose is to bring the sentence to the knowledge of the public, and it is clear that this is a sanction that affects the image of the entity itself.

Finally, it should be noted that the Judicial Authority may also order:

- the preventive seizure of property for which confiscation is permitted (Article 53);

[26] Except as provided for in Article 25 paragraph 5 which reads: "*In cases of conviction for one of the offences indicated in paragraphs 2 and 3, the disqualification sanctions provided for in Article 9, paragraph 2, are applied for a duration of no less than four years and no more than seven years, if the offence was committed by one of the persons referred to in Article 5, paragraph 1, letter a), and for a duration of no less than two years and no more than four years, if the offence was committed by one of the persons referred to in Article 5, paragraph 1, letter b).*".

- the precautionary seizure of the movable and immovable property of the entity where there is a well-founded reason to believe that the securities for the payment of the fine, the costs of the proceedings or other sums due to the State are lacking or are lost (Article 54).

2. ORGANISATION AND MANAGEMENT MODELS FOR THE PURPOSES OF EXEMPTION FROM LIABILITY. THE CONFINDUSTRIA GUIDELINES

2.1 The specific provisions of Legislative Decree No. 231/2001

The Legislator recognises, in Articles 6 and 7 of Decree 231, specific exemptions from corporate liability for the entity.

In particular, Article 6, paragraph 1, prescribes that, in the event that the offence is attributable to top managers, the entity shall not be held liable if it proves that:

1) before the crime was committed, the Managing Body had adopted and effectively implemented an Organisation, Management and Control Model aimed at preventing offences of the type that was committed;
2) had appointed a board, independent and with autonomous powers of initiative and control, to supervise the functioning of and compliance with the Model and to ensure that it is updated;
3) the offence was committed by fraudulently circumventing the measures provided for in the Model;
4) the Supervisory Board did not fail to or did not inadequately exercise oversight.

The content of the Model is identified by Article 6 itself, which, in paragraph 2, provides that the entity must:

I. identify the activities in the context of which the offences may be committed;
II. provide specific protocols to plan the formation and implementation of the entity's decisions regarding the offences to be prevented;
III. determine ways of managing financial resources so as to prevent the commission of offences;
IV. provide for information obligations vis-à-vis the Supervisory Board;
V. introduce a disciplinary system suitable for sanctioning non-compliance with the measures indicated in the Organisation, Management and Control Model.

The Model must also provide, pursuant to the amendments to Decree 231 introduced by Law No. 179 of 30 November 2017, on "Whistleblowing":

VI. one or more channels enabling persons working in the name and on behalf of the Company, to submit, for the protection of the entity's integrity, circumstantiated reports of unlawful conduct relevant under the Decree and based on precise and concordant factual elements, or of violations of the organisational model, of which they have become aware through the functions performed. Said channels must ensure the confidentiality of the identity of the whistleblower in the management of the report;
VII. at least one alternative reporting channel suitable for ensuring the confidentiality of the whistleblower's identity through IT procedures;
VIII. the prohibition of retaliation or discriminatory acts, direct or indirect, against the whistleblower for reasons, directly or indirectly, related to the report;
IX. the provision of sanctions on those who violate the protection measures in place for the whistleblower, as well as those who, with wilful misconduct or gross negligence, submit reports that turn out to be unfounded.

In the case of persons in a subordinate position, non-compliance with managerial or supervisory obligations is excluded if the entity, before the commission of the offence, has adopted and effectively implemented a model of organisation, management and control to prevent offences of the kind.

Subsequent paragraphs 3 and 4 introduce two principles which, although included within the scope of the above provision, are relevant and decisive to exempt the entity from liability for both cases of offences under Article 5, letters a) and b). In particular, it is stipulated that:

- the Organisation, Management and Control Model shall provide suitable measures both to ensure that the performance of the activities is in compliance with the law, as well as to promptly discover situations involving risk, taking into account the type of activity performed as well as the nature and size of the organisation;
- the effective implementation of the Organisation, Management and Control Model requires periodic verification and modification thereof if significant violations of the provisions of the law are discovered or if there are significant legislative or organisational changes; the existence of an appropriate disciplinary system is also important (a condition, in fact, already provided for by letter e), *sub* Article 6, paragraph 2).

It should be added, moreover, that with specific reference to the preventive effectiveness of the Organisation, Management and Control Model with reference to (negligent) offences relating to health and safety at work, Article 30 of Consolidated Law No. 81/2008 states that *"the organisational and management model capable of having an exempting effect on the administrative liability of legal persons, companies and associations, including those without legal personality, referred to in Legislative Decree No. 231 of 8 June 2001, must be adopted and effectively implemented, ensuring a company system for the fulfilment of all the relevant legal obligations*:

a) compliance with the technical and structural standards of the law relating to equipment, plants, workplaces and chemical, physical and biological agents;

b) risk assessment activities and the preparation of the consequent prevention and protection measures;

c) activities of an organisational nature, such as emergencies, first aid, contract management, periodic safety meetings, consultations with workers' safety representatives;

d) health surveillance activities;

e) information and training activities for workers;

f) supervisory activities with reference to workers' compliance with procedures and instructions for safe work;

g) the acquisition of documents and certifications required by law;

h) periodic checks on the application and effectiveness of the adopted procedures"[27].

[27] Also pursuant to Article 30: "*The organisational and management model must provide for appropriate systems for recording the performance of the activities. The organisational model must in any case provide, insofar as required by the nature and size of the organisation and the type of activity carried out, for a structure of functions ensuring the technical competences and powers necessary for the verification, assessment, management and control of risks, as well as a disciplinary system capable of sanctioning non-compliance with the measures referred to in the model. The organisational model must equally provide for a suitable control system on the implementation of the same model and on the maintenance over time of the appropriateness of the measures adopted. A review and a potential amendment of the organisational model shall be carried out when significant violations of the rules relating to the prevention of accidents and hygiene at work are discovered, or on the occasion of changes in the organisation and activity in relation to scientific and technological progress. On first application, the business organisation models drafted in accordance with the UNI-INAIL Guidelines for a Health and Safety at Work Management System (SGSL) of 28 September 2001, or the British Standard OHSAS 18001:2007 are assumed to comply with the requirements of the corresponding parts of this article. For the same purposes, further organisation and management models may be indicated by the Commission referred to in Article 6"*.

From a formal point of view, the adoption and effective implementation of an Organisation, Management and Control Model does not constitute an obligation, but only an option for entities, which may well decide not to comply with the provisions of the Decree 231 [28]without incurring, for this reason alone, any sanctions.

In addition, it is important to keep in mind that the Organisation, Management and Control Model is not to be regarded as a static tool, but must be considered, on the contrary, as a dynamic apparatus that allows the entity to eliminate, through a fair and targeted implementation of it over time, any deficiencies that, at the time of its creation, could not be identified.

