INglass S.p.A.

Document Describing the Organisation, Management and Control System in compliance with the Legislative Decree 231/2001

GENERAL PART

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1 Administrative Responsibility of Legal Persons

1.1 Introduction and Legal Framework

The Legislative Decree 8 June 2001 no. 231[1] adds to the Italian legal system *The responsibility of legal persons, companies and associations, even when they are not legal persons, in compliance with art. 11 of Law 29 September 2000, no. 300*"[2], thus transposing the already much discussed tendency to make companies and other entities liable and punish them for the criminal offences they perform to their advantage.

This change aligns the Italian law with the provisions contained in some International and EU conventions that were ratified by Italy through law 300/2000 and that envisage the liability of collective entities for specific crimes[3].

According to the Legislative Decree 231/2001 then, the companies can be held administratively liable for some malicious crimes that have been performed or attempted in the interest or to the benefit of the same companies by the company managers and by people that are hierarchically under them or even supervised by them.

The law innovates the legal system by introducing the punishability of entities according to the principle of 'being one and the same with': the entity shows its will through its bodies and therefore it is liable for the actions and facts – also illegal – made by its bodies.

This form of administrative responsibility, even though it is independent from the criminal responsibility of the physical persons, is closely linked to the punishability of a crime and both culprits must face the same trial, except in a very few cases.[4].

Pursuant to art. 6 of the Legislative Decree 231/2001, the corporate responsibility does not automatically derive from the offence-premise but it derives from the fact that the company has not taken the necessary preventive measures that could have prevented the offence[5].

Therefore, the company that before an offence has carried out the necessary *risk assessment*[6] and that has efficiently applied organisation, management and control models that are suitable to prevent the offences[7] is somehow 'excused'.

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[1] The Legislative Decree 231/2001 was published on the Italian Official Journal of 19 June 2001, no. 140 and entered into force on 4 July 2001. It implements art. 11 of Law 300/2000 published on the Official Journal of 25 October 2000, no. 250.

[2] Even though the applicability of the Legislative Decree 231/2001 is expressly excluded only with reference to the state, the local authorities and the non-economic bodies and those with constitutional roles, the Supreme Court of Cassation, Section VI with its decision of 3 March 2004 no. 18941 established that the provisions on the administrative responsibility of entities do not apply to partnerships. The Court of Cassation focuses, moreover, on possible violations of the constitution due to the different treatment between partnerships and all other companies underlying that they are so different from each other that this widely justifies a different treatment.

[3] Law 300/2000 ratifies and implements various international conventions among which:
- the Convention on the protection of the European Communities' financial interests (Brussels, 26 July 1995) and its first Protocol (Dublin, 27 September 1996);
- the Convention on the Fight against Corruption involving Officials of the European Communities or of the Member States of the European Union (Brussels, 26 May 1997);
- the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Paris, 17 December 1997).

[4] As mentioned in the ministerial report explaining the decree, the decree introduces an '*administrative offence with a complex structure'* whose '*sanction mechanism has been conceived in order to make trials of physical persons and those of the legal entity closely linked between each other (a parallel trial not only reduces costs but it also caters for the need to face complex investigations; this does not rule out that in certain cases the two trials can be divided'*. The cases in which the administrative procedure against the company is autonomous and does not depend on the criminal proceedings against managers or employees are governed by art. 8 of the Legislative Decree 231/01 (they take place when the culprit has not been identified or cannot be charged or when the offence has been extinguished for reasons different from amnesty).

[5] It is defined as '**organisational responsibility'** namely the actual negligent violation of the obligations imposed by the law in question. When reversing the usual burden of proof, the company shall demonstrate that it did not act with negligence and that it abode by the provisions in art. 6 of the Legislative Decree 231/2001. Quotation from the ministerial report: '*In order to ascertain the corporate responsibility it is necessary not only that the offence can be objectively linked to it but also that it expresses the company policy or at least it derives from an organisational responsibility* (…). *The starting point is the assumption (empirically proven) that in case of a crime committed by a manager, the 'subjective' requirement of corporate responsibility [the so called organisational responsibility of the company] is fulfilled, because the manager expresses and represents the company policy and where this does not happen the company shall demonstrate that it is not involved and will be able to do so only by demonstrating that certain requirements exist.'*

[6] It is meant as the control over the adequacy of the organisation and therefore over the proper distribution of guarantees in the processes where there is a greater risk of offence.

Moreover, the Company shall charge an internal body endowed with the power of initiative and control with the supervision – making also the necessary adjustments – of the functioning and application of such models and their updating.

The corporate administrative responsibility is in any case ruled out if the managers and/or those under them have acted only in their interest or of third parties[8], namely in case they have fraudulently not applied the corporate models that have been chosen.

Before the Legislative Decree 231/2001, the company would suffer only the administrative sanctions for the offence committed by its employee – as in the case of the compensation asked for by the victim or the civil obligations of the offence – and it was impossible to acknowledge any other form of responsibility.

In particular, art. 27 of the Italian Constitution establishes the principle of guilt and rules out that someone different from the physical person that has a committed a crime can be charged of it. For this reason, the legal persons cannot be pursued for a crime[9].

However, now – without prejudice to the prohibition envisaged by art. 27 of the Constitution – the legislator has coupled the provisions of the civil law with a form of administrative responsibility with disqualifying sanctions, which affect directly the company activity and monetary sanctions that affect the company economic resources[10].

1.2 The Nature of Corporate Responsibility

With reference to the type of responsibility envisaged by the Legislative Decree 231/2001, it can be said that even though the law formally defines the responsibility as 'administrative', practically it is very similar to the criminal one.

The ministerial report underlines the '*creation of a* ***tertium genus*** *that combines the main characteristics of the criminal system and the administrative one in the attempt to blend the reasons of preventive efficiency and of maximum guarantee'*.

The purpose is that of creating '*a system that is very similar to the criminal one with the same compensation purpose and that supports the principle of the second one and in particular that of guilt'*.

Therefore, it envisages that the legal persons can be charged of an offence – both a company and an association – thus creating the responsibility ad hoc, which is juridically different from the criminal model while taking the main guarantees from it and abiding by the prohibition in art. 27 of the Constitution.

The Legislative Decree 231/01 actually mentions the principle of lawfulness (art. 2), the succession of laws over time (art. 3)[11], the guarantees of the criminal trial when assessing the corporate administrative responsibility (art. 34) and the application to entities of the provisions concerning the defendant (art. 35).

1.3 The Authors of an offence-premise

As already said, the company is responsible for the offences committed in its interest or to its advantage (the so called 'offences-premise):

- By **managers**, i.e. by 'people who represent, administer or manage the entity or one of its organisation units with financial and operational independence and by people who actually manage and control the entity' (art. 5, par. 1, letter a), of the Legislative Decree 231/2001);

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[7] To do so it can use the codes of conduct or guidelines drawn by associations representing the companies like Confindustria.

[8] In the case in which the offender has acted 'in their prevailing interest or in the interest of third parties and the company has not received any advantage or just a minimum advantage', the company can enjoy only a reduction of the sanction (art. 12 Legislative Decree 231/01).

[9] According to the ancient motto '*societas delinquere non potes'*.

[10] In addition to the disqualifying and monetary sanctions there is also the seizure of the crime price and product as well as the publication of the verdict. Confindustria has written what follows in its guidelines: '*The enlargement of responsibility aims at involving in some criminal offences the company assets and eventually the economic interests of their partners and shareholders, who did not suffer any consequence from their offence before the entry into force of the law. This was an advantage for the company, the managers and/or the employees. The principle of personality of the criminal responsibility prevented any sanction against them, different from any possible compensation for damage. In terms of criminal sanctions, indeed, only arts. 196 and 197 of the Criminal Code envisaged – and still envisage – the civil obligation to pay fines or monetary sanctions but only in case of the offender's insolvency*".

[11] Principles already introduced in the administrative sanctions with Law 24 November 1981, no. 689.

- By **hierarchically lower decision makers**, i.e. 'people under the direction or supervision of one of the managers' (art. 5, par. 1, letter b), of the Legislative Decree 231/2001).

Please consider that the law envisages that **the company is not responsible and cannot be condemned** in the following cases:

- The managers/those under them have acted in their interest or in the interest of third parties[12] (art. 5, par. 2, Legislative Decree 231/2001);
- The entity voluntarily prevents the offence or the criminal event that the manager or someone under them was trying to commit (art. 26, par. 2, Legislative Decree 231/2001);
- The eligible offence has been extinguished because of prescription (arts. 60 and 67 Legislative Decree 231/2001);
- The administrative sanction has already undergone prescription (arts. 22 and 67 Legislative Decree 231/2001).

1.4 Types of offences-premise

The 'offences-premise', to which the corporate responsibility can be applied, are those mentioned in the Legislative Decree 231/2001 and in other legal provisions that expressly recall it.

More precisely, they are the offences divided in the following categories:

I. Offences 'against the Public Administration' (arts. 24 and 25, Legislative Decree 231/2001)[13];

II. IT offences and illicit treatment of data (art. 24-bis, Legislative Decree 231/2001)[14];

III. Offences committed by organised crime (art. 24-ter, Legislative Decree 231/2001)[15].

IV. Forged coins, banknotes, stamps and instruments or signs of recognition (art. 25-bis, Legislative Decree 231/2001)[16];

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[12] The ministerial report to the Legislative Decree 231/2001, in its part about art. 5, par. 2, Legislative Decree 231/2001 states that: '*The second paragraph of article 5 takes from letter e) the termination clause and rules out the corporate responsibility when the physical persons – both managers and those under them – have acted in their exclusive interest or in the interest of third parties. The law punishes the case of violation of the principle of 'being one and the same', it namely refers to the possibility that the offence committed by the physical person cannot be linked to the company because it has not been committed in the company interest, not even partially. When, in this way, it clearly emerges that the legal person is not involved, the judge shall not even check whether the legal person has had any advantage by chance (the provision is therefore a derogation to the first paragraph).*"

[13] The following offences are taken into consideration: a) art 24 Legislative Decree 231/2001: embezzlement to the detriment of the state or the EU (art. 316-*bis*), undue reception of monies or the like to the detriment of the state (art. 316-*ter*), serious fraud to the detriment of the state (art. 640, par. 2, no. 1), serious fraud to receive public monies (art. 640-*bis*), IT fraud to the detriment of the state or any other public body (art. 640-*ter*); b) art. 25 Legislative Decree 231/2001 as emended by Law 27 May 2016, no. 69: corruption for an act of office or against the duty of office (arts. 318, 319, 319-*bis* and 321), corruption in judicial acts (art. 319-*ter*), induction to give or promise a compensation (art. 319-*quater*) [added by Law 6 November 2012 no. 190], corruption of a person charged with a public service, [emended by Law 6 November 2012 no. 190], incitement to corruption (art. 322), graft (art. 317), corruption, incitement to corruption and graft of members of the European Communities, EU officials of foreign countries and of public international organisations (art. 322-*bis*).

[14] Art. 24-*bis* was added to art. 7 of Law 18 March 2008, no. 48. It deals with offences of abusive access to an IT or telematic system (art. 615-*ter*); possession and abusive dissemination of access codes to IT or telematic systems (art. 615-*quater*); dissemination of software aiming at damaging or shutting down an IT system (art. 615-*quinquies*); wire-tapping, hindering or illicit shutting down of IT or telematic communications (art. 617-*quater*); installation of devices to wire-tap, hinder or shut down IT or telematic communications (art. 617-*quinquies*); damaging information, data and IT software (art. 635-*bis*); damaging information, data or software used by the state or other public bodies or however to the benefit of the public at large (art. 635-*ter*); damaging IT or telematic systems (635-*quater*); damaging public IT or telematic systems (art. 635-*quinquies*); false declarations in IT documents used as evidence (art. 491-*bis*); IT fraud by the person who certifies electronic signatures (art. 640-*quinquies*).

[15] Article added by art. 2, par. 29 of Law 15 July 2009, no. 94 and emended by Law 27 May 2015 no. 69. It punishes the simple or mafia criminal conspiracy or the one aiming at making or keeping people as slaves or servants, at the trafficking of people, at the purchase or sale of slaves or at committing other crimes in violation of the provisions against illegal migration (arts. 416 and 416-*bis*); the electoral favours between politicians and mafia (art. 416-*ter*); kidnapping for theft or extortion (art. 630); conspiracy aiming at trafficking drugs or psychotropic substances (art. 74 of the Decree of the President of the Italian Republic of 9 October 1990, no. 309); the illegal manufacturing, introduction into the country, offer for sale, sale, possession and holding in a public space war weapons or the like or parts of them, explosives, illegal weapons and in general common fire weapons (art. 407, par. 2, letter a), number 5), of the Code of Criminal Procedure).

