

**MODEL
OF ORGANIZATION,
MANAGEMENT AND CONTROL**

**PURSUANT TO
ITALIAN LEGISLATIVE DECREE No. 231 OF 8 JUNE 2001**

Vulsub Italia S.r.l.

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GENERAL SECTION

1. Aims and legal principles

1.1. Italian legislative decree No. 231 of 8 June 2001

Italian Legislative Decree No. 231 of 8 June 2001 "*Governing the administrative liability of legal persons, companies and associations with or without legal personality*" (hereinafter Decree 231) brought into immediate effect the legislative mandate established in art. 11 of Italian law No. 300 of 29 September 2000, under which Parliament established the guiding criteria and principles covering the administrative liability of legal persons, and entities without legal personality, for crimes committed by personnel operating within the entity, in the interest or to the advantage of the entity itself¹.

Decree 231 defined the ADDRESSEES of the legislation as follows: "entities with legal personality, companies and associations with or without legal personality". The addressees are therefore entities that have acquired legal personality according to statutory paradigms, i.e. associations, foundations and other institutions of a private nature, which have acquired the recognition of the State; companies that have acquired legal personality by registering with the Register of Companies; and entities with neither legal personality nor financial autonomy, but which can still be considered as entities in law.

The range of entities to which the code governing administrative offenses deriving from crimes applies, does not include: the State, territorial public bodies (regional, provincial, municipal and mountain community authorities), non-economic public bodies and, in general, all bodies that fulfill functions of constitutional importance (chamber of deputies, senate of the republic, constitutional court, general secretariat of the presidency of the republic, C.S.M., CNEL).

Traditional liability for the crime committed (personal criminal liability, which can only refer to natural persons by virtue of the principle established in art. 27 para. 1 of the Constitution and the respective dogma summed up in the maxim *societas delinquere non potest*) and other forms of liability deriving from crimes, is now supplemented by the liability of the legal person, which results in the applicability of different sanctions for the same act, according to the party called to account.

Where the conditions envisaged in the legislation apply, the act that constitutes a crime operates on two levels, insofar as it simultaneously integrates the crime attributable to its perpetrator (crime attracting a

¹ This solution derived from a series of INTERNATIONAL CONVENTIONS signed by Italy in recent years. These include the Convention on the protection of the financial interests of the European Community signed in Brussels on 26 July 1995; the first protocol of the former, done at Dublin on 27 September 1996; the protocol regarding the preliminary interpretation of the aforementioned Convention by the Court of Justice of the European Community, signed in Brussels on 29 November 1996, and the Convention on combating corruption involving European Community functionaries, done at Brussels on 26 May 1997, and the OECD Convention on combating the corruption of foreign public officials in international economic operations, with annex, done at Paris on 17 December 1997.

criminal penalty), and the administrative offense (offense attracting an administrative penalty) for the entity².

Decree 231 introduced into Italian legislation a principle of administrative liability deriving from crime as a consequence of offenses committed in the interest and to the advantage of the entity by persons acting in its name or on its behalf, i.e., as per art. 5:

- a) persons who fulfill functions of representation, whether organic or voluntary, administration or management of the entity, or of one of its organizational units (invested with financial and functional autonomy), or who, by virtue of their office or *de facto*, manage and control the entity ("Top Management");
- b) persons subject to the management or supervision of one of the parties specified under letter *a* ("subordinates").

Top management figures are, *in primis*, the members of the entity's boards of administration and control, regardless of the system chosen from among those listed by the Legislator (sole director, board of directors with either joint or individual powers).

As well as directors and auditors, the list of persons defined as "top management" also includes, under the terms of art. 5 of the Decree, the General Director, executive directors invested with financial and functional autonomy, and persons in charge of secondary sites/plants, who can also assume the status of "employers" under occupational health and safety legislation. Such parties can be bound to the Company either by a contract of employment, or by other appointments of a private nature (e.g. mandate, agency, officer, etc.).

Subordinates are those who are required to implement the directives of or are under the supervision of the above.

The entity is also deemed liable if the perpetrator of the crime has not been identified but definitely falls into the category of parties specified in points a) and b) of art. 5 of the Decree, or if the conviction against the natural person who committed the offense is spent, for a reason other than an amnesty.

² Within the context of Italian law, Decree 231 undoubtedly represents a new departure. Before the entry into force of this legislation, entities were bound only by a civil obligation to pay fines or amends, but only in the case of the insolvency of the perpetrator of the crime (art. 196 and 197 criminal code). The entity was not liable to any consequence (notwithstanding cases of compensation for loss) in the event that directors and/or employees had committed crimes from which the entity concerned derived a profit or advantage.



Not all crimes committed by the above parties imply the administrative liability of the entity, insofar as only specific types of crime are deemed relevant³. Section III of Paragraph I of Decree 231 provides a binding list of predicate crimes whose perpetration can result in the administrative liability of the entity, if perpetrated by an "agent" of the entity enjoying top management status or subject to the direction of others.

Over the years, the list (originally limited to the provisions of articles 24 and 25) has gradually expanded, chiefly as a result of the transposition into Italian law of the contents International Conventions signed by Italy, which also envisaged forms for attributing responsibility to collective entities.

The original core of the Section, expressed in **ART. 24**, includes the following crimes against the Public Administration:

- embezzlement to the detriment of the State (art. 316-*bis* criminal code);
- undue receipt of benefits to the detriment of the State, other public bodies or European community institutions (art. 316-*ter* criminal code);
- deception against the State or other public body (art. 640 para. 2 No. 1 criminal code);
- aggravated deception for the purpose of obtaining public benefits (art. 640-*bis* criminal code);
- computer-related fraud against the State or a public body (art. 640-*ter* criminal code).

For the above offenses, the legislator has imposed the application of a commensurate financial penalty against the entity, of up to five hundred quotas. If the general conditions established in art. 13 apply, only the least punitive disqualification sanctions listed in art. 9 para. 2 letters *c*, *d* and *e*, shall apply, i.e.:

- disqualification from entering into agreements with the public administration, except for the purpose of obtaining a public service;
- disqualification from receiving facilitated conditions, funding, contributions or subsidies (and possible revocation of any already granted) and disqualification from advertising goods or services.

These sanctions can also be applied jointly for a duration of not less than three months and not more than two years.

³ It should also be noted that the list of predicate crimes of relevance to the Decree is continuously expanding. This is due in part to the tightening of requirements by European Union institutions, and in part to the presentation of a large number of draft laws at a national level, aimed at adding further crimes to the list. For a time, studies were also conducted (see the work of the Pisapia Commission) regarding the possibility of including the liability of entities directly within the criminal code, thereby changing the nature of such liability (which would become criminal to all effects, and no longer formally administrative) and extending the list of relevant criminal offenses. More recently, amendments to the Decree have been proposed, with a view to improving it on the basis of past experience of applying it, and aimed definitively at rectifying certain aspects that have appeared to be unduly demanding.

ART. 24-BIS was introduced by Law No. 48 of 18 March 2008, ratifying and implementing the Council of Europe's Convention on Cybercrime, done at Budapest on 23 November 2001, to accommodate the increase in types of offense generated by the increasing indispensability of information technology (including the IT and ICT systems, programs, information and data of third parties) to business processes.

As well as amending the criminal code and the code of criminal procedure, the law introduced new criminal offenses to cover computer-related abuses and illicit handling of data. These new criminal offenses are as follows:

- unauthorized access to a computer or ICT system (art. 615-*ter* criminal code);
- illicit interception, obstruction or interruption of computer or ICT communications (art. 617-*quater* criminal code);
- installation of devices intended to intercept, obstruct or interrupt computer or ICT communications (art. 617-*quinqüies* criminal code);
- damaging computer and ICT systems (art. 635-*bis* criminal code);
- damaging computerized information, data and programs used by the State or other public body, or of public utility (art. 635-*ter* criminal code);
- damaging computer or ICT systems (art. 635-*quater* criminal code);
- damaging computer or ICT systems of public utility (art. 635-*quater* criminal code);
- computer-related fraud by parties providing electronic signature certification services (art. 640-*quinqüies* criminal code);
- computerized documents (art. 491-*bis* criminal code); the criminal offense in question ("*if any of the falsehoods envisaged in this chapter relates to a public or private computerized document that is admissible in court proceedings, the provisions of the paragraph governing public and private acts respectively apply*") extends the provisions relating to falsehood in public acts or private agreements to falsehood in computerized documents; the criminal offenses specified are as follows:
 - material falsehood by a public official in a public act (art. 476 criminal code);
 - material falsehood by a public official in a certificate or administrative authorization (art. 477 criminal code);
 - material falsehood by a public official in an authenticated copy of a public or private act or in a declaration outlining the content of an act (art. 478 criminal code);
 - ideological falsehood by a public official in a public act (art. 479 criminal code);
 - ideological falsehood by a public official in a certificate or administrative authorization (art. 480 criminal code);
 - ideological falsehood in a certificate committed by persons exercising a service of public necessity (art. 481 criminal code);
 - material falsehood by a private individual (art. 482 criminal code);

- ideological falsehood by a private individual in a public act (art. 483 criminal code);
- falsehood in registers and notifications (art. 484 criminal code);
- falsehood in a private agreement (art. 485 criminal code);
- falsehood on a signed, blank document Private act (art. 486 criminal code);
- falsehood on a signed, blank document Public act (art. 487 criminal code);
- other falsehood on a signed, blank document. Applicability of the provisions governing material falsehood (art. 488 criminal code);
- use of a false act (art. 489 criminal code);
- suppression, destruction or concealment of a true act (art. 490 criminal code);
- authentic copies that take the place of missing originals (art. 492 criminal code);
- falsehood by a public official or public service officer (art. 493 criminal code).

The system of sanctions applied to the above administrative/criminal offenses tends to offer a uniform response to the punishment of the entity in question (three "grades" of financial penalty, equating to 500, 300 and 400 quotas respectively are envisaged for the offenses specified in paragraphs 1, 2 and 3 of the aforementioned legislation).

Law No. 94 of 15 July 2009 governing public security introduced art. **ART. 24-TER**, which introduces the liability of entities for the perpetration of **offenses pertaining to organized crime**⁴:

- confederacy aimed at enslavement, human trafficking or the purchase or transfer of slaves (art. 416, para. 6 criminal code);
- confederacy involving organized crime networks (art. 416-*bis* criminal code);
- electoral trade between politics and organized crime (art. 416-*ter* criminal code);
- kidnapping for the purpose extortion (art. 630 criminal code);
- crimes committed by taking advantage of the subordination and code of silence deriving from the existence of organized criminal conditioning; confederacy aimed at drug trafficking (art. 74, Presidential Decree No. 309 of 9.10.1990);
- crimes relating to the illegal manufacture, introduction into the State, offer for sale, transfer, possession and carrying on public property or property open to the public of weapons of war or their equivalent or parts thereof; explosives and clandestine weapons, and common firearms in numbers exceeding one (art. 407, para. 2, letter a) No. 5 code of criminal procedure).