2.2 The Confindustria Guidelines

Decree 231 provides that the Organisation, Management and Control Models may be adopted on the basis of codes of conduct drawn up by the representative trade associations, communicated to the Ministry of Justice pursuant to Article 6, paragraph 3, of Decree 231.

Moreover, for the sole purpose of offences in the field of occupational safety and health protection, Article 30 of Legislative Decree No. 81/2008 (Consolidated Act on Occupational Health and Safety) prescribes the requirements for Organisation, Management and Control Models that are capable of exempting legal persons from administrative liability. Paragraph 5 of the aforementioned Article provides that, upon the "first application", and for the corresponding parts, the Organisation, Management and Control Models uniformly defined in the UNI-INAIL guidelines for an occupational health and safety management system of 28 September 2001 or in the British Standard OHSAS 18001:2007, are presumed to comply with the requirements of an Organisation, Management and Control Model for the purposes of the exemption for the entity.

The first Association to draw up a guideline document for the construction of Organisation, Management and Control Models was Confindustria, which, in March 2002, issued the document *"Guidelines for the Construction of Organisation, Management and Control Models pursuant to Legislative Decree No. 231 of 8 June 2001"*, a document updated first in May 2004, then in March 2008 and most recently in July 2014[29].

Subsequently, many sectoral Associations drafted their own guidelines taking into account the principles set by Confindustria whose guidelines are, therefore, the essential starting point for the construction of the model.

The indications of Confindustria (hereinafter referred to as the "Guidelines") suggest:

- mapping the corporate areas at risk and the activities within which the predicate offences may potentially be committed by means of using specific operating methods;
- identifying and preparing specific protocols intended for planning the formation and implementation of the company's decisions in relation to the offences to be prevented, distinguishing between preventive protocols with reference to intentional and negligent offences;
- identifying a Supervisory Board, endowed with autonomous powers of initiative and control and with an adequate budget;
- identifying specific information obligations vis-à-vis the Supervisory Board on the main corporate facts and, in particular, on the activities considered to be at risk, and specific information obligations on the part of the Supervisory Board vis-à-vis senior management and other control bodies;

[28] The only cases in which the entity is bound to adopt an Organisation, Management and Control Model are those Companies listed in the S.T.A.R. segment and entities convicted of 231 offences for which the appointment of a Commissioner in charge of the adoption of an Organisation, Management and Control Model has been ordered.

[29] All versions of the Confindustria Guidelines were then deemed adequate by the Ministry of Justice (with reference to the 2002 Guidelines, see the "*Note of the Ministry of Justice*" of 4 December 2003; with reference to the 2004 and 2008 updates, see the "*Note of the Ministry of Justice*" of 28 June 2004 and the "*Note of the Ministry of Justice*" of 2 April 2008; with reference to the 2014 update, see "*Note of the Ministry of Justice*" of 21 July 2014) .

- adopting a Code of Ethics that identifies the company's principles and guides the conduct of the recipients of the Organisation, Management and Control Model;
- adopting a disciplinary system, suitable for sanctioning non-compliance with the principles indicated in the Organisation, Management and Control Model to be understood as a set of acts and therefore also including the Code of Ethics and the Special Parts, which refer to company procedures to be considered, therefore, also binding.

For the sake of completeness, it should be pointed out that the Guidelines suggest criteria for the identification/mapping of the offences referred to therein but that, due to their updating, they do not include the types of offences introduced subsequently as predicate offences by the law.

It should also be noted that the definition of any caution cannot abstractly predict every human behaviour since the range of behaviours tends to infinity while any body of rules regulatory body is instead, by its nature, made up of a finite number of rules. For this reason, it is of fundamental importance to supplement the rules provided in the Special Parts with the principles laid down in the Code of Ethics, which, by dictating ethical principles of a general nature, is suitable to support and extend the preventive purposes of the Organisation, Management and Control Model even in cases where the latter is not endowed with specific rules suitable to prevent the commission of a single behavioural instance.

In addition, the Guidelines provide for the possibility of implementing organisational solutions within groups that centralise at the parent company the operational resources to be dedicated to supervision also in the group companies, provided that:

- a SB is established in the subsidiaries;
- it is possible for the subsidiary's SB to make use of the parent company's operational resources dedicated to supervision on the basis of a predefined contractual relationship;
- the persons used by the parent company's SB to carry out controls, in the carrying out controlsat the other group companies, these take the form of external professionals who perform their activities in the interest of the subsidiary, reporting directly to the latter's SB, with the confidentiality constraints inherent in external consultants;
- the possibility for the Supervisory Boards of the various group companies to develop information reports, organised on the basis of timeframes and contents such as to ensure the completeness and timeliness of notifications that are useful for inspection activities by the control bodies. These communicative exchanges will, however, need be carefully regulated and managed in order to prevent the autonomy of SBs and models from being marred by relationships that, in fact, result in the holding company's decision-making interference in the implementation activities of the Decree in individual subsidiaries.

It is understood that the choice not to follow the Guidelines in specific points does not affect the validity of a Model. This latter, drafted by referring to the peculiarities of a particular company, may differ from the Guidelines, which by their nature, are of a general nature.

3. AEER S.r.l.

Arpinge Energy Efficiency & Renewables (“AEER”) is an Italian limited liability company based in Rome, Italy, incorporated on 16 September 2015.

The company has “Arpinge S.p.A.” as its sole shareholder and is the lead sub-holding company for the Arpinge Group's investments in the fields of energy efficiency and electricity production from renewable sources. In particular, AEER owns and manages, as at the date of approval of this version of the Model, two photovoltaic plants and also has control of companies operating in the energy efficiency and renewable energy sector (wind and photovoltaic). More specifically, the

two photovoltaic plants mentioned above are located in the Municipality of Pratola Peligna and in the Municipality of Collarmele.

Notably, the company:

a) carries out investment, development and management activities of infrastructures and facilities of all types and forms in the energy and energy efficiency sector and any other related and/or ancillary activities;
b) engages in any transaction, including financial, commercial and industrial, real estate and securities transactions, as well as acquires and takes over the management of other companies or branches of companies with a similar corporate purpose;
c) acquires, both direct and indirect, shareholdings and interests in other Italian and foreign companies or entities operating in the infrastructure sector;
d) grants loans to investee companies, directly and indirectly, and/or to group companies of which the company is part; provides administrative, financial and commercial services in favour of investee companies and/or entities; provides activities of coordination and control of equity investments held;
e) provides sureties, endorsements and any other guarantees, both in its own interest and in the interest of third parties, whenever the administrative body deems it instrumental to the achievement of the corporate purpose;
f) participates in the establishment of joint ventures and consortia, also within the scope of public-private partnerships, that have purposes analogous, similar or in any case related to its own, as well as entering into partnership agreements within the scope of the corporate purpose, in the capacity of both associating party and associate;
g) participates in other activities functionally related to the corporate purpose.