[16] Art. 25-*bis* was added by art. 6 of the L.D. 350/2001 and turned into a law with amendments by art. 1 of Law 409/2001. It deals with forged money, spending and introducing forged money in the country on the basis of an agreement (art. 453), alteration of money (art. 454), spending and introducing forged money in the country without any agreement (art. 455), spending forged money that was received in good faith (art. 457), forging stamps, introducing in the country, purchasing, possessing or putting on the market forged stamps (art. 459), counterfeiting of watermark paper used to produce banknotes or stamps (art. 460), manufacturing or possession of watermarks or instruments used to forge coins, stamps or watermark (art. 461), use of forged or altered stamps (art. 464). Moreover, Law 99/2009 that

V. Offences against industry and commerce (art. 25-bis.1, Legislative Decree 231/2001)[17];

VI. Corporate offences (art. 25-ter, D. Lgs 231/2001)[18];

VII. Terrorism and any attempt to dismantle the democratic structure of the state (art. 25-quater, Legislative Decree 231/2001)[19];

VIII. Female genital mutilation (art. 25-quater.1, Legislative Decree 231/2001)[20];

IX. Offences against individuals (art. 25-quinquies, D. Lgs 231/2001)[21];

X. Market abuses (art. 25-sexies, Legislative Decree 231/2001)[22];

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entered into force on 15 August 2009, changed the title of art. 25-*bis* into 'falsity in coins, banknotes, stamps and instruments or signs of recognition' and added new types of offence-premises that were not envisaged by the same article in its previous text. The changes were made in particular to letter f-*bis*) the corporate responsibility in case of counterfeiting, alteration or use of distinctive signs or creative works or industrial products (art. 473), and introduction into the country and trade of products with fake signs (art. 474).

[17] Article added by article 17, par. 7, letter b), of Law 23 July 2009, no. 99. It punishes: the disrupted freedom of industry and trade (art. 513); trade frauds (art. 515); the sale of food as genuine when it is not (art. 516); the sale of industrial products with fake signs (art. 517); the counterfeiting of geographical indications or the designation of origin of agrifood products (art. 517-*quater*); the manufacturing and trade of goods made by using third party's industrial rights (art. 517-*ter*); illegal competition with violence or threats (art. 513-*bis*); frauds against national industries (art. 514).

[18] Art. 25-*ter* was added by art. 3 of the L.D. 61/2002 and then amended by Law 262/2005, by Law 27 May 2015 no. 69 and by the L.D. no. 38/2017. It deals with false corporate communications (art. 2621), corporate communications by listed companies (art. 2622), not serious offences (art. 2621-bis), hindered control (art. 2625, par. 2), fictitious formation of capital (art. 2632), undue restitutions of money received (art. 2626), illegal distribution of profit and reserves (art. 2627), illicit operations on shares or equities of the company or of the holding company (art. 2628), operations to the detriment of creditors (art. 2629), omitted communication of a conflict of interests (art. 2629-bis), undue distribution of company assets by the liquidators (art. 2633), corruption between individuals (art. 2635, par. 3) [added by Law 6 November 2012 no. 190 and amended by the L.D. no. 38/2017], incitement to corruption among individuals (art. 2635-bis) [added by the L.D. no. 38/2017], illicit influence on the shareholders' meeting (art. 2636), rigging the market (art. 2637), creating obstacles to the public supervisory authorities in carrying out their tasks (art. 2638). Article 25-ter also mentions two offences that were subsequently cancelled: false declarations in the information leaflet (art.2623, par. 2, – replaced by art. 34, Law 28 December 2005, no. 262), and false declarations in the reports or communications by the auditing company (art. 2624 – replaced by art. 37 par. 34 L.D. 27 January 2010, no. 39).

Since the list of offences-premise is definite (see Ordinary Court of Milan, section Judge for preliminary investigation, judgement no. 12468 of 3 November 2010, Judge D'Arcangelo; see also Cassation 29.9.2009, no.41488, Rimoldi and others) any possible administrative offence dependant on cancelled offences still mentioned by art. 25-*ter* L.D. 231/01 - even though only formally – cannot be applied now because of *ius superveniens*.

[19] Art 25-*quater* was added by art. 3 of Law 14 January 2003, no. 7. It deals with 'offences aiming at terrorism or disruption of the democratic system, which are envisaged by the Criminal Code and the special laws' as well as offences 'that violated what is envisaged by art. 2 of the International Convention for the Suppression of the Financing of Terrorism, New York, 9 December 1999'. This convention punishes any person who, illegally and intentionally, provides or collects money knowing that it will be used, even only in part, to commit (i) actions aiming at causing death – or serious injuries – to civilians, when the actions aim at intimidating a people or forcing a government or an international organisation; (ii) acts being a crime in compliance with the conventions on the safety of flights and navigation, protection of nuclear material, protection of diplomats, repression of attacks with explosives. The category of 'offences aiming at terrorism or disruption of the democratic system envisaged by the Criminal Code and the special laws' is mentioned by legislators in a generic way, without mentioning the specific provisions, whose violation would entail the application of this article. In any case, it is possible to identify the main offences-premise in art. 270-*bis* (conspiracy with the aim of terrorism also at international level or of disruption of the democratic system), which punishes those who promote, set up, organise, manage or finance associations that want to perform violent terrorist or subversive actions; art. 270-*ter* (support to conspiracies), which punishes those who give shelter or food, hospitality, means of transport, communication systems to those people who are members of terrorist or subversive associations; art. 270-*quater* (recruitment with the aim of terrorism also at international level); 270-*quinquies* (training for terrorist actions also at international level); art. 270-*sexies* (terrorist behaviour); art. 280 (terrorist or subversive attack); art. 280-*bis* (terrorist attack with deadly devices or explosives); art. 289-*bis* (kidnapping for terrorist or subversive purpose); art. 302 (incitement to commit one of the offences mentioned before); art. 1 L.D. 625/1979, conv, l. 15/1980; l. 342/1976 concerning the repression of crimes against the safety of flights; l. 422/1989 concerning the repression of crimes against the safety of sea navigation and crimes against the safety of fixed installations on the continental platforms.

[20] Art. 25-*quater*.1 was added by art. 8 of Law 9 January 2006, no. 7. It deals with the crimes of female genital mutilations (art. 583-*bis*).

[21] Art. 25-*quinquies* was added by art 5 of Law 11 August 2003, no. 228 and then amended by Law 38/2006. It deals with the crime of making or keeping a person as a slave or a servant (art. 600), crimes connected to the prostitution of minors and its exploitation (art. 600-*bis*), to pornography involving minors and its exploitation (art. 600-*ter*), to the possession of pornographic material through the sexual exploitation of minors (art. 600-*quater*), to virtual pornography (art. 600-*quater*1), to tourist initiatives aiming at exploiting under-age prostitution (art. 600-*quinquies*), to the trafficking of human beings (art. 601), to the purchase or sale of slaves (art. 602), "Illicit intermediation and exploitation of labour' (art. 603-bis), Solicitation of minors' (art. 609-undecies); 'Rape' (art. 609-bis); 'Sexual intercourse with minors' (art. 609-quater); 'Corruption of minors' (art. 609-quinquies); 'Group rape' (art. 609-octies).

[22] Art. 25-*sexies* was added by art. 9 of Law 18 April 2005, no. 62 (EU law 2004). It deals with insider trading (art. 184 D. Lgs 58/1998) and market manipulation (art. 185 Legislative Decree 58/1998).

XI. Involuntary manslaughter or serious or very serious injuries committed by violating the provisions about the safeguard of health and safety on the workplace (art. 25-septies, Legislative Decree 231/2001)[23];

XII. Handling of stolen goods, money laundering and use of money, goods or utilities of illicit origin as well as self money laundering (art. 25-octies, Legislative Decree 231/2001)[24];

XIII. Violation of copyright (art. 25-novies, Legislative Decree 231/2001)[25];

XIV. Induction not to make any declaration or to make false declarations to the judiciary (art. 25-decies, Legislative Decree 231/2001)[26];

XV. Transnational offences mentioned in art. 10 of Law 16 March 2006, no. 146, that 'ratifies and applies the Convention and the Protocols of the United Nations against transnational organised crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001"[27, 28].

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[23] Art. 25-*septies* was added by art. 9 of Law 123/2007 and then amended by art. 300 of the Legislative Decree 81/2008. It deals with involuntarily manslaughter (art. 589) and serious or very serious involuntarily injuries (art. 590).

[24] Art. 25-*octies* was added by art. 63 Legislative Decree 231/2007. Already envisaged by Law 146/2006, it punishes the handling of stolen goods (art. 648), money laundering (art. 648-*bis*) and the use of money, goods or utilities of illicit origin (art. 648-*ter*). Law of 15 December 2014, no. 186 introduced in art. 25-octies the crime of self money laundering' (art. 648-ter.1).

[25] Art. 25-*novies* was added by Law 23 July 2009 no 99, art. 15, par. 7, letter c). It deals with offences envisaged in arts 171, first par., letter a-*bis*, and third par. 171-*bis*, 171-*ter*, 171-*septies*, 171-*octies*) of Law 22 April 1941, no. 633. The articles mentioned before punish a series of behaviours: undue dissemination through telecommunication networks of protected creative works, entirely or partially; the sanction increases if the work of third parties had not been conceived to become public and in this case there is a violation of intellectual property and even more so if the work is altered, thus causing an offence to the honour or reputation of the author (art. 171, par. 1, letter a-*bis* and par. 3); abusive duplication of software to gain profit; import, trade, rent, possession of software on supports not nearing the sign SIAE to gain profit; import, trade, possession to gain profit of means aimed only at allowing or facilitating the arbitrary removal or the functional elusion of devices protecting software (art. 171-*bis* par. 1); reproduction, communication or dissemination, transmission, extraction or reuse in violation of arts. 64-*quinquies*, 64-*sexies*, 102-*bis* and 102-*ter*, distribution, sale or rent of a data base on supports not bearing the sign SIAE to gain profit (art. 171-*bis* par. 2); abusive duplication, reproduction, transmission or dissemination of creative works on any medium – text, audio, video or the like also in combination, to gain benefit or however for a number of copies exceeding fifty; abusive decryption or use/dissemination of instruments for abusive decryption (art. 171-*ter*); production or import of supports not bearing the sign SIAE (art. 171-*septies*); production, trade, alteration, use for fraudulent purposes for public and private use of devices or parts of devices to decode audiovisual transmissions with conditional access also when a fee is not charged (art. 171-*octies*).

[26] This article was added by art. 4, par. 1, of Law 3 August 2009, no. 116, as article 25-*novies* without taking into account that article 25-*novies* had been added by art.15, par. 7, letter c), of Law 23 July 2009, no. 99. For this reason, publishers renumber this article as art. 25-*decies.* It deals with the incitement not to make declarations or to make false declarations to the judiciary (art. 377-*bis*).

[27] The definition of 'transnational crime' is contained in art. 3 of Law no. 146/2006 where it is explained that this 'crime is punished with detention of at least four years, if an organised criminal group is involved with the further condition that at last one of the following requirements is fulfilled: 'it has been committed in more than one country' or 'it has been committed in one country but a substantial part of its preparation, planning, management or control has taken place in another country' or 'it has been committed in one country but it has involved an organised criminal group that is involved in crimes in more than one country' or 'it has been committed in one country but it has substantially affected another country' [art. 3, letters a), b), c) e d)].

The transnational crimes for which art. 10 of Law no. 146/2006 envisages the corporate administrative responsibility are as follows: association crimes in arts. 416 ('criminal association') and 416-*bis* ('mafia association'), in art. 291-*quater* of the Decree of the President of the Italian Republic 23 January 1973, no. 43 ('criminal association dealing in the trafficking of foreign tobacco products') and in art. 74 of the Decree of the President of the Italian Republic 9 October 1990, no. 309 ('association aiming at the illegal trading of drugs or psychotropic substances'); crimes regarding the 'trafficking of migrants' in compliance with art. 12, paragraphs 3, 3-*bis*, 3-*ter* and 5 of the Legislative Decree 25 July 1998, no. 286; crimes concerning 'hampering the judiciary' in compliance with arts.377-*bis* ('incitement not to make declarations or to make false declarations to the judiciary') and 378 ('personal facilitation').

Please consider that in this case there has been no extension of the offences entailing the corporate responsibility – as it happened before – with the addition of further provisions to the Legislative Decree 231/2001 but through an autonomous provision in art. 10 of Law no. 146/2006 that establishes the specific administrative sanctions applicable to the offences listed above. It also recalls in its last paragraph that 'the provisions of the Legislative Decree 8 June 2001, no. 231 are applied to the administrative offences listed in this article.'.

[28] Law 15 July 2009, no. 94 (art. 2, par. 29) added art. 24-*ter* (Crimes of organised crime) to the Legislative Decree 31/2001, which identifies as offences-premise of the corporate administrative responsibility the offences mentioned in arts. 416 and 416-*bis* and art. 74 of the Decree of the President of the Italian Republic 9 October 1990, no. 309, also when the requirement of transnationality is not fulfilled.

Law 3 August 2009, no. 116 (art. 4) added art. 25-*novies* (incitement not to make declarations or to make false declarations to the judiciary) to the L.D. 231/2001. This article identifies as offence-premise of the corporate administrative responsibility the offence in art. 377-*bis* also when the requirement of transnationality is not fulfilled.