The above crimes shall attract a financial penalty. Some of the above shall also attract the disqualification sanctions established in art. 9 para. 2.

Art. 24-ter was amended by Law 236/2016 which introduced art. 601-bis into the penal code, which

⁴ Offenses pertaining to organized crime were previously relevant, for the purposes of the Decree, only if they were transnational.

punishes trafficking in organs removed from a living person, also with regard to those who organize or advertise their travels or spreads, even by computer, ads for this purpose.

ART. 25 covers the crimes of extortion and corruption, which are known as "proper" crimes, insofar as they can only be deemed to have been committed if the active party is a public official or public service officer. The legislation divides these crimes into three categories according to the severity of the conduct involved.

Category 1 includes:

- corruption in the performance of their duties (art. 318 criminal code), both in relation to active corruption (art. 321 criminal code) and rejected solicitation to corruption (art. 322 para. 1 and 3 criminal code).

Offenses in this category attract a financial penalty against the entity, up to a maximum value of 200 quotas; no disqualification sanctions apply.

Category 2 includes:

- corruption by an act contrary to the duties of office (art. 319 criminal code);
- corruption in judicial acts (art. 319-*ter* criminal code), including cases pertaining to the corrupting party (art. 321 criminal code) and rejected solicitation to corruption (art. 322 para. 2 and 4 criminal code);
- improper influence to give or promise benefits (art. 319-*quater* criminal code).

Crimes in this category attract a financial penalty, ranging from a minimum of 200 to a maximum of 600 quotas. They may also attract the disqualification sanctions established in art. 9 para. 2, for a duration of not less than one year.

Category 3 includes:

- extortion (art. 317 criminal code);
- corruption by an act contrary to the duties of office (art. 319 criminal code), deemed to be aggravated if the entity gained substantial profit from the act (as per art. 319-*bis* criminal code);
- aggravated corruption in official acts (art. 319-*ter* para 2 criminal code), including the hypotheses relating to the corrupting party.

These offenses attract a financial penalty, ranging from a minimum of 300 to a maximum of 800 quotas. The financial penalty may be accompanied by the disqualification sanctions specified in art. 9 para. 2, which, where the pre-conditions exist, can also be applied on a precautionary basis (art. 45).

ART. 25-BIS, introduced by Law No. 409 of 23 November 2001, converting Decree Law 350/2001 establishing urgent provisions relating to the introduction of the euro, relates to the crimes of counterfeiting money, credit cards and postage or revenue stamps. The following crimes are listed:

- counterfeiting money, wittingly spending and introducing counterfeit money in the State (art. 453 criminal code);
- defacing of coins (art. 454 criminal code);
- non-complicit spending and introduction into the State of counterfeit currency (art. 455 criminal code);
- spending counterfeit currency received in good faith (art. 457 criminal code);
- counterfeiting of postage and revenue stamps, introduction into the State, purchase, possession or circulation of counterfeit postage or revenue stamps (art. 459 criminal code);
- counterfeiting of watermarked paper for the production of credit cards or postage or revenue stamps (art. 460 criminal code);
- manufacture or possession of watermarked paper or instruments intended for the purpose of counterfeiting currency, postage or revenue stamps or watermarked paper (art. 461 criminal code);
- use of counterfeit or defaced postage or revenue stamps (art. 464 criminal code).

The final paragraph of the aforementioned law establishes the applicability of a financial penalty (according to grade of severity) in conjunction with disqualification sanctions, except for the offenses established and punished in accordance with articles 457 and 464 of the criminal code.

Law No. 99 of 23 July 2009, establishing provisions for the development and internationalization of enterprises, and relating to energy, extended the list of crimes involving falsification envisaged in **ART. 25-BIS** of the Decree, by adding certain crimes against intellectual property rights, namely:

- counterfeiting, defacing or use of distinguishing marks or signs, or patents, models and drawings (art. 473 criminal code);
- introduction into the State and trade in products bearing counterfeit marks (art. 474 criminal code).

The above crimes shall attract a financial penalty. Some of the above shall also attract the disqualification sanctions established in art. 9 para. 2.

The same law introduced **ART. 25-BIS.1**, aimed at making entities responsible for crimes against trade and industry, with particular reference to the following:

- manipulation of the freedom to conduct trade and industry (art. 513 criminal code);
- illicit competition involving threats or violence (art. 513-*bis* criminal code);
- fraud against national industries (art. 514 criminal code);
- fraud in pursuance of trade (art. 515 criminal code);
- sale of non-genuine foodstuffs as genuine (art. 516 criminal code);
- sale of industrial products with misleading marks (art. 517 criminal code);
- manufacture and sale of goods made by infringement of industrial property rights (art. 517-*ter* criminal code);
- counterfeiting of geographical indications or denominations of origin of agri-food products (art. 517-*quater* criminal code).

The above crimes shall attract a financial penalty. Some of the above shall also attract the disqualification sanctions established in art. 9 para. 2.

Legislative Decree 61/2002 governing criminal and administrative offenses relating to commercial companies, added to Decree 231 **ART. 25-*TER***, extending the administrative liability of entities to certain corporate crimes committed in the interests of the company by executive and non-executive directors and liquidators, or personnel under their supervision, if the offense would not have occurred if the above had supervised the said personnel in accordance with the obligations associated with their positions.

The following crimes were added:

- false corporate communications (art. 2621 civil code);
- minor entity facts (art. 2621-*bis* civil code);
- non-punishment for particular tenuousness (art. 2621-*ter* civil code);
- false corporate communications to the detriment of shareholders or creditors (art. 2622 para. 1 and 3 civil code);
- false statements in prospectuses (art. 2623 civil code, repealed by art. 34 of Law No. 262 of 28 December 2005, which, however, introduced art. 173-*bis* of Legislative Decree No. 58 of 24 February 1998)⁵;

⁵ Article. 2623 of the Civil Code - Fraudulent financial statements - had been repealed by Law 262/2005. The rule is now contained in art. 173-*bis* of Legislative Decree no. 58 of February 24th, 1998, which, however, at present, is not referred to by Legislative Decree no. 231/2001. Part of the doctrine considers, however, that Article. 173-*bis* of the CLFI, though not referred to by Legislative Decree no. 231/2001, is relevant to the administrative liability of entities as it presents legislative continuity with art. 2623 cc. Case-law on the other hand has ruled to the contrary, but for the offense according to Article. 2424 cc of false reports or communications by the Independent Auditors, believing such offence no longer a source of liability pursuant to Legislative Decree no. 231/2001. Given the lack of clarity regarding repeal aspects of the offense in relation to the liability of legal entities, as a precaution, it was decided to consider the offense abstractly in the Model.

- false reports or communications of audit firms (Article 2624 of the Civil Code, which was repealed by art. 35 of Law no. 262 of 28th December 2005, which had, however, introduced art. 174-*bis* of Legislative Decree no. 58 of 24th February 1998,)⁶;
- obstructing the performance of checks (art. 2625 para. 2 civil code)⁷;
- undue return of conferments (art. 2626 civil code);
- illegal distribution of profits and reserves (art. 2627 civil code);
- illicit operations relating to shares or equity investments of the parent company (art. 2628 civil code);
- operations prejudicial to creditors (art. 2629 civil code);
- failure to disclose conflict of interest (art. 2629-*bis* civil code);
- bogus formation of capital (art. 2632 civil code);
- undue distribution of company assets by liquidators (art. 2633 civil code);
- bringing illicit influence to bear on the shareholders' meeting (art. 2636 civil code);
- security-price manipulation (art. 2637 civil code);
- obstructing the public regulatory authorities in the exercise of their office (art. 2638 civil code).

Article. 25-*ter* was amended by Law n November 6, 2012. 190 (so-called anti-corruption law), which also introduced corruption between private individuals according to art. 2635, paragraph III of the Civil Code in the category of underlying crimes.

Finally, on March 10, 2017, the Council of Ministers approved the legislative decree n.38 concerning corruption in the private sector. The punishable subjects have been extended, they now include all those who carry out directing functions and also those who carry out the conduct through a third party. The punished conduct now includes, not only the solicitation and reception of undue money or other benefits, but also the acceptance of the promise to receive them.

The purpose of the offense is to perform or omit an act in violation of fidelity and it no longer requires proof of damage to the company.

The provision also introduced the crime of incitement to corruption in the private sector (Article 2635

⁶ Note that Legislative Decree No. 39 of 27 January 2010 (*Implementation of Directive 2006/43/CE, relating to statutory audits of annual accounts and consolidated accounts, which amends Directives 78/660/CEE and 83/349/CEE, and repeals Directive 84/253/CEE*), which came into force on 7 April 2010, repealed art. 2624 of the civil code - Falsification in the reports or communications of audit companies (but reintegrated the same offense into the same Legislative Decree 39/2010, which at present, however, is not referred to in Legislative Decree 231/2001). The United Chambers of the Supreme Court judgment n. 34776/2011) have established that the offense of fraudulent audit already provided for by art. 2624 cc can no longer be considered a liability offence source by entities since the above article was repealed by Legislative Decree no. 39/2010. The Court has in fact emphasized that the legislative action reforming the matter of audits intentionally wanted to remove auditors' crimes from the operating sphere of Legislative Decree no. 231/2001 and that, therefore, in the light of the principle of legality that governs it, it must be concluded because of the intervened substantial abolition of the offence of fraudulent accounting.

⁷ Note that the same measure as described in note 1 (Legislative Decree No. 39 of 27 January 2010) amended art. 2625 of the civil code by eliminating the reference to auditing and audit companies. As such, the offense of obstructing the performance of checks relates only to obstructing or hindering the performance of the checks legally attributed to the shareholders or other company bodies.

bis of the Italian Civil Code) and tightened the sanctions for the entity in the event that the briber acted in the name of Company and in the interest of the Company. In this case interdictive sanctions are provided.

ART. 25-QUATER, introduced by Law No. 7 of 14 January 2003 "*Ratifying and implementing the International Convention for the Suppression of the Financing of Terrorism*" done in New York on 9 December 1999, establishes the administrative liability of the entity in relation to the perpetration of crimes for the purposes of terrorism or subversion of democratic order. The law also applies to offenses other than those specified, if committed in violation of article 2 of the said Convention.

Unlike Decree 231, the law does not establish a detail list of relevant crimes, but instead favors a broad and flexible formula covering all "*offenses for the purposes of terrorism or the subversion of democratic order*".

Art. 8 of Law No. 7 of 9 January 2006, establishing "*Necessary measures to prevent, combat and suppress practices of female genital mutilation as violations of the fundamental rights to the integrity of the person and the health of women and girls*", added **ART. 25-QUATER.1**, which introduces a new offense to the list of offenses against the safety of the person, namely, practices of female genital mutilation.