3.1 La mission di AEER S.r.l.

AEER's mission is mainly focused on promoting investments in the real economy, in the area of renewable electricity generation and energy efficiency. The Company, either directly or through its subsidiaries, may also intervene in greenfield initiatives (new realisations), as well as investing in initiatives already completed and in operation (so-called brownfield). AEER, through its asset management team, directly coordinates the operation and maintenance activities (typically outsourced to external specialist operators) of the plants it owns (directly and indirectly).

4. THE ORGANISATION, MANAGEMENT AND CONTROL MODEL OF AEER S.R.L.

4.1 Adoption of the Organisation, Management and Control Model by AEER S.r.l.

Since its incorporation, the Company has paid great attention both to the affirmation of ethical principles and to the regulation of corporate activities governed by means of current operating procedures and/or practices (consistent with the principle of proportionality of control systems with regard to the complexity and risks of the corporate organisation) inspired by national and international best practices.

AEER has decided to comply voluntarily with the provisions of Decree 231 by adopting, as anticipated in the introduction to this General Part, the set of acts constituting its own Model with the aim of preventing the commission of the offences set out in Decree 231, through the affirmation and implementation of general ethical principles and the adoption of corporate procedures with which all members of the corporate organisation and all business partners are

required to comply in the performance of their activities, as well as through the provision of adequate controls on corporate activities.

AEER has appointed a Supervisory Board, as provided by Decree 231.

Finally, on 24 May 2024 the Board of Directors approved this version of the Model.

In particular, the following are considered **Recipients** of this Model and, as such and within the scope of their specific competences, held to its knowledge and observance:

- the Shareholder and its representatives;
- the members of the Board of Directors;
- the Sole Statutory Auditor;
- employees and independent contractors who have contractual relations with the Company, for any reason whatsoever, including occasional and/or only temporary ones;
- all those who have commercial and/or financial relations of any kind with the Company.

In line with the provisions of Italian and international best practices, the preparation of the Model was preceded by an adequate and formalised risk assessment aimed at identifying activities at risk of offences, taking into account the specificities of the Company and the sectors in which it operates. The risk assessment was defined at the same time as the drafting of this version of the Model.

The risk assessment was carried out using the following methods in accordance with the specifications of the Reference Guidelines. To this end, a Working Group was formed, consisting of both internal resources (the company's resources qualified to do so) and external resources (professionals with expertise in issues relating to internal control systems, and risk management, as well as legal experts with proven experience in the sector) in order to carry out *risk mapping* and *risk assessment* activities necessary to achieve a correct implementation of the Model, activities that were preparatory to the drafting of the respective versions.

This process, which complies with the best practices of reference, has allowed - through the analysis of available company documentation and the performance of a number of interviews with Company representatives, subsequently formalised in the form of questionnaires *(check lists)* - the development of a detailed and complete list of the areas "at risk of offences" and/or "sensitive activities", i.e., the sectors of the Company for which, on the basis of the results of the analysis, the risk of committing offences theoretically referable to the type of so-called "predicate offences", provided for in the Decree and relevant for the Company, is considered to exist.

In addition, for each "area at risk of offence" and/or "sensitive activity", the types of offences that may be abstractly conceivable and/or some of the possible ways in which the offences under consideration may be committed are identified.

The Working Group also considered the so-called case history.

The Working Group also subjected, with the support of company resources specialised in this subject, AEER's organisational and corporate structure to an occupational health and safety *risk assessment* (hereinafter also referred to as "OSH").

As suggested by the Guidelines, with regard to the OSH, the analysis was carried out on the entire company structure, since, with respect to the crimes of manslaughter and serious or very serious negligent injury committed in violation of the rules of protection of health and safety at work, it is not possible to exclude a priori any sphere of activity, given that such offences may, in fact, involve all corporate components.

The activity was conducted by collecting and analysing relevant OSH documentation, identifying potential risks of offences being committed according to the criteria set out in Legislative Decree No. 81/08, and conducting a risk assessment activity using questionnaires (check lists).

At the end of the risk assessment activity, improvement points were identified for each of the aforementioned sectors, with the formulation of appropriate suggestions, as well as action plans for the implementation of the control principles (so-called *gap analysis).*

Pursuant to the provisions of the Confindustria Guidelines[30], following the detection of the control systems relevant to Decree 231, the Top Management defined a system of improvement measures aimed at reducing the detected risks to a level of risk deemed acceptable. As is well known, every entrepreneurial activity has risks that can be reduced but never cancelled. The introduction of control activities makes it possible to reduce the incidence of risk but never to eliminate it. The assessment of acceptable risk constitutes a balance between the efficient performance of business activities and the application of a level of control that limits risk but does not paralyse organisational efficiency.

The result of the overall work carried out is incorporated in the Model.

5. THE CORPORATE BODIES AND ORGANISATIONAL STRUCTURE OF AEER S.R.L.

AEER S.r.l.'s organisational structure and, in general, its entire organisational system, is structured in such a way as to ensure that the Company implements its strategies and achieves its objectives by means of a streamlined structure due to the specific nature of its business.

5.1 The governance model of AEER

In view of the peculiarities of its organisational structure and activities, AEER favoured the so-called traditional system.

AEER's corporate governance system is structured as described below:

- The **Shareholders' Meeting** is competent to pass ordinary and extraordinary resolutions on matters reserved for the same by the Law or by the Articles of Association.
- The **Board of Directors** is vested with the broadest powers for the ordinary and extraordinary management of the enterprise. The directors perform the transactions necessary and/or appropriate for the implementation of the corporate purpose, excluding only those acts that the Law and/or the Articles of Association reserve to the Shareholders' Meeting. The Board of Directors is also responsible for resolutions concerning: (i) the establishment and closure of secondary offices; (ii) the reduction of the share capital in the event of withdrawal of a shareholder; (iii) the adaptation of the Articles of Association to regulatory provisions.

  The Board of Directors may be composed, in accordance with the Articles of Association, of a number of members between 3 (three) and 5 (five) according to the number determined by the Ordinary Shareholders' Meeting at the time of appointment. At the time of the adoption of this Model, AEER's Board of Directors consists of 3 (three) members including a Chairperson, a Managing Director and a Director.
- A **Sole Statutory Auditor** who supervises:

  - compliance with the law and the Articles of Association;

[30] Section 2 of the same.

- compliance with the principles of good administration;
- the adequacy of the organisational, administrative and accounting structure adopted by the Company and its actual functioning.

- An **Independent Auditing Company** to which an audit is assigned by law. The AEER Shareholders' Meeting entrusted an Independent Auditing Company registered in the Special Register with the task of auditing the Company's accounts.