XVI. Offences against the environment (art. 25 undecies Legislative Decree 231/2001)[29]

XVII. Employment of citizens of third countries who are illegally in the country (art. 25-duodecies, Legislative Decree 231/2001)[30]

XVIII. Racism and xenophobia (art. 25-terdecies Legislative Decree 231/2001)[31]

1.5 Offences-premise committed abroad

In compliance with art. 4, the company that has its headquarters in Italy can be held responsible, pursuant to the Legislative Decree 231/2001 also for offences committed abroad.[32] The offence must be committed by someone who is functionally linked to the company; he or she may be a manager or someone with a lower position and must fulfil the requirements envisaged in arts. 7, 8, 9, 10.[33].

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[29] This article was added by the L.D. 7 July 2011, no 121 and it includes the following offences-premise: killing, destruction, catching, possession of protected wild animals and plants (art. 727-bis); destruction or deterioration of habitats in a sanctuary (art. 733-bis); discharge of industrial sewage containing hazardous substances; discharge on the soil, under the soil and in underground water; discharge into the sea by ships and planes (L.D. 152/06, art. 137); non authorised handling of waste (L.D. 152/06, art. 256); pollution of soil, underground, surface or underground water (L.D. 152/06, art. 257); violation of the requirement of communication, of keeping records and forms (L.D. 152/06, art. 258); illicit trade of waste (L.D. 152/06, art. 259); organised activities for the illicit trade of waste (L.D. 152/06, art. 260, cancelled with L.D. 21/2008 and moved to the new art. 452-quaterdecies); false information about the nature, composition and chemical-physical characteristics of waste when issuing a certificate of waste analysis; entering into SISTRI a false certificate of waste analysis; omission or fraudulent alteration of the paper copy of a SISTRI sheet – handling area for waste transportation (L.D. 152/06, art. 260-bis); import, export, possession, use for profit, purchase, sale, display or possession for sale or for commercial purposes of protected species (L. 150/92, art. 1 and art. 2); intentional pollution (L.D. 202/07, art. 8), unintentional pollution (L.D. 202/07, art. 9).

Law 22 May 2015, no. 68 added to art. 25-undecies the following offences-premise: environmental pollution (art. 452-bis), environmental disaster (art. 452-quater), involuntarily offences against the environment (art. 452-quinquies), trafficking and abandonment of highly radioactive material (art. 452-sexies), aggravating circumstances – criminal association and mafia association – (art. 452-octies).

[30] Article added by the L.D. 16 July 2012, no. 109 concerning article 22 of the Legislative Decree 25 July 1998, no. 286 (Fixed term and open-ended labour contracts), amended with Law 17 October 2017, no. 161 where in article 30, par. 4 of the reform, monetary and prohibition sanctions are introduced concerning the facilitation of illegal immigration in compliance with article 12 of the L.D. 286/1998.

[31] Article added by Law 167/2017 entered into force on 12 December 2017 and containing 'Provisions for fulfilling the obligations deriving from the fact that Italy is a member of the EU – EU Law 2017".

[32] And "(…) *on condition that they are pursued by the state of the place where the offence has been committed. In the cases in which a law envisages that the culprit is punished on request of the Ministry of Justice, the entity is pursued only if the request is made also against the culprit.*"

[33] Art. 7: "Offences committed abroad – The Italian or foreign citizen is punished if he or she commits one of the following crimes in a foreign country*:1) offences against the Italian State; 2) counterfeiting of the state seal and use of such counterfeited seal; 3) forging coins being used in the state territory or stamps or Italian banknotes; 4) offences committed by public officials serving the state by abusing their powers or violating the duties linked to their functions; 5) any other offence for which special provisions or international conventions establish that the Italian criminal law is applicable*". Art. 8: "A political offence committed abroad – The Italian or foreign citizen who commits a political offence in a foreign countries not included in those listed under number *1 of the previous article is punished according to the Italian law on request of the Ministry of Justice. If the offence is punishable on legal action by the injured party such action is necessary in addition to the request. For the criminal law a political offence is an offence against a political interest of the state or a citizen's political right. Also a common offence is considered a political offence when it is based, entirely or in part, on political reasons.* "Art. 9: 'A common offence of a citizen abroad – *A citizen who in cases different from those mentioned in the two previous articles commits an offence in a foreign country for which the Italian law envisages life imprisonment or a period of detention not shorter than three years, shall be punished according to this law on condition that he or she is in Italy. If it is an offence for which a shorter period of imprisonment is envisaged, the culprit is punished on request of the Ministry of Justice or of the injured party. In the cases foreseen by the previous provisions, if it is a crime against the EU, a foreign country or a foreign citizen, the culprit is punished on request of the Ministry of Justice on condition that the extradition has not been granted or has not been accepted by the government of the country where the crime has been committed. '* Art. 10: 'A common offence of a foreign citizen abroad – *A foreign citizen who, except in the cases mentioned in articles 7 and 8, commits a crime abroad against the state or a citizen and such crime is punished by the Italian law with life imprisonment or imprisonment not shorter than one year at least is punished according to this law on condition that he or she is in Italy and there is a request of the Ministry of Justice or of the injured party. If the crime is against the EU, a foreign country or a foreign citizen, the culprit is punished pursuant to the Italian law on request of the Ministry of Justice on condition that: 1) the offender is in Italy; 2) it is a crime for which life imprisonment or a period of detention not shorter than three years is envisaged; 3) the extradition has not been granted or has not been accepted by the government of the country where the crime has been committed or by the government of his/her country.'*

1.6 Administrative Sanctions against the Company

The Legislative Decree 231/2001 envisages monetary sanctions, disqualifying sanctions, seizure of the price or the profit of the crime and publication of the judgement[34].

The **monetary sanctions** are decided by the judge according to a system based on ‘quotas' that are no less than 100 and no more than 1000 and an amount varying from a minimum of Euro 258.22 to a maximum of Euro 1,549.37. When deciding the amount of the monetary sanction the judge shall establish:

- The number of quotas based on the seriousness of the offence, the degree of corporate responsibility and the action taken to eliminate or reduce the consequences of the offence and to prevent further illegal action;
- The value of each single quota according to the economic and financial situation of the company.

The monetary sanction can be increased if a company is considered responsible for a series of offences (in compliance with art. 21 of the Legislative Decree 231/1001).

Or reduced when:

- The offence-premise is not carried out but is only an attempt[35];
- The manager/the employees has committed the crime in his/her interests or of third parties and the company has had a minimum advantage or not at all;
- The damage caused is very limited;
- Before the trial, the company has wholly compensated the damage and has eliminated the consequences or it has taken the necessary measures to this purpose;
- Before the trial, the company has adopted an organisational model suitable to prevent further similar crimes.

The **disqualifying sanctions** target the specific activity of the offence[36] and are applied only to the crimes for which they have been envisaged on condition that at least one of these requirements is fulfilled:

- The company had remarkable profit from the crime and it was committed by managers or by employees in a lower hierarchical position when, in this last case, the crime has been due or facilitated by serious organisational deficits;
- in case of repetition of the offences.

The sanctions are as follows:

- the interruption or annulment of authorisations, licenses, concessions that are functional to the offence;
- the prohibition to negotiate with the Public Administration except for obtaining a public service (also limited to certain types of contracts or specific administrations);
- the exclusion from benefits, financing, contributions or subsidies and the possible revocation of those already granted;
- the prohibition to advertise goods or services;
- finally, the disqualification from performing the company activity (this entails the interruption or annulment of authorisations, licenses, concessions that are functional to the activity), when other sanctions are not sufficient.

The judge shall establish the type and duration – from 3 months to 2 years – of the disqualifying sanctions considering the suitability of each sanction to prevent offences similar to the committed one and, if necessary, more one sanction can be applied.

The disqualification from the company activity, the prohibition to negotiate with the Public Administration and the prohibition to advertise goods or services can be applied as final sanctions in the most serious cases.

If the disqualifying sanction entails the interruption of a public service or o a service of public utility or serious consequences on the employment, the judge can appoint a commissioner that carries on the company activity (art. 15 Legislative Decree 231/2001).

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[34] The judgement is published only in case of a disqualifying judgement (art. 18, L.D. 231/2001).

[35] Pursuant to art. 56, par. 1 *“Those who perform actions suitable and clearly aiming at committing an offence are charged with attempted offence, if the action is not finally committed or the event does not take place’.* Pursuant to art. 26 of the L.D. 231/2001 the monetary and disqualifying sanctions against the company are reduced by one third to a half, while the monetary sanctions are ruled out when the company voluntarily hampers the action or the offence by the manager/employee.

[36] The ministerial report to the L.D. 231/2001 states that the disqualifying sanction shall not be based on general application criteria: ‘*The sanctions should affect as much as possible the field of activity where the offence has taken place in compliance with the principle of economy and proportion. The need for this selection derives from the excessive fragmentation of the production fields in the companies at present’.*

The disqualifying sanctions can be reduced in case of an attempt of offence and even not applied when the monetary sanctions mentioned above at points b) and c).

When there is serious evidence to prove the corporate responsibility and there is the danger that similar offences are committed, the judge can apply a disqualifying sanction before the judgement of condemnation as a precautionary measure (arts. from 45 to 52 Legislative Decree 231/2001).[37]

If the company does not abide by the disqualifying sanctions or the disqualifying precautionary measures, it shall face serious consequences both for the culprit and the company that has an advantage from this violation. For the former the detention from six months to three years is envisaged, while for the latter further monetary and disqualifying sanctions can be decided.

1.7 Events that change the Company

The sanctions envisaged by the Legislative Decree 231/2001 aim at guaranteeing the punishability of the company even when it changes due to transformation, merger, division and alienation.

The clear purpose is that of preventing the company from avoiding its administrative responsibility through such means without hampering any legitimate operation of company reorganisation.

The **transformation** entails the mere change of type of company without causing the disappearance of the initial legal person and therefore the company is still responsible for the crimes committed before changing the type of company (art. 28 Legislative Decree 231/2001).

In compliance with the general provisions of the Civil Code (art. 2504-*bis*), the entity resulting from the **merger** – also in case of an **acquisition** – takes the rights and obligations deriving from the activity of the previous companies and it is also responsible for the crimes committed by the merged entities (art. 29 Legislative Decree 231/2001)[38].

Art. 30 of the Legislative Decree 231/2001 envisages that in case of partial **division**, the divided company shall continue to be responsible for the crimes committed before the date of the division.

The entities that have benefited from the total or partial division are obliged jointly and severally to pay the monetary sanctions received by the divided company for crimes committed before the division, within the limits of the actual value of the net assets transferred to the new entity.

However, this limit does not apply to the companies that have receive – even partially – the field of activity in which the crime has been committed and such companies shall still abide by the disqualifying sanctions for the crimes committed in the fields of activity that have been transferred.

Still in case of merger or division the judge shall decide the monetary sanction considering the economic and financial situation of the entity that was previously responsible and not of the entity that should inherit the sanction after the merger or the division (art. 31, par. 1, Legislative Decree 231/2001).

Moreover, the entity resulting from the merger or the division can ask the judge to turn the disqualifying sanction into a monetary one, after eliminating the organisation deficits that made it possible to commit the crime, paying the compensation for damage and making available for seizure the profit of the crime (art 31, paragraphs 2, 3 and 4)[39].

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[37] Moreover, as a precautionary measure, the judge can order the seizure of the assets to forfeit and the attachment of the guarantees for the payment of the monetary sanctions and the legal costs (arts. 53 and 54 L.D. 231/2001).

[38] The ministerial report to the L.D. 231/2001 clarifies that *'To avoid that, in particular with reference to the disqualifying sanctions, this rule causes a 'dilatation' of the punishment - also involving 'healthy' companies in measures aiming at punishing 'sick' companies (for ex a small company that is responsible for an offence punished with the prohibition of negotiating with the public administration is merged into a big company with shares listed at the stock exchange) – there is a general provision that limits the disqualifying sanctions to the activity or the structures in which the crime has been committed (article 14, par. 1); moreover, the entity resulting from the merger can ask, in certain cases, for the replacement of the sanctions with monetary ones.'*

[39] The ministerial report to the L.D. 231/2001 clarifies that: '*The entity resulting from a merger and the entity that in case of a division would suffer from a disqualifying sanction can obviously avoid its application by finding remedy to the consequences of the crime in compliance with article 17. However, it has been considered necessary to foresee that when such sanction cannot be applied because the time limit of the start of the trial has been exceeded, the entity in question can ask the judge to replace the disqualifying sanction with a monetary sanction amounting to one or two times the sanction against the entity for the same crime and without prejudice to the possibility to ask for the replacement also in executivis pursuant to article 78".*

Moreover, pursuant to art. 32 of the L.D. 231/2001, the condemnations issued before the merger or the division against the entities that have merged or have been divided can be taken into account to assess the repetition of crimes if the new entity commits new offences after the changes to the company structure.

Art. 33 of the Legislative Decree 231/2001 considers together the **assignment** and the **contribution of business operations**. The assignee, in case of the assignment of the company where the crime has been committed, is jointly and severally obliged to pay the monetary sanction inflicted on the assignor – except when the assignor has already been prosecuted – within the limits of the assigned company and only for a monetary sanction recorded in the obligatory accounting books or due for offences that the assignee already knew[40].