Specifically, the law establishes that:

"1. *In relation to the offenses envisaged in art. 583-bis of the criminal code, the entity in which the offense was committed shall be required to pay a financial penalty of between 300 and 700 quotas and shall be subject to the disqualification sanctions specified in art. 9 paragraph 2, for a duration of not less than one year. Should the undertaking concerned be a private accredited entity, its accreditation shall also be revoked.*

2. *If the entity or any of its organizational units is regularly used for the sole or main purpose of enabling or facilitating the perpetration of the offenses indicated in paragraph 1, it shall be subject to the sanction of definitive disqualification from conducting business in accordance with art. 16 paragraph 3*".

ART. 25-QUINQUIES was introduced by art. 5 of Law No. 228 of 11 August 2003 setting out measures against human trafficking. The provisions were not confined to merely introducing offenses relating to human trafficking into the existing legislation, but also extended the range of available sanctions for the offenses envisaged in Book II, Title XII, Paragraph III, Section I of the criminal code, under the heading "*offenses against the person*".

The list includes:

- placing or keeping persons in slavery or servitude (art. 600 criminal code);
- child prostitution (art. 600-*bis* criminal code);

- child pornography (art. 600-*ter* criminal code);
- possession of pornographic material (art. 600-*quater* criminal code);
- virtual pornography (art. 600-*quater.1* criminal code);
- tourism initiatives aimed at exploiting child prostitution (art. 600-*quinquies* criminal code);
- trafficking in human beings (art. 601 criminal code);
- purchase and transfer of slaves (art. 602 criminal code).

The sanctions established for these offenses include both financial and disqualification sanctions, but the latter apply only to the offenses specified in articles 600, 601, 602, 600-*bis*, 600-*ter*, and 600-*quater* of the criminal code.

Finally, the Law n.199 of 29 October 2016 introduced the art. 603-bis Code of Criminal Procedure (Illegal intermediation and labour exploitation) in the list of the offenses pursuant to Legislative Decree no. 231/2001. For the purposes of this article, exploitation occurs if any of the following conditions are met:

- repeated payment of salaries in clear violation of national or local collective labour agreements executed by major national unions, or however disproportionately to the amount and quality of work done;
- repeated violation of legislation on working hours, rest periods, weekly day off, mandatory leaves and holidays;
- violation of occupational safety and hygiene legislation;
- putting workers in degrading working conditions, surveillance or accommodations.

Art. 9 para. 3 of Law No. 62 of 18 April 2005, introduced **ART. 25-SEXIES** into Decree 231. This article attributes administrative liability to the entity in the event of perpetration of the following offenses:

- abuse of privileged information (articles 184 and 187-*bis* of the Consolidated Finance Act [T.U.F.]);
- market manipulation (articles 185 and 187-*ter* of the Consolidated Finance Act [T.U.F.]).

The prevention of market abuse is assigned to a dual-track system, i.e.: criminal sanctions, as per articles 184 and 185 of the of the Consolidated Finance Act, and administrative sanctions, as per articles 187-*bis* and 187-*ter* of the Consolidated Finance Act.

ART. 25-SEPTIES was introduced by art. 9 of Law No. 123 of 3 August 2007, subsequently amended by art. 30 of Legislative Decree No. 81 of 9 April 2008, the Consolidated Occupational Health and Safety Act (TUSSL). The new act establishes three distinct administrative offenses for entities, each attracting its own penalty, in proportion to the severity of the fact, namely:

- homicide without intent (art. 589 criminal code committed through a breach of art. 55 para. 2 of the legislative decree implementing the mandate established in Law No. 123 of 3 August 2007);
- homicide without intent (art. 589 criminal code committed through a breach of occupational health and safety regulations);
- serious or very serious bodily harm without intent deriving from the violation of regulations governing occupational health and safety (590 para. 3 criminal code).

Both financial penalties and disqualification sanctions are applicable to these crimes.

Art. 10 of Law No. 146 of 16 March 2006 ("Ratification and implementation of the United Nations Convention and Protocols against transnational organized crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001") extended the administrative liability of entities to "transnational crimes". As explained, these crimes were not brought within the scope of Decree 231 through the addition of an article to the Decree itself, but by virtue of the ratification of the Convention.

Art. 3 of Law 146/2006 defines "transnational crimes" as crimes attracting a maximum custodial sentence of not less than four years, involving an "organized criminal group" and which:

- are committed in more than one State,
- or are committed in one State, but involve substantial preparation, planning, management and control in a different State,
- or are committed in one State but involve an organized criminal group engaged in activity in more than one State,
- or are committed in one State, but have substantial effects in another State.

The relevant crimes are as follows:

- confederacy (art. 416 criminal code);
- confederacy involving organized crime networks (art. 416-*bis* criminal code);
- confederacy for the purposes of smuggling tobacco processed abroad (art. 291-*quater* of Presidential Decree No. 43 of 23 January 1973, Consolidated Customs Act);
- association aimed at the illicit trafficking of scheduled drugs (art. 74 of Presidential Decree No. 309 of 9 October 1990, Consolidated Narcotics Act);
- crimes relating to the trafficking of migrants (art. 12, paragraphs 3, 3-*bis*, 3-*ter* and 5 of Legislative Decree No. 286 of 25 July 1998, Consolidated Immigration Act and subsequent amendments);
- inducement to refrain from making declarations or to make false declarations to the judicial authorities (art. 377-*bis* criminal code);
- aiding the evasion of justice (art. 378 criminal code).



For certain types of crime, only a financial penalty is applicable, whereas for others, a disqualification sanction also applies.

ART. 25-OCTIES (handling, laundering or using money, goods or other assets of illicit origin) was introduced by art. 63 of Legislative Decree No. 231 of 21 November 2007 ("Implementation of Directive 2005/60/CE concerning the prevention of use of the financial system for the purpose of laundering the proceeds of criminal activity and financing terrorism, and Directive 2006/70/CE establishing respective executive measures"), which came into force on 29 December 2007, and extended the list of crimes for which entities bear administrative responsibility, by adding the offenses of laundering or using money, goods or other assets of illicit origin, within the framework not only of transnational but also national crimes.

By the Law n. 186/2014 was introduced the new crime of self-laundering.

The offenses covered by art. 25-*octies* of Decree 231 are those governed by the criminal code, namely:

- handling (art. 648 criminal code);
- laundering (art. 648 criminal code);
- use of monies, assets or goods of illicit origin (art. 648-*ter* criminal code)
- self-laundering (art. 648-*ter*.1 criminal code).

Entities are subject to a financial penalty ranging from 200 to 800 quotas, rising to 400 to 1000 quotas if the money, goods or other assets derive from a crime attracting a maximum custodial sentence of more than five years.

The disqualification sanctions are those established in art. 9, paragraph 2 of Decree 231, for a duration of not more than two years.

ART. 25-NOVIES, aimed at establishing the liability of entities for offenses relating to breach of copyright, attributes relevance to the crimes envisaged and punished under articles 171, paragraph 1, letter a-*bis*), and paragraph 3, 171-*bis*, 171-*ter*, 171-*septies* and 171-*octies* of Law No. 633 of 22 April 1941).

For certain types of crime, only a financial penalty is applicable, whereas for others, a disqualification sanction also applies.

Lastly, art. 4 of Law No. 116 of 3 August 2009 introduced **ART. 25-NOVIES.1** (renumbered **25-DECIES** by art. 2, of Legislative Decree no. 121 of 7th July 2011), under which the entity is deemed responsible for the perpetration of the crime established in art. 377-*bis* of the criminal code, namely inducement to refrain from making declarations or to make false declarations to the judicial authorities.

In this case, the entity is subject to a financial penalty of up to 500 quotas.

Subsequently, Legislative Decree no. 121/2011 introduced **article 25-UNDECIES** which extended administrative offence liability by entities to so-called environmental crimes, in other words to two misdemeanours recently introduced in the Penal Code (art. 727-*bis* and 733-*bis* of the Criminal Code) as well as to a series of offenses already provided for by the so-called Environmental Code (Legislative Decree no. 152/2006) and other special regulations for protecting the environment (Law no. 150/1992, Law no. 549/1993, Legislative Decree no. 202/2007). On may 28 2015, was published on the Gazzetta Ufficiale the Law No. 68 of 22 May 2015 "Provisions relating to crimes against the environment" which, by the art. 1 c.8, modified the art. 25-undecies of the Legislative Decree 231/01, introducing new crimes against the environment.

Finally, Legislative Decree no. 109/2012 was issued implementing EU Directive 2009/52/EC, which has also sanctioned the inclusion of Article **25-DUODECIES** intended to sanction employment of illegally resident non-EU nationals.

Legislative Decree no. 109/2012 was issued implementing EU Directive 2009/52/EC, which has also sanctioned the inclusion of Article 25-DUODECIES intended to sanction employment of illegally resident non-EU nationals.

Article. 30 of the Law 161/2017 introduced among the offenses of Legislative Decree 231/2001, the crimes of illegal immigration and facilitation of illegal immigration provided, respectively, by the art. 12, paragraphs 3, 3-bis and 3-ter and art. 12, paragraph 5, of Legislative Decree no. 286/1998. More specifically:

- crimes of illegal immigration (paragraphs 3, 3-bis and 3-ter, art. 12 Legislative Decree no. 286/1998): they concern the conduct of persons who, in violation of the provisions of the Consolidating Provisions on immigration, promote, direct, organize, finance or transport, in dangerous situations or in a degrading or humiliating manner, at least 5 immigrant in territory of the State or perform other acts aimed at illegally introduce into the territory of the State, or another State of which persons are not citizens or do not have the right of permanent residence;
- facilitation of illegal migration (paragraphs 5, art. 12 Legislative Decree no. 286/1998): it consists in "performing (...) acts aimed at enabling someone to illegally enter another State of which they are not a citizen or where they do not have their permanent residence".

Finally, Law n. 167 of 20 November 2017 expanded the list of offenses pursuant to Legislative Decree 231/2001, introducing art. 25-TERDECIES «racism and xenophobia», which aims to punish the participants of organizations, associations, movements or groups whose aims include incitement to discrimination or violence for racial, ethnic, national or religious reasons, as well as propaganda or instigation and incitement of crimes against humanity and war crimes.



For the sake of completeness, it should also be noted that art. 23 of the Decree establishes the offense of **non-compliance with disqualification sanctions**, which applies if the entity fails to comply with a disqualification sanction imposed upon it.

Having identified all the relevant offenses, it must be noted that the entity shall be subject to sanction not only in the event of completed perpetration of any of the relevant crimes, but also in the event of their ATTEMPTED perpetration. In the latter case, the financial and disqualification sanctions shall be reduced by between one third and one half, whereas the entity shall not be accountable if it voluntarily prevents the perpetration of the act or the occurrence of the event.

Lastly, partly in view of the nature of the Company, it is worth noting the profiles of the TERRITORIAL SCOPE of application of Decree 231. The question is dealt with in art. 4, which specifies that, in the event of: crimes committed abroad (art. 7 criminal code); political offenses committed abroad (art. 8 criminal code); ordinary citizen's offense abroad (art. 9 criminal code), and ordinary foreigner's offense abroad (art. 10 criminal code), entities whose headquarters are located on the territory of the State (which must be determined by consulting statutory regulations for legal persons and enterprises) are also accountable for crimes committed abroad, unless the State upon whose territory the crime was committed instigates proceedings.