5.2 The organisational structure of AEER S.r.l.

The organisational structure of the Company aims to pursue the separation of tasks, roles and responsibilities between functions, consistent with the size of the Company and maximum efficiency. The Structure in question can be summarised as follows:

- **Chairperson of the Board of Directors:** with a power of attorney issued by the Board of Directors, to which reference should be made for greater specificity, is assigned the task of performing in the name and on behalf of the Company all acts of ordinary and extraordinary administration for all corporate business within the limits of the relevant powers set forth in the aforementioned power of attorney. The same also has the power to represent the Company. The Chairperson of the Board of Directors was granted the exclusive power to manage relations with employees.
- **Managing Director (hereinafter also referred to as "MD" for short):** by means of a power of attorney issued by the Board of Directors to which reference should be made for greater specificity, the Managing Director is entrusted with the task of performing in the name and on behalf of the Company all acts of ordinary and extraordinary administration for all corporate business within the limits of the relevant powers set forth in the aforementioned power of attorney. The Managing Director also acts as a liaison between the Corporate Bodies and AEER's organisational structure. The same also has the power to represent the Company. The Managing Director of the Company was also invested with the role of **General Manager** with the task of coordinating and optimising the company's operational and project activities.
- **Asset Manager:** the function is involved in various business processes including, in particular, asset management activities, supervision of ordinary, corrective and extraordinary maintenance activities on plants conducted by external suppliers, verification of the correctness of the calculation of energy sold, and verification of the correctness of the incentives calculated and disbursed by the GSE [Gestore Servizi Energetici (Energy Services Manager)].

In addition, AEER outsourced the performance of certain activities to the Parent Company and to parties outside the Arpinge Group, under special service contracts. These contracts govern the conditions, criteria and modalities for the provision of the service in question, as well as the billing criteria for the same. A list of the main activities outsourced to Arpinge S.p.A. is given below:

- administration, finance and control services, operational services, back office services;
- project scouting services, project management services and "staff" services;
- services for the management of work environments;
- management, technical and development services;

to companies outside the Arpinge Group:

- tax consultancy services activities related to personnel administration in labour law matters;
- routine, extraordinary and corrective maintenance of plants.

In addition, the Company performs asset management (O&M) services for other Group companies with which specific intercompany contracts have been defined.

5.3 The organisational structure for Health and Safety at Work

In the field of health and safety at work, the Company has adopted an organisational structure that complies with the provisions of the current prevention regulations, with a view to eliminating or, where this is not possible, reducing - and, therefore, managing - the occupational risks for workers.

Within this organisational structure, the following subjects operate:

- the employer;
- the Head of the Prevention and Protection Service (hereinafter, "RSPP");
- the Workers' Safety Representative (hereinafter, also "RLS");
- the occupational physician;
- workers;
- the persons outside the company who carry out relevant activities in the field of OSH, or: a) the subjects to whom a job is entrusted by virtue of a contract or work or administration contract; b) the manufacturers and suppliers; c) the designers of the places and workplaces and of the plants; d) the installers and fitters of plants, work equipment or other technical means.

The tasks and responsibilities of the aforementioned persons in the OSH field are formally defined in line with the Company's organisational and functional template, with particular reference to the specific figures operating in this field, in accordance with the accident prevention regulations and the Company's Risk Assessment Document ("DVR" [Documento di Valutazione dei Rischi]).

5.4 The control system, existing procedures, operational practices and proxy system

As part of its organisational system, AEER has put in place a set of manual and computerised safeguards in compliance with the principles set out in the Reference Guidelines.

In particular, the Company has adopted its own procedures and entered into a service contract with the Parent Company for activities provided by the latter, within the scope of which the Parent Company's procedures are adopted.

In addition, for the management of certain activities, the Company uses outsourcers with whom it has defined service contracts aimed at regulating these activities.

AEER therefore ensures compliance with the following principles:

- to encourage the involvement of several parties, including external ones, in order to achieve an adequate separation of duties by separating and contrasting functions in line with the size of the Company and maximum efficiency;
- to take steps to ensure that every operation, transaction, action is verifiable, documented, consistent and appropriate;
- to require the adoption of measures to document the controls carried out with respect to the transactions and/or actions performed.

In relation to the proxy system, the Board of Directors is the body responsible for formally assigning and approving the powers of attorney and the related signatory powers. The power to represent the Company is generally conferred on the Chairperson of the Board of Directors and the Managing Director, by means of a power of attorney formally communicated to the recipient and filed with the competent Company Registry Office.

The powers conferred on the Chairperson of the Board of Directors and the AD are to be exercised with separate signature (for certain individual transactions up to an amount of EUR 100,000) or joint signature for transactions not exceeding the value of EUR 500,000.00. All ordinary and extraordinary administration activities exceeding the value of EUR 500,000.00 per individual transaction are entrusted to the Board of Directors.

5.5 Management control and financial flows

The Company's management control system provides mechanisms for verifying the management of resources that must guarantee, in addition to the verifiability and traceability of expenditure, the efficiency and cost-effectiveness of the company's activities, aiming at the following objectives:

- define in a clear, systematic and understandable manner the resources (monetary and non-monetary) available for the various company activities and the scope within which these resources can be deployed, through the planning and the definition of forecast budgets;
- detect any deviations from what was predefined when defining the forecast budgets on the basis of periodic final situations, also in order to analyse the causes and report the results of the assessments to the appropriate hierarchical levels for the necessary adjustments.

6. THE SUPERVISORY BOARD

With reference to AEER's Supervisory Board, the Company has appointed a single-member Board, considering this conformation more suitable with respect to the current company complexity.

As indicated below, the AEER SB is regulated with reference to:

1. the function of the Supervisory Board within Decree 231;
2. the appointment and composition of the Supervisory Board;
3. the term of office and grounds for termination;
4. requirements of the SB;
5. the requirements of the members of the SB. Cases of ineligibility and removal from office;
6. the resources of the SB;
7. the Internal Rules of the SB;
8. tasks of the SB;
9. the powers of the SB;
10. information flows affecting the Supervisory Board;
    10.1 reporting to the SB by employees, corporate bodies and third parties;
    10.2 reporting by the SB to the corporate bodies;
11. coordination with corporate management;
12. ethical standards;
13. the responsibility profiles of the Supervisory Board.

6.1 Function of the Supervisory Board within Decree 231

Pursuant to Article 6, paragraph 1 of Decree 231, among the requirements of an effective Organisational Model is to assign the task of supervising the functioning and observance of the Models and ensuring that they are updated to a Board of the entity endowed with autonomous powers of initiative and control. The Model may constitute an exemption from

administrative liability for offences only where (in conjunction with the other prerequisites already discussed) there has been no omission or insufficient supervision on the part of the Board in question.
The meagre provisions found in Decree 231 have been made explicit in the Guidelines for the drafting of Models cited in section 2.2 of this document.