1.8 Organisation, Management and Control Models

A basic aspect of the Legislative Decree 231/2001 is the exempting role given to specific organisation, management and control models for the company that can rule out the 'organisational fault'.

In case of a crime committed by a **manager,** the company is not responsible if it can demonstrate that:

- The managing body has adopted and efficiently applied, before the crime, organisation and management models that can prevent crimes like the one that has been committed;
- A Company body with autonomous powers of initiative and control has been charged with the task of supervising the functioning and application of the models and of updating them;
- The managers have committed the crime avoiding to apply the organisation and management models;
- The Supervisory Body has carried out its task in a satisfactory way.

In case of a crime committed by employees that are not managers and are controlled by them, the company is responsible if the crime has been possible by the violation of the obligation of management or supervision.

However, this violation does not apply if the company has adopted and efficiently applied, before the crime, the organisation, management and control model, thus contributing to identify and efficiently eliminate any risk.

The **model**, also considering the extension of the delegated powers and the risk of crimes shall:

- Identify the activities where crimes are possible;
- Contain specific protocols to plan the taking and application of the company's decisions about the crimes to prevent;
- Identify ways of managing the financial resources that can prevent crimes;
- Contain the obligation of informing the Supervisory Body about the functioning and application of models;
- Introduce a disciplinary system able to punish the violation of the measures contained in the model.

Moreover, Law 30 November 2017, no. 179 'Provisions for the protection of those who denounce crimes or irregularities that have identified on their workplace – both public and private[41] - has added new eligibility requirements and therefore the model shall also contain the provisions in paragraphs 2-*bis*, 2-*ter* and 2-*quater* of art. 6 of the Legislative Decree 231/2001.

However, the mere adoption of the model is not enough to prevent any crime by the companies. They shall also take suitable measures to make the **application** of the model effective and this requires:

- The regular check and possible change of model when significant violations of its provisions are detected or when changes are made to the company organisation or the activity;
- A disciplinary system that can punish the violation of the measures contained in the model.

Finally, a company body with sufficient powers and autonomy shall be appointed to **supervise** the functioning and application of such models and to **update them.** It will be called Supervisory Body.

1.9 The Codes of Conduct drawn by the Associations representing the Companies

In order to develop the model the company can use the code of conducts drawn by their representative associations. In our case the Guidelines of Confindustria.

The *'Guidelines for developing organisation, management and control models pursuant to the Legislative Decree no. 231/2001"* by Confindustria were issued on 7 March 2002 and an appendix was added on 3 October 2002 with the so called corporate offences (introduced in the L.D. 231/2001 by the L.D. no. 61/2002) and updated in March 2008.

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[40] On the contrary, the disqualifying sanctions inflicted on the assignor are not extended to the assignee.

[41] Published on the Italian Official Journal no. 291 of 14 December 2017 and entered into force on 29 December 2017.

On 2 April 2008 the Ministry of Justice communicated the end of its scrutiny of the new version of the Guidelines by Confindustria. They were approved because the updating was considered '*globally adequate and suitable to achieve the purpose envisaged in art. 6, par. 3 of the Legislative Decree no. 231/2001'*.

In 2014, at the end of a wide and deep re-examination of the text, Confindustria completed the updating of the Guidelines. The new version aligns the previous text of 2008 with the new legal provisions, the case law and the application practices that have developed meanwhile, while still keeping a separation between the general and the special part. In particular, the main changes and additions to the general part concern the new chapter on the responsibility for the offence and the table showing all offences-premise, the disciplinary system and the sanction mechanism, the Supervisory Body with special reference to its composition, and the groups of companies - the special part was widely changed aiming not only at presenting the new offences-premise but also at introducing a schematic analysis method that is easier to use. The document was sent to the Ministry of Justice for scrutiny and it was finally approved on 21 July 2014.

The Guidelines provide companies with information and measures basically coming from the business practice to develop organisation models. Briefly, they explain the legal framework contained in the Legislative Decree 231/2001, provide hints for risk assessment and to develop internal protocols, to draw an Ethical Code, create the company disciplinary system, and identify the Supervisory Body and they also present a series of cases of offences-premise relevant to the administrative responsibility.

1.10 Ascertaining an Administrative Offence

In addition to the specific provisions contained in the Legislative Decree 231/2001, also the provisions of the Criminal Procedure Rules and of the Legislative Decree 271/1989 apply to the proceedings concerning the administrative offences depending on a crime[42].

Therefore, the corporate responsibility for an offence deriving from a crime – even though it is an administrative responsibility – is ascertained within a criminal proceeding and precisely by the judge that shall decide about the offence-premise committed by a manager or a simple employee (arts. 36 and 38 L.D. 231/2001)[43].

However, with reference to the former art. 37 L.D. 231/2001, it is not possible to ascertain an administrative offence by the entity when the criminal proceeding against the manager/simple employee that has committed the crime cannot be started or carried on because of the lack of denunciation by the injured party, of request for prosecution or of the authorisation to the prosecution (i.e. the requirements for the proceeding in compliance with arts. 336, 341, 342, 343 of the Criminal Procedure Rules).

Finally, the corporate responsibility is basically of unintentional nature. Therefore, the judge shall:

- Check the existence of an offence-premise;
- Investigate the actual company's responsibility/guilt and evaluate also the effective adoption and application of measures aiming at preventing the crimes;
- Assess the suitability of such measures and of the organisation models, i.e. their ability to eliminate or at least reduce the risk, with a reasonable certainty, of a crime that was subsequently committed for other reasons.[44]

1.11 Assessing the Suitability

Ascertaining the corporate responsibility is a task of the criminal judge who checks the link between the offence-premise and the corporate responsibility and also evaluates the suitability of the organisation models adopted by the company.

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[42] '*Provisions for the implementation, co-ordination and transition of the Criminal Procedure Rules'*.

[43] Except for separate proceedings in the cases envisaged by art. 38, par. 2, L.D. 231/2001: '*A separate proceeding for the administrative offence is foreseen only when: a) the interruption of the proceeding has been ordered pursuant to art. 71 of the Criminal Procedure Rules* [interruption of the proceedings because of the defendant's incapacity]*; b) the trial has been ended by means of the simplified and shortened proceedings or by inflicting a punishment pursuant to art. 444 of the Criminal Procedure Rules* [punishment on request] *or the criminal decree of condemnation has been issued c) abiding by the procedure provisions make it necessary'*.

[44] In particular, in order to assess the abstract suitability of the organisation model to prevent the crimes envisaged in the L.D. 231/2001, the judge shall try and understand the business life when the crime has been committed and check, *ex ante factum*, the suitability of the model. This type of evaluation, typical of the criminal legal system, is called 'after-death prognosis'.

The judge's assessment of the abstract suitability of the organisation model aiming at preventing the offences envisaged by the Legislative Decree 231/2001 is carried out along the principle of the so called 'after-death prognosis'.

The suitability shall be assessed *ex ante* because the judge tries to understand the business life when the offence was committed in order to evaluate the effectiveness of the model adopted[45].

Basically, the organisation model that before the crime could and should be considered suitable to eliminate or at least reduce to the minimum, with reasonable certainty, the risk of the crime that was subsequently committed shall be judged as 'suitable to prevent offences'[46].

[45] Paliero, *The responsibility of the legal person for the offences committed by its managers.* Speech delivered at the Paradigma meeting, Milan, 2002, page 12 of the speech. Rordorf, *The laws on the corporate organisation models, Corporate responsibility, quotation,* supplement to no. 6/03 *Cassazione penale*, 88 s.

[46] Amato in his comment about the ordinance 4-14 April 2003 of the Judge for Preliminary Investigation of Rome, in *Guida al diritto no. 31 of 9 August 2003*.

2 INglass Governance and Organisation

2.1 The Company and its History

INglass was set up in 1987 as Incos (Industria Costruzione Stampi) and it focused on rotary multicolour and multi-component moulds for the production of automotive lights. Since 2001, the HRSflow department designs and manufactures injection systems for the automotive sector, household appliances, technical applications and applications for transportation. Now INglass is a leading group at International level, which supplies not only moulds and hot runners but also engineering services and advice for the manufacturing of plastic articles and guarantees an efficient customer service before and after sale. The project is called QSP1 – Quality, Service & Productivity Challenging Project. With more than 1000 employees, INglass is a world leader on all main markets with production premises in Europe (Italy), China (Hangzhou) and in the USA in Byron Center close to Grand Rapids in Michigan. Thanks to its service 24/7 and to more than 50 customer support centres/subsidiaries all over the world, it can provide global, rapid and punctual support. Moreover, the company has committed to act in a responsible and transparent way towards all its stakeholders and this is clearly demonstrated by its sustainability and financial balance sheet.

2.1.1 Purpose of the Company

When this Organisation and Management Model was introduced, the main activities being the company's purpose were as follows: design and manufacturing of moulds - directly or through third parties - for plastic materials and their components, accessories and the like as well as injection moulding, machining, and any other relevant operation; construction and sale of nozzles and hot runner injection systems.

Occasionally and not as its prevailing activity but to achieve its purpose, the company can perform all commercial, financial – not with the public at large – industrial operations, operations with movable goods and real estate, grant sureties, authorisations, bonds, guarantees in general also towards third parties, and buy, directly or indirectly, equities of other companies in compliance with art. 2361 of the Italian Civil Code only with the purpose of a stable investment and not of sale.

2.2 INglass S.pA. Governance Model

INglass S.p.A. is an incorporated company governed by the Italian law with a traditional governance system. Its corporate bodies are the Shareholders' Meeting, the Board of Directors and the Board of Auditors.

The company's system of *corporate governance* is structured at present as it is envisaged by its Articles of Association: a) the Shareholders' Meeting governed by Title III of the Articles of Association in articles 8, 9, 10, 11, 12, 13, 14 and 15; b) the Board of Directors governed by Title IV of the Articles of Association in articles 16, 17, 18, 19, 20; c) the Board of Auditors governed by Title V of the Articles of Association in article 21.

The book auditing is performed by an Auditing Company in compliance with the law which is appointed by the Shareholders' Meeting pursuant to all legal provisions and regulations.

2.3 INglass Organisational Structure

2.3.1 Organisational structure and the system of delegations and powers

When this model was approved, the organisational structure of INglass S.p.A. was already recorded in a document called '*Organizational chart*". This document was issued by the Top Management and distributed to all employees.

INglass has and takes care of an articulated, documented system of delegations and proxies that is aligned with the organisational structure.

The documents concerning the delegation of powers, the proxies and the appointment of the members of the Board of Directors or of any other manager or other company employee are kept in the office of the *Chief Financial Officer*.

2.3.2 Internal Control and Risk Management System

The setting up and maintenance of the control system as well as the regular evaluation of its efficiency by the management rely on the identification of a reference model (*framework)* that is generally accepted, rigorous and complete, that considers all important aspects of the internal control system and that can guide its proper application and correct evaluation.

The framework defines the characteristics of the items making up an ideal control system that are the starting point for the company to properly develop its own system that must be consistent with its organisation and business activities.

In the light of the International standards, INglass has adopted the COSO Report that is now the reference model for setting up, maintaining and evaluating any component of the control system of INglass, at any organisational level. COSO Report[47] (or COSO Framework) defines *the internal control as the process performed by the Board of Directors, the management and the employees aiming at providing reasonable certainty that the company's goals will be reached and that are as follows:*

- Effectiveness and efficiency of operations (*operations*);
- Reliable financial information (*reporting*);
- Compliance with the laws and regulations in force (*compliance*).

The *operations* are all operational processes through which the company's business is developed; in this sector the control system aims at guaranteeing the effective and efficient use of the internal and external resources and includes the controls over the business performance and the safeguard of the company assets.

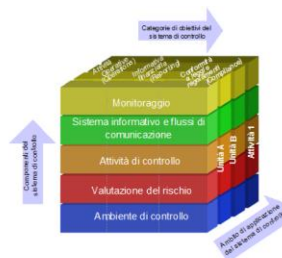
Reporting puts together all process of gathering, treating and publishing economic-financial information; in this sector the control aims at assuring the reliability of the report drawn for internal and external use to support the company decisions.

The *compliance* with the law means that the company abides by the laws and regulations in force concerning its activity (for ex market and price regulation, taxation, environmental provisions, etc.).

The COSO Report that is shown as a graph in Figure 3, states that the company goals can be achieved if there are the following elements:

- A *control environment*, meant as all factors - corporate governance, HR policies, codes of conduct, etc. - that can significantly affect the employees' sensitivity to the need for control;
- *Risk assessment* actions that are properly documented and classified according to their importance;
- *Control activities* are the policies and procedures adopted to mitigate the risks that can jeopardize the achievement of the company goals;
- An information and communication flow system (*information & communication*) aiming at assuring the exchange of important information between the management and the operational units (and vice versa);
- *Monitoring* to check the effectiveness of the system and the proper functioning of the internal control.

Figure 3 – Cube of COSO Report



47 "*Internal Control – Integrated Framework*" published in 1992 and updated in 1994 by the Committee of Sponsoring Organizations of the Treadway Commission.