1.2. Sanctions

The sanctions deriving from administrative liability, following the perpetration of a crime (the crimes are listed specifically in paragraph 1.1.), are governed by articles 9 to 23 of Decree 231, and are as follows:

a) financial sanctions (articles 10 – 12): are always applied for all administrative offenses, and are intended to constitute a penalty rather than compensation; the entity bears sole responsibility for paying the financial sanction from its assets or common fund; sanctions are calculated according to a "*quota-based system, in an amount of no less than 100 and no more than 1000 quotas*," the said amount is determined by a judge on the basis of the severity of the fact, the degree of responsibility of the entity, and the action taken by the entity to eliminate or attenuate the consequences of the offense and prevent the perpetration of further offenses; the value of a single quota ranges from a minimum of 258 euros to a maximum of 1,549 euros, and is determined by a judge on the basis of the entity's economic and financial situation; the amount of the financial sanction is therefore calculated by multiplying the number of quotas by the value of each quota;

b) disqualification sanctions (articles 13 to 17): apply only in the cases expressly envisaged, and take the form of (art. 9, para. 2):

- disqualification from the exercise of business activity;
- suspension or revocation of the authorizations, licenses or concessions instrumental to the perpetration of the offense;
- disqualification from entering into agreements with the public administration, except for the purpose of obtaining a public service; this disqualification can be confined to specified types of contract or specified administrative authorities;
- exclusion from facilitated conditions, funding, contributions and subsidies, and the possible revocation of those already granted;
- prohibition from advertising goods or services.

The disqualification sanctions are intended to restrict or impose conditions on the entity's business, and in the most severe cases can even paralyze the entity (disqualification from conducting business); they are also intended to prevent conduct connected with the perpetration of crimes.

As explained, these sanctions apply in the cases expressly envisaged in Decree 231, when at least two of the following conditions are met:

- i) the entity gained a substantial profit from the crime, and the crime was committed by persons in top management positions or by persons under the direction of others, and in this case, the perpetration of the crime was occasioned or facilitated by serious organizational shortcomings;
- ii) and in the case of repeat offenses.

Disqualification sanctions have a duration of not less than three months and not more than two years; on an exceptional basis, disqualification sanctions can be applied definitively, in the most severe situations described in art. 16 of Decree 231.

It is important to note that art. 45 of Decree 231 envisages the application of the disqualification sanctions indicated in art. 9, paragraph 2, on a precautionary basis,⁸ if there are serious grounds to believe that an entity is responsible for an administrative offense deriving from a crime and that there are specific grounds for believing that there is a real risk that further offenses of the same nature as the one to which the proceedings relate may be committed.

Lastly, art. 15 of Decree 231 establishes that, in place of a disqualification sanction that interrupts the activity of the entity, if certain criteria are met, the judge may appoint a committee to continue the entity's activity for a period equal to the duration of the disqualification.

c) confiscation (art. 19): an autonomous and obligatory sanction applied at the time of conviction of the

⁸ Precautionary measures fulfill the need for caution in the course of legal proceedings, insofar as they are applicable in the course of trials and hence in respect of accused parties or parties under investigation, but who have not yet been convicted. Precautionary measures can therefore be taken, at the request of the public ministry, when certain conditions apply.



entity, in relation to the price or profit deriving from the crime (except for the part that can be returned to the injured party), or, should this not be possible, sums of money or other assets of equivalent value to the price or profit deriving from the crime, with the exception of rights acquired by third parties in good faith; the aim is to prevent the entity from profiting from illicit conduct.

d) publication of the conviction (art. 18): can be ordered if a disqualification sanction is applied to an entity; the conviction is published once only, in part or in full, in one or more newspapers chosen by the judge, and by posting in the register of the municipality in which the entity is based; publication is at the expense of the entity, and is undertaken by the judge's secretariat; the aim is to bring the conviction to the attention of the public, with evident consequences for the image of the entity concerned.

Lastly, the Judicial Authority may also order:

- preventive seizure of property eligible for confiscation (art. 53);
- conservative seizure of the real and movable property of the entity if there is founded reason to believe that guarantees of the payment of the financial penalty, trial costs or other sums due to the State may be absent or go missing (art. 54).

2. Models of organization and management for the purposes of exoneration from liability. The guidelines of Confindustria

2.1. The specific provisions of Legislative Decree 231/2001

Articles 6 and 7 of Decree 231 establish specific forms of exoneration from the administrative liability of entities.

In particular, art. 6, "*Top management and organizational models of Entities*", establishes that the Entity shall not be liable if it proves that:

- before the act was committed, the managing body adopted and effectively implemented appropriate models of organization and management for the purpose of preventing crimes of the type in question;
- the task of overseeing the operation and observance of the models and attending to their updating was assigned to a body within the entity (hereinafter Supervisory Body or SB) invested with autonomous powers of initiative and control;
- the persons committed the crime by fraudulently eluding the models of organization and management;

- supervision by the Supervisory Body was neither omitted nor insufficient.

Art. 6, paragraph 2, of Legislative Decree 231/2001 indicates the essential characteristics for the drawing up of a model of organization and control. Specifically, the model must:

- identify the risks and areas/sectors of activity within which the possibility of committing the crimes envisaged in Legislative Decree 231/2001 exist; this requires a process of "risk mapping", involving the analysis of the specific context of the company, which is necessary to identify the areas/sectors of activity subject to the risk of crime, and to determine the ways in which prejudicial events for the purposes of Decree 231 may occur;
- establish specific protocols aimed at programming the formulation and implementation of the decisions of the entity in relation to the crimes to be prevented; this involves assessing the system of preventive control existing within the entity, its capacity effectively to combat/reduce the risks identified, and the possibility of improving it in such a way as to implement a control system capable of preventing the risks identified;
- identify suitable financial resource management procedures for preventing the perpetration of crimes;
- establish duties of information vis-à-vis the body assigned to oversee the operation and observance of the models;
- establish regular, systematic auditing procedures, in the form of a periodic audit of the operation of the model;
- introduce an internal disciplinary system of sanctions for non-compliance with the measures indicated in the model.

Under art. 7 "*Persons subject to the direction of others, and organizational models of the Entity*", if crimes are committed by persons subject to the direction or supervision of one of the parties indicated in art. 5, paragraph 1, letter a) of the Decree, the entity shall be liable if the perpetration of the crime was made possible by non-compliance with the duties of management and supervision on the part of the latter.

In any event, the charge of non-fulfillment of the duties of management or supervision does not apply if, before the crime was committed, the entity adopted and effectively implemented appropriate models of organization, management and control for the purpose of preventing crimes of the type in question (article 7, paragraph 2).

Art. 7, paragraphs 3 and 4, establishes that:

- bearing in mind the type of business undertaken and the nature and size of the organization, the Model must lay down suitable measures to ensure that business is conducted in accordance with the law, and to discover risk situations promptly;
- effective implementation of the Model requires periodic auditing to be performed, and changes



to be made to the Model if significant breaches of legislation are discovered, or if substantial changes are made to the organization; the existence of an appropriate disciplinary system also plays an important role.

With specific reference to the preventive effectiveness of the model in relation to crimes (without intent) relating to occupational health and safety, art. 30 of Consolidated Act No. 81/2008 establishes that: *"in order for an organizational and management model to exonerate the legal persons, companies and associations with or without legal personality defined in Legislative Decree No. 231 of 8 June 2001 from administrative liability, the model must be adopted and effectively implemented, in such a way as to constitute a company system for fulfilling all legal obligations relating to:*

- a) compliance with the technical/structural standards established by law in relation to equipment, plants, work places, and chemical physical and biological agents;*
- b) the performance of risk assessments and implementation of consequent preventive and protective measures;*
- c) activities of an organizational nature, such as emergencies, first aid, management of sub-contracts, periodic safety meetings, consultations with workers' safety representatives;*
- d) health monitoring;*
- e) information and training for workers;*
- f) supervision to ensure workers' compliance with work safety instructions and procedures;*
- g) the obtainment of the documentation and certification required by the law;*
- h) periodic checks of the application and effectiveness of the procedures adopted".*

Art. 30 also states that: *"The organizational and management model must establish suitable record-keeping systems to document the performance of activities. The organizational model must also establish, to the extent required by the nature and size of the organization and the type of business it conducts, a range of functions such as to ensure the necessary powers and technical skills for verifying, assessing, managing and monitoring risk, and a suitable disciplinary system for sanctioning non-compliance with the measures indicated in the model. The organizational model must also establish a suitable system for monitoring the correct implementation of the model and ensuring that the measures adopted in it remain fir for purpose over time. The organizational model must be reviewed and amended if significant violations of occupational health and safety regulations are discovered, and in the event of changes in organization or activities deriving from scientific or technological progress. At the time of first application, corporate organizational models defined in accordance with UNI-INAIL guidelines for occupational health and safety systems (SGSL) of 28 September 2001 or British Standard OHSAS 18001:2007, are assumed to meet the requirements established in this article for the corresponding parts. For the same purposes, additional corporate organizational and management models may be indicated by the Commission as per art. 6".*

In light of the above, it is therefore clear that the adoption and effective implementation of a suitable model constitutes a pre-requisite for the Company to benefit from the exoneration envisaged by the Legislator.

2.2. The Guidelines of Confindustria

Under Decree 231, organizational and management models can be adopted on the basis of codes of conduct prepared by trade associations, notified to the Ministry of Justice in accordance with art. 6, paragraph 3 of Decree 231.

Furthermore, for the sole purposes of crimes relating to occupational health and safety, art. 30 of Legislative Decree 81/2008 (Consolidated occupational health and safety act) specifies the necessary requirements to be fulfilled by models of organization, management and control, if they are to exonerate the legal persons concerned from administrative liability. Paragraph 5 of the aforementioned article establishes that, at the time of "first application", and for the corresponding parts, organizational models drawn up in accordance with the UNI-INAIL guidelines for occupational health and safety systems dated 28 September 2001, or with British Standard OHSAS 18001:2007, are assumed to meet the requirements of models of organization, management and control for the purposes of exonerating the entity from liability.

The first association to publish a guide to the drawing up of organizational models was Confindustria, which issued a set of Guidelines in March 2002, which were then partially amended and updated, first in May 2004 and most recently in March 2008 (hereinafter also "Guidelines")⁹. The trade associations to which the Company belongs have published no guidelines for companies operating in the sector in which Vulsub Italia S.r.l. (hereinafter, for the sake of brevity, also "Vulsub") conducts its business.