6.2 The appointment and composition of the Supervisory Board

In accordance with the aforementioned Guidelines, in view of the size of the Company and its business and organisation, the Company has opted for the appointment of a collegial SB composed of two or three members, one of whom is the Chairperson.

In the event of SB with two members, the "casting vote" rule shall apply; in case of a decision-making stalemate between the two members, the vote of the SB Chairperson shall prevail for the purposes of the Board's resolution.

The SB was appointed by the Board of Directors, at the same time as the adoption of AEER's Organisational Model, with a resolution passed with the unanimous vote of the directors present. In the same resolution, the Board of Directors set the remuneration due to the latter for the office held, as well as the term of the same.

6.3 Term of office and grounds for termination

Appointment as a member of the SB is conferred by the Board of Directors for a three-year term, which is renewable in express form and/or in any case until revocation of the same.
The termination of the office of the SB (or one member thereof) may occur for one of the following reasons:

1) Expiration of the term of appointment;
2) Revocation of the SB by the Board of Directors;
3) Resignation of the SB, formalised by means of a written notice sent to the Board of Directors.
4) Termination of the employment relationship with Arpinge Energy Efficiency & Renewables in case of an "internal member" (i.e. a SB member appointed for the role held within the Company's organisation).

In the event of expiry of the term of office, the SB retains its duties until the new SB, which is appointed without delay by the Board of Directors, is appointed. In the event of revocation, resignation or termination of the employment relationship (in case of "internal member"), the new SB is appointed, again without delay, by the Board of Directors then in office.
It is understood that, where the SB is composed of three members, should the office of one of them be terminated for one of the reasons listed above, the Board of Directors may decide not to appoint a new member of the SB (which will thus be composed of two members), provided that one of the two members of the SB is the Chairperson of the Board (or, otherwise, this shall be appointed, without delay, by the Board of Directors).
More specifically, the revocation of the SB as a body can only take place for just cause, also in order to guarantee its absolute independence.
Just cause for revocation may include, but is not limited to:

i gross negligence in the performance of the duties connected with the office;
ii any involvement of the Company in proceedings, criminal or civil, which are a result of the failure to supervise or insufficient supervision, including negligence;
iii in the event of inertia, or in the event that the SB does not provide a formal response to the decisions taken.

The revocation for cause is ordered by resolution of the Board of Directors, approved by a two-thirds vote of those present, following the opinion of the Sole Statutory Auditor, from which the Board of Directors may dissent only with adequate justification. The revocation of the person appointed to the role of the SB can only be ordered for cause, and this must be understood to include, in addition to the hypotheses envisaged above for the body as such, also the following non-exhaustive hypotheses:

a) in the event that the person in office is involved in a criminal proceeding concerning the commission of a crime;
b) in the event of a breach of the confidentiality obligations imposed on the person in office;
c) in the event that one of the grounds for disqualification provided for in section 6.5 of this document occurs.

In any case, revocation is ordered by a resolution of the Board of Directors approved by a two-thirds vote of those present, following the opinion of the Sole Statutory Auditor. In the event of a favourable resolution, the Board of Directors will appoint the new SB without delay.

6.4 Requirements of the SB

The Reference Guidelines specify the requirements that must characterise the Board and which consist of:

a) Autonomy and independence

The Board, by express legal provision, must first and foremost be characterised by the requirement of autonomy. This is to ensure its autonomy and independence of judgment in the exercise of its functions.

The autonomy requirement was further elaborated by the Reference Guidelines, which pointed out that, in order for the Board to be autonomous, it must:

- be without operational tasks, so that its objectivity of judgment is not compromised;
- be an autonomous and independent body in the context of the performance of its tasks, not subject to the hierarchical and disciplinary power of any corporate body or function;
- report only to the Board of Directors;
- determine its activities and adopt its decisions without any of the corporate functions being able to scrutinise them.

In this regard, in line with the Reference Guidelines, the requirement of autonomy and independence has been emphasised, appointing as a member of the SB a professional from outside the Company.

b) Professionalism

For the purposes of a proper and efficient performance of its tasks, it is essential that the SB be equipped with the requisite professionalism, the latter being understood as the set of knowledge, tools and techniques necessary for the performance of the assigned activity, whether of an inspection or consultancy nature. In this regard, both knowledge of legal matters, and in particular of the structure and methods of committing the offences referred to in Decree 231, and adequate competence in corporate auditing and controls, including with regard to risk analysis and assessment techniques, methodologies related to the *flow charting* of procedures and processes for identifying the weaknesses of the company structure, interview techniques and processing of results, are relevant.

To this end, the Supervisory Board also has the right to make use of company departments and internal resources, as well as external consultants.

c) Continuity of action

In order to ensure an effective and constant implementation of the Model, the SB structure is provided with an adequate budget and resources and is exclusively and full-time dedicated to the performance of the assigned tasks.

d) Integrity and absence of conflict of interest

This requirement is to be understood in the same terms as those provided, with reference to directors and the Sole Statutory Auditor, in the preceding section 5.1 of this document.

6.5 Requirements of the SB. Cases of ineligibility and removal from office

The SB was chosen from outside the Company, qualified and expert in the legal and/or auditing field.

The following constitute grounds for removal of the SB:

i disqualification, incapacitation, bankruptcy or, in any event, a criminal conviction, even if not final, for one of the offences set out in Decree 231 or, in any case, to one of the punishments set out in Article 2 of the Ministerial Decree No. 162 of 30 March 2000, or which entails the disqualification, even temporary, from public office or the inability to hold executive office;

ii the existence of relationships of kinship, marriage or affinity, up to the fourth degree, with the members of the Board of Directors or with the Sole Statutory Auditor of the Company, as well as with the same members of the subsidiaries or the appointed Independent Auditing Company;

Should a cause for removal arise during the term of office, the SB must immediately inform the Board of Directors. The hypotheses of ineligibility and/or removal are also extended to the persons directly used by the SB in the performance of its functions.

6.6 Resources of the SB

The Board of Directors allocates to the SB the human and financial resources deemed appropriate for the performance of its duties. As far as human resources are concerned, these are adequate in relation to the size of the Company and the tasks assigned to the SB itself. With regard to financial resources, the SB may have at its disposal, for any requirement necessary for the proper performance of its duties, the budget that the Board of Directors provides to assign to it on an annual basis, upon justified proposal of the SB itself. The Board of Directors may resolve to delegate this task to its Chairperson. Should the SB deem it appropriate, during its term of office, it may request the Board of Directors, by means of a justified written communication, to allocate additional human and/or financial resources. The SB is required to report to the Board of Directors on the use made of the resources. In addition to the aforementioned resources, the SB may use, under its direct supervision and responsibility, the assistance of all the structures of the Company, as well as external consultants; for the latter, remuneration is paid through the use of the financial resources allocated to the SB.