3 INglass Organisation and Management Model in Compliance with the Legislative Decree 231/2001

3.1 Foreword

As stated in the Company Ethical Code, INglass underlines the value of all those ethical principles that must be respected to guarantee that the company business and activities are performed without jeopardizing its stand and image, the health and work of its employees, the expectations of its shareholders and more generally the expectation of all stakeholders about its activities.

To this purpose, INglass is aware of the importance of adopting an internal control system suitable to prevent, among other things, offences by its management, employees, collaborators, agents and business partners.

For this reason, when adopting the Organisation, Management and Control Model in compliance with the L.D. 231/2001 and with the Guidelines by Confindustria, the company pursues not only the benefits of preventing offences but also the goal of integrating the Internal Control System into its structure, thus assuring the application of good practices and high ethical standards and favouring an effective business management.

3.2 Model Addressees

The principles and contents of Model 231 are addressed to all those who work with different tasks and at different levels of responsibility to achieve the company's goals and also to all third parties with whom INglass co-operates.

In particular, the corporate bodies, the management and all employees shall abide by and apply the principles and contents of Model 231 without any exception.

All external collaborators, the commercial partners, suppliers and all those who work with the companies of INglass Group shall abide by all principles of the Ethical Code applicable to them.

Moreover, INglass takes all necessary measures so that the advisors, commercial and financial partners, suppliers, customers and in general all third parties with whom INglass is in contact because of its activities guarantee that when performing their tasks abide by the law and do not commit any offence envisaged in the L.D. 231/2001.

All model addressees shall act in compliance with the provisions of the model and its implementation procedures with maximum discipline and shall also actively contribute to its implementation.

3.3 Purposes and Principles of the Model

The Company aims at achieving the following goals by adopting the model:

- Clearly state that INglass condemns any illicit behaviour because they are not only against the provisions of the law but also contrary to the ethical principles of the company;
- Adjust its internal control system to the legal requirements envisaged by the law and/or confirmed by the case law to the purpose of preventing any offence;
- Inform about the serious consequences that could affect the company deriving from the monetary and disqualifying sanctions envisaged by the L.D. 231/01 and also from the possibility that they are inflicted as precautionary measures to emphasise the possible negative effects, also indirect, on all stakeholders;
- Enable the company to constantly control and supervise its activities so that it can rapidly react if there are any risks and, if necessary, apply the disciplinary measures contained in the model.

By means of the Training and Communication activities described in the following chapter 6, the company aims at raising the awareness of all model addresses of the need to apply the model and of the fact that violating it entails disciplinary sanctions.

The principles adopted to develop the model aim in particular at making it able to pass any scrutiny regarding its ability to prevent offences, as it is explained below:

- For the model:

- The activities/processes have been identified where offences can be committed;
- The control protocols have been developed so that it is possible to avoid controls only when there is a clear intention to commit an offence;
- The general model suitability has been taken into account as well as the suitability of the control protocols to prevent offences of the same type as the offence-premise;
- The necessary actions have been taken to effectively implement the model.

- For the Supervisory Board:
  - Its tasks and responsibility for the supervision of the functioning and respect of the model have been established and it has been charged with its updating;
  - Specific powers of initiative and control have been foreseen that can be autonomously exercised thanks to a specific budget and specific powers over some company employees and managers;
  - Criteria and procedures have been established for the supervisory activity that support its effectiveness and suitability;
  - The obligation to inform the Supervisory Body has been foreseen and it generally applies to all employees and specifically to some managers and functions.
- The ways and means to manage the financial resources and/or other utilities have been revised[48] in order to avoid that managers responsible for sensitive activities included in the offences against the Public Administration and corruption among individuals can gather the necessary money before committing the actual corruption crime;
- A disciplinary system has been introduced that punishes the violation of the model measures and that is aligned with what is envisaged in art. 6 of the Decree about *whistleblowing*;
- The company decision-making processes have been revised concerning the planning, taking and implementation of the company decisions about the offences to prevent.

To identify and evaluate the suitability of the measures to prevent involuntary offences regarding health and safety in the workplace specific reference has been made to the provisions and orientations in art. 30 of the L.D. 81/2008.

In order to evaluate the suitability of the preventive measures for environmental offences reference has been made to the provisions and orientations of the Environment Single Text and the reference good practices for the 'Management of the Environmental System'.

More in general, when developing its own model INglass also considered the code of conduct drawn by Confindustria ('Guidelines for the Construction of Organisation, Management and Control Models' in compliance with the L.D. 231/2001")[49] (*source: www.confindustria.it*).

In particular, INglass has taken specifically into account the general principles for the identification of controls in the models mentioned in the Guidelines:

- *The principles of the 'segregation of tasks' or of 'segregation of functions': 'Nobody can autonomously manage an entire process'.*

The system shall guarantee the application of the principle of the segregation of functions and therefore the authorisation of an operation shall be the responsibility of a person different from those who keep the accounts, carries the operation or controls it.

Moreover, it is necessary that:

a) Nobody has unlimited powers;
b) The powers and responsibilities are clearly defined and known inside the organisation;
c) The powers to grant authorisations and to sign that are formally assigned are consistent with the actual organisational responsibilities of the same people.

- *The principle of 'traceability' of the operations/transactions: 'Any operation, transaction or action shall be verifiable, documented, consistent and appropriate'.*

[48] In particular, the instrumental processes are those that can lead to the gathering of the money and/or any other utility necessary for the potential corruption that is identified among the sensitive activities listed in the categories of offences-premise of the Public Administration and the corruption among individuals.

[49] Updating issued on March 2014, as foreseen by the L.D. 231/2001 (art. 6 par. 3). The document was examined by the Ministry of Justice that communicated its final approval on 21 July 2014.

Any operation shall be supported by the necessary documents that can be used to perform controls that confirm the characteristics and reasons for the operation and also show the people, who have authorised, performed, recorded, and checked the operation.

The preservation of IT data shall be assured by adopting some safety measures already envisaged by the European Regulation about the protection of personal data that are partially relevant to the prevention of certain offences-premise in compliance with the L.D. 231 (art. 24-bis: IT offences and illicit treatment o data).

- *The principle of 'Documents demonstrating the controls': 'Documents about controls' (this refers to the execution of controls and to the documents concerning the controls still to perform).*

  The implementation of such principles requires that the controls made in the framework of the Internal Control System are documented - they must be traceable. Such documents can be on paper support (ticks, minutes, acronyms, etc.) or on IT support (IT trace of the authorisations, IT record of automatic controls, etc.).

3.4 Integration of the Model into the Internal Control and Risk Management System

The Organisation, Management and Control Model by INglass in compliance with the L.D. 231/2001, without prejudice to the special goals previously described and concerning the suitability to prevent the offences envisaged in the Decree, is part of the bigger internal control and risk management system already adopted by the company according to its needs and control purposes.

INglass is aware of the complex situation emerging from an increasing number of provisions and of people responsible for the supervision and the internal control on the company activities.

For this reason, to assure top effectiveness and efficiency of both controls and management of their own internal control and risk management system, including the checks on controls and in general their monitoring, INglass has adopted an integrated approach to the development and maintenance of its Internal Control System.

Therefore, the control protocols envisaged in the Special Part of this Model are integrated into other control programmes already used and shall be further developed by adopting other compliance systems among which:

- The internal control and risk management system as a system oriented towards the effectiveness and efficiency of the company processes, the reliability of the accounting and management information, compliance with the law and the regulations in force;
- The quality management system of the company activities according to the standard ISO 9001;
- The possible adoption of a management system of health and safety in the workplace according to the standard OHSAS 18001;
- The possible adoption of an environmental management system according to the standard ISO 14001;

This integration is possible for the different phases of the internal control management process among which the development and implementation of internal controls, the execution of controls by the people in charge with them, the management supervisory activities, and the performance of the independent checks by those responsible for monitoring the system as a whole.

3.5 Methodology to Design and Update the Model

In the light of the possibility envisaged by the L.D. 231/2001 that an organisation and management model can prevent the offences-premise falling under the corporate administrative responsibility, INglass has started a project aiming at the development, adoption and implementation of its own organisation model.

Consistently with what is proposed by the Guidelines by Confindustria in order to develop and update its own model 231, INglass carries out the following main activities:

- Identification of the sensitive company activities by examining the business model and asking the Management and Top Management that know at best the company operations in their field of competence. The analysis has focused on the identification and evaluation of the actual performance of the activities that could lead to offences-premise in compliance with the L.D. 231/2001 (crime risk assessment and identification of the sensitive activities);
- Definition of control protocols suitable to prevent offences-premise;
- Definition of control protocols suitable to guarantee that the financial resources and the utilities in general do not allow the gathering of the money necessary to commit offences-premise;

- Identification and evaluation of the control measures already applied and of the possible critical elements to improve through the scrutiny of the existing internal controls in compliance with the integrated approach adopted by the company;
- Design and implementation of the actions necessary to improve the control system and the adjustment of the system to the goals pursued by the Decree in the light of the Guidelines by Confindustria and of the fundamental principles of the segregation of tasks and the assignment of the power to grant authorisations consistent with the responsibilities of the same person;
- definition/revision of the composition, the tasks and ways to provide resources to the Supervisory Body;
- definition/revision of the ways to disseminate the model and the involvement of all company levels in implementing the relating procedures and behavioural rules;
- conceiving/revising the ways to check ex post the behaviours inside the company and to regularly update the model.

More specifically, the principles adopted in the construction of the model consistently with the necessary requirements in compliance with the law and the case law about the suitability and effective implementation of the model are as follows:

- within the independent checks, an organisation, management and control model has been adopted and effectively implemented that is suitable to prevent offences-premise for which there is a risk of committing them; in particular:
  - the offences-premise have been identified that are likely according to the type of business and sector in which INglass operates (analysis of the crime risk);
  - the processes have been identified as well as sensitive activities that could lead to offences that are likely according to the previous point;
  - the ways of managing the financial resources and all resources that can support and be a requirement for corruption have been identified both towards the public administration and the private sector;
  - the control protocols have been defined in order to reasonably assure that the offences-premise can be committed only by avoiding the control protocols in an illegal way;
  - attention has been paid to the model suitability in general and control protocols in particular in order to achieve the goal of preventing the offences-premise;
  - the necessary actions have been taken for the effective implementation of the model.
- an internal body with autonomous powers of initiative and control has been charged with the supervision of the functioning and compliance with the model and to update it; in particular:
  - its tasks and responsibilities have been established concerning the supervision of the functioning and compliance with the model as well as its updating;
  - specific powers of initiative and control have been envisaged that can be used autonomously also thanks to a specific budget and specific control powers over some company functions and managers;
  - the supervision criteria and procedures have been defined that can guarantee their efficacy and suitability;
  - the obligation of informing the Supervisory Body has been foreseen: it is of general nature for all employees and of specific nature for some managers and company functions;
- a disciplinary system has been introduced to punish the non-compliance with the measures envisaged in the model and in line with art. 6, paragraphs 2-bis, 2-ter, 2-quater about whistleblowing in the private sector;
- the company decision-making processes have been revised to improve the planning, taking and implementations of the decisions relating to the offences to prevent.

3.6 Components and Contents of INglass Organisation and Control Model

3.6.1 Legal framework

For the Organisation, Management and Control Models aiming at preventing the offences-premise art. 6 of the L.D. 231/2001 envisages at par. 2 the following requirements:

- Identifying the activities where such offences could be committed;

- Developing specific protocols aiming at planning the taking and implementation of the company decisions about the offences to prevent;
- Identifying the suitable ways to manage the financial resources to hamper any offence;
- Envisaging obligations of information of the Supervisory Body that shall supervise the functioning of and compliance with the models;
- Introducing a Disciplinary System suitable to punish the non-compliance with the measures contained in the model and in line with 6, paragraphs 2-*bis,* 2-*ter* and 2-*quater*.

In the light of such requirements and the general considerations developed in this document, INglass has established the organisation and documents of its own Organisation, Management and Control Model in compliance with the L.D. 231/2001.

3.6.2 INglass Model Components

The Model is described in and made up of a series of documents and it has been approved by INglass Board of Directors. It consists of the following elements:

- A document describing the Organisation, Management and Control Model in compliance with the L.D. 231/2001 (General Part and Special Part);
- Supervisory Body;
- Disciplinary System and its sanctions;
- Training and communication plan;
- Ethical Code;
- The internal procedures and standards approved from time to time by the company that must be complied with by all managers and other employees to whom they are applicable.

Moreover, other components of INglass global Organisation, Management and Control Model are the internal Regulations issued to govern specific questions.

The following paragraphs briefly describe the model components with reference to the documents setting up such components or describing them.

Document describing the Organisation, Management and Control Models envisaged by the Legislative Decree 231/2001

It is this document. It consists of a ‘General Part’ and a ‘Special Part’ divided in several sections for each category or group of categories of offences-premise.