In brief, the Guidelines suggest:

- mapping the company areas subject to risk, and the activities within the framework of which the predicate offenses might potentially be committed by means of specific operating practices;
- identifying and establishing specific protocols aimed at programming the formulation and implementation of company decisions in relation to the crimes to be prevented, distinguishing between preventive protocols for offenses with and without intent;
- identifying a Supervisory Body, invested with independent powers of initiative and control and assigned an adequate budget;

⁹ All versions of the Confindustria Guidelines were then judged adequate by the Ministry of Justice (with reference to the 2002 Guidelines, see the "Note of the Ministry of Justice" of 4 December 2003 and, with reference to the updates of 2004 and 2008, see the "Note of the Ministry of Justice" of 28 June 2004 and the "Note of the Ministry of Justice" of 2 April 2008) and at last in March 2008.



- identifying specific obligations to pass information to the SB with regard to the main company operations, with particular reference to activities deemed to be subject to risk, and specific obligations on the SB to pass information to the company's top management and control bodies;
- adopting a Code of Ethics that identifies the principles of the company and guides the conduct of the addressees of the Model;
- introducing an internal disciplinary system for sanctioning non-compliance with the principles indicated in the Model.

For the sake of completeness, it should be pointed out that at the time of preparation of this model, Confindustria has not produced any Guidelines on formulating procedures for identifying/mapping the crimes that were introduced after the publication of the latest edition of the Guidelines.

3. Vulsub Italia S.r.l.

3.1. Vulsub Italia S.r.l.

Vulsub Italia S.r.l. (formerly "Tyco Flow Control Italia S.r.l." and after Pentair Flow Control Italia S.r.l.) is the Italian holding of the companies Emerson Automation Solutions Final Control Italia S.r.l. and Biffi Italia S.r.l..

In the course of 2010, as part of a reorganization initiative at Group level, Vulsub Italia acquired from its subsidiaries a corporate complex consisting of the following business units: i) Managing; ii) Legal; iii) Human Resources; iv) Finance; v) Financial Planning & Analysis (FP&A); vi) Information Technology; vii) Marketing; viii) Strategic Sourcing; ix) Operational Excellence; x) New Business Development Project. Subsequently, PFC Italia signed a services contract with its subsidiaries, actually in place as Vulsub.

Vulsub Italia, as of 30 September 2017, employs 64 people located at the following operative sites:

- Lugagnano Val d'Arda ("Vanessa" plant of Emerson Automation Solutions Final Control Italia S.r.l., hereinafter also "EASFC Italia
- Rescaldina ("Raimondi" plant of EASFC Italia);
- Lucca (Sales Division of EASF Italia);
- Fiorenzuola d'Arda (Biffi Italia S.r.l. plant).

4. The Model of Organization, Management and Control of Vulsub Italia

4.1. Adoption of the Model of Organization, Management and Control by Vulsub Italia

Since its formation, the Company has given high priority to asserting its ethical principles and regulating its activities by means of procedures based on national and international best practices.

Within the framework of constant improvement, the meeting of the Board of Directors of 12 March 2012 approved the Code of Ethics and the Model of Organization, Management and Control of Vulsub Italia (hereinafter "the Model"), previously "Tyco Flow Control Italia S.r.l." with a view to preventing the perpetration of the crimes specified in Legislative Decree 231/01, by establishing and implementing a set of ethical principles and company procedures, with which all members of the organization and all commercial partners are required to comply in pursuance of their work, and by establishing adequate oversight of company operations.

At the same meeting, the Board of Directors appointed the Supervisory Body pursuant to the Decree.

In 2013, at the suggestion of the Supervisory Body, the Company decided to make further changes to its Model, on the basis of the following motivations:

- a) firstly, the organizational impact deriving from the merger between the "Flow Control" segment of the Tyco Group (to which PFC Italia belonged) and Pentair Inc.;
- b) secondly, it was deemed necessary to update the risk assessment for the purpose of assimilating the new mapping of the offenses already covered by the Special sections of the Model (including appropriate additions following the changes highlighted in point a)), and assessing the existing risks with reference to the new types of offense most recently introduced by the Legislator, such as the crime of exploiting workers from non-EU countries whose residence permit is irregular and the offence of corruption between private individuals.

In accordance with a consolidated methodology, under the coordination and supervision of the Supervisory Body, a multi-specialized work group was set up, capable of dealing with the new specific subjects introduced (including, for example, the analysis of crimes of corruption among private individuals).

The updates affected the Code of Ethics, the General section and the individual Special sections of the Model.

In particular, Special Part No. 1 has been amended in order to prevent any form of corruption, both active and passive, in the public and private sectors.

As explained, the Work Group conducted a comprehensive new risk assessment on the organizational

and corporate structure of PFC Italia.

In performing its analyses prior to the updating of this Model, the Work Group paid special attention to the "*case history*" of the company.

The analysis was performed both on the basis of a preliminary examination of the available company documentation, and by means of numerous interviews with company personnel. The company's activities were then comprehensively mapped (risk mapping), for the purpose of identifying the crimes covered by Decree 231, the perpetration of which was deemed theoretically possible in pursuance of company operations.

The outputs of this work included a complete list of "relevant" areas and processes, consisting of:

- areas and processes deemed "subject to risk", i.e. company processes in relation to which the perpetration of the crimes indicated in Decree 231 has been deemed theoretically possible, and theoretically attributable to the activities of the Company;
- areas and processes deemed "instrumental", i.e. processes involved in the management of financial resources and/or the necessary equivalent means to support the perpetration of the crimes in the areas subject to the risk of crime.

For each risk-area and instrumental area, "sensitive" activities, i.e. activities associated with the potential risk of perpetration of the crimes in question were identified, together with the company Managements/Functions concerned.

For each "sensitive" activity, efforts were made to identify the potential means by which the crimes in question might be committed.

With reference to crimes without intent, none of the company's activities was excluded, in accordance with the methodology suggested by Confindustria.

The Work Group therefore conducted an as-is analysis of existing company controls, and then identified points for improvement and drew up respective suggestions and action plans (gap analysis).

The Internal Control System was analyzed with a particular view to verifying:

- the existence of general rules of conduct covering the activities performed;
- the existence and adequacy of formalized procedures governing the performance of the activities in accordance with the principles of: traceability of acts, objectivization of decision-making processes, and the establishment of adequate control points;
- the practical implementation and compliance with the general principle of the separation of tasks;
- the existence of authorization levels to ensure adequate control of the decision-making

- process;
- the existence of specific control and monitoring practices for "critical" activities vis-a-vis Decree Decree 231.

The assessment of the Internal Control system was specifically aimed at fulfilling the requirements of Decree 231; a documented description of the system of preventive controls in place at PFC Italia was therefore prepared, giving details of the individual components of the system.

In light of the mapping of sensitive activities, the identification of risks and the analysis of the Internal Control System, the residual risks were assessed in terms of criticality/possibility of the event occurring.

The risks associated with each company activity were assessed, and risk priorities were assigned according to the various elements qualifying the Company's Internal Control System, from the existence of rules of conduct to the existence of control and monitoring activities.

The existing processes were therefore activated and supplemented, in relation to the types of crime envisioned in Decree 231, and the organizational and operational context of PFC Italia, both internally and externally. Particular attention was paid to the need to ensure prompt reporting of the existence and onset of possible critical situations, both of a general and specific nature.

For all the risks identified at the start and during the course of activities, adequate documentation must be prepared to enable the relevant personnel to keep track of events that might effect activities.

Lastly, the Work Group made a thorough analysis of the additional components deemed essential for the Model, namely:

- the Code of Ethics,
- the Disciplinary System,

and identified the action to be taken to bring these into line with requirements.

In 2016, at the suggestion of the Supervisory Body, the Company decided to make further changes to its Model, on the basis of the introduction of new crimes:

- Modification to Corporate Crimes (Law No. 69/2015)
- Introduction of the Self-Laundering Crime (Law No. 186/2014)

In accordance with a consolidated methodology, under the coordination and supervision of the Supervisory Body, a multi-specialized work group was set up, capable of dealing with the new specific subjects introduced.

The updates affected the General section and the individual Special sections of the Model.



In particular, Special Part No. 6 has been amended in order to prevent the new crime of self-laundering, and Special Part No. 4 has been amended in order to prevent the other new crimes.

The analysis was performed both on the basis of a preliminary examination of the available company documentation, by means of numerous interviews with company personnel and by mapping the company's activities concerned by the new crimes.

The Work Group therefore conducted an as-is analysis of existing company controls, and then identified points for improvement and drew up respective suggestions and action plans (gap analysis).

The risks associated with each company activity were assessed, and risk priorities were assigned according to the various elements qualifying the Company's Internal Control System, from the existence of rules of conduct to the existence of control and monitoring activities.

The existing processes were therefore activated and supplemented, in relation to the types of crime envisioned in Decree 231, and the organizational and operational context of PFC Italia, both internally and externally.

Particular attention was paid to the need to ensure prompt reporting of the existence and onset of possible critical situations, both of a general and specific nature.

Finally, in 2018, the Company, as suggested by the Supervisory Body, proceeded to update the Model, as a consequence of the following legislative changes:

- Introduction of Illegal intermediation and labour exploitation crimes (Law No.199/2016)
- Introduction of Trafficking in organs removed from a living person crime (Law No.236/2016)
- Introduction of Incitement to corruption crime (Legislative Decree No.38/2017)
- Introduction of Hiring of foreign workers with no residence permit crime (Law No.161/2017)
- Introduction of Racism and Xenophobia crimes (Law No.167/2017)
- Prevision of Whistleblowing system (Law No.179/2017)

The Company has set up a multi-specialized working group which has updated both the General Section and the Special Section of the Model.

In particular, the Company has updated the Special Sections No. 1 and No. 3 on the basis of the new crimes.

The analysis was carried out both through a preliminary examination of Company documentation and through interviews with Company personnel. The Company sensitive activities involved in the new

crimes were therefore identified.

The working group then proceeded to identify and analyze the controls which the Company had already put in place for these activities (as-is analysis) and to identify points of improvement, formulate suggestions and establish an action plan (gap analysis).

4.2. Structure of the Model of Organization, Management and Control - Amendments and additions

The Model consists of the following Parts:

- GENERAL SECTION
- SPECIAL SECTIONS
- CODE OF ETHICS
- DISCIPLINARY SYSTEM

The "General Section" illustrates the contents of Decree 231, the function of the Organizational and Management Model, the control protocols and duties of the Supervisory Body, the sanctions applicable in the event of violations of the Model, and the general principles, logic and structure of the Model itself.