6.7 Internal Rules of the SB

The Board, once appointed, must draw up its own internal Rules governing the main aspects and methods of exercising its action. More specifically, the following profiles are to be regulated within the framework of these internal rules:

a) the type of verification and supervisory activities carried out by the SB;
b) the type of activities related to updating the Model;
c) the activity connected to the fulfilment of information and training tasks of the recipients of the Model;
d) the management of information flows to and from the SB;
e) the functioning and internal organisation of the SB (e.g., possible minutes of meetings, etc.).

The rules must provide that the SB, whenever the specific requirements related to the performance of its activities so require, formalise a record of the decisions taken.

6.8 Tasks of the SB

In accordance with the provisions of Article 6, paragraph 1 of Decree 231, the SB is entrusted with the task of *supervising the functioning of and compliance with the Model and ensuring that it is updated*. In general, therefore, the SB has the following tasks:

1) of verification and supervision of the Model, namely:
    - verifying the adequacy of the Model, i.e., its suitability to prevent the occurrence of unlawful conduct, as well as to highlight its possible realisation;
    - verifying the effectiveness of the Model, i.e., the correspondence between the actual conduct of the Recipients and those formally provided for by the Model;
    - for these purposes, to monitor the company's activities, carrying out periodic checks and follow-ups;
2) of updating the Model, namely:
    - taking care of updating the Model, proposing to the Board of Directors, if necessary, the adaptation of the same, in order to improve its effectiveness, also in consideration of any regulatory changes and/or changes in the organisational structure or corporate activity and/or significant violations of the Model;
3) of information and training on the Model, namely:
    - promoting and monitoring initiatives aimed at fostering the dissemination of the Model among all persons required to comply with its provisions;
    - promoting and monitoring initiatives, including courses and communications, aimed at fostering adequate knowledge of the Model on the part of all Recipients;
    - meeting with the appropriate timeliness, including by preparing appropriate opinions, the requests for clarification and/or advice coming from the corporate departments or resources or from the administrative and control bodies, if connected and/or related to the Model;
4) of management of information flows to and from the SB, namely:
    - ensuring the timely performance, by the persons concerned, of all reporting activities relating to compliance with the Model;
    - regularly accessing information channels, examining and evaluating all information and/or reports received and related to compliance with the Model, including with regard to suspected violations thereof;
    - informing the competent bodies, specified below, of the activity carried out, its results and planned activities;
    - report to the competent bodies, for the appropriate measures, any violations of the Model and the persons responsible, proposing the penalty deemed most appropriate in the specific case;
    - in the event of inspections by institutional bodies, including the Public Authority, provide the necessary information support to the inspection bodies.

In performing the tasks assigned to it, the SB is always required:

- to promptly document, including by compiling and keeping special registers, all the activities carried out, the initiatives and measures adopted, as well as the information and reports received, also in order to ensure the complete traceability of the actions undertaken and of the indications provided to the corporate departments concerned;
- to record and retain all documentation formed, received or otherwise collected in the course of their assignment and relevant to the proper performance of the assignment.

6.9 Powers of the SB

In order to perform the tasks assigned to it, the SB is granted all the powers necessary to ensure timely and efficient supervision of the operation of and compliance with the Model, none excluded. The SB, including by means of the resources at its disposal, has the power, by way of example:

- to carry out, also unannounced, all checks and inspections deemed appropriate for the proper performance of its tasks;
- to freely access all the Company's departments, archives and documents, without any prior consent or need for authorisation, in order to obtain any information, data or document deemed necessary;
- to order, where necessary, the hearing of resources that can provide useful indications or information on the performance of the Company's activities or on any dysfunctions or violations of the Model;
- to avail itself, under its direct supervision and responsibility, of the assistance of all the structures and resources of the Company or of external consultants;
- to have at its disposal, for any requirement necessary for the proper performance of its tasks, the financial resources allocated by the Board of Directors.

6.10 Information flows affecting the Supervisory Board

6.10.1 Reporting to the SB by employees, corporate bodies and third parties

Decree 231 in Article 6, paragraph II, letter d), stipulates that the Model must provide for *information obligations vis-à-vis the SB*, so that it can best carry out its verification activity. The SB, therefore, must be promptly informed by all the Recipients, i.e., the directors, the sole statutory auditor, the persons working for the company appointed to audit the Company, as well as its employees, including managers, without any exception, and also by all those who, although external to the Company, work, directly or indirectly, for AEER, of any news concerning the existence of possible violations of the principles contained in the Model. The Recipients, in particular, must report to the Board any notifications concerning the commission or potential commission of offences or behavioural deviations from the principles and requirements contained in the Model. Managers must also, and in particular, report violations of the Model committed by employees who report hierarchically to them. In any case, the following information must be compulsorily and immediately forwarded to the SB:

A. that may be relevant to potential violations of the Model, including, but not limited to:
    - any orders received from a superior and deemed contrary to the law, internal rules, or the Model **(per event)**;
    - any requests for or offers of money, gifts (exceeding a modest value) or other benefits from, or intended for, public officials or persons in charge of a public service **(per event)**;
    - any significant expenditure anomalies **(per event);**
    - any omissions, negligence or falsifications in the keeping of accounts or in the preservation of the documents on which the accounting records are based that have been ascertained during one's institutional activity or of which one has - in any way - become aware **(per event);**
    - measures and/or notifications coming from law enforcement agencies or any other authority from which it may be inferred that investigations are being carried out that concern, even indirectly, the Company, its employees or members of corporate bodies **(per event);**
    - requests for legal assistance made to the Company by employees pursuant to the National Collective Bargaining Agreement (NCBA), in the event of the initiation of criminal proceedings against them **(per event)**;

- corporate documentation from which the existence of conduct that does not comply with the rules referred to in Decree 231 emerges or may emerge and that affects compliance with the Model **(per event);**
- notifications about ongoing disciplinary proceedings and any sanctions imposed or the reasons for their dismissal **(per event);**
- any reports, not promptly acknowledged by the competent departments, concerning both deficiencies or inadequacies of the premises, work equipment, or protective devices made available to the company, and any other hazardous situation related to health and safety at work **(per event);**
- a written note concerning any critical issues or conflicts of interest that arise (e.g., in the context of relations with the Public Administration, etc.) **(per event);**
- information on any situations of irregularities or anomalies encountered by those who perform a control and supervisory functionon obligations related to the completion of declarations made to national public bodies for the purpose of obtaining permits, concessions, authorisations, visas and complaints addressed to Public Administration bodies, including supervisory authorities **(per event)**;
- a written note from the manager of the department involved, in the event that the final report of judicial, tax and administrative inspections reveals critical issues **(per event)**;
- information on any situations of irregularities or anomalies encountered by those who perform a control and supervisory function on obligations related to the selection of contractors, subcontractors or their contact persons, suppliers, distributors and, in general, third parties **(per event)**;
- information on any situations of irregularity encountered by those who perform a control and supervisory function regarding obligations related to sensitive activities in the areas at risk of offences contained in the special parts of the Model **(per event);**
- the justification for any change in the valuation criteria adopted for the preparation of the accounting documents and the related application methods **(per event).**