The General Part includes the following main elements:

- Discussion of the legal framework (L.D. 231, main laws connected to it and significant case law);
- Description of INglass governance system and organisation structure;
- Description of the entire Organisation, Management and Control Model in compliance with the L.D. 231/2001, including the description of the methodology used to develop, adopt and implement it;
- Description of the tasks and responsibilities, composition and main operational methods of the Supervisory Body;
- Description of the Disciplinary System developed to punish the violations of the model;
- Description of the Training and Communication Plan developed to disseminate and implement the model;
- Description of the measures envisaged for the updating and regular and timely adjustment of the model.

The Special Part of the document describing the model includes for each category or group of offences-premise the following main elements:

- List of the types of offences and administrative wrongs relevant to the administrative corporate responsibility, i.e. the so called offences-premise;
- List of the ‘sensitive activities’ and the ‘instrumental activities’ to the offences-premise that the company has considered likely to host an offence (art. 6, par. 2, letter a and letter c) L.D. 231/2001);
- Description of all control protocols applied by the company to prevent the offences-premise for each sensitive activity and instrumental activity.

Supervisory Body

When it adopted the model, the Board of Directors also set up the Supervisory Body and appointed its members. Its tasks, powers and information flows are defined in chapter 4 of the general part of this model.

Disciplinary System and its Sanctions

The model includes a disciplinary system aiming at punishing the violations of the model provisions. Such system is described in the following chapter 5, which explains the sanctions against the personnel and the company bodies. It makes reference to the disciplinary system envisaged in the labour contracts and by the company's codes and regulations when applicable.

Training and Communication Plan

Chapter 6 describes the Training and Communication Plan addressed to the employees and other individuals that co-operate with the company. Such plan is an integral part of this model.

INglass Ethical Code

INglass Ethical Code is a crucial part of the model and contains the principles and behavioural standards that the company applies when doing business and managing internal relations, relations with the public institutions and administration, with customers and suppliers and with political parties and associations in general (stakeholders).

INglass Ethical Code is a fundamental element of this model because it is one of its necessary components and it enshrines the principles and behavioural standards on which the control protocols are based.

INglass Ethical Code is published on the company site *www.inglass.it*

Quality Management System Certified by ISO 9001

The management system is based on the quality standards ISO 9001; this system has been applied since 2001.

This system enables INglass to successfully apply a quality system that allows the monitoring of the company processes to improve the effectiveness and efficiency of its organisation and of the services provided.

INglass Regulations, Procedures and Internal Standards

As it was already said, the internal Regulations drawn to govern specific questions, all internal procedures and standards that the company adopts from time to time are an integral part of INglass Organisation, Management and Control Model. Since all employees must abide by such regulations and must apply such procedures, they are tools that the company uses to guarantee the compliance with the principles envisaged by the L.D. 231/2001 and the relating laws.

4 Supervisory Body

4.1 Requirements and composition

4.1.1 Requirements

The effectiveness of an Organisation, Management and Control Model in preventing the offences-premise in compliance with the L.D. 231/2001, which has been adopted and efficiently implemented, also depends on setting up an internal body that has the task to supervise the functioning of and compliance with the model and to update it.

The L.D. 231/2001 does not give any orientation about the composition of the Supervisory Body – hereinafter also 'SB'. INglass has then decided to follow the case law, other laws applicable and the guidelines of Confindustria.

All these sources underline that the crucial element when evaluating the effectiveness of the model and its Supervisory Body is indeed the actual and potential effectiveness of the latter.

Thanks to these sources it is possible to develop the main requirements for each single component and the Supervisory Body as a whole:

a) Composition;
b) Autonomy and independence;
c) Professionalism;
d) Reputation;
e) Continuous and effective actions;
f) Sufficient resources.

4.1.2 Composition

In compliance with the law and considering the case law, the legislation and the guidelines by Confindustria, INglass has decided that its Supervisory Body will be composed by several members.

This choice has been considered suitable for different reasons:

a) The composition of the Supervisory Body is consistent with the law and the orientation of the case law;
b) The autonomy and independence of the SB are guaranteed by the autonomy and independence enjoyed by each single member of the SB;
c) The professionalism is assured by the competences of the SB members as they are described in their CVs; in particular, the composition of INglass SB guarantees the professionalism in terms of internal control, structure and ways and means to commit the offences-premise, of finance, bookkeeping, and administration;
d) The reputation is guaranteed by the clauses of inelegibility and expiration envisaged in the following paragraph 4.2.2;
e) The continuous action is assured by the fact that the SB applies the Internal Audit Function and/or relies on external experts that support the supervision of the model and have no operational task.

4.2 General Principles for the Setting-up, Appointment and Replacement of the Supervisory Body

4.2.1 Appointment and Duration of the Mandate

INglass Supervisory Body has been set up with a decision of the Board of Directors. The members of the Supervisory Body have a mandate lasting as long as the Board of Directors and can be re-elected. The Board of Directors reserves the right to define the annual remuneration of the SB members for their entire mandate.

The mandate of the Supervisory Body ends on the day when the Shareholders' Meeting takes place to approve the balance sheet of the last financial year of the mandate, even though it carries on with its tasks until the new SB members are appointed.

4.2.2 Inelegibility

The appointment as a member of the Supervisory Body is not possible if any of the following ineligibility criteria are fulfilled:

- Being a relative, spouse or having a kinship up to the fourth degree with members of the Board of Directors with executive powers, top managers in general and auditors recruited by the auditing company;
- Having conflicts of interest, also potential ones, with the company that could jeopardise the independence required by the role and tasks of the Supervisory Body as well as having the same interests as the company exceeding the ordinary interests based on the fact of being an employee or performing an intellectual work;
- Holding directly or indirectly such a large number of shares that it could be possible to control or greatly influence the company;
- Having been a director – during the three financial years before being appointed as a member of the Supervisory Body – in bankrupt companies or companies undergoing compulsory winding up or similar procedures during his/her mandate;
- Having been a public official in central or local administrations during the three years before the appointment as a member of the Supervisory Body;
- Having been condemned, even if the sentence has not become definitive or in case of plea bargain, in Italy or abroad for offences relevant to the administrative corporate responsibility or the like;
- Having received monetary administrative sanctions for administrative offences envisaged by the L.D. 231/2001;
- Having been condemned, even if the sentence has not become definitive or in case of plea, to disqualifying sanctions – even temporarily – from public posts or from the management of the legal persons and the enterprises.

The non-fulfilment of these inelegibility requirements shall be proved by the candidate member of the Supervisory Body when he or she is appointed. In case no proof is available, the person shall not be appointed, not even temporarily.

In case one of the above-listed reasons for inelegibility becomes true at any time for one of the appointed members of the Supervisory Body, the person in question shall inform the other members of the Supervisory Body and his or her mandate shall be immediately terminated.

The reasons for inelegibility shall be considered also with reference to possible external advisors that have been charged with tasks usually performed by the Supervisory Body. In particular, when being recruited the external advisor shall make a specific declaration stating what follows:

- No inelegibility requirement is fulfilled that would make the recruitment impossible (for ex conflicts of interest, kinship with members of the Board of Directors, top managers in general, company auditors and auditors of the auditing company, etc.);
- That he or she has been properly informed of the provisions and behavioural and ethical rules applied by the company when performing its activities among which, first of all, those envisaged by the company model and ethical code. He or she shall abide by these rules when performing his or her tasks.

4.2.3 Annulment of the Appointment and Replacement

In order to guarantee the necessary stability to the members of the Supervisory Body the annulment of the appointment of one or more members of the Supervisory Body and appointing one or more new members can happen only with cause also linked to the organisational restructuring of the company by means of a specific decision of the Board of Directors after the approval of the Board of Auditors.

Some examples of a cause for the annulment of the appointment of a member of the SB:

- Serious negligence in performing the tasks deriving from the role such as – only as examples – not drawing the summary report due every six months about the work done and addressed to the Board of Directors and the Board of Auditors as described in the following paragraph 4.5; not drawing the supervision plan;
- The 'zero or insufficient supervision' by the Supervisory Body – in compliance with art. 6, par. 1, letter d), L.D. 231/2001 – resulting from a court decision, even when not definitive, taken against the company in compliance with the L.D. 231/2001 or in case of plea bargain;
- The granting of operational roles and responsibilities inside the company that are not compatible with the requirements of autonomy and independence and continuous action of the Supervisory Body.

In particularly serious cases the Board of Directors can order – after receiving the opinion of the Board of Auditors – the suspension of the Supervisory Body and the appointment of a temporary SB.

4.3 Role and Powers of the Supervisory Body

The activities carried out by the Supervisory Body cannot be challenged by any other company body or structure, without prejudice to the rights and powers of the Board of Directors to assess the suitability of the measures taken by SB because the Board of Directors is ultimately responsible for the functioning and effectiveness of the model.

The Supervisory Body has the initiative and control powers that are necessary for an efficient and effective supervision of the functioning of and compliance with the model pursuant to art. 6, par. 1 letter b) of the L.D. 231/2001.

In particular, the Supervisory Body has the following powers and tasks:

- Check that the model effectiveness and efficiency last over time;
- Take care, develop and promote the regular model updating and propose to the Board of Directors, when necessary, the updating and adjustment through changes and/or integrations that could be necessary because of significant violations of the model, important changes to the internal company structure and/or to the ways in which the company activities are performed, legislative amendments or other situations that make it necessary to update the model;
- Assure the regular updating of the identification, mapping and classification system of the sensitive activities/processes;
- Keep in touch with the auditing company, while assuring its necessary independence, and with the other advisors and collaborators involved in the effective implementation of the model;
- Detecting any possible behavioural change that emerges from the analysis of the information flows and reports that are compulsory for all people responsible for the various functions;
- Immediately report any proven violation to the model for which the company could be held responsible to the Board of Directors that will take the necessary measures;
- Keep in touch and assure the relevant information flows with the Board of Directors and the Board of Auditors;
- Regulate its own functioning also through rules concerning the body activities and the use of the available resources, the summoning, vote and decisions of the Supervisory Body;
- Promote and define the initiatives to explain and disseminate the model as well as to train and raise the awareness of the staff so that they comply with the model;
- Promote and organise communication and training events on the contents of the L.D. 231/2001, on the impact of such provisions on the company activity and on the code of conduct;
- Provide clarifications about the meaning and the application of the model provisions;
- Prepare an effective internal communication system to allow the acquisition and/or transmission of information relevant to the purpose of the L.D. 231/2001 while assuring the protection and anonymity to those who provide the information;
- Draw and present to the Board of Directors the budget necessary to properly carry out its tasks. Such budget shall be in any case adequate to the purpose of guaranteeing an effective supervision;
- Have free access to or request a meeting with any manager or other company employee – without the need of any previous authorisation – to request and receive information, documents and data that are considered necessary to perform the tasks envisaged by the L.D. 231/2001;
- Request relevant information to collaborators, advisors, agents and other external experts;
- Promote possible disciplinary procedures and propose sanctions described in chapter 5 of this model;
- In case of controls, investigations, request for information by the competent authority aiming at assessing the correspondence between the model and the provisions of the L.D. 231/2001 keep in touch with the inspectors and provide them any useful information.

The Board of Directors shall also properly inform the employees about the tasks of the Supervisory Body.

The Supervisory Body, when performing its tasks, can enjoy the co-operation with the management and company structure and external advisor under its own direct supervision. This possibility enables the SB to assure a high level of professionalism and the necessary continuous action.

As an example, the Supervisory Body can rely on the following elements:

- The Internal Audit Function, when present, supports its supervisory function, the interpretation of the law and the examination of the updating plans as well as of the case law;

- The Human Resources Department to implement the staff training and communication plan, the disciplinary system and the management of the disciplinary procedures;
- The Administration and Finance Department to control the financial flows;
- The Legal Affairs office to support its supervisory action, the interpretation of the law and the examination of the updating plans as well as of the case law;
- The person in charge with the Prevention and Safety Protection for questions concerning the management of the Safety and Health in the Workplace System and the management of temporary mobile building sites.

INglass Supervisory Body has the task to supervise the functioning of and compliance with the Organisation, Management and Control System of the company and to update it. However, it does not have the task to prevent the offences against nor is a guarantee for any of the legal interests protected by the L.D. 231/2001.

The company has a suitable insurance cover to the benefit of the Supervisory Body against any liability towards third parties deriving from performing its tasks.

4.4 Obligation of Information towards the Supervisory Body

4.4.1 Foreword

The Supervisory Body shall be immediately informed through an internal communication system about the acts, behaviours or events that fall under the L.D. 231/2001 or that could lead to a violation of the model.

The obligation of information about possible behaviours contrary to the model provisions are part of a wider duty of diligence and fidelity of the employee as envisaged in arts. 2104 and 2105 of the Italian Civil Code. The proper fulfilment of the obligation of information by the employees cannot lead to disciplinary sanctions.

In order to facilitate the supervision of the effectiveness and functioning and to allow the updating of the model, the SB shall receive:

- Useful and necessary *information* to perform its supervision tasks;
- *Reports* about possible or actual violations of the model and/or illicit behaviours falling under the L.D. 231/2001[50] already happened or being carried out.