The "Special Sections" focus on the specific types of crime, with particular reference to:

- SPECIAL SECTION 1 - CORRUPTION CRIMES AND OTHER CRIMES AGAINST THE PUBLIC ADMINISTRATION
- SPECIAL SECTION 2 - COMPUTER-RELATED CRIMES AND ILLICIT PROCESSING OF DATA
- SPECIAL SECTION 3 - ORGANIZED AND TRANSNATIONAL CRIMES
- SPECIAL SECTION 4 - CORPORATE CRIMES
- SPECIAL SECTION 5 - HOMICIDE WITHOUT INTENT AND SERIOUS OR VERY SERIOUS BODILY HARM WITHOUT INTENT, DERIVING FROM THE VIOLATION OF REGULATIONS GOVERNING OCCUPATIONAL HEALTH AND SAFETY
- SPECIAL SECTION 6 - HANDLING, LAUNDERING OR USING MONEY, GOODS OR OTHER ASSETS OF ILLICIT ORIGIN INCLUDING SELF-LAUNDERING
- SPECIAL SECTION 7 - BREACH OF COPYRIGHT

The purpose of each Special Section is to highlight the obligation of the specified addressees to adhere to rules of conduct consistent with the company procedures established by the Model, for the purpose of preventing the perpetration of the crimes envisaged in Decree 231 and identified as theoretically relevant on the basis of the organizational structure and company activities undertaken.

Specifically, each Special Section indicates:

1. the areas subject to the risk of crime, and the related sensitive activities;
2. any "instrumental" areas, and the related risk areas;
3. the company managements and/or functions that operate within each risk area or instrumental area;
4. the key controls in place in the individual risk areas;
5. the crimes that may theoretically be committed, and the associated potential means of their perpetration;
6. the principles of conduct to be adhered to for the purpose of reducing the risk of crimes being committed.

On the basis of the results of the Risk Assessment, at present, the other types of crime envisaged by the Decree have not been deemed relevant to Vulsub Italia, namely:

- Art. 25-*bis* - Counterfeiting money, credit cards and postage or revenue stamps;
- Art. 25-*bis.1* - Crimes against trade and industry;
- Art. 25-*quater.1* - Practices involving mutilation of the female genital organs;
- Art. 25-*quinqüies* - Crimes against individual persons;
- Art. 25-*sexies* - Market Abuse.

This decision was taken on the basis of the current structure of Vulsub Italia, the operations it currently performs, and the type of crimes indicated.

With reference to art. 25-*quater* (Crimes for the purposes of terrorism or subversion of democratic order), art. 25-*decies* (Inducement to refrain from making declarations or to make false declarations to the judicial authorities), art. 25-*undecies* (Environmental crimes) and art. 25-*duodecies* (Employment of illegally resident Non-EU nationals), the Risk Assessment did not identify any specific risk profiles, and

the principles and rules of conduct laid down in the company's Code of Ethics were considered sufficient, as well as the control tools described in the Special Parts of this Model¹⁰.

The Company undertakes to monitor continuously the offenses already envisaged in the Model, and any new offenses that may be introduced into Decree 231.

The Organizational and Management Model was adopted by the Board of Directors of Vulsub Italia, among whose tasks it is to amend and supplement the Model. Following a resolution, therefore, the Board of Directors may, at any time, modify this Model, in part or as a whole, in order to bring it into line with new legal provisions, or following reorganization of the company structure.

5. The company bodies and organizational structure of Vulsub Italia

The organizational structure of Vulsub and, in general, the organizational system as a whole, is designed in such a way as to ensure that the Company implements its strategies and achieves its goals.

5.1. The model of governance of Vulsub Italia

Vulsub Italia's system of corporate governance is structured as follows.

The **Shareholders' Meeting** is entitled to pass resolutions, in ordinary and extraordinary session, on the matters reserved for it by the Law or the Articles of Association. Vulsub Italia is a limited liability company with a sole shareholder, subject to the management and coordination of Emerson Electric Co.

The **Board of Directors** enjoys the widest powers for the ordinary and extraordinary management of the Company and, in particular, is invested with all the necessary powers to implement and achieve the company's objects, except in relation to matters reserved inderogably for the Shareholders' Meeting by the Law and the Articles of Association.

The Board of Directors of Vulsub Italia consists of 5 (five) members, including one Chairman, a Managing Director and 3 (three) Counselors.

The **Board of Auditors** consists of 3 (three) statutory members and 2 (two) alternate members. The Board of Auditors is tasked with verifying:

- compliance with the Law and the Articles of Association;
- compliance with the principles of correct administration;
- the adequacy of the Company's organizational structure, the internal control system and the administrative/accounting system, including in relation to the reliability of the latter

¹⁰ See, for example, the Special Part 1 concerning "Offences relating to bribery and other crimes against the Public Administration."



in correctly representing company operations.

Vulsub Italia has assigned the task of conducting the statutory audit of its accounts to an **Audit Company** registered in the Special Register held by Consob.

5.2. The organizational structure of Vulsub Italia

The Company's organizational structure, which is designed, on the one hand, to separate the roles, duties and responsibilities of the various functions, and on the other, to ensure the highest possible levels of efficiency, incorporates a precise definition of the skills of each area of the company and the responsibilities connected with it.

The Company has drawn up a detailed Staff Chart, which outlines its entire organizational structure.

In particular, the organizational chart specifies the following:

- the areas into which the company's activity is divided;
- the lines of hierarchical dependency of the individual company bodies;
- the parties who operate in the individual areas and their organizational role.

The staff chart is officially distributed to all Company personnel.

5.2.1. The services contract with the subsidiaries

As pointed out, following a corporate reorganization that affected the entire Italian Group, in order to optimize the activities and to ensure the necessary operational functionality, Vulsub Italy has entered into a service contract with its subsidiaries Emerson Automation Solutions Final Control Italia S.r.l. and Biffi Italia S.r.l., in accordance with which the holding company is obligated to provide the following services to its subsidiaries:

i) **Top Management:** it is tasked with:

- taking strategic decisions in the performance and management of the other services described below;
- harmonizing and coordinating the aforementioned services with a view to maximizing the integration, in such a way as to achieve synergies and economies of scale.

ii) **Finance services:** performs the full range of activities aimed at recording and processing information of a financial/economic nature (for the purposes of preparing annual financial statements and internal company reports), control and management, fulfillment of tax obligations, management and control of

financial flows, administration of personnel (with particular reference to salaries, contributions and tax), and management of relations with audit companies.

iii) **Compliance services:** it is tasked with:

- performing audits;
- ensuring compliance with legislation (with particular reference to Decree 231);
- operationally supporting the Company's Supervisory Body within the framework of monitoring.

iv) **IT services:** ensures the functionality of the Company's HW and SW systems, reviews/updates the Company's SW systems, and attends to the procurement and/or implementation of new SW systems and HW devices.

v) **Human Resources services:** deals with the various aspects connected with the management and development of human resources, including recruitment, selection and induction; training; career and mobility of personnel; trade union relations pay policy.

vi) **Marketing services:** it is tasked with developing communication projects.

vii) **New Business Development Project:** which is tasked with formulating new strategic plans designed to be transverse to the the actuators and valves businesses through the sharing and dissemination of best practices in designing and developing new businesses to obtain technical competence and operational efficiency.

viii) **Operational Excellence services:** sharing and dissemination of operational best practices.

ix) **Strategic Sourcing and real estate services:** it is tasked with:

- selection and development of suppliers;
- purchasing of services and logistics.

x) **Intellectual Property management:** aspects related to the intellectual property management.

xi) **Environment, Health and Safety services:** complex of activities concerning assistance and support:

- on environmental matters and Health and Safety at Work;
- for monitoring and complying with applicable regulations.

5.3. Organizational Structure in relation to Occupational Health and Safety. Operational Management and the Safety Monitoring System

As required by the Confindustria Guidelines and the Consolidated Act approved on 1 May 2008, the Company has formed a specific organization structure in relation to occupational health and safety (OHS) with a view to eliminating or, where impossible, reducing - and hence managing - work-related risks to the workforce.

In particular, it must be considered that Vulsub Italia's organizational structure of OHS takes into account the fact that the employees of the Company are distributed in four operating locations.

As part of this organizational structure, the following parties (where present) have been identified:

- employer;
- directors;
- line managers;
- managers and members of the prevention and protection service (hereinafter "RSPP" and "ASPP" respectively);
- first-aiders;
- fire-prevention team members;
- workers' safety representatives;
- competent doctor;
- workers;
- external personnel who perform activities of relevance to OHS (e.g. the personnel of external contractors of all types).

The Company also obtained certification of its Occupational Health and Safety Management System in accordance with **British Standard OHSAS 18001:2007**.

For further details, see Special Section 5 "Homicide without intent and serious or very serious bodily harm without intent, deriving from the violation of regulations governing occupational health and safety".

6. The system of mandates and powers of attorney

The Board of Directors is the body in charge of formally assigning and approving mandates and powers of signature.

Power to represent the Company is granted in line with the hierarchical level of the addressee of the mandate or power of attorney, or in relation to specific activities.

The Board of Directors of Vulsub Italia has granted a director specific mandates with broad powers relating to the coordination and management of Company activities, and the direct performance of the principal company acts.

The Board of Directors has therefore granted the board member the powers of management and signature strictly connected with and instrumental to the performance of his respective duties, and established a limit value for each operation.

Special powers of attorney have also been assigned to the managers of certain functions, in strict relation to the duties and activities performed by each, both with reference to Vulsub Italia employees and to parties who perform their activities under service contracts. The above are powers of attorney for specific activities, for which limit values are established.

Mandates and powers of attorney, therefore, are formally conferred upon their respective addressees. Proxies are then filed with the appropriate department of the Register of Companies.

Each of the above acts of mandate or powers of signature thus bears the following details:

- delegating party and source of the former's power to grant mandates and powers of attorney;
- mandate holder;
- object of the mandate/power of attorney;
- value limits within which the mandate holder is entitled to exercise the power granted.

7. Control system and procedures

Vulsub Italia has a highly structured corpus of procedures relating to the management of company activities, with particular reference to the activities performed in areas subject to the risk of crime. By virtue of its position as a company belonging to a group with securities listed in the USA, it should also be noted that Vulsub Italia has implemented a series of internal procedures designed to ensure compliance with the American Sarbanes-Oxley law.

The main IT systems used at Vulsub Italia are: SAP (accounting), Copernico (payroll management), PeopleSoft (Human Resources Management), CLM (order management), HFM (consolidation of monthly accounting data).

The Company's procedures ensure compliance with the following principles:

- promoting the involvement of multiple parties to ensure adequate separation of duties through segregation of functions;



- adopting measures to ensure that all operations, transactions and actions are verifiable, documented, coherent and congruous (traceability of operations/activities);
- prescribing the adoption of measures aimed at documenting the checks conducted in relation to the operations and/or actions performed (documentation).

8. Controlling

The Company's controlling system establishes resource management verification mechanisms designed to ensure not only the verifiability and traceability of expenditure, but also the efficiency and economy of company activities, for the following purposes:

- clearly, systematically and transparently defining the resources (financial and otherwise) at the disposal of the individual managements and functions, and the boundaries within which such resources can be used, through the planning and formulation of a budget;
- detecting any deviations from the budget by regularly examining "actual" situations, analyzing the causes of such deviations and referring the results to the appropriate hierarchical levels so that appropriate corrective action may be taken;
- controlling monitoring the progress of spending connected with production and sales, in terms of costs incurred.