B. relating to the Company's activities, which may be relevant as regards the completion, by the SB, of the tasks assigned to it, including, but not limited to:

- notifications relating to organisational changes or changes in current corporate procedures **(per event);**
- updates of the system of powers and proxies **(per event);**
- any communications from the Sole Statutory Auditor and the Independent Auditing Company concerning aspects that may indicate a deficiency in internal controls and/or critical issues that have emerged, even if resolved **(per event)**;
- decisions concerning the application for, disbursement and utilisation of any public funding and any aspects related to the disbursement and utilisation of incentives provided by the GSE **(per event);**
- the detailed list of tenders, public or of public importance, PPP, at national/local level in which the Company participated and obtained the contract; as well as summary statements of any contracts obtained following private negotiations **(half-yearly)**;
- the information relating to the aspects indicated in Article 30 under the heading "Organisation and management models" of Legislative Decree No. 81/2008; the information referred to in Article 15 of Legislative Decree No. 81/2008. By way of example, the following must be provided:
    - i periodic reporting on occupational health and safety **(half-yearly);**
    - ii all data on accidents occurring at work **(per event);**

iii recorded near misses **(per event);**

iv information on the annual expenditure/investment budget prepared in order to carry out necessary and/or appropriate safety improvements as well as the company's OSH policy **(annual)**;

v any updates to the DVR **(per event)**;

vi reports on safety performance monitoring activities **(half-yearly);**

vii the list of disciplinary sanctions imposed for violations of regulations **(per event)**;

viii the detection of any conduct or situation in the field of health and safety at work that does not comply with the Model of which one has become aware, regardless of whether or not it constitutes an offence **(per event)**;

ix as well as any other useful elements for the OSH system **(per event);**

- the annual financial statements, accompanied by the notes to the financial statements, the management report, the independent auditor's report and the Sole Statutory Auditor's report, as well as the half-yearly financial statements **(annual - half-yearly);**
- the minutes resulting from the inspections carried out by the control bodies **(per event);**
- the minutes of the Board of Directors **(half-yearly);**
- the minutes of the Shareholders' Meetings **(half-yearly);**
- information on the possible provision of sponsorships and/or charitable initiatives **(per event)**;
- information on the investments made by the Company and the related verification and approval process **(half-yearly);**
- reporting on the status of ongoing and/or concluded litigation, including, where appropriate, on a settlement basis **(half-yearly);**
- any other information which, although not included in the above list, is relevant for the purposes of correct and complete supervision and updating of the Model **(per event).**

In any case, with reference to the aforementioned list of information, the Supervisory Board is entrusted with the task of requesting, if necessary or appropriate, any changes and additions to the information to be provided by its own rules or request.

The personnel and all those working in the name and on behalf of AEER who come into possession of notifications relating to the commission of offences within the Company or to practices that are not in line with the rules of conduct and principles of the Code of Ethics are required to promptly inform the Supervisory Board and the Competent Departments.

Such reports may be sent by email, also in anonymous form, to the following address: odv@aeerodv.it or in writing, in a sealed envelope, addressed to the SB at the address of the Supervisory Board of AEER S.r.l. indicated in the Code of Ethics.

AEER considers compliance with the provisions of the law to be a priority, and the effective implementation of the Model requires the active cooperation of all persons working in the name of or on behalf of the Company.

The Supervisory Board must guarantee the confidentiality of those who report possible violations with the most appropriate systems and means; the immunity of the persons reporting possible violations must also be guaranteed, with particular regard to undue forms of retaliation against them.

The information provided to the Supervisory Board is intended to facilitate and improve the control planning activities carried out by the Board and not to impose upon it a systematic and punctual verification of all represented phenomena.

The SB, under its own responsibility and discretion, may determine in which cases it will take action, giving reasons in its minutes.

From the point of view of the management of the information received, the SB, after assessing the reports, where deemed useful and/or necessary, plans the inspection activity to be carried out, using internal resources for this purpose or, where appropriate, using the services of external professionals, if the inspection requires specific and particular skills or in order to cope with particular workloads. The SB, in the course of its investigation activities, must act in such a way as to ensure that the persons involved are not subject to retaliation, discrimination or, in any event, penalisation, thus ensuring the confidentiality of the person making the report (except in the case of any legal obligations that require otherwise).

6.10.2 Reporting by the SB to the corporate bodies

The SB reports in writing, on a half-yearly basis, to the Board of Directors and the Sole Statutory Auditor on the activities performed during the period and on the outcome thereof, at the same time describing the general lines of action planned for the following period.

The reporting activity will focus in particular on:

- the activities, in general, carried out by the SB;
- any problems or critical issues that have arisen during the course of the supervisory activity;
- the corrective measures, if any or necessary, to be taken in order to ensure the effectiveness and efficacy of the Model;
- the ascertainment of conduct not in line with the Model;
- the detection of organisational or procedural shortcomings such as to expose the Company to the danger that offences relevant to Decree 231 are committed;
- any failure or lack of cooperation on the part of the corporate departments in the performance of their verification and/or investigation tasks;
- in any case, any information deemed useful for the adoption of urgent decisions by the competent bodies.

It is understood that the SB may initiate any audit, even unscheduled ones. At the same time, the SB will report to the Board of Directors on the use made of the resources made available to it.

In any case, the SB may, in case of urgency, contact the Shareholders, the Directors and the Statutory Auditor whenever it considers this appropriate for the effective and efficient performance of the duties assigned to it.

Meetings must be minuted and copies of the minutes must be kept and stored at the offices of the SB.

6.11 Coordination with corporate management

All corporate Departments must cooperate with the SB and, specifically, must promptly reply to requests made by it, as well as make available all documentation and, in any case, any information necessary for the performance of supervisory activities.

The SB, in fact, may call upon the cooperation of all the company departments to request advice on specialist topics, availing itself, depending on the type of need, of the support of both individual contact persons and possibly multifunctional teams. The same confidentiality obligations provided for the SB shall be extended to corporate departments that, in the course of providing such support, become aware of information deemed sensitive.

If, on the other hand, the assignment is entrusted to external consultants, the relevant contract must contain clauses obliging them to respect the confidentiality of the information and/or data acquired or otherwise known or received in the course of their activity.

6.12 Ethical standards

The SB, as well as any resources assigned to it, are called upon to strictly comply not only with the general ethical and behavioural standards issued by the Company, but also with the additional and specific standards of conduct set out below. They apply both to the SB and to all other resources (internal or external) that provide support to the Board in the performance of its activities.