4.4.2 Information and Ways of transmitting it

The departments/offices/people who deal with sensitive activities/processes inside the company shall transmit to the Supervisory Body all information about:

- the results of any control made to implement the model (summary reports of their work, monitoring, summary indexes, etc.);
- any anomaly or irregularity in the available information that could suggest the risk of offences by managers or other company employees.

Such information can concern as an example:

- operations that are considered at risk (for ex.: decisions about the request, authorisation and use of public money, irregularities leading to money laundering and/or self money laundering, summaries of public procurements obtained in the framework of national and international procurements, etc. in which critical elements appear that are not usual when doing business);
- measures and/or news from the Criminal Police or any other authority showing that investigations are going on also on unknown individuals for offences (and administrative wrongs) falling under the corporate administrative responsibility and that can involve the company;
- requests for legal assistance made by employees in case of a legal action against them and relating to offences falling under the corporate administrative responsibility, except when there is a clear prohibition by the police;
- requests, reports and communications about inspections of public authorities, independent administrative authorities, individuals performing public services and public officials;
- reports drawn by people in charge with other company functions within their control tasks and who could provide hints about facts, acts, events or omissions that are critical with reference to the compliance with the

[50] As envisaged by art. 6, par. 2-bis of the L.D. 231/2001.

model provisions such as, for example, regular reports by the person in charge with the Prevention and Protection Service, the Competent Physician, the person in charge with environmental questions;

- information about disciplinary procedures and any possible sanction – including measures towards the employees – and the dismissal of such cases with the due explanations;
- any other information that even though it is included in the previous list is relevant to a correct and complete supervision and model updating.

In detail, the Supervisory Body can draw a table of the information flows showing the different matters and the company departments/bodies. It shows the information flows envisaged by each section of the model special part.

The table is updated when the company organisation changes and according to the control and supervision needs of the Supervisory Body. The Supervisory Body secretariat files all documents about the information flows.

The information flows towards the Supervisory Body as described in this paragraph, shall be sent to the following email address: odv231@inglass.it.

However, it is possible to send information to the Supervisory Body by post to the following address: Organismo di Vigilanza di INglass S.p.A. - Via Piave, 4 - San Polo di Piave (TV) – 31020.

4.4.3 The Alerts and their Contents

The obligation to enter an alert concerns all staff – managers and employees underneath - who have information about offences or behaviours not in line with the code of conduct enshrined in the Ethical Code and in Model 231.

Therefore, INglass staff can make – to protect the company integrity – accurate reports of illicit behaviours falling under this decree and based on precise and coinciding facts or of violations of the organisation and management model that they have come to know because of their roles.

The person entering an alert shall provide detailed and relevant information about the illicit behaviour (ex. people involved, description and timing of the event, how he or she has come to know about such facts). In particular, what follows shall be done:

- Report only facts or circumstances that took place when you were present and that you can prove with clear evidence;
- If the facts or circumstances did not happen when you were present, mention the individuals that have personal experience of the facts described in the report;
- Provide the personal information or other elements that allow the identification of those who have committed what has been reported;
- Mention other possible individuals (ex. witnesses) that have information about the facts being reported;
- Mention/provide possible documents that can confirm that the report is reliable;
- Provide any other piece of information or evidence that can confirm what has been reported.

Anonymous alerts will not be taken into account.

The channels devoted to the transmission of the alerts guarantee the secrecy of the identity of the alert maker when treating the information in compliance with art. 6 of the L.D. 231/2001.

Moreover

- in case of an alert or denunciation made in compliance with art. 6 of the L.D. 231/2001, the preservation of the company integrity, the prevention and repression of any offence are a good reason to reveal information covered by secrecy pursuant to articles 326 (Revelation and use of business secret), 622 (Revelation of professional secret) and 623 (Revelation of scientific or industrial secrets) of the Italian Civil code and to article 2105 (fidelity obligation) of the Italian Civil Code;
- the previous provision does not apply if the obligation of professional secret concerns a person that has come to know the information because he or she has worked with the company, the enterprise or the physical person involved as an external advisor;
- when information and documents are transmitted to the body that should receive them and are covered by business or professional secret, their revelation in a way that is not proportional to the aim of eliminating the offence is a violation of the secrecy obligation and, in particular, the revelation outside the communication channel especially created for this purpose.

The alert makers in good faith shall in any case be protected against any kind of retaliation, discrimination or penalisation. It is therefore prohibited to perform any act of retaliation or discrimination, either direct or indirect, towards the alert maker for reasons linked directly or indirectly to the report.

To those who violate the measures for the protection of the alert maker and those who enter false intentional alerts applies what envisaged by the disciplinary system described in chapter 5 of this document, i.e. sanctions against the offender.

4.4.4 Ways of Transmitting the Alerts

INglass has set up a platform where staff can enter an alert and the platform supports the staff so that they can provide accurate information recorded in an organised way.

This platform offers a guided path to the alert maker made of a series of questions – either open ones or yes-or-no ones – some of them compulsory, some of them not that concern facts, time, economic information, personal information of the alert maker, further supporting elements with the aim of eliminating from the start all alerts that are not interesting or made in a responsible way.

At the end of the process, the platform enables the staff to start a sort of direct dialogue with the alert maker to ask for further details supporting the alert if necessary.

It is compulsory to use only the whistleblowing platform to enter an alert.

The Supervisory Body protects the alert makers from any kind of retaliation, direct or indirect discrimination, or penalisation or any other consequence deriving from the alert and it keeps their identity secret, except when required by the law or to protect the rights of INglass S.p.A. or of people that are wrongly and/or intentionally accused.

Moreover the platform can be used to communicate with the Supervisory Body to request clarifications on operational aspects of the 'alerting procedure' or to make an appointment to see a platform operator.

4.4.5 The alert management phases – admissibility analysis, check and investigation, definition

Once the Supervisory Body has received the alert, it carries out a first admissibility analysis – preliminary analysis – aiming at assessing whether there are the minimum requirements listed in paragraph 4.4.3 and if the alert presents the company with a behaviour that puts at risk its activity and/or third parties or if it is a mere complaint, if the content of the alert was already evaluated in the past by the company or even by the competent authority and of course how serious and urgent is the risk for the company and/or third parties.

At the end of the check, the alerts can be classified as follows:

i. Circumstantial and relevant alerts to investigate thoroughly; such alerts, in the light of the body preliminary observations, require immediate/urgent action and go therefore through the following investigation phase;
ii. Non serious or non reliable alerts to file because they lack sufficient data to carry out further investigations;
iii. Entirely non relevant alerts that do not comply with the model, to file (ex. simple complaints and/or comments about other people that cannot lead to any offence in compliance with the decree or any model violation).
iv. Anonymous alerts that are immediately discarded and filed.

If the alert is well grounded and relevant and must be then investigated thoroughly (see point I) the investigation phase will start.

In this phase, the Supervisory Body can do what follows, while always omitting any element that can directly or indirectly reveal the identity of the person who has entered the alarm:

- Exercise the functions and powers described in par. 4.3 of the model; involve the company staff that are considered relevant to assess the facts;
- Request staff to draw a report about specific acts or circumstances that are useful for the investigation;
- Use its budget and if it is not sufficient, ask the Board of Director for an additional budget.

At the end of the investigation and on the basis of the information found, the Supervisory Body will decide how to define the alert. It can:

- File the alert because no illicit behaviour has been detected in compliance with decree 231 nor any violation of the model or evident and/or reasonable reasons to start further investigations. The Supervisory Body shall in any case explain its decision in written form;
- Communicate what has been found to the Top Managers so that they can take the necessary measures and/or inform the Judicial Authority about the facts;
- Involve the employer and/or the HR Director to define possible sanctions, disciplinary or of other nature, against the person that is responsible for the facts explained in the alert or the alert maker that has entered a false alert.

If, to cater for specific needs and within the limits of the assessment and investigation described before, the SB must reveal the alert maker's identity or if he/she is identified by the person signalled in the alert, the individuals to whom the identity will be revealed shall sign a confirmation of their secrecy obligation as envisaged by a specific form (Annex 1- Commitment to secrecy). Otherwise, the sanctions described in Chapter 5 will apply.

The Supervisory Body shall guarantee that a record of all alerts is kept as well as of the phases described above and of the investigation. To this purpose, the Supervisory Body shall keep paper/IT archives with the necessary levels of safety/secrecy.

4.5 Reporting of the Supervisory Body to the Corporate Bodies

The Supervisory Body reports about the model implementation, any possible critical aspects and the need to make changes.

In particular, the Supervisory Body:

a) Reports, on request, every three months to the Directors with executive powers and to the Board of Auditors about the implementation of the model and the significant events that have taken place in that period;
b) Draws a summary report every six months about its activities and at the beginning of each financial year it presents the 'Annual Supervision Programme' to be sent to the Board of Directors and for information to the Board of Auditors;
c) Reports immediately to the competent corporate bodies when extraordinary events take place (for ex information about serious model violations, new legislation about the corporate administrative responsibility, need to change the model because of significant changes made to the company structure, etc.) as well as in case of urgent alerts; when necessary it informs the Board of Directors.

4.6 Filing the Documents

The Supervisory Body has also the task to develop ways and means:

- To manage and file its letters and emails;
- To manage and file the minutes that are the proof of the work done;
- To manage and file the successive versions of the documents that make up or describe the Organisation, Management and Control Model in order to assure that at any time the version used on a specific date can be identified;
- To manage and file its own documents such as reports, analyses, evaluations, action plans, work in progress, etc together with the necessary and relevant working papers that support or explain their contents and above all the conclusions.

The ways and means to manage the documents by the Supervisory Body shall be meant for and applied to the documents irrespective of their format, either paper or IT, as it is more suitable.

5 The Disciplinary System

In compliance with art. 6, par. 2, letter e), par. 2-*bis*, letter d), par. 2-*ter*, par. 2-quater and of art. 7, par. 4, letter b) of the Decree, the organisation, management and control models, whose adoption and implementation (together with the other situations envisaged in articles 6 and 7) is a basic prerequisite for freeing the company from any responsibility in case any offence envisaged in the Decree is committed, can be considered effectively implemented only if they also envisage a disciplinary system suitable to sanction the non compliance with the measures they contains.

The application of disciplinary sanction does not depend on the start or end of criminal proceedings, because the Model and Ethical Code of the Group are binding rules for the addressees and their violation shall be punished, in compliance with the Legislative Decree, irrespective of the fact that a crime has been actually committed or whether it is punishable or not. The application of disciplinary sanctions does not depend on the start and end of criminal proceedings that can be started when the violation is combined with a possible crime in compliance with the L.D. 231/2001.

The code of conduct imposed by the model is indeed adopted by the company as its own choice, in order to abide at best by the legal provisions.

Moreover, the principle of timely and immediate action make it advisable to impose a disciplinary sanction immediately even before the end of the judicial proceedings.

5.1 Definition and Limits of the Disciplinary Responsibility

This section of the model identifies and describes the offences falling under the L.D. 231/2001 and its successive amendments, the corresponding disciplinary sanctions and the notification procedure.

The company is aware of the need to abide by the law and assures that the sanctions envisaged in this Disciplinary System are compliant with what is foreseen by the national collective bargaining agreements for this sector – more precisely the agreement for the metalworking sector and industry and the agreement for industrial managers. It also guarantees that the notification procedure and the imposition of the sanction are in line with what is envisaged by art. 7 of Law 30 May 1970, no. 300.

For all those who have different labour contracts – directors and all external collaborators – the applicable measures and the sanctions shall abide by the law, this model and the conditions set in the labour contract.

5.2 To whom applies the Disciplinary System and their Duties

This disciplinary system is addressed to the same people that shall apply the model.

These people have the obligation to abide by the Group Ethical Code and all principles and measures for the company organisation and management that are defined in the model.

When ascertained, any possible violation of such principles, measures and procedures (hereinafter ‘infringements’) is what follows:

- In case of employees and managers a non-fulfilment of the obligations deriving from the labour contract in compliance with art. 2104 of the Italian Civil Code and of art. 2106 of the Italian Civil Code;
- In case of directors, the non-fulfilment of the duties envisaged by the law and by the Articles of Association in compliance with art. 2392 of the Italian Civil Code;
- In case of auditors, the non-fulfilment of the duties envisaged by the law and by the Articles of Association in compliance with art. 2403 of the Italian Civil Code;
- In case of external collaborators, the non-fulfilment of the contract that justifies its termination, without prejudice to the compensation for damage.

The sanctions that are described below consider the specific aspects deriving from the legal status of the person in question.

In any case, the Supervisory Body shall be involved in the disciplinary procedure.

The Supervisory Body checks that all specific procedures have been performed to inform all people involved about the existence and content of this disciplinary system, since they first began to work with the company.

5.3 General Principles concerning the Sanctions

The sanctions imposed in case of infringements shall comply with the principles of graduality and proportionality according to the seriousness of the violations.

However, if the violation because of its nature or the circumstances in which it has been committed is particularly dangerous for the company discipline, the company can adopt disciplinary measures without considering the principle of graduality.