9. The Supervisory Body

9.1. Composition and appointment of the Supervisory Body

Vulsub Italia has opted for a collegiate, multiple-party structure for its Supervisory Body, in view of the aims pursued by the law, and the size and organization of Vulsub Italia.

The rules of procedure and duties of the Supervisory Body are specified in the "CHARTER OF THE SUPERVIROY BODY". The main points of the aforementioned rules are therefore summarized below, while full details appear in the specific document.

The Supervisory Body was first instituted by resolution of the Board of Directors of 12 March 2012, the date on which the Company formally adopted the Model. At that time, the Board established the number of members, their term of office, and the authority, powers, responsibilities and duties of the Supervisory Body in accordance with the provisions set out below.

The Supervisory Body is appointed by the Board of Directors, and remains in office for a predetermined time period and is possibly renamed.

In accordance with the provisions of Decree 231 and the Guidelines of Confindustria, the Supervisory Body of Vulsub Italia fulfills the requirements of:

autonomy and independence: insofar as:

- its control activities are not subject to any form of interference and/or influence by parties within Vulsub Italia;
- the majority of members of the Supervisory Body are independent professionals from outside the Company;
- the Supervisory Body reports directly to the Company's top management, i.e. the Board of directors, with the possibility of reporting directly to the shareholders and the auditors;
- in order to safeguard the objectivity of its judgment, the Supervisory Body has not been assigned any operational duties, and takes no part in decision-making;
- the Supervisory Body is also allocated adequate financial resources for performing its duties correctly;
- the Supervisory Body's rules of procedure are drawn up and adopted by the body itself;

professionalism: insofar as the members of the Supervisory Body include professionals in control system auditing and analysis, and legal professionals, with particular reference to criminal law; furthermore, the Supervisory Body is also entitled to avail itself of the services of internal company functions and resources, and external consultants;

continuity of action: insofar as the Supervisory Body is an *ad hoc* body dedicated exclusively to supervising the operation of and compliance with the Model, and is allocated an adequate budget for the purposes of its duties.

The Board of Directors performs the necessary checks to ensure that the Supervisory Body fulfills the aforementioned requirements and operating conditions on an ongoing basis, and to ensure that its members are fit and proper persons, and are not in situations of conflict of interest, by way of further safeguarding the autonomy and independence of the Supervisory Body.

In selecting its members, nonetheless, account must be taken of the aims of Decree 231 and the primary requirement of ensuring the effectiveness of the controls and of the model, its fitness for purpose and its continual updating, alignment and fulfillment of requirements.

The Multi-person Supervisory Body is made up of re-electable members, from inside or outside Vulsub Italia, who must be fit and proper persons with the necessary professionalism, independence and autonomy to hold office, consistently with the Guidelines published by Confindustria.

The Supervisory Body shall elect a Chairman from among its members.



At the time of appointment, the Board of Directors establishes the remuneration of the members of the Supervisory Body for the duties assigned to them.

Lastly, the Company has established that, when drawing up the company budget, the Board of Directors must approve an adequate allocation of financial resources, to be proposed by the Supervisory Body itself, which the Supervisory Body shall be entitled to use for all requirements in pursuance of its duties (e.g. specialist consulting, travel expenses, etc.) as envisaged in the Confindustria Guidelines.

9.2. Functions and duties of the Supervisory Body

In order to ensure the operation of and compliance with the Model, the Supervisory body is required to:

- check on the adequacy of the Model, in other words its real capacity to prevent unwanted acts;
- monitor the implementation of the Model, i.e. check that actual practices are in line with the provisions of the Model;
- ensure that the requirements of solidity and functionality of the Model are maintained over time;
- attend to the ongoing updating of the Model, in the event that the assessments made necessitate corrections and changes, by:
 - submitting proposed changes to the Model to the company bodies/functions capable of implementing them, and, in the most important cases, to the Board of Directors;
 - following up on the above initiatives, to ensure the correct implementation and operation of the proposed solutions.

In particular, the functions of the Supervisory Body include:

- monitoring and, with the aid of the relevant company functions if necessary, promoting initiatives for the purpose of disseminating knowledge and understanding of the Model, and meeting demand for instruction, clarification and updating;
- monitoring and proposing, if necessary, updates to the mapping of risk areas, in conjunction with the company functions concerned;
- monitoring corporate activity, as well as the functionality of the overall preventive system adopted by the Company with reference to the field of health and safety at work, by carrying out regular and extraordinary inspections (so-called "spots") and their follow-ups;
- verifying the efficiency and effectiveness of the Model in anticipating and preventing the perpetration of the crimes listed in Decree 231;
- verifying and assessing the suitability of the disciplinary system in light of Decree 231, and its application;
- checking on compliance with the methods and procedures laid down in the Model, and highlighting any deviations in actual practice, including on the basis of information flows and reports received;

- conducting periodic checks, within the risk areas, on certain operations or specific acts performed within the risk areas, with the aid of the other company functions, for the purposes of constant and improved monitoring of the activities performed in those areas;
- conducting the necessary internal investigations into presumed violations of the prescriptions of the Model;
- receiving and handling reports from company personnel or third parties in relation to possible critical issues concerning the Model, infringements thereof and/or any situation that may expose Vulsub Italia to the risk of crime;
- ensuring that the provisions of the Special Section of the Model in relation to the types of crime, fulfills the requirements of Decree 231;
- collecting and keeping (in an up-to-date archive) all documentation relating to the procedures and other measures envisaged in the Model, information collected in the course of supervisory activities, and documentation evidencing activity performed and meetings held with the company bodies to which the Supervisory Body reports;
- providing Heads of Functions with recommendations for the preparation of new procedures and the adoption of other measures of an organizational nature, and for the amendment of procedures and measures already in place, if appropriate;
- formulating proposals for the alignment and updating of the Model to the Management Body (Board of Directors or, if applicable, Chairman or the Board of Directors or Managing Directors) with particular reference to amendments and additions necessitated by significant infringements of the prescriptions of the Model and/or significant changes to the internal structure of Vulsub Italia and/or to methods of performing company activity and/or to legislation, and to check on the implementation and functionality of the proposals submitted;
- reporting to the management body, for the purpose of taking appropriate measures, any infringements of the Model that might result in the liability of Vulsub Italia in accordance with and by virtue of Decree 231;
- monitoring any legislation of relevance to the effectiveness and adequacy of the Model in relation to company activity.

9.3. Powers of the Supervisory Body

In order to perform its duties to best effect, the Supervisory Body may, in addition to the above, do the following:

- access all relevant documentation for the purpose of verifying the effectiveness and adequacy of the Model, and request the necessary information from the relevant parties for the same purpose;
- carry out inspections, without notice, in the risk areas, to ascertain that the procedures and

other control systems are being complied with.

Furthermore, the activities of the Supervisory Body may not be contested by any company body, structure or function, without prejudice to the duty of Board of Directors to ensure the adequacy of the Supervisory Body and its work, insofar as the Board of Directors is responsible for the operation and effectiveness of the Model.

For the purpose of performing the duties assigned to it, the Supervisory Body is allocated adequate financial resources, and is entitled to avail itself – under its own direct supervision and responsibility – of the aid of internal company bodies and external consultants, if applicable, in accordance with the appropriate company procedures.

The Supervisory Body is responsible for regulating its own internal practices, and is therefore entitled to draw up appropriate rules of procedure governing the performance of its supervisory duties, including inspection intervals, analysis criteria and procedures, the recording of minutes of meetings and the control of information flows, etc.

9.4. Duty of disclosure to the Supervisory Body

The correct performance of the functions assigned to the Supervisory Body depends upon the duty of disclosure towards it established in art. 6, paragraph 2, letter d) of Decree 231.

The company functions subject to the risk of crime are required to transmit to the Supervisory Body the periodic results of the control activities established by them pursuant to the Model (e.g. summary reports of activities carried out, monitoring programs, definitive indicators), and any anomalies or incongruities detected in the available information.

All information of relevance to supervision activities must also be transmitted to the Supervisory Body, e.g. information relating to:

- decisions regarding the application for, and granting and use of public funding;
- measures and/or reports from judicial police bodies or any other authority, from which it is possible to infer the existence of inquiries affecting the Company, its employees or members of the corporate bodies, even indirectly;
- requests for legal assistance made by employees and/or directors against whom the Magistrature is taking proceedings for offenses against the same;
- any orders received from line managers and deemed to be in conflict with the law, internal regulations or the Model;
- any requests or offers of money, gifts (exceeding a modest value) or other benefits, originating from or intended for public officials or public service officers;

- reports prepared by the heads of function concerned, which suggest the existence or possible existence of conduct contrary to the requirements of Decree 231 and which impacts on compliance with the Model of Organization, Management and Control;
- disciplinary proceedings undertaken and sanctions applied, or measures for the archiving of such proceedings, with respective reasons;
- orders awarded by Public bodies or parties that perform functions of public utility or interest, with the summaries of contracts awarded following public tenders as well as any critical situations concerning possible contracts obtained as a result of private negotiations;
- any significant deviations from budget or anomalies in expenditure;
- any omissions, instances of negligence or falsifications in the keeping of accounts or the retention of documentation on which accounting records are based;
- shortcomings or inadequacies in work places, work equipment or protection devices provided by the Company, and any other hazardous situation connected with occupational health and safety;
- periodic reports on occupational health and safety, with particular reference to the minutes of the periodic meeting envisaged in art. 35 of Legislative Decree 81/2008, and: all data relating to work injuries on the Company's sites, near misses recorded, the notice regarding the annual budget allocated to necessary and/or appropriate improvements in safety, any updates to the Risk Assessment Document, reports on the monitoring of safety performance, minutes of the reviews of the OHSAS 18001 management system, and a list of disciplinary sanctions applied for infringements of regulations; reports from the competent doctor of anomalous situations identified in the course of scheduled or periodic inspections;
- the discovery of any conduct or situation regarding occupational health and safety that is not consistent with the Model, regardless of whether or not the above involve a crime;
- the discovery of any deviations in the process of assessing quotes from suppliers with respect to company procedures or pre-determined criteria;
- organizational changes and changes to the company procedures in force, and updates to the system of mandates and powers of attorney;
- communications from the audit company regarding matters that may indicate a shortcoming in internal controls;
- the annual financial statements, accompanied by the explanatory notes, and the six-monthly balance sheet;
- communications from the Board of Auditors and the audit company, regarding any critical issues that may have emerged, even if since resolved;
- operations perceived to be subject to risk (e.g. financial flows with countries deemed to present "a risk of terrorism" or countries under embargoes; incoming or outgoing payments made by means of triangulation; etc.);



- operations in breach of art. 49 of Legislative Decree 231/07 (operations in cash and/or bills, for amounts exceeding the legal threshold – currently € 1,000.00);
- measures and/or reports from judicial police bodies or any other authority, from which it is possible to infer the existence of inquiries, in relation to either known or unknown parties, for the crimes specified in the Decree, that may involve the Company;
- resolutions of meetings of the Board of Directors and Board of Auditors;
- any significant change pertaining to company information systems;
- reports resulting from inspections carried out by supervisory bodies;
- any other information, even if it is not included in the list above, that is relevant for the purposes of correct and complete supervision and updating of the Model.