In the exercise of the activities falling within the remit of the SB, it is necessary to:

- ensure the implementation of the activities attributed to it with honesty, objectivity and accuracy;
- guarantee a loyal attitude in the performance of its role by avoiding that, by its action or inaction, it commits or makes possible a violation of AEER's ethical and behavioural standards;
- not accept gifts or advantages of any other kind from employees, customers, suppliers or persons representing the Public Administration with whom the Company has relations, except those of a modest value or such as not to impair the ability to judge;
- avoid any conduct that might harm the prestige and professionalism of the SB or of the entire corporate organisation;
- highlight to the Board of Directors any causes that make it impossible or difficult for it to perform the activities for which it is responsible;
- ensure the utmost confidentiality in the management of the information acquired in the performance of its activities. In any case, it is forbidden to use confidential information when this could constitute a violation of privacy laws or any other legal rule, bring personal advantages of any kind either to the person using it or to any other resource inside or outside the company, or damage the professionalism and/or integrity of the SB, other company departments or any other person inside or outside the company;
- faithfully report the results of its activities, accurately showing any facts, data or documents that, if not manifested, would cause a distorted representation of reality.

6.13 The responsibility profiles of the Supervisory Board

According to the legislation currently in force, the SB does not have the obligation, punishable by criminal penalties, to prevent the commission of the offences set out in Decree 231, but rather to supervise the functioning of and compliance with the Model, as well as to update it. The SB may, however, incur criminal liability in the event of complicity by omission, i.e., if it contributes, through wilful inaction, to the commission of an offence committed by another person. The SB is also liable in contractual terms under the profile of *culpa in vigilando* or in any case of negligence in the performance of the task.

7. COMMUNICATION AND TRAINING ON THE MODEL AND RELATED PROTOCOLS

7.1 Communication and involvement on the Model and related Protocols

The Company promotes the widest dissemination, inside and outside the structure, of the principles and provisions contained in the Model and in the Protocols related thereto.

The Model is formally communicated to all senior management and Personnel of the Company by the delivery of a full copy or by publication on the corporate intranet and posting it in a place accessible to all.
A documentary record of the delivery and commitment by the Recipients to comply with the rules laid down therein shall be kept in the records of the SB.
As regards communication to third parties, AEER publishes the General Part of the Model and the Code of Ethics on the dedicated section of the Company's website.
In order to formalise the commitment to respect the principles of the Model as well as the Protocols connected thereto on the part of Third-Party Recipients, the insertion of a specific clause in the reference contract is envisaged, or, for existing contracts, the signing of a specific supplementary agreement, to that effect.
The SB promotes, including through the preparation of special plans, approved by the Board of Directors and implemented by the Company, and monitors all further information activities it deems necessary or appropriate.

7.2 Education and training on the Model and related Protocols

In addition to the activities related to Informing the Recipients, the SB has the task of ensuring their periodic and constant training, i.e., to promote and monitor the implementation by the Company of initiatives aimed at fostering adequate knowledge and awareness of the Model and the Protocols connected to it, in order to increase the culture of ethics within the Company.
More specifically, it is envisaged that the principles of the Model, and in particular those of the Code of Ethics which is part of it, are shown to company resources through specific training activities (e.g., courses, seminars, questionnaires, etc.), in which they are required to participate. Courses and other training initiatives on the principles of the Model are, moreover, differentiated in the future according to the role and responsibility of the resources concerned, i.e., through the provision of more intense training characterised by a higher degree of depth for persons qualifying as “top management” in accordance with the Decree 231, as well as for those operating in areas qualifying as “at risk” pursuant to the Model.
New hires, as part of their induction process in the Company, will be given specific training on the Model and the Code of Ethics.

8. UPDATING THE MODEL

The SB has the task of monitoring the necessary and continuous updating and adaptation of the Model and the Protocols connected thereto (including the Code of Ethics), if necessary suggesting, by means of a written communication to the managing body, or to the corporate departments competent from time to time, the necessary or appropriate corrections and adjustments.
The Board of Directors is responsible, together with any corporate departments concerned, for updating the Model and adapting it as a result of changes in organisational structures or operational processes, significant violations of the Model, or legislative additions.

9. DISCIPLINARY SYSTEM (PURSUANT TO LEGISLATIVE DECREE NO. 231/2001 ARTICLE 6, PARAGRAPH 2, LETTER E))

9.1 Purpose of the disciplinary system

The Legislator has provided in Decree 231 that an Organisational, Management and Control Model, in order to fulfil its preventive purpose of the offences referred to in Decree 231, must provide for a disciplinary system aimed at sanctioning conduct not in line with the dictates of the Organisational, Management and Control Model. In particular, both Article 6, paragraph 2, letter e) as well as Article 7, paragraph 4, letter b) of Decree 231 provide for the need to introduce "a disciplinary system suitable for sanctioning non-compliance with the measures indicated in the model". AEER, in compliance with the provisions of the Legislator, has therefore adopted a disciplinary system suitable for regulating the procedure for ascertaining possible violations of the provisions of the Organisation, Management and Control Model and the Code of Ethics. The Disciplinary System also introduces a sanction arsenal equipped with a proportional system of sanctions to be applied as a consequence of any violations found and on the basis of the seriousness of the violation and further elements that will be codified.

The introduction of the sanctions in question constitutes a serious deterrent to the commission of offences not in line with the dictates of the Model and the will of the Company.

The Company has decided to regulate the Disciplinary System by means of a specific document that is an integral part of the Model.

The salient aspects are summarised below, while details can be found in the separate document.

In any case, it must be made clear that the commencement of disciplinary proceedings and the possible application by AEER of the disciplinary sanctions provided for therein are irrespective of the pendency of criminal proceedings against the recipient.

Under no circumstances may conduct that is unlawful, illegitimate or otherwise in violation of the Organisation, Management and Control Model be justified or deemed less serious, even if carried out in the interest or to the advantage of AEER. Attempts and, in particular, acts or omissions unambiguously intended to violate the rules and regulations laid down by AEER are also sanctioned, even if the action does not take place or the event does not occur for any reason whatsoever.

9.2 The structure of the disciplinary system

AEER's Disciplinary System consists of four sections.

In the first, the persons liable to the sanctions provided for are indicated, namely directors, statutory auditors, persons in top management positions, employees and Third Party Recipients.

In the second, the conduct potentially relevant for the possible application of sanctions is indicated. In the third, with regard each relevant conduct, the sanctions are indicated that may be abstractly imposed for each category of persons required to comply with the Model and the Code of Ethics.

In the fourth, the procedure for the imposition and application of the sanction with regard to each category of recipients of the Disciplinary System is regulated, indicating, for each:

- the phase of contesting the violation to the person concerned;
- the phase of the determination and subsequent application of the sanction.

The Disciplinary System is the subject of appropriate dissemination, in order to ensure its full knowledge by all Recipients.