When deciding the type and size of the sanction due to infringements including those envisaged by the L.D. 231/2001, the following elements shall be taken into account:

- The intention to commit the violation;
- The negligence, lack of caution and inexperience demonstrated by the offender, especially with reference to the possibility to forecast the violation;
- The importance and possible consequences of the violation or the infringement;
- The role of the offender inside the company, especially with reference to the responsibility linked to his or her tasks;
- Any possible aggravating and/or extenuating circumstances relating to the offender's behaviour. The aggravating circumstances include, for example, previous disciplinary sanctions against the same person during two years before the violation or the infringement;
- The co-operation of more offenders in agreement among them to commit the violation or the infringement;

The sanctions and the relating notification of the infringement depend on the category of the person involved.

5.4 Protection of those who Enter and Alert

Firing the person who has entered an alert as a retaliation or discrimination measure is prohibited; the same applies to change of tasks in compliance with art. 2103 of the Italian Civil Code as well as any other retaliation or discrimination measure taken against such person.[51]

Any possible violation of the protection of the person who as entered an alert or any groundless alert made intentionally are infringements to be punished with the measures described in the following paragraphs according to the offender's or offenders' category.

5.5 Sanctions against Employees who are not Managers

The employees' behaviours that violate the behavioural rules contained in the model are defined as disciplinary infringements.

The sanctions against the employees in compliance with art.7 of Law 300/70 fall within those envisaged by the company disciplinary system, i.e. the company disciplinary code, the sanction system envisaged by the collective bargaining agreement, the Trade Unions agreement and any possible special provisions applicable.

The company has decided that the sanctions included in the company disciplinary system apply in the ways mentioned below and in the light of the principles and general criteria explained in the previous point relating to the infringements defined above.

When the employee's behaviour in the factory is not acceptable from the disciplinary point view, measures will be taken against him or her and their strictness will depend on the seriousness of the infringements. Initially, such measures will remind the person to fulfil his or her tasks and if this warning does not bring any result, the purpose will be that of restoring the disciplinary order with the sanction and the example deriving from it.

The provisions described below are only an objective indication because they guarantee a clear relation between sanction and fault. As for the working place, hygiene and safety, the possible sanctions imposed by the competent Supervisory Body on the employees in compliance with art. 59 of the L.D. 81/2008 S.T., do not rule out the possibility to take disciplinary measures. The taking of disciplinary measures due to the non-compliance with provisions and rules

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[51] In compliance with art. 6 par. 2-quater of the L.D. 231/2001, in case of a dispute linked to disciplinary sanctions or to the downgrading, dismissal, transfer or any other organisational measure against the alert maker having direct or indirect negative effects on the working conditions after the alert the employer shall demonstrate that such measures are well founded on reasons different from the alert.

concerning the working place, hygiene and safety is linked to the proper application by the employer of the provisions about health supervision and workers' information and training.
1) The verbal admonition will be an observation or a reprimand depending on the situation, will be necessary when the worker's diligence in complying with the behavioural rules of the model as well as his or her behaviour towards the boss and the colleagues show some faults that are not due to the intention not to fulfil the duties. The written admonition will be used when the faults – even though limited – tend to repeat and it is therefore necessary to warn against more serious sanctions.
2) In case the verbal or written admonition has been successful or the fault is so serious that any admonition is insufficient in case of behaviours that can be classified as infringements of the model provisions, the worker can receive a fine up to an amount corresponding to two hours of wage including the cost of living allowance or in more serious or repeated cases the worker can be suspended from work up to a maximum of three days.
The money collected with the fines will be given to INPS.
3) The dismissal with immediate termination of the labour relation without previous notice and any payment in lieu of salary is possible against a worker who violates the discipline or diligence at work with reference to what is envisaged by the model, thus causing serious moral or material damage to the company or commits crimes linked to the labour relation.

5.6 Procedure in case of Sanctions towards Employees who are not Managers

The company cannot take any disciplinary measure without any notification to the worker and hearing his or her defence.
The worker can ask a Trade Union representative to assist him or her. If the infringement is so serious that entails the dismissal as explained in point 3 of the preceding point 1.4, the company can decide, with immediate effect, the precautionary suspension of the worker.
In any case, disciplinary measures that are more serious than the verbal admonition cannot be applied before 5 days have passed from the written notification of the fact that had led to the sanctions.

5.7 Sanctions against the Managers

The relation with the managers is characterised by being based on trust. The manager's behaviour affects not only the company but also has effects outside it, i.e. on the company image on the market and in general on the various stakeholders.

Therefore, the managers' compliance with this model and the obligation they have to assure that all employees comply with the rules of this model are essential elements of their labour relation because it is an example and an incentive to all those having a lower hierarchical position.

In the light of all this and in compliance with art. 7 Law 300/70 about preventive notification and right to defence, any infringement by company managers – considering the special trust between them and the company and the lack of a reference disciplinary system – will be punished with the disciplinary measures that are considered more suitable for each single case in compliance with the general principles described before.

All this shall however be compliant with the provisions of the law and the labour contract, in the light of the fact that such infringements are a non-fulfilment of the obligations enshrined in such contract.

The same disciplinary measures are foreseen when a manager allows – intentionally or because of lack of vigilance – employees hierarchically lower than him or her to behave in ways not compliant with the model and/or violating it and such behaviours can be classified as infringements.

When the infringements to the model by the managers are of criminal nature, the company – on its choice – reserves the right to take the following temporary measures against the individuals responsible of such crimes and while waiting for the end of the disciplinary procedure:

- Precautionary suspension of the manager, who will be regularly paid;
- Change of role inside the company.

After the end of the disciplinary procedure in compliance with the laws in force, the following measures will be taken:

(a) dismissal with previous notice

The dismissal with previous notice is applied to more serious infringements when carrying out tasks in the so called *sensible* areas. However, the infringements are not so serious to entail sanctions against the company as envisaged by the Decree.

(b) dismissal without previous notice

The dismissal without previous notice applies to particularly serious infringements that can lead to sanctions against the company as envisaged by the Decree and in any case the infringements are more serious than those leading to a dismissal with previous notice and entail the annulment of the trust enshrined in the labour relation to the point that it is not possible to carry on such relation, not even temporarily, because trust is the fundamental element of the labour relation.

The company still has the right to request a compensation for damage caused by the manager's behaviour.

If the manager has a proxy to represent the company, a sanction stricter than a written admonition will entail the automatic withdrawal of the proxy.

As for the investigation of the above-mentioned infringements, the disciplinary procedures and the decision about the sanctions the employer's powers remain unchanged and can be conferred upon others by proxy.

The Supervisory Body will be informed about the start of a disciplinary procedure and about its result.

The involvement of the Supervisory Body is automatic when the proposal for the sanction comes from it.

5.8 Measures against the Directors

In full respect for human dignity, the principles of proportionality and adequacy, and the right of controverting, the company assess with great strictness the violations of this model committed by its directors, who have the role to represent the company and create its image before its employees, shareholders, customers, creditors, Public Institutions, Independent Administrative Authorities, Judicial Authorities, and the public at large. Honesty and transparency must be accepted, respected and supported first of all by those who make the company decisions, in order to be an example and an incentive to all those who work in the company at all levels.

When informed about the violation of the model provisions and code of conduct by members of the Board of Directors, the Supervisory Body shall immediately inform the Board of Directors. The Delegated Bodies shall immediately take the most suitable measures to stop the violations and the Board of Directors immediately makes the necessary decisions in compliance with the law and the Articles of Association and will also summon the Shareholders' Meeting, if necessary, to annul the mandate and/or to take any responsibility action pursuant to art. 2393.

In case of non-action by the Delegated Bodies or the Board of Directors, the Supervisory Body shall immediately inform the Board of Auditors to enable it to fulfil its tasks, including the power to inform the judiciary and to summon the Shareholders' Meeting.

The company still has the right to request a compensation for damage caused by the director.

Measures against the Auditors

In case of violations against this model by one or more auditors[52], the Supervisory Body immediately informs the entire Board of Auditors and the Board of Directors that will take the necessary action.

The Board of Auditors will carry out the necessary investigation and will take – in compliance with the law and in agreement with the Board of Directors - the necessary measures such as, for example, summoning the Shareholders' Meeting to annul the mandate and/or to take any responsibility action pursuant to art. 2407 of the Italian Civil Code.

The company still has the right to request a compensation for damage caused by the auditor.

[52] Although the auditors can be considered – in principle – as having a top position in the company as stated by the ministerial report to the L.D. 231/2001 (Page 7), it is however an abstraction thinking of the involvement of the auditors in the crimes envisaged by the L.D. 231/2001 (possibly together with other people having top positions).

5.9 Measures against the Supervisory Body

If the Supervisory Body – because of negligence or inexperience – has not been able to detect and remove violations of the model and, in the most serious cases, even crimes, the Board of Directors shall immediately inform the Board of Auditors.

The Board of Directors shall perform the necessary investigations and – in compliance with the law and the Articles of Association and in agreement with the Board of Auditors – can take the necessary measures including the annulment of the appointment with cause and will also be supported by the Top Management in case of an employee.

The company still has the right to request a compensation for damage caused by the Supervisory Body.

5.10 Measures against External Experts

Any action taken by external experts – freelances, agents, advisors and in general self-standing professionals as well as suppliers and partners also in temporary associations of enterprises and in joint-ventures – that does not comply with the model rules and that could lead to a crime envisaged by the Decree, could entail the termination of the contract or the right to withdraw from it - as established by specific clauses in the engagement letters or in the contracts - without prejudice to a possible request for compensation for damage if such action has caused damage to the company like, for example, the precautionary application of sanctions against the company as envisaged by the Decree.

The Supervisory Body together with the CEO or someone else appointed by the CEO, will check that specific procedures have been started to transmit to the external experts the principles and code of conduct contained in this model and in the Ethical Code and checks that they are informed about the consequences of their violation.

6 Employees' Training and Model Dissemination

6.1 Training and Communication Plan

To implement this model, INglass wants to guarantee that the old and new employees know well the code of conduct contained in it. The employees working in the sensible activities/processes shall have a more in depth knowledge that will also depend on their degree of involvement in such activities/processes.

The information and training system is supervised and supported by the Supervision Body that has the task to promote the knowledge and dissemination of the model in co-operation with the Human Resources Department and the people in charge with other areas/functions that are involved from time to time in the model application.

6.1.1 Communication

The adoption of this model was immediately communicated to all company employees and published in the company Intranet. All subsequent changes to it and the information about the model are communicated through the same channels.

The newly recruited people receive an information set – Group Ethical Code, Organisation, Management and Control System, IT regulation, list of the main company procedures – that provides them with the basic important knowledge about the company.

The information and training system is supervised and supported by the Supervision Body that has the task to promote the knowledge and dissemination of the model in co-operation with the HR Director and the people in charge with other areas/functions that are involved from time to time in the model application.

Training Plan

The training about the provisions of the Legislative Decree 231/2001 depends, in terms of contents and methods, on the role of the employees, the risk level in the area where they work and on whether they represent or not the company.

The training about this model envisages actions to disseminate its provisions as much as possible and to raise the awareness of all staff about its actual implementation.

In particular, INglass has planned training courses for all staff that explain the following aspects in different modules:

- The legal framework;
- The principles contained in the Group Ethical Code and in the General Part of the document describing the Organisation, Management and Control System;
- The control system contained in the Special Part of the document describing the Organisation, Management and Control System;
- The role and tasks of the Supervisory Body and the main aspects of the disciplinary system.

During the training case studies are also shown to examine the questions more in depth and to show practical examples of the principles explained.

The Supervisory Body in co-operation with the Human Resources Departments and the people in charge with other areas/functions that are involved from time to time decides about the training contents, the training methods, their repetition, the controls over the compulsory participation and the measures to adopt against those who do not participate without cause.

6.2 Information to External Experts

The model is published on the company Internet Site for all third parties that must comply with it. In order to formalise the commitment to the model and its protocols by third parties a special clause has been added to the reference agreement. If the third party has already adopted their own Ethical Code, the company shall assess the need to add a clause in the agreement with such third party stating that each party will engage to comply with their own model and Ethical Code.

7 Updating and Adjusting the Model

The adoption and effective implementation of the model are – as envisaged by the law – a responsibility of the Board of Directors. Therefore, the Board of Directors has the power to update the model and it will do so by means of a decision taken along a specific procedure.

The updating – both changes and additions to the model – aims at guaranteeing the model suitability that is assessed against its ability to prevent the offences envisaged by the L.D. 231/2001.

The Supervisory Body has the task to check the need for updating the model and will communicate this to the Board of Directors. The Supervisory Body within the powers deriving from art. 6, par. 1, letter b) and art. 7, par. 4 letter a) of the Decree has the responsibility to make proposals to the Board of Directors about the model updating and adjustment.

In any case, the model shall be immediately changed and improved by the Board of Directors, also on proposal and after consulting the Supervisory Body, if the following events have taken place:

- Changes to and non-compliance with its provisions that have shown its ineffectiveness or inconsistency to prevent offences;
- Significant changes to the internal company structure and/or to the ways in which the corporate activities are carried out;
- Legislative changes.

The changes, updating and additions to the model shall be always communicated to the Supervisory Body.