With regard to the above list of information, moreover, the Supervisory Body shall be responsible for requesting possible changes and additions to the items of information to be provided, as necessary and appropriate.

Personnel and all parties operating in the name and on behalf of Vulsub Italia who come into possession of information regarding the perpetration of crimes within Vulsub Italia, or regarding practices not consistent with the rules of conduct and principles established in the Code of Ethics, are required promptly to inform the Supervisory Body.

Reports of this nature may be sent, anonymously or otherwise, by email to the following address: **odv.emerson@it.ey.com** or by post to the address of the Vanessa plant of the company in Via Piacenza, 29018 Lugagnano Val d'Arda (PC) - marked for the attention of the Supervisory Body.

The correct fulfillment of the obligation of information by the employer can not lead to the application of disciplinary sanctions.

In this regard, the Company adopts effective measures to ensure the confidentiality of the person who transmits information to the Supervisory Body to identify conducted that differ from the provisions of the Model and/or the procedures established by the Company's internal control system.

9.5 Whistleblowing

Pursuant to art. 6, paragraph 2-bis of Legislative Decree 231/01, the Company provides to the recipients of this Model 231, in addition to the traditional communication system, an additional signaling channel in order to highlight illicit conduct, based on elements of precise and concordant facts.

This is a platform for the collection and management of reports, which complies with the requirements of the Decree and which has a specific function for reporting pursuant to Legislative Decree 231..

Such illegal conduct may concern possible violations with respect to what is provided by:

- Legislative Decree 231/01;
- The present Model;
- the Group's Code of Ethics;
- the internal documents adopted by the Company in implementation of the previous points (e.g. procedures and policies).

Reports will be collected through the following channels:

- via email, through the mailbox dedicated to the OdV (whistleblowing.emerson@it.ey.com), a channel that guarantees the confidentiality of the reporter's identity;
- in paper and confidential form, via ordinary mail addressed to: Vulsub Italia Srl - Attention of the Supervisory Body - Via Piacenza, 29018 Lugagnano Val d'Arda (PC);
- Whistleblowing on-line portal that provides a guided tour for the reporter.

The reports will be managed according to the internal organizational provisions adopted by the Company on the subject of Whistleblowing.

The Company guarantees, independently of the channels used, the confidentiality of the identity of the reporter and an alternative reporting channel (platform for collecting and managing reports) suitable to guarantee, with IT tools, the privacy of the reporter.

It is also forbidden to carry out acts of retaliation or discriminatory, direct or indirect, towards the reporter for reasons connected directly or indirectly to the report.

It is also noted that, pursuant to art. 6, paragraph 2-bis, letter d) of Legislative Decree 231/01, in addition to the provisions of the "Disciplinary System", the Company has defined further sanctions "against who violate the protection measures of the reporter, as well as those who carries out unfounded reports with malice or gross negligence" (for more details see the "Disciplinary System").

9.6. Duty of disclosure of the Supervisory Body to the Company Bodies

The Supervisory Body must submit a written report to the Board of Directors and the Board of Auditors, at least once a year, setting out the work done in the period and the results thereof, together with a general outline of the action it intends to take in the next period.



In cases of urgency, however, the Supervisory Body may refer to the Managing Directors or Board of Directors whenever it sees fit, for the purposes of effective and efficient performance of the duties assigned to it.

The proceedings of all meetings must be recorded in written minutes.

10. The Code of Ethics

At the same time as approving this Model, the Company adopted a new version of the Code of Ethics, which constitutes one of the fundamental protocols for the drawing up of a valid Model capable of preventing the crimes indicated in the respective Decree.

The Code adheres to the principles set out in the latest version of the Confindustria Guidelines dated 31 March 2014, approved on 21 July 2014, and is consistent with the provisions of the *Integrity and Ethics* issued by parent company Emerson, which constitutes a guide to company policies and to the legal requirements that govern the conduct of Company (which remains a stand-alone document, however, and does not form part of the Model).

A specific document sets out the details of the Code of Ethics. For full details please refer to this document, which establishes:

- the addressees of the Code of Ethics;
- the fundamental ethical principles positively valued by the Company (Part I of the Code of Ethics);
- the specific rules of conduct applicable to parties subject to the Code, and with which such parties must adhere (Part II of the Code of Ethics);
- the mechanism of communication, training and monitoring of the Code of Ethics (Part III of the Code of Ethics).

11. Communication and training in relation to the Model of Organization, Management and Control

Vulsub Italia is aware of the importance of the dissemination of the Model, of its communication to personnel and of the training of the latter for the purposes of the correct and effective operation of the Model of Organization, Management and Control of Vulsub Italia. The Company therefore undertakes to continue to disseminate the principles established in the Model and in the Code of Ethics, by taking the most appropriate measures to promote and raise awareness of it, on a differentiated basis according to role, responsibilities and duties.

In order to ensure the widest diffusion of the Model, the Code of Ethics and the instruments adopted by Vulsub Italia, the documents are made available to employees of Vulsub Italia in both electronic and paper format. All contractors are also informed of the adoption of the Model and the Code of Ethics, and given all the necessary information about both. All employees of Vulsub Italia are required to be conversant with the content of the Code of Ethics and the Model (including respective procedures), and to observe them and contribute to their effective implementation. Adequate information is given on all matters that may contribute to the transparency of company activity (rules of conduct, authorized powers, staff chart, procedures, information flows, etc.). In order to ensure the effectiveness of the Model, communication about it must reach all addressees, and must be effective, authoritative, clear and detailed, and periodically repeated.

For third-party addressees bound by the Model, the relevant summary document is displayed, as per art. 7, paragraph 1 Law 300/1970, in a location accessible to everyone, and is also published on the Company's website.

The activity of dissemination, communication and training for employees involves the implementation of a suitable training program based on a defined plan, with the aid of the Supervisory Body, if appropriate, and the assistance and coordination of the company functions concerned, which explains the intended benefits and legal requirements that underpin the Model of Organization, Management and Control and the Code of Ethics. Training activities are differentiated according to the role and responsibilities of the personnel involved, and include more in-depth training for "top management" members, and staff operating in areas defined by the Model as "subject to risk".

The contents of training sessions include a part on Decree 231 and the administrative liability of entities (legal sources, offenses, sanctions applicable to natural persons and companies, and exemption) and a specific part on the principles and rules of the Model of Organization, Management and Control.

The adoption of the Model is also communicated and disseminated to all external parties with which Vulsub Italia has relations, including suppliers, partners, consultants, etc.

Proof of communication and the formal commitment of all internal and external parties (insofar as applicable to the latter) to adhere to the principles of the Code of Ethics and the Model takes the form of appropriate documentation, such as – for example – declarations of understanding of and compliance with the Model and specific contractual clauses. Appropriate documentation is also produced in relation to information, training and updating sessions.

Vulsub Italia shall neither enter into nor pursue relations with any party that does not undertake to comply with the principles established in the Code of Ethics and the Model of Organization, Management and Control (confined, in the latter case, to those aspect that are applicable on a time-by-time basis).

12. Disciplinary System (Pursuant to Legislative Decree 231/2001 art. 6, paragraph 2, letter e)

12.1. Aims of the disciplinary system

Compliance with the Model of Organization, Management and Control constitutes an essential requirement for Vulsub Italia. As such, in accordance with art. 6, paragraph 2, letter e) of Decree 231, Vulsub Italia has adopted an adequate disciplinary system to be applied in the event of non-compliance with its Model of Organization, Management and Control.

The Company has decided to introduce an appropriate document entitled "DISCIPLINARY SYSTEM", which constitute and protocol and integral part of this Model. The main points of the disciplinary system are outline below; for full details, see the specific document.

It should be emphasized, however, that the instigation of disciplinary proceedings and the possible application by Vulsub Italia of the disciplinary sanctions envisaged, does not depend upon the existence of criminal proceedings against the addressee.

In no circumstances may an illicit or illegitimate act or any act in breach of the Model of Organization, Management and Control be justified or extenuated, even if committed in the interest or for the benefit of Vulsub Italia. Attempted infringements also attract sanctions, with particular reference to acts or omissions intended unequivocally to breach the rules and regulations established by Vulsub Italia, even such acts are not concluded or if the intended event does not occur for any reason.

12.2. The structure of the Disciplinary System

For full details, see the specific document; in outline, however, the Disciplinary System of Vulsub Italia is divided into four sections.

The first indicates the parties subject to the sanctions, namely the Directors, Auditors and Independent Auditor; other persons in top management positions, employees and third-party addressees.

The second specifies the potentially relevant types of conduct for the purposes of application of the sanctions, i.e., with reference to crimes with intent:

1. non-compliance with the Model, in the event of infringements within the framework of "sensitive" activities defined in the "instrumental" areas identified in the Model Summary Document (Special Section 1 regarding corruption crimes and other crimes against the Public Administration), assuming that none of the conditions envisaged in subsequent points 3 and 4 applies;
2. non-compliance with the Model, in the event of infringements within the framework of "sensitive" activities defined in the areas "subject to the risk of crime" identified in the Model Summary Document (Special Section), assuming that none of the conditions envisaged in subsequent points 3 and 4 applies;
3. non-compliance with the Model, in the event any infringement incorporating (on an objective basis) one of the crimes listed in the Decree;
4. non-compliance with the Model in the event of infringement for the purpose of committing one of the crimes envisaged by the Decree, or if there is a risk that the Company may be held liable within the meaning of the Decree.

With reference to crimes without intent, by contrast:

5. non-compliance with the Model in the event that the infringement causes a situation of real danger to the physical safety of one or more persons, including the perpetrator of the infringement, assuming that none of the conditions established in subsequent points 6, 7 and 8 applies;
6. non-compliance with the Model in the event that the infringement causes physical injury to one or more persons, including the perpetrator of the infringement, assuming that none of the conditions established in subsequent points 7 and 8 applies;
7. non-compliance with the Model in the event that the infringement causes a physical injury classifiable as "severe" pursuant to art. 583, paragraph 1 of the criminal code, to one or more persons, including the perpetrator of the infringement, assuming that none of the conditions established in subsequent point 8 applies;
8. non-compliance with the Model in the event that the infringement causes a physical injury classifiable as "very severe" pursuant to art. 583, paragraph 1 of the criminal code or the death of one or more persons, including the perpetrator of the infringement.

The third section indicates the theoretically applicable sanctions for each category of party bound by the Model, in relation to each relevant type of conduct.

The fourth section covers the procedure for issuing and applying the sanction in relation to each category of party to which the Disciplinary System pertains, specifying for each:

- the phase of charging the party with the infringement;



- the phase of determining and subsequently applying the sanction.

The text of the Disciplinary System is published on the company intranet and posted in a location accessible to all personnel, in view of the fact that all addressees thereof must be made aware of its contents. The same text is available to third-party addressees on request.